



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART III

#### REGULATION OF CIVIL AVIATION

##### *General*

#### **60 Power to give effect to Chicago Convention and to regulate air navigation, etc.**

- (1) Subject to section 11(7) above, Her Majesty may by Order in Council under this section (in this Act referred to as “an Air Navigation Order”) make such provision as is authorised by subsections (2) and (3) below or otherwise by this Act or any other enactment.
- (2) An Air Navigation Order may contain such provision as appears to Her Majesty in Council to be requisite or expedient—
  - (a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or
  - (b) generally for regulating air navigation.
- (3) Without prejudice to the generality of subsection (2) above or to any other provision of this Act, an Air Navigation Order may contain provision—
  - (a) as to the registration of aircraft in the United Kingdom;
  - (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Order;
  - (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to

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aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes;

- (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft;
- (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Kingdom may fly, and as to the conditions under which aircraft may fly from one part of the United Kingdom to another;
- (f) as to the conditions under which passengers . . . <sup>F1</sup> may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, . . . <sup>F1</sup>
- [<sup>F2</sup>(ff) as to the conditions under which goods may be carried by air, for prohibiting the carriage by air of goods of such classes as may be specified in the Order, and for conferring, on such persons as may be so specified, powers relating to the enforcement of any such condition or prohibition (including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing goods or to require them to be opened and powers to require the production of any documents);]
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;
- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- <sup>F3</sup>(k) . . . . .
- (l) for prohibiting aircraft from flying over such areas in the United Kingdom as may be specified in the Order;
- (m) for applying, adapting or modifying the enactments for the time being in force relating to customs or excise in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to Her Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into the United Kingdom without payment of duty;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;

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- (o) ..... F4
  - (p) for specifying, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any other matters in respect of which it appears to Her Majesty in Council to be expedient for the purpose of the Order to charge fees:
  - (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons;
  - (r) for prohibiting aircraft from taking off or landing in the United Kingdom unless there are in force in respect of those aircraft such certificates of compliance with standards as to noise as may be specified in the Order and except upon compliance with the conditions of those certificates; and
  - (s) for regulating or prohibiting the flight of aircraft over the United Kingdom at speeds in excess of Flight Mach 1.
- (4) An Air Navigation Order may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the United Kingdom but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

<sup>F5</sup>(5) .....

(6) In this section a reference to goods shall include a reference to mails or animals.

#### Textual Amendments

- F1** Words repealed by [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), ss. 47(a), 53(2), **Sch. 4**
- F2** [S. 60\(3\)\(ff\)](#) inserted by [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), **s. 47(b)**
- F3** [S. 60\(3\)\(k\)](#) repealed (8.11.1995) by [1995 c. 44, s. 1, Sch. 1 Pt. V](#)
- F4** [S. 60\(3\)\(o\)](#) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), **Sch. 6 Pt. II**
- F5** [S. 60\(5\)](#) repealed (24.4.1994) by [S.I. 1994/426 \(N.I. 1\)](#) arts. 1(2), 71(4), Sch. 10 (with art. 16)

#### Modifications etc. (not altering text)

- C1** [S. 60](#) amended by [Airports Act 1986 \(c. 31, SIF 9\)](#), **s. 35**

## 61 Air Navigation Orders etc.: supplemental.

- (1) An Air Navigation Order may, for the purpose of securing compliance with its provisions, provide—
- (a) subject to subsection (2) below, for persons to be guilty of offences in such circumstances as may be specified in the Order and to be liable on conviction of those offences to such penalties as may be so specified; and
  - (b) in the case of a provision having effect by virtue of paragraph (l) of subsection (3) of section 60 above, for the taking of such steps (including firing on aircraft) as may be specified in the Order.
- (2) The power conferred by virtue of subsection (1)(a) above shall not include power—
- (a) to provide for offences to be triable only on indictment;

