

CIVIL AVIATION (CONSUMER PROTECTION AND REGULATORY REFORM) BILL [HL]

Written evidence submitted by Flightright GmbH

Summary

1. Flightright GmbH is a consumer rights company that helps air passengers pursue compensation for flight delays, cancellations and denied boarding. We assist passengers in understanding and enforcing their rights, including by pursuing claims against airlines and, where necessary, through legal proceedings. Our work gives us practical insight into the barriers passengers face when seeking redress and the operation of passenger protection rules. We submit this evidence to support a framework that combines clear substantive rights, effective enforcement, and passengers' freedom to choose how they pursue their claims.
2. Flightright GmbH supports the Bill's objectives of strengthening air-passenger protection and improving enforcement. This evidence concerns principally clauses 1 to 3 and the future regulation of rights arising from delay, cancellation and denied boarding.
3. The Bill does not itself reduce existing rights under Regulation (EC) No 261/2004 as assimilated into UK law ("UK261"). The concern is that clause 1 creates a broad delegated power capable of changing substantive passenger rights and enforcement arrangements later, as most regulations under clause 1 are presently subject only to the negative resolution procedure.
4. Flightright recommends three safeguards: (a) affirmative parliamentary approval for regulations materially altering core passenger compensation or enforcement rights; (b) mandatory consultation and clear transitional protection for accrued rights and pending claims; and (c) preservation of effective private enforcement, representation and access to the courts.

Clause 1: delegated powers and parliamentary scrutiny

5. Clause 1 empowers the Secretary of State to regulate the rights of persons purchasing or using air transport services and the duties and liabilities of providers. It expressly extends to refusal of boarding, delay, cancellation, dispute resolution, compensation or redress, CAA enforcement, financial penalties, and criminal offences.
6. That flexibility is legitimate, but the power is capable of affecting matters that are not merely technical, including compensation entitlement and calculation, substantive exclusions or defences, dispute-resolution requirements, and the routes by which passengers enforce their rights.
7. Clause 1 currently requires the affirmative procedure where regulations create criminal offences or provide for CAA financial penalties. Other clause 1 regulations are subject to annulment by either House and, therefore, ordinarily use the negative procedure.
8. Flightright submits that the level of parliamentary scrutiny should reflect the substantive importance of the right being altered, not merely whether the instrument creates a sanction. A regulation materially changing passenger compensation or access to redress can have greater consequences for consumers than an enforcement penalty.
9. Furthermore, passengers relying on UK law could receive weaker protection than those relying on applicable EU law, if UK rights are reduced or EU improvements are

not matched. This is a conditional risk, not an inevitable consequence of the Bill. The comparison concerns applicable legal regimes, routes and carriers, rather than nationality alone.

10. To assist Parliament in assessing proportionality, Flightright proposes to quantify the number of passengers and claims within its recent UK261 portfolio that would be affected by changes to key thresholds or compensation architecture. Since the incorporation of UK261 on 1 January 2021, Flightright has assisted a six-figure number of UK passengers in pursuing claims arising from flight disruption. The number of British passengers who successfully accessed justice could be considerably reduced if some of the rights they now enjoy would be altered without the proper procedure.
11. We therefore recommend affirmative approval where regulations materially alter: (i) compensation entitlement or calculation for delay, cancellation or denied boarding; (ii) substantive eligibility criteria, exclusions or defences; (iii) limitation or time-bar rules; (iv) mandatory pre-litigation or dispute-resolution requirements; or (v) passenger representation or access to civil proceedings.

Consultation and transitional protection

12. An impact assessment already accompanies the Bill. Its passenger-rights analysis recognises uncertainty about future regulations and anticipates separate assessments when those policies are developed. The Committee should place the essential requirements on a statutory footing.¹
13. More specifically, clause 2 requires the Secretary of State to begin a consultation process within 12 months of Royal Assent, but its expressly listed subjects principally concern accessibility, allergies, complaints procedures and suitable wheelchairs. There is no express requirement for a dedicated consultation before material changes to the general UK261 compensation or enforcement framework.
14. The Department for Transport's 2022 aviation consumer consultation considered changes to domestic delay compensation. In its 2023 response, the Government recognised both potential benefits and significant complexities and said that further work and consultation were required before reform. That history demonstrates why material changes to compensation and redress should be preceded by specific consultation.²
15. The Bill should therefore require consultation before regulations materially change compensation, eligibility, exclusions from liability, limitation, mandatory ADR or Ombudsman requirements, or access to private enforcement and the courts. Before major changes, Ministers should publish the affected passenger and claim populations, aggregate losses and gains, effects on vulnerable groups, behavioural assumptions, administrative costs, and sensitivity analyses. Evidence should distinguish reductions in disputes caused by quicker payment from reductions caused by removing entitlement or discouraging claims.
16. Assessment should also model effects on airline complaints, ADR referrals, contested proceedings, and enforcement applications, including transition costs and provider capacity. A smaller compensation bill for airlines is not, without further analysis, an equivalent social benefit.
17. Furthermore, consultation should include passengers, consumer organisations, airlines, airports, the CAA, ADR providers, legal-services stakeholders, and passenger representatives. Commercial interests should be disclosed and empirical claims

