EXPLANATORY MEMORANDUM TO

THE AVIATION SAFETY (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Act.

2. Purpose of the instrument

2.1 This instrument uses powers in the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") to correct deficiencies in EU-derived aviation safety legislation arising as a result of the withdrawal of the United Kingdom from the European Union ("EU"). This will ensure that the legal framework on aviation safety continues to function correctly after exit day.

Explanations

What did any relevant EU law do before exit day?

2.2 The relevant EU law provides for a comprehensive system of aviation safety in the EU. The Basic Regulation (Regulation 2018/1139, which repealed and replaced Regulation 216/2008), established the European Union Aviation Safety Agency ("EASA"), provided powers to the European Commission ("the Commission") to give effect to requirements in the Convention on International Civil Aviation ("the Chicago Convention"), and made further provision on the establishment of a comprehensive aviation safety regulatory system in the EU. In particular the Commission was given the power to adopt and amend Regulations containing technical requirements, and to amend technical detail in the Basic Regulation which is contained primarily in its Annexes. Implementing Regulations adopted by the Commission are subject to qualified majority voting by the Member States.

2.3 Under the Basic Regulation, EASA is responsible for preparing proposals for new and amended technical requirements. These form the basis of the technical Implementing Regulations. The Commission has adopted 13 technical Implementing Regulations dealing with different aspects of aviation safety regulation including:

(a) the design, construction, maintenance and operation of aircraft;

(b) the licensing of flight crew, maintenance engineers and air traffic controllers;

(c) the provision of air traffic management and air navigation services;

(d) the design and operation of aerodromes.

These technical Regulations were adopted mainly by consensus. The Commission has also made four Regulations under the Basic Regulation which set out internal procedures for EASA.

2.4 Under EU law, certification and oversight responsibilities are split between EASA and the competent authorities of the Member States. EASA has responsibility for aircraft, engines and propellers (collectively referred to as "products") which are intended for use as or as part of EU registered aircraft; for the component "parts" of such products; and for organisations responsible for the design of such products and parts. EASA also has responsibility for the oversight of organisations based in countries outside the EU where those organisations are providing services within the scope of the Basic Regulation, for example maintaining products or parts intended for use as or as part of EU registered aircraft. All other certification and oversight activities (including certification and oversight of production organisations) are the responsibility of the Member State in which the individual or organisation is based. The Civil Aviation Authority ("CAA") undertakes these tasks in the UK.

2.5 The Basic Regulation is supplemented by other key EU Regulations relating to aviation safety. These are Regulation 3922/91 on technical harmonisation, Regulation 2111/2005 on the list of air operators banned in the EU, Regulation 996/2010 on accident investigation and Regulation 376/2014 on occurrence reporting.

2.6 Domestic legislation includes provisions regarding enforcement of EU obligations. In particular, the Air Navigation Order 2016 (SI 2016/765) ("the ANO") established offences and penalties for the breach of rules contained in a range of EU aviation safety Regulations.

Why is it being changed?

2.7 The instrument uses powers in the Withdrawal Act to make changes to retained aviation safety legislation to ensure that the law functions effectively after the UK has left the EU. These changes are necessary because the legislation has functioned on the basis of the UK being part of the EASA/EU system and having certain obligations as an EU Member State. If, from exit day, the UK is no longer part of the EASA system, there needs to be provision in the UK's legal framework for aviation safety for UK bodies to carry out the regulatory and legislative activities previously carried out by EASA and the Commission.

What will it now do?

2.8 From exit day, aviation safety legislation will work in a self-contained way within the UK, independent of the EASA system, with the CAA as the UK-wide regulator. The CAA already undertakes the majority of certification and oversight tasks required by retained EU legislation. The CAA has contingency plans in place to ensure that it will be able to discharge the responsibilities taken on from EASA. The UK will continue to have the same technical requirements and standards as the EASA system on exit day, as none of the changes made by this instrument affects the substance of the technical requirements and standards established by retained EU legislation. Further detail on the corrections made by this instrument are set out in section 7 of this memorandum.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the Withdrawal Act), and the territorial application of this instrument is not limited either by the Act or by the instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom (as explained in paragraphs 3.2 and 3.3), and it also has extra-territorial effect in certain circumstances (as explained in paragraph 4.3).

4.3 This instrument has extra-territorial effect outside the United Kingdom in certain situations. Insofar as this instrument amends the ANO, it has extra-territorial effect to the same extent as the ANO (as provided for in article 17 ANO). In relation to EU Regulations retained in domestic law by the Withdrawal Act and corrected by this instrument, the extra-territorial effect is analogous to the way in which the EU versions of the Regulations that it corrects have extra-territorial effect outside the EU. In relation to these EU Regulations, the position is explained below.

