

Decree of [date] laying down rules to distribute traffic between Schiphol Airport and Lelystad Airport

On the recommendation of the Minister of Infrastructure and Water Management, no. IenM/BSK-..., Administrative and Legal Affairs Department;

Having regard to 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 293/14) and section 8a.52 of the Aviation Act;

Having heard the Council of State (report no. ...);

Having seen the further report of the Minister of Infrastructure and Water Management, no. IenM/BSK-..., Administrative and Legal Affairs Department;

Have approved and decreed:

§1. General

Article 1

For the purposes of this Decree, the following definitions apply:

Decree means Decree laying down rules to distribute traffic between Schiphol Airport and Lelystad Airport;

scheduling period means the scheduling period referred to in article 2 (d) of the Slot Regulation;

commercial traffic means air transport services operated by air carriers that are open to individual bookings for passengers, cargo or mail that are regular flights, that is to say scheduled flights or commercial flights operated on a fixed route to a published schedule, or non-regular flights, that is to say charter passenger or cargo flights or non-regular commercial flights;

Our Minister means Our Minister of Infrastructure and Water Management;

point-to-point flight means a flight designated by ministerial order as a point-to-point flight;

slot means a slot within the meaning of article 2 (a) of the Slot Regulation;

slot coordinator means a coordinator within the meaning of the Slot Regulation;

Slot Regulation means Council Regulation (EEC) no. 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14);

transfer flight means a flight designated by ministerial order as a transfer flight.

§2. Lelystad Airport

Article 2

1. Lelystad Airport will be designated as a coordinated airport within the meaning of the Slot Regulation when the airport opens for commercial traffic.
2. Without prejudice to the Slot Regulation, an air carrier gets priority to require slots at Lelystad Airport to take off or land in so far as that air carrier:
 - a. has transferred historical slots at Schiphol Airport to another air carrier or the slot coordinator; or
 - b. henceforth uses historical slots to operate transfer flights.
3. The priority referred to in paragraph 2 applies to the slots available for commercial traffic until 10.000 at Lelystad Airport.
4. The priority referred to in paragraph 2 applies to the slots available for commercial traffic beyond 10.000 and under 25.000 at Lelystad Airport.
5. Paragraph 2 applies only to slots at Schiphol Airport that were used in the previous corresponding scheduling period or in at least three of the four previous corresponding scheduling periods to conduct point-to-point flights.
6. Point-to-point flights and transfer flights are designated as such by ministerial order laying down rules on the criteria the flights must satisfy. The flights are designated once every two years and are made known at least a year before entering into force.
7. The dates and times of the slots at Lelystad Airport need not correspond with those of the slots at Schiphol Airport referred to in paragraph 2.
8. An air carrier that applies paragraph 2 must inform Our Minister, the slot coordinator and, where applicable, the recipient air carrier thereof, stating which slots at Schiphol Airport are concerned. When informing Our Minister, the air carrier must demonstrate that paragraph 5 has been satisfied.

§3. Schiphol Airport

Article 3

The slots at Schiphol Airport referred to in article 2, paragraph 2 are to be used by air carriers following their transfer for transfer flights.

Article 4

1. Within two months of the end of the scheduling period, air carriers must provide Our Minister with information demonstrating how they have used the slots at Schiphol Airport referred to in article 3.
2. Each air carrier that receives the slots at Schiphol Airport referred to in article 3 must, in the event of those slots being transferred to another air carrier, inform the air carrier to which the slots are transferred of the fact that the slots may be used only in accordance with article 3.
3. An air carrier that transfers the slots as referred to in article 3 must inform the Our Minister and the slot coordinator of the transfer, the slots concerned and the identity of the air carrier to which the slots are transferred.
4. If the slot coordinator allocates the slots referred to in article 3 to an air carrier, the slot coordinator must inform that air carrier of the fact that the slots may be used only in accordance with article 3.
5. This article applies *mutatis mutandis* to the slots referred to in article 2, paragraph 2, under b.

§4. Concluding provisions

Article 5

The provisions laid down by this Decree apply *mutatis mutandis* to destinations serving as the departure point of a flight.

Article 6

Within three years of this Decree entering into force, Our Minister must report to the parliament and the European Commission on the effectiveness, impact and proportionality of this Decree in practice. The report will contain the results of a consultation on the aforementioned topics and in the report special attention shall be given to the available market capacity and access of new entrants to the Dutch aviation market and the airports Lelystad and Schiphol in particular.

Article 7

1. This Decree enters into force with effect from the day on which Lelystad Airport's routes for commercial traffic are published in the Aeronautical Information Publication, with the exception of article 2, paragraph 4.
2. Article 2, paragraph 4, will enter into force with effect from the day on which the European Commission approves this particular paragraph pursuant to a separate submission pursuant to article 19, paragraph 3, of Regulation (EC) no. 1008/2008.

Article 8

This Decree may be cited as the Schiphol and Lelystad Airports (Traffic Distribution) Decree.

We order and command that this Decree and the explanatory memorandum pertaining to it be published in the Bulletin of Acts and Decrees.

THE MINISTER OF INFRASTRUCTURE AND WATER MANAGEMENT