



# Brexit & Passenger Rights

EC261 in a post Brexit world

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# Current scope of EC261

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- **Which passengers have rights under EC261?**
  - The Regulation applies to any passenger:
    - Departing from an airport in the territory of a EU Member State to which the Treaty applies
    - Travelling to a Member State to which the Treaty applies on an airline based in a Member State (“Community Carrier”)
    - Iceland, Liechtenstein and Norway, and Switzerland by Bilateral Treaty
  
- **EC261 has direct effect in EU (including UK)**

# EU Withdrawal Bill

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- Ends Supremacy of EU law in UK after ‘Exit Day’
  - currently scheduled to be 29 March 2019
- Converts EU law at the point of Brexit into UK law
- Creates powers for the UK government to correct UK legislation so that EU law continues to work
  - UK retains a functioning statutory framework after Brexit
- EU law should apply in UK as it did before Brexit until:
  - UK Parliament modifies law
  - UK Supreme Court departs from it

# Status of EC261 Post Brexit

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- UK no longer an EU Member State
- UK carriers no-longer Community carriers
- EC261 still applies in UK by virtue of EU Withdrawal Act
  
- Post Brexit, EC261 will apply in UK as a result of UK domestic legislation rather than EU law

# Key Questions

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- What is status of CJEU decisions (that were made before Brexit) in UK post Brexit?
- What is status of CJEU decisions (that were made after Brexit) in UK post Brexit?
- Will UK Courts depart from CJEU decisions?
- Will UK Parliament amend EC261?
- What if EU law is developed/amended?

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