(a) So far as it affects the operation and maintenance of aircraft and the licensing of aircrew under the Basic Regulation and the Commission Regulations made under the Basic Regulation, this instrument also applies to (and amends those Regulations so as to apply to) all aircraft which are registered in the UK, or which are registered elsewhere but operated by an operator established in the UK, wherever they may be.

(b) So far as it affects the technical requirements within Council Regulation 3922/91, this instrument also applies to (and amends that Regulation so as to apply to) the operation of air taxi, emergency medical service and single pilot commercial air transport operations involving aeroplanes which are operated by an operator established in the UK, wherever they may be.

(c) So far as it affects the communication of information to passengers under Regulation 2111/2005, this instrument also applies (and amends that Regulation so as to apply) in respect of the carriage of passengers by air, where the flight is part of a contract of carriage which started in the UK, wherever the aircraft may be.

(d) So far as it affects the investigation of accidents under Regulation 996/2010, this instrument also applies (and amends that Regulation so

as to apply to) to the safety investigation of accidents and serious incidents which have occurred outside the UK: (i) which involve aircraft registered in the UK, or which involve aircraft registered elsewhere but which are operated by an operator established in the UK (when such investigations are not conducted by another state); (ii) in which the UK is entitled, according to international standards and practices, to appoint an accredited representative at the request of the state conducting the investigation; (iii) in which the UK has a special interest due to fatalities or serious injuries involving UK citizens, where the UK is permitted by the state conducting the investigation to appoint an expert.

(e) So far as it affects the reporting of occurrences under Regulation 376/2014, this instrument also applies to (and amends that Regulation so as to apply to) safety-related information involving UK registered aircraft within the scope of the Basic Regulation, wherever they may be.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State, Baroness Sugg, has made the following statement regarding Human Rights:

"In my view the provisions of the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is made in exercise of powers in sections 8(1) and 23(1) of, and paragraph 21 of Schedule 7 to, the Withdrawal Act.

6.2 The Withdrawal Act makes provision for repealing the European Communities Act 1972 and will preserve EU law, as it stands immediately before exit day, in UK law. It enables the creation of a new body of domestic legislation by bringing the texts of directly applicable EU legislation into domestic legislation, as well as saving EU-derived domestic legislation which was made to implement the UK's obligations as a member of the EU. The Act also contains temporary power to make secondary legislation to enable Ministers and the devolved administrations to deal with deficiencies in retained EU law, to ensure the UK's legal system continues to function properly outside the EU. The Withdrawal Act does not preserve EU directives. Changes made under section 8 of the Withdrawal Act are therefore made to the relevant legislation which implements an EU directive in the UK.

7. Policy background

What is being done and why?

7.1 The instrument corrects retained EU aviation safety legislation in the following way: Part 2 corrects subordinate domestic legislation to reflect changes being made to retained EU Regulations; Part 3 corrects principal EU Regulations; Part 4 corrects Commission Regulations made under principal EU Regulations – primarily the Basic Regulation; and Part 5 deals with revocations and with transitional and savings provisions. These are contained

in Schedules 2 and 3 to this instrument respectively. Part 1 contains a citation and commencement provision.

Corrections to domestic subordinate legislation

7.2 Corrections are made to the ANO and the Civil Aviation Authority Regulations 1991 (SI 1991/1672) ("the CAA Regulations") to reflect the changes made to the retained EU Regulations. The ANO implements the UK's obligations under the Chicago Convention and regulates aspects of aviation safety that are not covered by EU legislation. It provides regulatory and enforcement powers for the CAA, including those needed in respect of EU legislation. The CAA Regulations set out how the CAA is to exercise its functions under the ANO and in relation to air transport licensing. Corrections to the ANO and CAA Regulations include:

(a) changes to the definitions of aircraft subject to EU technical requirements and those subject to domestic rules. Most aircraft types are subject the EU technical requirements but some very light and historic aircraft types are outside of the scope of these requirements. Currently the ANO refers to "EASA aircraft" and "non-EASA aircraft". This will be changed to "Part-21" and "non-Part-21" aircraft respectively. Part 21 is the name given to Annex 1 to Commission Regulation 748/2012 on initial airworthiness, which contains the requirement under which aircraft subject to the retained legislation are certified;

(b) other references to EASA are removed or replaced with references to the CAA;

(c) article 250 of the ANO is corrected to add a power for the Secretary of State to make a decision to ban unsafe foreign operators in the absence of an application being made for a permission to operate commercial air services to or from the United Kingdom (as a consequence of changes being made to Regulation 2111/2005 regarding a banned operator list);

(d) articles 270-273 of the ANO, which appoint the Civil Aviation Authority ("the CAA") as the UK competent authority for the purposes of the Commission Regulations made under the Basic Regulation and assign certain other Member State functions to it, are deleted. These roles are now conferred directly on the CAA by the corrected retained legislation;

(e) the CAA Regulations are amended to bring CAA decisions under the retained EU legislation within the scope of the appeal procedure set out in regulation 6 of the CAA Regulations.