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- (b) to authorise the imposition, on summary conviction of any offence, of any term of imprisonment or of a fine exceeding the statutory maximum;
  - (c) to authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.
- (3) Without prejudice to section 127(2) of the <sup>M1</sup>Magistrates' Courts Act 1980 or to Article 19(2) of the <sup>M2</sup>Magistrates' Courts (Northern Ireland) Order 1981 (no time limit for offences triable either way), summary proceedings for an offence against an Air Navigation Order, or any regulations made by virtue of such an Order, may be instituted at any time within twelve months from the commission of the offence if—
- (a) it was committed in connection with the flight of an aircraft in the course of which an accident occurred; and
  - (b) not more than six months after the commission of the offence—
    - (i) public notice has been given that an investigation into the accident is being carried out in accordance with regulations under section 75 below; or
    - (ii) the Secretary of State (acting alone or with any government department) has directed that a public inquiry into the accident be held in accordance with those regulations.
- (4) In subsection (3) above “accident” has the same meaning as it has for the time being for the purposes of section 75 below; and for the purposes of that subsection, the flight of an aircraft shall be deemed to include any period from the moment when the power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends.
- (5) The fact that any such direction as is mentioned in subsection (3)(b)(ii) above has been given on any date may be proved by the production of a certificate to that effect purporting to be signed by an officer of the Secretary of State.
- (6) ..... F6
- (7) There shall be paid out of moneys provided by Parliament—
- (a) any sums payable by Her Majesty's Government in the United Kingdom by way of contribution to the expenses of the International Civil Aviation Organisation under the Chicago Convention;
  - (b) such expenses of any delegate, representative or nominee of Her Majesty's Government in the United Kingdom appointed for any purposes connected with the Chicago Convention as may be approved by the Treasury; and
  - (c) any expenses incurred by Her Majesty's Government in the United Kingdom for the purposes of Chapter XV of the Chicago Convention (which relates to the provision of airports and other air navigation facilities).
- (8) There shall be paid into the Consolidated Fund—
- (a) all sums received by Her Majesty's Government in the United Kingdom by way of repayment of expenses incurred for the purposes of the said Chapter XV; and
  - (b) all sums received by way of fees paid under an Air Navigation Order.

#### Textual Amendments

F6 S. 61(6) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. II](#)

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#### **Marginal Citations**

- M1** 1980 c. 43.  
**M2** S.I. 1981/1675 (N.I. 26).

### *War and emergencies*

#### **62 Control of aviation in time of war or emergency.**

- (1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State—
- (a) may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order and notwithstanding the provisions of any enactment relating to civil aviation or any Order in Council or regulations made thereunder, the navigation of all or any descriptions of aircraft over the United Kingdom or any portion thereof or over any area of sea specified in the order; and
  - (b) may by order provide for taking possession of and using for the purposes of Her Majesty's naval, military or air forces any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school, or any class or description thereof.
- (2) An order under this section may make, for the purposes of the order, such provision as an Air Navigation Order may make by virtue of subsection (1) of section 61 above for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (1) of subsection (3) of section 60 above.
- (3) Any person who suffers direct injury or loss, owing to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary of State, the amount thereof to be fixed in default of agreement by the Lands Tribunal.
- (4) The principles of the Land Compensation Act shall, with the necessary modifications, apply for the purpose of subsection (3) above where possession is taken of any land; but no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the United Kingdom or any part thereof or over any area of sea.

#### **63 Control of CAA and air transport undertakings in time of war or emergency.**

- (1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State may by order require that—
- (a) all or any property or rights of or under the control of the CAA.
  - (b) the whole or any part of the relevant undertaking of any British air transport business,
  - (c) all or any property or rights of or under the control of any such business which appertain to that undertaking,
- shall be placed at the disposal of the Secretary of State.

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- (2) References in this section to a British air transport business are references to any person or body appearing to the Secretary of State to have his or its principal place of business in the United Kingdom whose business includes the provision of commercial air transport services; and in relation to any such business “the relevant undertaking” in subsection (1)(b) above means that part of its undertaking which consists of the provision of commercial air transport services.

In this subsection “commercial air transport services” means services for the carriage by air of passengers or cargo for hire or reward.

