



HOUSE OF LORDS

Select Committee on the Constitution

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10 June 2026

Civil Aviation (Consumer Protection and Regulatory Reform) Bill

I write on behalf of the Constitution Committee regarding the Civil Aviation (Consumer Protection and Regulatory Reform) Bill.

The Bill seeks to update airspace law, which, in the UK, is an area of law that has been significantly influenced by EU law. When EU legislation was transposed into our domestic law while the UK was a member of the EU, this was typically done through secondary legislation, which meant that, whilst not subjected to the same level of parliamentary scrutiny as primary legislation, the draft law would have been scrutinised within the EU institutions, as well as by the dedicated European scrutiny committees within both Houses of Parliament.

This Bill strengthens the secondary law-making and rule-making powers of both the Civil Aviation Authority and the Secretary of State. We note, in particular, that Clauses 1 and 8 confer particularly broad powers. The exercise of these powers, a number of which are subject to the negative procedure, will, by the nature of negative parliamentary approval of secondary legislation, be subject to minimal parliamentary oversight. We are concerned that this will result in a scrutiny gap, with secondary legislation and rule-making in this area receiving less scrutiny than equivalent powers did when originating within the EU.

We draw this risk of a scrutiny gap to your attention, noting that similar concerns are likely to arise in future when changes are made to other areas of assimilated EU law. In the interests of good law-making, the Government should work with Parliament to ensure that changes to the law in such areas receive an adequate level of scrutiny, comparable to that prior to EU exit.

We also commend to the Government the recommendations made in relation to this Bill by the Delegated Powers and Regulatory Reform Committee.

The Rt Hon. Lord Strathclyde CH
Chair of the Constitution Committee