Corrections to principal EU Regulations

7.3 Key changes made to the principal EU Regulations covered by the instrument are explained below.

(a) Corrections are made to assign the responsibilities of the Commission and EASA to, and to confer the powers exercised by the Commission and EASA on, the Secretary State and / or the CAA as appropriate. Paragraph 7.4 sets out the main functions taken on by the Secretary of

State. The responsibilities taken on by the CAA relate mainly to technical rulemaking, and to the certification and oversight of products (including product design) and of organisations (such as maintenance and flight training organisations) based in third countries previously overseen by EASA.

(b) Corrections are made to amend provisions on the relationship between Member States that would no longer apply to the UK following EU exit. This includes removing the obligations to recognise certificates, licences and other approvals issued by EASA and EU Member States as valid in respect of UK registered aircraft (subject to the transitional arrangements explained below) and to contribute to an EU database of aviation safety information. After EU exit individuals and organisations will need UK-issued certificates for activities involving UK registered aircraft reflecting the fact that the UK will have a separate regulatory system after the UK leaves the EU.

(c) Corrections are made to change territorial scope provisions so that instead of referring to, for example "the territory to which the Treaties apply", they refer to the UK.

7.4 Delegated powers in the Basic Regulation are transferred from the Commission to the Secretary of State, who will be able to make regulations to adopt new technical requirements or to amend the technical requirements contained in the retained Commission Regulations. The technical requirements give effect to the high-level principles (essential requirements) set out in the Annexes to the Basic Regulation. The areas covered by these technical requirements are set out in paragraph 2.3 above. This is necessary to ensure that the regulatory system continues to be safe and proportionate. The Secretary of State is also empowered to amend the essential requirements where this is justified by technical, operational or scientific developments or safety evidence. Any such changes are limited to those necessary to ensure that the technical requirements can continue to provide a high level of safety. Article 9(2) of the Basic Regulation establishes the applicable edition of Annex 16 of the Chicago Convention. This establishes environmental protection standards for aircraft operations. The instrument corrects Article 19(3) of the Basic Regulation so as to give the Secretary of State the power to update Article 9(2) of the Basic Regulation to reflect any amendment of Annex 16 to the Chicago Convention in. Regulations made by the Secretary of State would be subject to negative resolution procedure.

7.5 Specific corrections apply to Regulation 2111/2005 on banned operators. These change the Regulation from providing powers to impose operating bans and to establish a list of operators subject to a ban in the EU, to a power to establish a list of operators subject to an operating ban in the UK on safety grounds ("the United Kingdom safety list"). Operating bans will instead be imposed under the ANO. Provision is made for the Community list of aircraft subject to an operating ban in the Community immediately before exit day to become the first United Kingdom safety list from exit day. This is to provide continuity in terms of the information provided to passengers under Regulation 2111/2005. Also, the Community list is contained in Commission Regulation 474/2006 establishing the Community list of banned operators. That Regulation is being revoked, along with Commission Regulation

473/2006 containing detailed rules on establishing the list, as the intention from exit day is for the United Kingdom safety list not to be laid down in legislation, but to be published on the CAA website and updated as circumstances change.

Corrections to EU implementing Regulations

7.6 Corrections made include:

(a) assigning to the CAA responsibilities and functions currently given to EASA;

(b) removing provisions dealing with the relationship with and cooperation between EU Member States;

(c) replacing EU terminology where this would not be appropriate after EU exit; and

(d) restricting the territorial scope of the Regulations to the UK rather than to the EU (together with the extra-territorial effect referred to in paragraph 4.3).

7.7 The four administrative Commission Regulations dealing with procedural rules, namely EASA fees and charges, the Board of Appeal, fines and penalties, and standardisation inspections, are being revoked as they will not be relevant once the UK is no longer participating in the EASA system.

7.8 The Commission Regulations on air navigation services, air traffic management and the rules of the air, which were made jointly with powers provided for in Single European Sky ("SES") legislation, are being corrected to ensure that the SES legislation retained by the Withdrawal Act will continue to function properly. These corrections are being made in a separate instrument which will include corrections to Commission Regulations pertaining to SES.