- (3) While an order under this section is in force with respect to the CAA—
- (a) the Secretary of State may give the CAA such directions as he thinks fit; and
  - (b) in so far as any directions given in pursuance of this subsection conflict with the requirements of any enactment or instrument relating to the CAA, apart from the preceding provisions of this section, those requirements shall be disregarded.
- (4) While an order under this section is in force with respect to any British air transport business, the Secretary of State may give to the persons managing that business such directions as he thinks fit for conducting, managing or dealing with any part of its undertaking, or any property or rights, placed at his disposal by virtue of the order; and it shall be the duty of those persons to comply with those directions.
- (5) An order under this section may, for the purpose of securing compliance with its provisions, provide for the imposition—
- (a) on summary conviction of a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment of a fine or imprisonment for a term not exceeding two years or both.
- (6) Any person who suffers direct injury or loss owing to the operation of an order under this section shall be entitled to receive compensation from the Secretary of State of which the amount shall be fixed, in default of agreement, by the Lands Tribunal; and the principles of the Land Compensation Act shall, with the necessary modifications, apply where possession is taken of any land.

*Air transport, etc.*<sup>F7</sup>

#### Textual Amendments

F7 S. 69A inserted (1.1.1993) by S.I. 1992/2992, reg.21.

## 64 Restriction of unlicensed carriage by air for reward.

- (1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless—
- (a) the operator of the aircraft holds a licence granted to him by the CAA in pursuance of section 65 below (in this Act referred to as an “air transport licence”) authorising him to operate aircraft on such flights as the flight in question; and
  - (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.

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- (2) Subsection (1) above applies to any flight in any part of the world by an aircraft registered in the United Kingdom and to any flight beginning or ending in the United Kingdom by an aircraft registered in a relevant overseas territory<sup>F8</sup> . . . , except that it does not apply to—
- (a) a flight of a description specified in an instrument made by the CAA for the purposes of this paragraph and in force in accordance with subsection (3) below;
  - (b) a particular flight or series of flights specified in an instrument made by the CAA for the purposes of this paragraph;
  - (c) a flight by an aircraft of which the CAA is the operator.
  - [<sup>F9</sup>(d) a flight for the undertaking of carriage by air for which a valid operating licence issued in accordance with [<sup>F10</sup>the Community licensing Regulation] is required.]
- (3) An instrument made in pursuance of paragraph (a) of subsection (2) above shall not come into force until it is published in the prescribed manner, and it shall be the duty of the CAA forthwith after making an instrument in pursuance of paragraph (b) of that subsection to publish the instrument in the prescribed manner; and an instrument made in pursuance of paragraph (a) or (b) of that subsection may be revoked or varied by a subsequent instrument made in pursuance of that paragraph.
- (4) Where an aircraft is used for the carriage of passengers or cargo in pursuance of an arrangement made between a member of an incorporated or unincorporated body of persons and that body or another member of it, then, if by reason of relationships arising from membership of the body the carriage is not apart from this subsection carriage for reward, it shall be treated for the purposes of this section as carriage for reward.
- (5) Where an aircraft is used on a flight in contravention of subsection (1) above or, after an aircraft has been used in pursuance of an air transport licence on a flight to which that subsection applies, any term of the licence relating to the flight and falling to be complied with at or after the end of the flight by the operator of the aircraft or by another person who made available such accommodation as is mentioned in paragraph (b) of this subsection is contravened, then—
- (a) if before the flight began the operator of the aircraft knew or ought to have known that the use of the aircraft on that flight was likely to be in contravention of that subsection or, as the case may be, that the term in question was likely to be contravened, he shall be guilty of an offence under this subsection; and
  - (b) if any other person, either by negotiating a contract or otherwise howsoever, made available accommodation for the carriage of passengers or cargo on the aircraft on the flight when he knew or ought to have known before the flight began that the accommodation was likely to be provided on an aircraft when used on a flight in contravention of the said subsection (1) or, as the case may be, that such a term as the term in question was likely to be contravened, that person shall be guilty of an offence under this subsection;
- but a person shall not (except in pursuance of section 99(1) below or the law relating to persons who aid, abet, counsel or procure the commission of offences) be guilty of an offence by virtue of paragraph (b) above in consequence of the contravention by another person of a term of a licence.

