

Courtesy translation of the: Policy Rule of the Minister of Infrastructure and Water Management on the enforcement of Article 7 of the Slot Allocation Decree (**Policy Rule Enforcement of the Misuse of Slots at Coordinated Dutch Airports**).

Remark: no rights can be derived from this translation, the only legally valid document is the original document as officially published in the Dutch language : [Beleidsregel handhaving misbruik van slots op gecoördineerde luchthavens](#)

STAATSCOURANT

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The Minister of Infrastructure and Water Management,

With regard to Section 7 of the Slot Allocation Decree and Section 4:81(1) of the General Administrative Law Act.

Decree:

Article 1

1. In this policy rule, the following terms shall have the following meanings:

- a. ILT: Human Environment and Transport Inspectorate;
- b. Regulation 95/93: Council Regulation (EEC) No. 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJEC 1993, L14);
- (c) slot: permission given by a coordinator in accordance with Regulation 95/93 to operate on a specific date and time the entire airport infrastructure at a coordinated airport to land or take off, as assigned by a coordinator in accordance with this regulation;
- d. WASG: Worldwide Airport Slot Guidelines, being the worldwide supplementary rules and guidelines additional rules and guidelines established worldwide by the aviation industry;
- e. movement: arriving or departing flight;
- f. night movement: movement at Schiphol airport in the period as referred to in article 4.2.3a of the Schiphol Airport Traffic Ruling, whereby the time applies that the aircraft detaches from or lands with its wheels on the runway;
- g. night slot: a slot for departure in the period between 22:40 and 06:55 hours at which the aircraft goes off-blocks, or a slot for arrivals in the period between 23:00 and 07:15 hours, where the aircraft goes on-blocks;
- h. block time means automatic recording of the parking brake or recording of the time at the stand, or the manual recording of the removal or installation of the blocks for the wheels, applying the most favorable time for the airline;
- i. runway time: the moment of landing or take-off at which the wheels of the aircraft make or lose contact with the ground;
- j. air service: the execution of a flight;
- k. slot deviation: an individual deviation from the slot regime which can lead to a violation;

l. IATA season: season as described in the WASG;

2. The definition of terms in article 2 of Regulation 95/93 and article 1 of the Decree on slot allocation shall apply mutatis mutandis.

Article 2

In article 7, paragraph 1, of the Decree on Slot Allocation the following terms have the following meaning:

a. 'repeatedly' means more than once within one IATA season;

b. 'times that differ substantially':

1°. a departure or arrival time which differs in terms of block time by more than 60 minutes from the allocated slot; or

2°. a night movement without an assigned night slot, taking into account a margin of 2 minutes deviation from the runway time;

c. "Substantially different way": the use of a slot with a different aircraft type, number of seats, origin or destination, STC code or any other substantial deviation than that indicated by the air carrier at the time when the slot in question was allocated.

Article 3

When calculating an administrative penalty pursuant to Section 11.16, paragraph 1, section e, under 5°, Aviation Act, the penalty catalogue included in Annex 1 shall be applied.

Article 4

1. The imposition of an administrative fine in accordance with article 3 shall in any case be waived in the following situations, provided that the act of the air carrier was unforeseen, unavoidable and not attributable to the air carrier:

a. unexpected, unavoidable technical failure of the aircraft, which causes the slot violation;

b. technical failures, damage or compulsory checks resulting from external causes which causes the slot violation;

c. strikes or industrial action causing the slot violation;

d. any air traffic control measures causing the slot violation;

e. medical emergencies causing the slot violation;

f. weather conditions causing the slot violation;

g. tailwinds and headwinds for which the schedule could not be adjusted and for which the violation could not be prevented by adjusting flight speeds;

h. political situations causing the slot violation;

i. wars or conflicts causing the slot violation;

j. security reasons causing the slot violation;

k. unloading of unaccompanied hold baggage in accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJEU 2008, L 97), unless that baggage has been separated due to factors beyond the control of the passenger or has been subjected to security controls;

l. delays caused by the late boarding of passengers with reduced mobility by the airport authority in accordance with Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility travelling by air (OJEU 2006, L 204); or

m. other reasons that satisfy the conditions in paragraph 1.

