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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules ensuring basic air connectivity following the end of the transition period mentioned in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community - Outcome of the European Parliament's first reading (Brussels, 14-18 December 2020)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

After the plenary approved the request of the Committee on Transport and Tourism to proceed according to the Rule 163 (urgent procedure) on 15 December 2020, the EPP, S&D, Renew, ID, Greens/EFA, ECR and GUE/NGL groups jointly presented a compromise amendment (amendment number 1) to the abovementioned proposal for a Regulation on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 18 December 2020, the plenary adopted the compromise amendment (amendment number 1) to the abovementioned proposal for a Regulation. The Commission's proposal as thus

amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2020)0387

Air connectivity following the end of the transition period with regard to the withdrawal of the United Kingdom from the Union *I**

European Parliament legislative resolution of 18 December 2020 on the proposal for a regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity following the end of the transition period mentioned in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (COM(2020)0827 – C9-0398/2020 – 2020/0363(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0827),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0398/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - after consulting the European Economic and Social Committee,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 16 December 2020 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

1. Position of the European Parliament adopted at first reading on 18 December 2020 with a view to the adoption of Regulation (EU) 2020/... of the European Parliament and of the Council on common rules ensuring basic air connectivity following the end of the transition period *provided for* in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

² Position of the European Parliament of 18 December 2020.

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³ (the ‘Withdrawal Agreement’) was concluded by the Union by means of Council Decision (EU) 2020/135⁴ and entered into force on 1 February 2020. The transition period provided for in Article 126 of the Withdrawal Agreement (the ‘transition period’), during which Union law continues to apply to and in the United Kingdom of Great Britain and Northern Ireland (United Kingdom) in accordance with Article 127 of the Withdrawal Agreement, ends on 31 December 2020. On 25 February 2020 the Council adopted Decision (EU, Euratom) 2020/266⁵, which authorised the opening of negotiations with the United Kingdom for a new partnership agreement. As implied by the negotiation directives, the authorisation covers, inter alia, the elements needed to address comprehensively the aviation relationship with the United Kingdom after the end of the transition period. However, it is uncertain whether an agreement between the Union and the United Kingdom governing their future relationship in this area will have entered into force by the end of that period.

³ OJ L 29, 31.1.2020, p. 7.

⁴ Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

⁵ Council Decision (EU, Euratom) 2020/266 of 25 February 2020 authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement (OJ L 58, 27.2.2020, p. 53).

- (2) Regulation (EC) No 1008/2008 of the European Parliament and of the Council⁶ sets out the conditions for the granting of the Union operating licence to air carriers and establishes the freedom to provide intra-EU air services.
- (3) At the end of the transition period and in the absence of any special provisions, all rights and obligations ensuing from Union law in respect of market access as established by Regulation (EC) No 1008/2008 will end, insofar as the relationship between the United Kingdom and the Member States is concerned.
- (4) It is therefore necessary to establish a temporary set of measures enabling carriers licensed in the United Kingdom to provide air transport services between the territory of the latter and the territory of the Member States. In order to ensure a proper equilibrium between the United Kingdom and the Member States, the rights thus conferred should be conditional upon the conferral of equivalent rights by the United Kingdom to air carriers licensed in the Union and be subject to certain conditions ensuring fair competition.