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(6) For the purpose of determining in pursuance of subsection (5) above whether an offence relating to a flight has been committed by the operator of the aircraft used on the flight, it is immaterial that the relevant contravention mentioned in that subsection occurred outside the United Kingdom if when it occurred the operator—

- (a) was a United Kingdom national, or
- (b) was a body incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory<sup>F8</sup> . . . , or
- (c) was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom;

and for the purpose of determining in pursuance of that subsection whether an offence relating to a flight has been committed by a person who made available such accommodation as is mentioned in that subsection it is immaterial that the relevant contravention there mentioned occurred outside the United Kingdom and that at any relevant time that person was not a United Kingdom national or such a body as aforesaid if any part of the negotiations resulting in the making available of the accommodation in question took place, whether by means of the post or otherwise, in the United Kingdom.

(7) Where the CAA has reason to believe that an aircraft is intended to be used in contravention of subsection (1) above on a particular flight beginning in the United Kingdom or that any term of an air transport licence relating to such a flight and falling to be complied with at or after the end of the flight may not be complied with, the CAA may—

- (a) give to the person appearing to it to be in command of the aircraft a direction that he shall not permit the aircraft to take off until it has informed him that the direction is cancelled;
- (b) whether or not it has given such a direction, detain the aircraft until it is satisfied that the aircraft will not be used on the flight in contravention of the said subsection (1) or, as the case may be, that the term aforesaid will be complied with;

and a person who fails to comply with a direction given to him in pursuance of this subsection shall be guilty of an offence under this subsection.

(8) A person guilty of an offence under subsection (5) or (7) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

#### Textual Amendments

**F8** Words in s. 64(2)(6)(b) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. II**

**F9** S. 64(2)(d) inserted (1.1.1993) by S.I. 1992/2992, **reg. 20**.

**F10** Words in s. 64(2)(d) substituted (1.1.1994) by S.I. 1993/3039, **reg. 3(a)**

## 65 Grant and refusal of air transport licences.

(1) An application for the grant of an air transport licence must be made in writing to the CAA and contain such particulars with respect to such matters as the CAA may specify in a notice published in the prescribed manner; and where an application is made for the grant of an air transport licence the CAA shall either grant a licence



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to the applicant in the terms requested in the application or in those terms with such modifications as the CAA thinks fit or refuse to grant a licence.

(2) The CAA shall refuse to grant an air transport licence in pursuance of an application if it is not satisfied that —

(a) the applicant is, having regard to—

(i) his and his employees' experience in the field of aviation and his and their past activities generally, and

(ii) where the applicant is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the CAA to control that body,

a fit person to operate aircraft under the authority of the licence which, apart from this subsection, the CAA considers should be granted to him in pursuance of the application; or

(b) the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence which, apart from this subsection, the CAA considers should be granted to him in pursuance of the application.

(3) If the CAA is not satisfied that an applicant for an air transport licence is—

(a) a United Kingdom national; or

(b) a body which is incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory<sup>F11</sup> . . . and is controlled by United Kingdom nationals,

it shall refuse to grant a licence in pursuance of his application unless the Secretary of State consents to the grant of the licence; and where the CAA proposes to refuse to grant a licence by reason only of the preceding provisions of this subsection it shall be the duty of the CAA to give the Secretary of State notice of the proposal and to postpone its decision on the application until the Secretary of State's consent is given or refused.

(4) Nothing in the provisions of subsections (2) and (3) above shall be construed as prejudicing the CAA's power in its discretion to refuse an air transport licence otherwise than in pursuance of any of those provisions.

(5) An air transport licence may contain such terms as the CAA thinks fit; and (without prejudice to the generality of the CAA's power to decide those terms) the terms may—

(a) be or include terms settled by a person other than the CAA and include provision for any of the terms to have effect with such modifications as the CAA or another person may from time to time determine; and

(b) include terms as to the charges which are to be made and the goods, services and other benefits which are and are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licence relates.

