



No-deal Brexit: Impact on aviation law

1 September 2019

By: Vonnick Le Guillou | Tony Payne

While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on aviation law.

Traffic rights

Legislation is now in place protecting basic aviation connectivity between the UK and EU in the event of no-deal, covering the interim period before a comprehensive air transport agreement is reached between the UK and the EU-27.

For a UK airline to continue to operate in the EU, the legislation requires operators to obtain an operating authorisation from each member state where it wants to operate, and submit to that member state flight programme details.

Nationality of airlines

Airlines currently owned by UK nationals will no longer retain EU carrier status. Airlines should apply for Third Country Authorisation to continue to fly in the EU after Brexit.

Aircraft design and maintenance

Certificates and approvals for aircraft productions, aircraft conformity, and release of new parts issued by the Civil Aviation Agency (CAA) will no longer be valid in the EU following the UK's EU departure. However, EU legislation is now in place to extend the validity of certain aviation safety licences.

Pilots and cabin crew

Crew training, licences and medicals will be under the control of the UK authorities and will no longer be recognised as equivalent in the EU.

Security

The EU Commission has confirmed that security requirements for all direct passenger flights to and from the UK will remain as they are today and it will recognise UK passenger and baggage screening. UK cargo security regimes will also be recognised as equivalent to those of the EU. However, additional security requirements could apply to UK aircraft arriving into the EU.

Consumer protection

Passengers' rights to compensation in connection with delayed or cancelled flights under Regulation (EC) No 261/2004 will not be affected. However, the UK will cease to be bound by decisions in this regard by the Court of Justice of the European Union.

Safety regulations

While the standards of the European Aviation Safety Agency (EASA) will continue to apply, the UK will lose its ability to influence the development of the EASA legal framework going forward. Even if the standards developed by EASA remain the same for aircraft certification, aircraft operations and aircraft maintenance requirements in the UK, the UK entities concerned (manufacturers, operators, MROs) will be governed by the UK authority for civil aviation (CAA), rather than EASA.

Ownership and control limitations

As EU nationals are required to have majority ownership and control of EU airlines, UK nationals will no longer fulfil this requirement following the UK's EU departure.

Online guidance is available from the UK Government, the European Commission and on the CAA Brexit and EASA Brexit microsites.

How DLA Piper can help

DLA Piper has been advising on and monitoring all of the above issues, among others, for the past two years. For a more detailed analysis of the issues or for assistance with any of the action points detailed above, please contact the authors or your usual DLA Piper contact.

AUTHORS



Vonnick Le Guillou

Partner

Paris | T: +33 1 40 15 24 00

vonnick.leguillou@dlapiper.com



Tony Payne

Partner

London | T: +44 (0)20 7349 0296 [UK Switchboard]

tony.payne@dlapiper.com