2. The air carrier that has operated the flight shall provide the ILT with written, substantiated evidence if it invokes a justification.

3. If one of the situations referred to in the first paragraph has occurred on an earlier flight, as part of a rotation, the justification may apply to a later flight of the rotation.

4. If several slot deviations are found with an air carrier within one IATA season, the ILT may require the air carrier that performed the flight to implement an improvement plan to prevent further slot deviations within that IATA season.

5. In the event of failure to implement an improvement plan as referred to in paragraph 4, no appeal can be made to a justification.

Article 5

This policy rule shall take effect from the day after the date of publication of the Government Gazette in which it is published.

Article 6

This policy rule shall not apply to the enforcement of violations of Section 7 of the Decree on Slot Allocation that have been committed prior to the entry into force of this policy rule.

Section 7

This policy rule shall be cited as: Beleidsregel handhaving misbruik van slots op gecoördineerde luchthavens.

This policy rule and the explanatory memorandum shall be published in the Netherlands Government Gazette.

The Minister of Infrastructure and Water Management,

On behalf of the Minister:

INSPECTOR GENERAL OF THE ENVIRONMENT AND TRANSPORT

J. van den Bos

Annex 1, Catalogue of fines as referred to in Article 3

The column Act/article is deliberately not translated, because the Decree on slot allocation is also not offered in translation.

1. Night movements without a night slot				
1.1 Repeatedly and intentionally perform air services at times substantially different from the assigned slot resulting in nighttime movements with a daytime slot;				
Fine code	Act/article	Description violation	Fine amounts	
B 7.1.a (1)	Besluit slotallocatie Artikel 7, lid 1, onderdeel a	Performing a night movement with a daytime slot with an aircraft in noise category S1. (Table 2)	€ 75.000,- per violation	
B 7.1.a (2)	Besluit slotallocatie Artikel 7, lid 1, onderdeel a	Performing a night movement with a daytime slot with an aircraft in noise category S2, S3, S4. (Table 2)	€ 50.000,- per violation	
B 7.1.a (3)	Besluit slotallocatie Artikel 7, lid 1, onderdeel a	Performing a night movement with a daytime slot with an aircraft in noise category S5 S6 of S7. (Table 2)	€ 25.000,- per violation	
1.2 Operate an air service without a slot assigned for that air service that results in a night movement (NOREC night)				
Fine code	Act/article	Description violation	Fine amounts	
B 7.1.d (1)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel d	Making a night movement without a slot with an aircraft in noise category S1. (Table 2)	€ 75.000,- per violation	
B 7.1.d (2)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel d	Making a night movement without a slot with an aircraft in noise category S2, S3, S4 of S5. (Table 2)	€ 50.000,- per violation	
B 7.1.d (3)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel d	Making a night movement without a slot with an aircraft in noise category S6 of S7. (Table 2)	€ 25.000,- per violation	
2. other violations than nightcurfew				
2.1 Operate an air service without a slot allocated for that air service and which does not result in a night movement (NOREC day)				
Fincode	Act/article	Description violation	Fine amounts	
B 7.1.d (4)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel d	Conduct flights without a slot at a coordinated airport with a (wide body) aircraft with an ICAO code D, E or F (Table 3)	€ 50.000,- per violation	
B 7.1.d (5)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel d	Conduct flights without a slot at a coordinated airport with a (wide body) aircraft with an ICAO code A, B or C (Table 3)	€ 25.000,- per violation	
2.2 Repeated and intentional failure to use an assigned slot (NOOPS)				
Fincode	Act/article	Description violation	Fine amounts	
B 7.1.c (1)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel c	Not using a slot for a (wide body) aircraft with an ICAO code D, E or F (Table 3)	€ 50.000,- per violation	
B 7.1.c (2)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel c	Not using a slot for an aircraft type (smaller than a wide body) with an ICAO code A, B or C] (Table 3)	€ 25.000,- per violation	