(6) If the holder of a current air transport licence applies for the grant of another air transport licence in continuation of or in substitution for the current licence and does so not later than such time before the expiration of the term of the current licence as the CAA may specify in a notice published in the prescribed manner, then, unless the application is withdrawn and without prejudice to the CAA's power to revoke, suspend

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or vary the current licence, the current licence shall not cease to be in force by reason only of the expiration of that term—

- (a) until the CAA gives its decision on the application;
  - (b) if in pursuance of the application the CAA decides to refuse a licence or to grant a licence otherwise than in the terms requested in the application, until the expiration of the time during which an appeal to the Secretary of State against the decision may be brought in pursuance of regulations made by virtue of section 67(5) below and, if such an appeal is brought, until the appeal is determined or abandoned;
  - (c) if such an appeal against a decision to refuse a licence or to grant one otherwise than in the terms aforesaid is successful, until the date when the licence granted in consequence of the appeal comes into force.
- (7) A notice published in pursuance of subsection (1) or subsection (6) above may be altered or cancelled by subsequent notice published in pursuance of that subsection.

#### Textual Amendments

**F11** Words in s. 65(3)(b) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II

## 66 Revocation, suspension and variation of air transport licences.

- (1) An application for the revocation, suspension or variation of an air transport licence may be made to the CAA at any time by a person of a prescribed description.
- (2) The CAA may at any time revoke, suspend or vary an air transport licence if it considers it appropriate to do so, whether or not an application with respect to the licence has been made in pursuance of subsection (1) above.
- (3) It shall be the duty of the CAA to revoke or suspend or vary an air transport licence (whichever it thinks appropriate in the circumstances) if it is not or is no longer satisfied—
  - (a) that the holder of the licence is, having regard to—
    - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
    - (ii) where the holder of the licence is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the CAA to control that body,
 a fit person to operate aircraft under the authority of the licence; or
  - (b) that the resources of the holder of the licence and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged;
 and if the CAA has reason to believe that the holder of a licence is neither a United Kingdom national nor such a body as is mentioned in paragraph (b) of subsection (3) of section 65 above it shall be the duty of the CAA to inform the Secretary of State accordingly and, if he so directs, to revoke the licence.
- (4) The provisions of subsections (2) and (3) above conferring on the CAA power to suspend an air transport licence shall be construed as conferring on the CAA power to provide, by a notice in writing served in the prescribed manner on the holder of the licence, that subject to subsection (5) below the licence shall not be effective during

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a period specified in the notice; and while a licence is ineffective by virtue of such a notice the CAA may, by a further notice in writing served in the prescribed manner on the holder of the licence, provide that the licence shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the CAA's powers to suspend the licence again or to revoke or vary it.

- (5) Subject to subsection (6) below, if a licence is revoked, suspended or varied by the CAA otherwise than on the application of the holder of the licence and otherwise than in consequence of a direction given in pursuance of subsection (3) above, the revocation, suspension or variation shall not take effect before the expiration of the period prescribed in pursuance of subsection (5) of section 67 below for the bringing of an appeal against the CAA's decision nor, if such an appeal is brought during that period, before the determination or abandonment of the appeal.
- (6) Notwithstanding anything in subsection (5) above, the CAA may—
- (a) direct that so much of the variation of a licence as relates to any tariff provision of the licence,
  - (b) with the consent of the holder of the licence, direct that so much of the variation of a licence as relates to any other matter,

shall to a specified extent take effect on a specified day earlier than is permitted by that subsection.

In this subsection “tariff provision” means, in relation to any licence, any term of that licence being a term such as is mentioned in section 65(5)(b) above.

## **67 Supplementary provisions relating to air transport licensing.**

- (1) Regulations made by the Secretary of State may make provision as to the circumstances in which an air transport licence shall or may be transferred or treated as if granted to a person other than the person to whom it was granted.
- (2) Where the CAA takes a decision to grant, refuse to grant, vary, suspend or revoke an air transport licence it shall be the duty of the CAA, subject to subsection (3) below, to furnish a statement of its reasons for the decision to the applicant for the licence or, as the case may be, to the holder or former holder of it and to any other person who in accordance with regulations made by the Secretary of State has entered an objection in the case or requested such a statement, so however that no statement of reasons need be furnished in pursuance of this subsection in a case in which—
- (a) no such objection has been entered and no such request has been made; and
  - (b) the decision is taken in pursuance of, and is in the terms requested in, an application for the grant of a licence or an application by the holder of a licence for the variation, suspension or revocation of it.
- (3) If the CAA has reason to believe that the furnishing of a statement reasons in pursuance of subsection (2) above might be contrary to the interests of national security or might affect adversely the relations of the United Kingdom with any other country or territory, it shall be the duty of the CAA to give notice of the case to the Secretary of State and, if he so directs, to refrain from furnishing the statement in question or to exclude from the statement such matter as is specified in the direction; and the CAA may—
- (a) refrain from furnishing a statement of reasons in pursuance of subsection (2) above to a person (hereafter in this subsection referred to as a “relevant person”) who is an applicant for or holder or former holder of an air transport