⁶ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

- (5) *The crisis arising from the COVID-19 pandemic poses significant logistical challenges to the Member States, in particular as regards the capacity to transport significant volumes of medicines, vaccines and medical equipment to and from third countries at short notice and under particularly demanding storage and logistical conditions. It is necessary to ensure that sufficient air transport capacity is made available and additional exceptional flexibility is provided for to the Member States for that purpose, including the possibility to rely on third-country aircraft. Additional elements of all-cargo fifth freedom traffic rights strictly limited to carrying out that kind of operation on an ad hoc basis should therefore be granted so that use can be made of UK air carriers in such exceptional circumstances. Member States should also be able to authorise additional rights for the provision of air ambulance services.*
- (6) In order to reflect its temporary character, this Regulation should apply until 30 June 2021, or until the entry into force or, where stipulated, provisional application of a future agreement covering the provision of air services with the United Kingdom to which the Union is a party, negotiated by the Commission in accordance with Article 218 of the Treaty on the Functioning of the European Union (TFEU), whichever is earlier.
- (7) In order to maintain mutually beneficial levels of connectivity, certain cooperative marketing arrangements should be provided for in respect of both UK air carriers and Union air carriers, in line with the principle of reciprocity.
- (8) *In view of the exceptional and unique circumstances that necessitate the adoption of this Regulation and in accordance with the Treaties, it is appropriate for the Union to exercise temporarily the relevant shared competence conferred upon it by the Treaties. However, any effect of this Regulation on the division of competences between the Union and the Member States should be strictly limited in time. The competence exercised by the Union should therefore only be exercised with respect to the period of application of this Regulation. Accordingly, the shared competence thus exercised will cease to be exercised by the Union as soon as this Regulation ceases to apply. In accordance with Article 2(2) TFEU, Member States will therefore, as of that moment, be in the same situation with regard to exercising their competence as they would have been had the Regulation not been adopted. Furthermore, it is recalled that, as set out in Protocol No 25 on the exercise of shared competence annexed to the Treaty on European Union (TEU) and the TFEU, the scope of the exercise of the competence of the Union in this Regulation covers only those elements*

governed by this Regulation and does not cover the whole area. The respective competences of the Union and of the Member States with respect to the conclusion of international agreements in the area of air transport are to be determined in accordance with the Treaties and taking into account relevant Union law, including Decision (EU, Euratom) 2020/266 authorising the opening of negotiations with the United Kingdom.

- (9) This Regulation should not prevent Member States from issuing authorisations for the operation of scheduled air services by Union air carriers in the exercise of rights granted to them by the United Kingdom, similarly to situations occurring in the context of international agreements. In respect of those authorisations, Member States should not discriminate between Union air carriers.

- (10) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the adoption of measures to guarantee a fair degree of reciprocity between the rights unilaterally granted by the Union and the United Kingdom to each other's air carriers, and to ensure that Union air carriers can compete with UK air carriers under fair conditions in the provision of air services. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷. Given their potential impact on the air connectivity of the Member States, the examination procedure should be used for the adoption of those measures. The Commission should adopt immediately applicable implementing acts where, in duly justified cases, imperative grounds of urgency so require. Such duly justified cases could relate to situations where the United Kingdom fails to grant equivalent rights to Union air carriers and thereby causes a manifest imbalance, or where less favourable conditions of competition than those enjoyed by UK air carriers in the provision of air transport services covered by this Regulation threaten the economic viability of Union air carriers.

⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (11) Since the objective of this Regulation, namely to lay down provisional measures governing air transport between the Union and the United Kingdom in the event of the absence of an agreement governing their future relationship in the field of aviation at the end of the transition period, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (12) In view of the urgency entailed by the end of the transition period, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, the TFEU and the Treaty establishing the European Atomic Energy Community.

- (13) The territorial scope of this Regulation and any reference to the United Kingdom therein does not include Gibraltar.
- (14) This Regulation is without prejudice to the legal position of the Kingdom of Spain with regard to the sovereignty over the territory in which the airport of Gibraltar is situated.
- (15) The provisions of this Regulation should enter into force as a matter of urgency and should apply, in principle, from the day following the end of the transition period unless an agreement governing the future relationship between the Union and the United Kingdom in the field of aviation has entered into force, *or as the case may be, provisionally applies* by that date. However, in order to allow for the necessary administrative procedures to be conducted as early as possible, certain provisions should apply as from the entry into force of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down a temporary set of measures governing air transport between the Union and the United Kingdom following the expiry of the transition period provided for in Article 126 of the Withdrawal Agreement.