7.9 Please see Annex A for the list of the Commission Regulations made under the Basic Regulation which are amended by this instrument and those which, while relevant to aviation safety, are not dealt with in this instrument.

Consequential changes

7.10 The instrument makes some changes which are consequential upon the Withdrawal Act, such as the amendment of the title of Regulation 2111/2005 on banned operators. The instrument also makes many changes which are consequential upon the main changes set out above, examples of which include:

(a) changing references to "competent authority" and "licensing authority" to refer to "the CAA", to ensure consistent reference to the CAA throughout. The CAA already undertakes these functions which constitute the majority of oversight activities in the UK;

(b) inserting in various of the EU principal Regulations covered by the instrument a definition of "third country" which includes EU Member States and UK dependencies. However, airlines from UK dependencies are excluded from the requirements to obtain a third country operator authorisation. The UK is ultimately responsible for the safety of such

airlines under the Chicago Convention and has measures in place to ensure that they comply with international standards; and

(c) changing the names of forms contained in Annexes to some Commission Regulations made under the Basic Regulation, so as to refer to the CAA rather than to EASA (for example "EASA Form 1" becomes "CAA Form 1").

Transitional and savings provisions

7.11 Prior to EU exit all certificates issued under the technical Regulations were subject to mutual recognition within the EU.

7.12 To ensure continuity on day one, certificates issued under EU legislation prior to exit day will remain valid in the UK by virtue of Part 3 of Schedule 8 to the Withdrawal Act. Schedule 3 to this instrument makes transitional and savings provisions in relation to certain types of certificate in the field of aviation safety, which alter the effect of Part 3 of Schedule 8 to the Withdrawal Act in some respects. In particular:

(a) All licences, certificates and approvals issued by EASA or by a Member State before exit day are to be treated as if issued by the CAA. This is necessary to allow the CAA to be able to take action against such certificates / approvals if necessary, and to accord with the UK's obligations under the Chicago Convention.

(b) All certificates, licences and approvals, other than those relating to type approvals (which are relevant to the design of aircraft), are to be subject to a maximum validity period of 2 years (after which they will need to be replaced by certificates issued by the CAA).

(c) Pilot licences issued under Commission Regulation 1178/2011 by an authority other than the CAA must be validated by the CAA before being used outside the UK on a UK registered aircraft. This is to meet requirements in the Chicago Convention. Such validations will be automatic and the CAA does not intend to charge for this service.

7.13 The two-year period referred to above is intended to provide continuity for industry and facilitate a smooth transition to the new regulatory regime. The move to CAA certification is needed as the various sectors of aviation are all interlinked and safety regulation needs to take account of the total system. To provide effective safety regulation of the UK system, the CAA will need to be directly responsible for the regulation of those involved in it.

7.14 From exit day organisations and individuals who do not hold a current licence or certificate will need to obtain the relevant licence or certificate from the CAA. All organisations and individuals will need CAA issued licences and certificates after two years.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of the Withdrawal Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The instrument is also made under the powers in section

23 of, and paragraph 21 of Schedule 7 to, the Withdrawal Act. In accordance with the requirements of that Act, the Minister has made the relevant statements as detailed in Part 2 of Annex B to this memorandum.

9. Consolidation

9.1 There are no plans currently to consolidate the legislation covered by this instrument.

10. Consultation outcome

10.1 Department for Transport Ministers and officials have regular engagement with the aviation industry, aerospace industry, travel industry and consumer representatives. Through specific meetings and workshops on EU exit, and at long-established stakeholder forums, a number of issues related to the UK's withdrawal from the EU have been addressed. This includes plans for making secondary legislation to ensure that the statute book continues to function irrespective of the outcome of negotiations. There was support amongst stakeholders for continuity in terms of the rights of air passengers after exit day, including those related to carriage on banned airlines. The Department also works closely with the CAA on all aviation matters, including preparing for EU exit. A technical notice on aviation safety, which the Department published on 24 September 2018, provides further detail on the changes being made by this instrument. Stakeholders broadly favour retaining EU aviation safety legislation, which affords stability; and they support the transfer of relevant functions to the CAA.

11. Guidance

11.1 Where the CAA considers it appropriate to do so, the CAA will provide information, on how it will discharge new responsibilities that it takes over from EASA, for example through publications on its website. The Department for Transport is not producing any specific guidance on the amendments provided for in the instrument.

12. Impact

12.1 The impact on business, charities or voluntary bodies is limited to minor costs. These could be related to possible updates to forms, procedures or manuals and familiarisation with the changes made by this instrument.