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licence or has in accordance with regulations made by the Secretary of State entered an objection in the case or requested such a statement, or

- (b) exclude matter from a statement furnished in pursuance of that subsection to a relevant person,

if the CAA considers it necessary to do so for the purpose of withholding from the relevant person information which in the opinion of the CAA relates to the commercial or financial affairs of another person and cannot be disclosed to the relevant person without disadvantage to the other person which, by comparison with the advantage to the public and the relevant person of its disclosure to him, is unwarranted.

- (4) The CAA may publish in such manner as it thinks fit particulars of, and of its reasons for, any decision taken by it with respect to an air transport licence or an application for such a licence.

- (5) The Secretary of State shall make regulations—

- (a) conferring on persons of prescribed descriptions a right to appeal to the Secretary of State from any decision of the CAA with respect to or to an application for an air transport licence;
- (b) authorising the Secretary of State on such an appeal to direct the CAA to reverse or vary the decision in question and in consequence to do or refrain from doing such other things as may be specified in the direction; and
- (c) containing such provisions as the Secretary of State thinks fit with respect to such appeal, which (without prejudice to the generality of the preceding provisions of this paragraph) may include provisions as to—
  - (i) the time within which an appeal must be brought,
  - (ii) the persons in addition to the appellant who are to be parties to an appeal, and
  - (iii) the liability of any of the parties in respect of costs or expenses incurred in connection with an appeal;

and the Secretary of State shall, when considering whether to give a direction in pursuance of regulations made by virtue of paragraph (b) of this subsection and when considering the terms of any such direction, have regard in particular to the duties imposed on the CAA by section 4 above and section 68 below.

- (6) A person who, for the purpose of obtaining for himself or another person either an air transport licence or a variation of an air transport licence or the cancellation of the suspension of an air transport licence, knowingly or recklessly furnishes the CAA or the Secretary of State with any information which is false in a material particular shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

## **68 General duties in relation to air transport licensing functions of CAA.**

- (1) It shall be the duty of the CAA to perform its air transport licensing functions in the manner which it considers is best calculated to ensure that British airlines compete as effectively as possible with other airlines in providing air transport services on international routes; and in performing those functions the CAA shall also have regard—

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- (a) to any advice received from the Secretary of State with respect to the likely outcome of negotiations with the government of any other country or territory for the purpose of securing any right required for the operation by a British airline of any air transport services outside the United Kingdom; and
  - (b) to the need to secure the most effective use of airports within the United Kingdom.
- (2) In considering whether to grant any air transport licence, it shall be the duty of the CAA to have regard to the effect on existing air transport services provided by British airlines of authorising any new services the applicant proposes to provide under the licence, and in any case where those existing services are similar (in terms of route) to the proposed new services or where two or more applicants have applied for licences under which each proposes to provide similar services, the CAA shall have regard in particular to any benefits which may arise from enabling two or more airlines to provide the services in question.
- (3) Subject to section 4 above and to subsections (1) and (2) above, it shall be the duty of the CAA in performing its air transport licensing functions to have regard to the need to minimise so far as reasonably practicable—
- (a) any adverse effects on the environment, and
  - (b) any disturbance to the public,
- from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.
- (4) In addition to the duties with respect to particular matters imposed on the CAA by the preceding provisions of this section, it shall be the duty of the CAA to perform its air transport licensing functions in the manner which it considers is best calculated to impose on the civil air transport industry of the United Kingdom and on the services it provides for users of air transport services the minimum restrictions consistent with the performance by the CAA of its duties under sections 4, 65 and 66 above and the preceding provisions of this section.
- (5) In this section—
- (a) references to the air transport licensing functions of the CAA are references to its functions under sections 64 to 66 above and any functions conferred on it by regulations made under subsection (1) of section 67 above; and
  - (b) “British airline” has the same meaning as in section 4(1) above.