2.3 Repeatedly and intentionally using a slot in a significantly different way than was indicated at the time of allocation of the relevant slot

Finecode	Act/article	Description violation	Fine amounts	
B 7.1.b (1)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel b	Use slots in a significantly different way from that for which they were issued for using an ICAO code D, E or F (wide body) aircraft (Table 3)	€ 50.000,- per violation	
B 7.1.b (2)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel b	Use slots in a significantly different way from that for which they were issued for using an aircraft type (smaller than a wide body) with an ICAO code A, B or C (Table 3)	€ 25.000,- per violation	

2.4 Repeatedly and intentionally perform air services at times significantly different from the assigned slot (flying at significantly different times)

B 7.1.a (4)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel a	Use slots at significantly different times than those issued for using a (wide body) aircraft with an ICAO code D, E or F (table 3)	€ 50.000,- per violation	
B 7.1.a (5)	Besluit Slotallocatie Artikel 7, lid 1, onderdeel a	Use slots at significantly different times than those issued for using a (aircraft type smaller than a wide body) aircraft with an ICAO code A, B or C (Table 3)	€ 25.000,- per violation	

Table 2 (Schiphol tarieven en voorwaarden)

Geluidscategorie S1	Geluidscategorie S2	Geluidscategorie S3	Geluidscategorie S4
Airbus A300	Airbus A310 Airbus A321 Airbus A319 Airbus A320 Airbus A330	Airbus A318	
B727 B737-100/200/300/400/500 B767-100/200/300 B747-200	B737-600/700/800/900 B767-400 B747-400 B757	B777-200/300er	B717
Antonov niet vermelde typen	Antonov 148 ATR42 ATR72		
BAe niet vermelde typen DC-8 DC-9 DC-10 Ilyushin alle typen Tupolev alle typen Yak42	Embraer 170/175/190/195 Fokker 100 MD-11 Shorts 360	BAe 146/AVRO RJ series Bombardier CRJ700 Bombardier 900 Canadair CL600 Canadair RJ 700/900 Sukhoi Superjet 509	Bae 125-800 Fokker 70 MD-90
Fokker 27/50 Lockheed alle typen MD-81/82/83/87/88 Gulfstream II/III Hawker 700 Cessna 650 Falcon 10/20/50			Gulfstream IV/V or 650 Hawker 800 Hawker 750/800 XP Cessna 500 Cessna 560 XL Cessna 750 Falcon 200/900/2000/7x IAI Galaxy SPX IAI other types Learjet 31/35/36/45/55/60 Beech alle typen
Alle vliegtuigen niet vermeld in geluidscategorieën S1, S2, S3, S4, S5, S6 of S7		Alle helikopters	

Geluidscategorie S5	Geluidscategorie S6	Geluidscategorie S7
Airbus A340 DHC (DH8D) Bombardier Global Express Canadair CL601/604 Dornier 328/jet Embraer E120 Embraer E135/145 Saab alle typen	Airbus A321NEO B737-800MAX B747-800 B787 Canadair RJ100/200	Airbus A320NEO Airbus A350 Airbus A380
Alle vliegtuigen < 6 ton MTOW Alle propellervliegtuigen ≤ 9 ton MTOW		

Table 3 (ICAO aircraftcodes)

Code letter	Wingspan	Outer main gear wheel span	Typical aeroplane
A	< 15 m	< 4.5 m	PIPER PA-31/CESSNA 404 Titan
B	15 m but < 24 m	4.5 m but < 6 m	BOMBARDIER Regional Jet CRJ-200/DE HAVILLAND CANADA DHC-6
C	24 m but < 36 m	6 m but < 9 m	BOEING 737-700/AIRBUS A-320/EMBRAER ERJ-190-100
D	36 m but < 52 m	9 m but < 14 m	B767 Series/AIRBUS A-310
E	52 m but < 65 m	9 m but < 14 m	B777 Series/B787 Series/A330 Family
F	65 m but < 80 m	14 m but < 16 m	BOEING 747-8/AIRBUS A-380-800

EXPLANATION :

General:

This policy rule indicates how a violation of Section 7(1) of the Decree on Slot Allocation will be enforced by the ILT. A catalog of fines has been included to inform airlines.