Article 2

Exercise of competence

- 1. The exercise of Union competence pursuant to this Regulation shall be limited to the period of application of this Regulation as defined in Article 15(4). After the end of that period, the Union shall immediately cease to exercise that competence pursuant to this Regulation and the Member States shall be in the same position with regard to the exercise of their competence in accordance with Article 2(2) TFEU as they would have been had the Regulation not been adopted.*
- 2. The exercise of Union competence pursuant to this Regulation shall be without prejudice to the competence of the Member States concerning traffic rights in any ongoing or future negotiations, signature, or conclusion of international agreements related to air services with any other third country, and with the United Kingdom with respect to the period after this Regulation has ceased to apply.*
- 3. The exercise of competence by the Union as referred to in paragraph 1 only covers the elements governed by this Regulation.*
- 4. This Regulation is without prejudice to the respective competences of the Union and the Member States in the area of air transport with regard to elements other than those governed by this Regulation. It is also without prejudice to Decision (EU, Euratom) 2020/266 authorising the opening of negotiations with the United Kingdom for a new partnership agreement.*

Article 3

Definitions

For the purposes of this Regulation the following definitions apply:

- (1) 'air transport' means the carriage by aircraft of passengers, baggage, cargo, and mail, separately or in combination, held out to the public for remuneration or hire, including scheduled and non-scheduled air services;
- (2) 'international air transport' means air transport that passes through the airspace over the territory of more than one State;
- (3) 'Union air carrier' means an air carrier with a valid operating licence granted by a competent licensing authority in accordance with Chapter II of Regulation (EC) No 1008/2008;

- (4) 'UK air carrier' means an air carrier which:
- (a) has its principal place of business in the United Kingdom; and
 - (b) fulfils one of the following two conditions:
 - (i) the United Kingdom and/or nationals of the United Kingdom own more than 50 % of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings; or
 - (ii) Union Member States and/or nationals of Union Member States and/or other Member States of the European Economic Area and/or nationals of such States, in any combination, whether alone or together with the United Kingdom and/or nationals of the United Kingdom, own more than 50 % of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings;
 - (c) in the case referred to in point (b)(ii), held a valid operating licence in accordance with Regulation (EC) No 1008/2008 on the day before the first day of application of this Regulation as referred to in the first subparagraph of Article 15(2);

- (5) 'effective control' means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:
- (a) the right to use all or part of the assets of an undertaking;
 - (b) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;
- (6) 'competition law' means law which addresses the following conduct, where it may affect air transport services:
- (a) conduct that consists of:
 - (i) agreements between air carriers, decisions by associations of air carriers and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
 - (ii) abuses by one or more air carriers of a dominant position;
 - (iii) measures taken or maintained in force by the United Kingdom in the case of public undertakings and undertakings to which the United Kingdom grants special or exclusive rights and which are contrary to point (i) or (ii);
 - (b) concentrations between air carriers which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position;

- (7) 'subsidy' means any financial contribution granted to an air carrier or an airport by the government or any other public body at any level, conferring a benefit, and including:
- (a) the direct transfer of funds, such as grants, loans or equity infusion, the potential direct transfer of funds, or the assumption of liabilities, such as loan guarantees, capital injections, ownership, protection against bankruptcy or insurance;
 - (b) the foregoing or non-collection of revenue that is otherwise due;
 - (c) the provision of goods or services other than general infrastructure, or the purchase of goods or services;
 - (d) the making of payments to a funding mechanism or entrustment or direction to a private body to carry out one or more of the functions mentioned under points (a), (b) and (c) which would normally be vested in the government or other public body and the practice in no real sense differs from practices normally followed by governments;

No benefit is deemed to be conferred by a financial contribution carried out by a government or other public body if a private market operator solely driven by profitability prospects, in the same situation as the public body in question, would have carried out the same financial contribution;

- (8) 'independent competition authority' means an authority which is in charge of the application and enforcement of competition law, as well as the control of subsidies, and fulfils the following conditions:
- (a) the authority is operationally independent and is appropriately equipped with the resources necessary to carry out its tasks;
 - (b) in performing its duties and exercising its powers, the authority has the necessary guarantees of independence from political or other external influence and acts impartially; and
 - (c) the decisions of the authority are subject to judicial review;
- (9) 'discrimination' means differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services;

- (10) 'scheduled air transport service' means a series of flights possessing the following characteristics:
- (a) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents);
 - (b) it is operated so as to serve traffic between the same two or more airports, either:
 - (i) according to a published timetable, or
 - (ii) with flights so regular or frequent that they constitute a recognisably systematic series;
- (11) 'non-scheduled air transport service' means a commercial air transport service performed other than as a scheduled air service;

- (12) 'territory of the Union' means the land territory, internal waters and territorial sea of the Member States to which the TEU and the TFEU apply and under the conditions laid down in those Treaties, and the air space above them;
- (13) 'territory of the United Kingdom' means the land territory, internal waters and territorial sea of the United Kingdom and the air space above them;
- (14) 'Chicago Convention' means the Convention on International Civil Aviation, signed in Chicago on 7 December 1944.