## **69 Periodical publication of CAA’s policies.**

- (1) It shall be the duty of the CAA to publish from time to time a statement of the policies it intends to adopt in performing its functions under sections 64 to 68 above.
- (2) If the Secretary of State considers it appropriate to do so, he may by notice in writing require the CAA to publish a statement of the policy it intends to adopt with respect to any particular matter in performing the functions mentioned in subsection (1) above (or any of them); and it shall be the duty of the CAA to publish any statement required by a notice under this subsection within six months of the date of the notice.
- (3) Before publishing any statement under this section the CAA shall consult such persons as appear to it to be representative respectively—
- (a) of the civil air transport industry of the United Kingdom; and
  - (b) of users of air transport services.

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- (4) The manner of publication of any statement under this section shall be as the CAA may determine.

#### **69A Regulation of carriage by air by route licences.**

- (1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless—
- (a) the operator of the aircraft holds a licence granted to him by the CAA in pursuance of section 65 as applied by subsection (6) below (in this Act referred to as a “route licence”) authorising him to operate aircraft on such flights as the flight in question; and
  - (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.
- (2) Subsection (1) above applies to any flights to which section 64(1) above applies (apart from the exceptions) where the aircraft is used by a Community air carrier, except that it does not apply to—
- (a) a flight of a description specified for the purposes of paragraph (a) of section 64(2) as applied by subsection (6) below;
  - (b) a particular flight or series of flights specified for the purposes of paragraph (b) of section 64(2) as so applied;
  - (c) a flight by an aircraft of which the CAA is the operator; and
  - (d) flights by aircraft in exercise of traffic rights permitted by virtue of the Community access Regulation.
- (3) No route licence shall be granted by the CAA so as to permit the exercise of those traffic rights access to which is denied to the aircraft operator concerned by virtue of exceptions contained in articles 3 to 6 of the Community access Regulation.
- (4) The CAA shall refuse to grant a route licence in pursuance of an application under section 65 as applied by subsection (6) below if it is not satisfied that the applicant possesses a valid operating licence.
- (5) Where a person holds—
- (a) an operating licence granted by an authority in any [<sup>F12</sup>EEA State], and
  - (b) a route licence,
- and his operating licence is revoked or suspended by that authority (and that revocation or suspension takes effect), the route licence shall, as from the date when the revocation or suspension takes effect, cease to be in force or, in the case of suspension, not be effective during the period of suspension of the operating licence.
- (6) Subject to subsections (3) to (5) above, sections 64(2)(a), (b) and (c), (3) to (8) and 65 to 69 above shall apply in relation to route licences (and route licensing functions) as they apply in relation to air transport licences (and air transport licensing functions) subject to the modifications specified in subsection (7) below.
- (7) Those modifications are—
- (a) the omission of section 65(2) and the substitution, for the reference to that subsection in subsection (4), of a reference to subsection (4) above;
  - (b) the omission of section 66(3) to the end of paragraph (b);
  - (c) the omission in sections 64(6) and 65(3) of the references to the law of a relevant overseas territory <sup>F13</sup> . . . ;

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- (d) the substitution, in section 68(5), for the reference to sections 64 to 67, of a reference to this section and those sections as applied by subsection (6) above; and
- (e) the substitution, in section 69(1), for the reference to sections 64 to 68, of a reference to this section and those sections as so applied.

(8) In this section—

“the Community access Regulation” means Council Regulation 2408/92 on access for Community air carriers to intra-Community air routes [<sup>F14</sup>(as that Regulation has effect in accordance with [<sup>F15</sup>the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 7/94 of 21 March 1994])];

“Community air carrier” has the same meaning as in the Community access Regulation;

“operating licence” means an operating licence granted in any [<sup>F16</sup>EEA State] in accordance with [<sup>F17</sup>the Community licensing Regulation].