Monitoring process

The monitoring of slots is done by the slot coordinator (Airport Coordination Netherlands, ACNL). ACNL also determines how slot deviations count for the so-called use it or lose it rule by which, after actually operating a percentage of the flights for which a slot has been issued, the air carrier concerned is entitled to the same series of slots in the next corresponding scheduling period and whether airlines may invoke force majeure for this rule. ACNL reports the slot deviations to ILT. The ILT investigates these slot deviations in the context of slot misuse. The conclusion of these investigations may result in an intervention. Both ACNL and the ILT can impose sanctions, they can also run together.

If a slot deviation is found then the airline will be notified by ACNL. The notification by the ILT is in addition to the notification by ACNL. Furthermore, the attention of the air carrier is drawn to the fact that with subsequent slot deviations there may be a violation (depending on the type of slot deviation). In the event of violations, appropriate intervention takes place based on the intervention matrix from the National Enforcement Strategy (LHS) and the ILT may decide to impose an administrative fine in accordance with the provisions of this policy rule and the associated fine catalog. In accordance with Article 11.16, paragraph 3, section g, of the Aviation Act, the maximum fine that can be imposed for a slot violation is currently €670,000.

The term 'night regime' refers to the period as specified in Article 4.2.3.a of the Schiphol Airport Traffic Ruling (the period from 23:00 hours to 07:00 hours (local time), as it was in force when this policy rule entered into effect.

If intentional is included in the description of the prohibitions in Article 7 of the Slot Allocation Decree, the moment the pilot asks for permission to depart (start-up clearance) while the air carrier knew, or should have known, that a slot deviation or violation was going to take place, for example, could be decisive in this regard. In the case of the non-use of a slot, for example, it is examined whether a slot could still be returned at the time the airline knew it could not or would not use the slot. The most important thing is that if an air carrier could have avoided a slot discrepancy that qualifies as a violation by means of administrative actions, it cannot invoke the grounds for justification referred to in Article 4. Violations that are the result of failure to implement improvement plans as discussed with ACNL and/or the ILT are considered to have been committed intentionally.

Flying at a coordinated airport without a slot:

Using a coordinated airport without being allocated a slot for this purpose is seen as a serious form of slot misuse because:

- There is shortage of slots at the airports, the shortage in the form of the maximum number of slots allowed is distributed according to the rules among the applicants for these slots. By operating a flight without a slot, fewer slots are remaining for legitimate applicants.

- The allocation of slots takes into account the maximum usage of the airport per time unit. A flight without an allocated slot may generate a demand above the maximum, which may cause other flights to wait.

- Slots, are scarce and expensive, especially at a severely congested airport like Schiphol. The exact value of slots in the Netherlands is unknown because slots are not directly tradable in the Netherlands. Schiphol is among the top 3 severely congested airports worldwide along with Hong Kong and Heathrow. Flying without a slot distorts competition.

There are additional limitations in the handling capacity of large (wide body) aircraft. Flying without a slot with this category is therefore qualified as very serious.

Article-by-article

Article 2

The concept of repeatedly:

If repeatedly occurs in the description of a prohibition described in article 7 of the Decree on Slot Allocation, it makes that the first slot deviation does not constitute in a violation. A repetition within one IATA season is considered as repetitive. At the start of the next IATA season the counting starts again at zero.