Article 4
Traffic rights

1. UK air carriers may, under the conditions laid down in this Regulation:
 - (a) fly across the territory of the Union without landing;
 - (b) make stops in the territory of the Union for non-traffic purposes, within the meaning of the Chicago Convention;
 - (c) perform scheduled and non-scheduled international air transport services for passengers, combination of passengers and cargo and all-cargo services between any pair of points of which one is situated in the territory of the United Kingdom and the other one is situated in the territory of the Union.
2. The Member States shall neither negotiate nor enter into any bilateral agreements or arrangements with the United Kingdom on matters falling within the scope of this Regulation with respect to the period during which this Regulation applies. With respect to that period, they shall not otherwise grant UK air carriers, in connection with air transport, any rights other than those granted by this Regulation.
3. Notwithstanding paragraph 2, the Member States may authorise, ***on an ad hoc basis and*** in accordance with their national law, the provision of ***the following*** in their territory by a UK air carrier:
 - (a) ***air ambulance services;***
 - (b) ***all-cargo non-scheduled air transport services between points in their territory and points in a third country as part of a service with origin or destination in the United Kingdom to the extent necessary for the transport of medical equipment, vaccines and medicines provided that they do not constitute a disguised form of scheduled air services.***

Article 5
Cooperative marketing arrangements

1. Air transport services in accordance with Article 4 may be provided by means of blocked-space or code-sharing arrangements, as follows:
 - (a) the UK air carrier may act as the marketing carrier, with any operating carrier that is a Union air carrier or a UK air carrier, or with any operating carrier of a third country which, under Union law or, as applicable, under the law of the Member State or Member States concerned, enjoys the necessary traffic rights as well as the right for its carriers to exercise those rights by means of the arrangement in question;
 - (b) the UK air carrier may act as the operating carrier, with any marketing carrier which is a Union air carrier or a UK air carrier, or with any marketing carrier of a third country which, under Union law or, as applicable, under the law of the Member State or Member States concerned, enjoys the necessary route rights as well as the right for its carriers to exercise those rights by means of the arrangement in question.
2. In no case shall the rights granted to UK air carriers under paragraph 1 be construed as conferring on air carriers of a third country any rights other than those that they enjoy under Union law or under the law of the Member State or Member States concerned.

3. Recourse to blocked-space or code-sharing arrangements, whether as an operating carrier or as a marketing carrier, shall not result in a UK air carrier exercising rights other than those provided for in Article 4(1).

However, the first subparagraph of this paragraph shall not be applied in such a way as to prevent UK carriers from providing air transport services between any pair of points of which one is situated in the territory of the Union and the other is situated in a third country, provided that the following conditions are fulfilled:

- (a) the UK carrier is acting as the marketing carrier under a blocked-space or a code-sharing arrangement with an operating carrier benefitting, under Union law or the law of the Member State or Member States concerned, from the necessary traffic rights as well as from the right to exercise those rights by means of the arrangement in question;
 - (b) the air transport service in question forms part of a carriage by that UK carrier between a point in the territory of the United Kingdom and the relevant point in the territory of the third country concerned.
4. The Member States concerned shall require the arrangements referred to in this Article to be approved by their competent authorities for the purpose of verifying compliance with the conditions set out in this Article and with the applicable requirements in Union and national law, in particular as regards safety and security.

Article 6
Aircraft leasing

1. In exercising the rights provided for in Article 4(1), a UK air carrier may provide air transport services with its own aircraft and in all the following cases:
 - (a) using aircraft leased without crew from any lessor;
 - (b) using aircraft leased with crew from any other UK air carrier;
 - (c) using aircraft leased with crew from air carriers of any country other than the United Kingdom, provided that the leasing is justified on the basis of exceptional needs, seasonal capacity needs or operational difficulties of the lessee and the leasing does not exceed the duration which is strictly necessary to fulfil those needs or overcome those difficulties.
2. The Member States concerned shall require the arrangements referred to in paragraph 1 to be approved by their competent authorities for the purpose of verifying compliance with the conditions set out therein and with the applicable requirements in Union and national law, in particular as regards safety and security.

