



Brussels, 16 March 2020  
REV1 – replaces the notice dated  
11 December 2017

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF AIR TRANSPORT

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a ‘third country’.<sup>1</sup> The Withdrawal Agreement<sup>2</sup> provides for a transition period ending on 31 December 2020.<sup>3</sup> Until that date, EU law in its entirety applies to and in the United Kingdom.<sup>4</sup>

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,<sup>5</sup> in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation as of the end of the transition period.

#### **Advice to stakeholders:**

To address the consequences set out in this notice, air carriers holding a licence granted by an EU Member State are in particular advised to:

- <sup>1</sup> A third country is a country not member of the EU.
- <sup>2</sup> 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. 7 (“Withdrawal Agreement”).
- <sup>3</sup> The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.
- <sup>4</sup> Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.
- <sup>5</sup> In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the ‘country of origin principle’, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

- (if they want to be considered as Union carrier as of the end of the transition period) ensure and uphold compliance with EU rules, including on the requirement for the principal place of business, and ownership and control; and
- (if they intend to be considered as UK carrier as of the end of the transition period) take the necessary precautionary steps when selling air transport services (i.e. services concerning passengers, mail or cargo) to be provided in the EU after the end of the transition period.

## **1. AIR CARRIERS HOLDING AN OPERATING LICENCE GRANTED BY THE UK LICENSING AUTHORITY**

According to Article 3 of Regulation (EC) No 1008/2008,<sup>6</sup> the carrying by air of passengers, mail and/or cargo for remuneration and/or hire is subject to an operating licence granted by a licensing authority of an EU Member State.

Operating licences granted by the UK licensing authority are no longer valid in the EU as of the end of the transition period.

## **2. AIR CARRIERS HOLDING AN OPERATING LICENCE GRANTED BY A LICENSING AUTHORITY OF AN EU MEMBER STATE**

According to Article 4 of Regulation (EC) No 1008/2008, an operating licence requires the undertaking *inter alia* to:

- have its principal place of business<sup>7</sup> located in an EU Member State;
- be owned by more than 50% by Member States and/or nationals of Member States; and
- be effectively controlled by Member States and/or nationals of Member States.

Operating licences granted by EU licensing authorities are no longer valid in the EU as of the end of the transition period if the holder of the licence does not comply with the above-mentioned requirements.

The website of the Commission on air transport ([https://ec.europa.eu/transport/modes/air\\_en](https://ec.europa.eu/transport/modes/air_en)) provides general information. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General for Mobility and Transport

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<sup>6</sup> 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.

<sup>7</sup> ‘Principal place of business’ means the head office or registered office of a Community air carrier in the EU Member State within which the principal financial functions and operational control, including continued airworthiness management, of the Community air carrier are exercised (Article 2(26) of Regulation (EC) No 1008/2008).