Examples of counting the number of slot deviations that result in a slot violation: Numbers of deviations when flying without a slot (article 7, paragraph 1, part d, Decree on Slot allocation):

This is the most serious violation in terms of slot misuse and is forbidden. Therefore, the airline that operates just one flight without a slot already commits a punishable violation. **Each flight without a slot is seen as a separate violation.**

Counting of deviations for all other violations (Article 7, paragraph 1, sections a, b and c, Decree on Slot Allocation):

For all other forms of slot misuse, repeatedly is an element of the violation, as in cases of not operating an allocated slot. Failure to operate a first allocated slot (without returning it in a timely manner) within one IATA season does not yet constitute an offense, we refer to it as a "deviation". If within one IATA season not using a slot occurs twice however, a violation will be established (there is a repetition in place). From here is counted further. The third time a slot is not used leads to the second violation and so on.

The deviations below take place within 1 IATA season:

- 1x failure to use a slot: discrepancy (the airline is informed)
- 2x failure to use a slot: violation 1 (the airline will be sanctioned)
- 3x failure to use a slot: violation 2 (the airline will be sanctioned)
- 4x failure to use a slot: violation 3 (the airline will be sanctioned)

Article 4

In accordance with Article 5:5 of the General Administrative Law Act, the ILT will not impose an administrative fine if there is justification for the violation. Article 4, paragraph 1 of this Policy Rule contains a non-exhaustive list of justifications. A justification may consist of force majeure, self-defense, acting in execution of a statutory provision and acting in execution of an authorized official order. For example, an instruction from air traffic control. Furthermore, in accordance with Article 5:41 of the General Administrative Law Act an administrative fine will not be imposed if the airline cannot be held responsible for the violation.

Examples of external causes can be: bird strikes, lightning strikes, other damage caused by bad weather, volcanic eruptions, damage to the aircraft by external objects. Also damage caused by third parties (contracted by the operating airline);

Annex 1, Fine Catalog:

Proportionality of fines for violations during the night-time regime:

In order to make the fines for violations of the night regime proportional to the severity of the violation, a category classification is used according to the noise production in EPNdB values per aircraft in accordance with the certification recognized and accepted by ICAO. The degree of noise production determines the seriousness of the violation. After all, the primary purpose of enforcing the night-time regime is to protect the surrounding area against disturbance from landing and departing aircraft (damage to airport operations with a night-time regime). Furthermore, the number of slots allocated in the hours of the night regime is very limited. Therefore, flying without a slot allocated for this period is also considered an aggravating factor. The fine amounts for violations of the night regime are therefore higher than the fine amounts for violations of the day regime.

Proportionality of other fines in the fines catalog:

The fines other than for slot misuse within the night regime have been made proportional to the size of the aircraft with which the violation was committed. For this purpose, a link has been sought with the classification standardized by ICAO as included in Table 3 of Annex 1 to this policy rule.

Because additional limitations apply to the handling capacity of large aircraft at airports, slot misuse committed with these aircraft is more heavily fined. Furthermore, the dimensions of aircraft are a measure of the economic value of the flight carried out and therefore of the economic benefit enjoyed as a result of the violation. After all, larger aircraft can carry more cargo and/or passengers. Therefore, the size of the aircraft with which the violation can be committed is decisive for the amount of the fine for slot misuse.

After all, the size of the costs to prevent the violation are also related to the size of the aircraft. The severity of the fines determines in this way that the fine provides sufficient incentives to comply. If passengers have to be cared for and compensated by the airline due to the later operation of the flight, this involves large amounts per passenger. Then it should not be favourable for the airline to pay the slot misuse fine. The compensation for a delayed or cancelled flight can be up to 600 euros per passenger. Added to that are the costs of care and any rebooking fees.

The Minister of Infrastructure and Water Management,

on behalf of:

THE INSPECTOR GENERAL OF THE ENVIRONMENT AND TRANSPORT

J. van den Bos