Article 7
Equivalence of rights

1. The Commission shall monitor the rights granted by the United Kingdom to Union air carriers and the conditions for their exercise.
2. Where the Commission determines that the rights granted by the United Kingdom to Union air carriers are not, *de jure* or *de facto*, equivalent to those granted to UK air carriers under this Regulation, or that those rights are not equally available to all Union carriers, the Commission shall, without delay and in order to restore equivalence, adopt implementing acts to:
 - (a) establish limits to the allowable capacity for scheduled air transport services available to UK air carriers and require the Member States to adapt the operating authorisations of UK air carriers, both existing and newly granted, accordingly;
 - (b) require the Member States to refuse, suspend or revoke the said operating authorisations; or
 - (c) impose financial duties or operational restrictions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). They shall be adopted in accordance with the urgency procedure referred to in Article 14(3) where, in duly justified cases of serious lack of equivalence for the purposes of this paragraph, imperative grounds of urgency so require.

Article 8
Fair competition

1. The Commission shall monitor the conditions under which Union air carriers and Union airports compete with UK air carriers and United Kingdom airports for the provision of air transport services covered by this Regulation.
2. Where it determines that, as a result of any of the situations referred to in paragraph 3, those conditions are appreciably less favourable than those enjoyed by UK air carriers, the Commission shall, without delay and in order to remedy that situation, adopt implementing acts to:
 - (a) establish limits to the allowable capacity for scheduled air transport services available to UK air carriers and require the Member States to adapt the operating authorisations of UK air carriers, both existing and newly granted, accordingly;
 - (b) require the Member States to refuse, suspend or revoke the said operating authorisations for some or all UK air carriers; or
 - (c) impose financial duties or operational restrictions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). They shall be adopted in accordance with the urgency procedure referred to in Article 14(3) where, in duly justified cases of threat to the economic viability of one or more operations of Union air carriers, imperative grounds of urgency so require.

3. The implementing acts referred to in paragraph 2 shall, subject to the conditions specified in that paragraph, be adopted to remedy the following situations:
- (a) the granting of subsidies by the United Kingdom;
 - (b) failure, by the United Kingdom to have in place or to effectively apply competition law;
 - (c) failure by the United Kingdom to establish or maintain an independent competition authority;
 - (d) the application by the United Kingdom of standards in the protection of workers, safety, security, the environment, or passenger rights, which are inferior to those laid down in Union law or, in the absence of relevant provisions in Union law, inferior to those applied by all Member States or, in any event, inferior to relevant international standards;
 - (e) any form of discrimination against Union air carriers.

4. For the purposes of paragraph 1, the Commission may request information from the competent authorities of the United Kingdom, UK air carriers or United Kingdom airports. Where the competent authorities of the United Kingdom, the UK air carrier or United Kingdom airport do not provide the information requested within the reasonable period prescribed by the Commission, or provide incomplete information, the Commission may proceed in accordance with paragraph 2.
5. Regulation (EU) 2019/712 of the European Parliament and of the Council⁸ shall not apply to matters falling within the scope of this Regulation.

⁸ Regulation (EU) 2019/712 of the European Parliament and of the Council of 17 April 2019 on safeguarding competition in air transport, and repealing Regulation (EC) No 868/2004 (OJ L 123, 10.5.2019, p. 4).

Article 9

Operating authorisation

1. Without prejudice to Union and national law in the area of aviation safety, in order to exercise the rights granted to them under Article 4, UK air carriers shall be required to obtain an operating authorisation from each Member State in which they wish to operate.
2. On receipt of an application for an operating authorisation from a UK air carrier, the Member State concerned shall grant the appropriate operating authorisation without undue delay, provided that:
 - (a) the applicant UK air carrier holds a valid operating licence in accordance with the legislation of the United Kingdom; and
 - (b) effective regulatory control over the applicant UK air carrier is exercised and maintained by the United Kingdom, the competent authority is clearly identified and the UK air carrier holds an air operator certificate delivered by the said authority.