¹ [DfT impact assessment, passenger-rights options assessment.](#)

² [DfT consultation response.](#)

independently tested. The 2023 consultation response itself recognised competing considerations and committed to further work before compensation reform.

18. As clause 1 permits transitional and saving provisions, where future regulations materially alter passenger rights, the Bill should require clear protection for accrued rights and legal certainty for claims already notified, passengers who have instructed representatives, existing assignments or authorities, ADR proceedings, and civil proceedings already commenced.
19. As a general rule, substantive entitlement should be determined by the legal regime applicable when the relevant disruption occurred. Clear transitional rules avoid arbitrary outcomes between passengers with materially identical claims who happen to be at different procedural stages when a new regime commences.

Private enforcement, representation and access to redress

20. Flightright supports stronger CAA enforcement. Public enforcement and individual enforcement, however, perform different functions. Regulatory enforcement is particularly suited to systemic conduct; individual enforcement determines whether a particular passenger is entitled to redress on particular facts.
21. Enhanced CAA powers should therefore complement rather than displace passengers' independent ability to obtain redress. Nor should passengers be required to pursue claims personally.
22. Passenger disputes can involve the cause and duration of disruption, extraordinary circumstances, reasonable measures, connecting itineraries, cancellation notice, denied boarding, rerouting, documentary evidence, and applicable law. Passengers should remain free to appoint an appropriately authorised representative where they choose to do so.
23. Concerns about particular forms of representation are better addressed through effective regulation, transparency and consumer choice rather than by restricting a passenger's ability to appoint someone to enforce a statutory right.

ADR, Ombudsman and automatic compensation

24. Flightright supports accessible and effective ADR. Nevertheless, any mandatory ADR or Ombudsman model should ensure that (a) it is an optional step for the passenger in the pursuit of the claim, (b) passengers may be represented; (c) participation does not inadvertently time-bar claims; (d) adverse decisions are explained with sufficient reasons and evidence; (e) the relationship with later court proceedings is clear; and (f) ultimate access to the courts is not removed unless Parliament expressly decides otherwise with appropriate safeguards.
25. A proposed new clause presently on the Commons amendment paper would establish an Independent Aviation Ombudsman and expressly contemplates complaints by a passenger or by a person acting on the passenger's behalf. That amendment has not been agreed and is not presently part of the Bill, but the representation principle is appropriate.
26. Moreover, any compulsory ADR framework should protect limitation periods, permit representation, provide accessible non-digital routes and reasoned decisions, and explain settlement and subsequent court rights. Mandatory airline membership and mandatory passenger participation are different policies and require separate justification.

Clause 3 and recommended amendments

27. Clause 3 requires the Secretary of State to have due regard to the desirability of strengthening passenger rights. Flightright welcomes that provision, but a duty to have regard to strengthening rights does not itself prevent a future regulation from reducing a particular existing entitlement.
28. Flightright therefore respectfully invites the Committee to amend the Bill so that:
- (a) material changes to compensation and individual enforcement rights require the affirmative procedure;
 - (b) such changes are preceded by mandatory consultation;
 - (c) accrued rights and pending claims receive clear transitional protection; and
 - (d) passengers retain the right to appoint representatives and to access effective civil redress.
29. These safeguards would preserve regulatory flexibility while ensuring that future reform of fundamental passenger rights is transparent, evidence-based, and subject to scrutiny proportionate to its practical importance.

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References

1. Civil Aviation (Consumer Protection and Regulatory Reform) Bill [HL], Bill 132 (2026–27), clauses 1–3;
2. DfT, Response to the Aviation Consumer Policy Reform Consultation (2023);
3. House of Commons amendment paper dated 10 September 2026.