12.2 The impact on the public sector is significant. In particular, the CAA has had to take on additional staff to carry out functions previously undertaken by EASA and to make changes to CAA procedures and systems. The CAA is confident that it will be able undertake all necessary tasks from exit day.

12.3 An Impact Assessment has not been prepared for this instrument because the costs and benefits to business are minor. As this instrument is not making any changes to technical requirements, the main costs arising from the SI relate to the need for industry to familiarise themselves with the regulatory regime.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the corrections made by this instrument are limited to what is needed to ensure that the regulatory regime on aviation safety continues to function effectively after exit day.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is for it to be monitored in the course of normal departmental business.

14.2 As this instrument is made under the Withdrawal Act, no review clause is required.

15. Contact

15.1 At the Department for Transport, Duncan Nicholls, telephone: 07825 263 416 or email: duncan.nicholls@dft.gov.uk or Rory Sedgley, telephone: 07825 523 715 or email: rory.sedgley@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Catherine Adams, Deputy Director for Aviation Strategy and Consumers at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Sugg, Parliamentary Under Secretary of State, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

Annex A

Implementing Regulations relevant to the EASA Basic Regulation

1. Administrative Implementing Regulations being revoked by this instrument:

(i) Commission Regulation 104/2004 (Board of Appeal)

(ii) Commission Regulation 646/2012 (fines and penalties)

(iii) Commission Regulation 628/2013 (standardisation inspections)

(iv) Commission Regulation 319/2014 (fees and charges)

2. Technical Implementing Regulations being corrected by this instrument:

(i) Commission Regulation 748/2012 (initial airworthiness) – previously amended by Commission Regulations 7/2012, 69/2014, 2015/1039, and 2016/5

(ii) Commission Regulation 1321/2014 (continuing airworthiness) – most recently amended by Commission Regulations 2015/1536, 2015/1088 and 2018/1142

(iii) Commission Regulation 2015/640 (additional airworthiness)

(iv) Commission Regulation 1178/2011 (aircrew) – most recently amended by Commission Regulations 2016/539, 2018/1119 and 2018/1065

(v) Commission Regulation 965/2012 (air operations) – most recently amended by Commission Regulation 2018/1042

(vi) Commission Regulation 452/2014 (third country operators) – most recently amended by Commission Regulation 2016/1158

(vii) Commission Regulation 2015/340 (Air traffic controllers)

(viii) Commission Regulation 139/2014 (aerodromes) – most recently amended by Commission Regulation 2018/401

3. Technical Implementing Regulations in force (when preparing this instrument) but not applicable until after exit day, so not corrected in this instrument:

(i) Commission Regulations 2018/395 (on balloon operations)

(ii) Commission Regulation 2018/1048 (airspace usage requirements regarding performance-based navigation)

4. Technical Implementing Regulations being corrected in separate instruments:

(i) Commission Regulation 923/2012 (Standardised European Rules of the Air) – previously amended by Commission Regulation 2016/1185

(ii) Commission Regulation 2017/373 (Air Traffic Management / Air Navigation Services) – replaced Commission Regulations 1034/2011 and 1035/2011

(iii) Commission Regulations 1332/2001 (airspace usage requirements regarding airborne collision avoidance systems)

Annex B

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Appropriateness statement

1.1 The Parliamentary Under Secretary of State, Baroness Sugg, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 does no more than is appropriate.".

1.2 This is the case because it only corrects those deficiencies and makes those consequential amendments and transitional and savings provisions necessary to ensure that the legislation functions correctly after the UK has left the EU. It leaves technical requirements unchanged and only makes changes to the regulatory framework for civil aviation which are necessary for the legislation to operate effectively (such as conferring functions of EU bodies on domestic bodies).

2. Good reasons

2.1 The Parliamentary Under Secretary of State, Baroness Sugg, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.".

2.2 These are:

(a) ensuring that the legislation governing aviation safety in the UK continues to function correctly once the UK has left the EU;

(b) enabling the UK to continue to comply with its obligations under the Chicago Convention;

(c) maintaining the existing regulatory framework and technical requirements for aviation safety, minimising disruption to industry and recreational flyers; and

(d) making transitional and savings provision regarding certificates and approvals to ensure that there is clarity and continuity for industry stakeholders.

3. Equalities

3.1 The Parliamentary Under Secretary of State, Baroness Sugg, has made the following statement(s):

"The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.".

3.2 The Parliamentary Under Secretary of State, Baroness Sugg, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I, Baroness Sugg, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.".

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.