3. Without prejudice to the need to allow for sufficient time for the carrying out of the necessary assessments, UK air carriers shall be entitled to submit their applications for operating authorisations from the day of entry into force of this Regulation. The Member States shall have the power to approve those applications as from that day, provided that the conditions for such approval are met. However, any authorisations thus granted shall take effect no earlier than on the first day of application of this Regulation as referred to in the first subparagraph of Article 15(2).

Article 10

Operational plans, programmes and schedules

1. UK air carriers shall submit the operational plans, programmes and schedules for air services to the competent authorities of each Member State concerned, for their approval. Any such submission shall be made at least 30 days prior to the start of the operations.
Submissions regarding the provision of air services to take place in January 2021 shall be made at the earliest possible date before the start of the operations.
2. Subject to Article 9, the operational plans, programmes and schedules for the IATA season that is in progress on the first day of application of this Regulation, as referred to in the first subparagraph of Article 15(2), and those for the first season thereafter may be submitted and approved before that date.
3. This Regulation shall not prevent Member States from issuing authorisations for the operation of scheduled air services by Union carriers in the exercise of rights granted to them by the United Kingdom. In respect of those authorisations, Member States shall not discriminate between Union carriers.

Article 11

Refusal, revocation, suspension and limitation of authorisation

1. Member States shall refuse, or as the case may be, revoke or suspend the operating authorisation of a UK air carrier where:
 - (a) the air carrier does not qualify as a UK air carrier under this Regulation; or
 - (b) the conditions laid down in Article 9(2) are not complied with.
2. The Member States shall refuse, revoke, suspend, limit or impose conditions on the operating authorisation of a UK air carrier, or limit or impose conditions on its operations in any of the following circumstances:
 - (a) the applicable safety and security requirements are not complied with;
 - (b) the applicable requirements relating to the admission to, the operation within, or the departure from the territory of the Member State concerned of aircraft engaged in air transport are not complied with;
 - (c) the applicable requirements relating to the admission to, operation within, or departure from the territory of the Member State concerned of passengers, crew, baggage, cargo, and/or mail on aircraft (including regulations relating to entry, clearance, immigration, passports, customs and quarantine, or in the case of mail, postal regulations) are not complied with.

3. The Member States shall refuse, revoke, suspend, limit or impose conditions on the operating authorisations of UK air carriers, or limit or impose conditions on their operations, where they are required to do so by the Commission in accordance with Article 7 or 8.
4. The Member States shall inform the Commission and the other Member States of any decisions to refuse or revoke the operating authorisation of a UK air carrier pursuant to paragraphs 1 and 2, without undue delay.

Article 12

Certificates and licences

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by the United Kingdom and still in force shall be recognised as valid by the Member States for the purpose of the operation of air transport services by UK air carriers under this Regulation, provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, as a minimum, the relevant international standards established under the Chicago Convention.

Article 13
Consultation and cooperation

1. The Member States' competent authorities shall consult and cooperate with the competent authorities of the United Kingdom as necessary in order to ensure the implementation of this Regulation.
2. Member States shall, upon request, provide the Commission without undue delay with any information obtained pursuant to paragraph 1 of this Article or any other information relevant for the implementation of Articles 7 and 8.

Article 14
Committee procedure

1. The Commission shall be assisted by the Committee established by Regulation (EC) No 1008/2008. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 15

Entry into force and application

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from the day following that on which Union law ceases to apply to and in the United Kingdom pursuant to Articles 126 and 127 of the Withdrawal Agreement.

However, Articles 9(3) and 10(2) shall apply from the entry into force of this Regulation.

3. This Regulation shall not apply if an agreement governing comprehensively the provision of air transport with the United Kingdom to which the Union is a party has entered into force, ***or as the case may be, provisionally applies*** by the date referred to in the first subparagraph of paragraph 2.

4. This Regulation shall cease to apply on the earlier of the following dates:

(a) 30 June 2021;

(b) the date on which an agreement as referred to in paragraph 3 enters into force, or, as the case may be, the date from which it is provisionally applied.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