#### Textual Amendments

- F12** Words in s. 69A(5)(a) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(2)
- F13** Words in s. 69A(7)(c) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II
- F14** Words in s. 69A(8) inserted (1.1.1994) by S.I. 1993/3039, reg. 3(b)(i)
- F15** Words in s. 69A(8) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(3)
- F16** Words in s. 69A(8) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(4)
- F17** Words in s. 69A(8) substituted (1.1.1994) by S.I. 1993/3039, reg. 3(b)(ii)

## 70 [<sup>F7</sup> Modification of CAA’s duties with respect to British airlines in relation to certain air transport services.]

In the application of sections 4(1) and 68(1) and (2) above in relation to the performance by the CAA of its functions under sections 64 to 68 [<sup>F18</sup>(but not as applied by section 69A(6))] above with respect to authorising the operation of aircraft on flights—

- (a) between the United Kingdom and any relevant overseas territory other than the Channel Islands or the Isle of Man, <sup>F19</sup> . . .

<sup>F19</sup>(b) . . . . .

the CAA shall treat any undertaking appearing to the CAA to have its principal place of business in that territory <sup>F20</sup> . . . as a British airline if it would fall to be so treated but for the situation of its principal place of business.

#### Textual Amendments

- F18** Words in s. 70 inserted (1.1.1993) by S.I. 1992/2992, reg. 23, Sch. 2 para. 5.
- F19** S. 70(b) and the word “or” preceding it repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II
- F20** Words in s. 70 repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II

## 71 Regulation of provision of accommodation in aircraft.

- (1) Provision may be made by regulations made by the Secretary of State for securing that a person does not in the United Kingdom—

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- (a) make available, as a principal or an agent, accommodation for the carriage of persons or cargo on flights in any part of the world, or
  - (b) hold himself out as a person who, either as a principal or an agent or without disclosing his capacity, may make such accommodation available,
- unless he is the operator of the relevant aircraft or holds and complies with the terms of a licence issued in pursuance of the regulations or is exempted by or under the regulations from the need to hold such a licence.
- (2) Regulations made by the Secretary of State for the purposes of subsection (1) above may contain such provisions as the Secretary of State, after consultation with the CAA, considers appropriate for those purposes and may, without prejudice to the generality of the preceding provisions of this subsection, include provision—
- (a) as to the circumstances in which licences shall or shall not be issued in pursuance of the regulations;
  - (b) as to the terms of licences, which may include terms as to the minimum charges which are to be made and the goods, services and other benefits which are or are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licences in question relate;
  - (c) for the variation, suspension and revocation of licences;
  - (d) for appeals against refusals, variations, suspensions or revocations of licences to lie to a prescribed body or person (which may be a court, a Minister of the Crown, a body or person constituted or appointed by or under the regulations or such other body or person as the Secretary of State thinks fit) and for applying the provisions of any enactment, with or without modifications, in relation to such appeals;
  - (e) for imposing penalties for contraventions of the regulations not exceeding in the case of each contravention a fine of the statutory maximum on summary conviction and a fine and imprisonment for a term not exceeding two years on conviction on indictment;
  - (f) for repealing, either wholly or in relation to prescribed cases, so much of subsection (5) of section 64 of this Act as begins with the word “and” at the end of paragraph (a) and in subsection (6) of that section the words from “and for the purpose” onwards.

VALID FROM 01/03/2007

#### **[<sup>F21</sup>71A Contributions by licence holders to Air Travel Trust**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring persons applying for licences by virtue of section 71 above to make contributions to the Air Travel Trust in relation to the periods for which their licences are to be issued.
- (2) The regulations may, in particular, make provision—
  - (a) prescribing the factors by reference to which such contributions are to be calculated by the CAA (other than the rate by reference to which they are to be so calculated);
  - (b) authorising the CAA, with the approval of the Secretary of State and after complying with prescribed consultation requirements, to set in respect



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- of different descriptions of persons the rates by reference to which such contributions are to be calculated and the dates from which those rates are to have effect;
- (c) requiring contributions to be paid, or undertakings as to payment of contributions to be given, in advance of licences being issued;
  - (d) requiring licence holders to pay additional amounts by way of contributions where the applicable contribution rate increases during the term of their licences;
  - (e) requiring additional amounts to be paid by way of contributions, or undertakings as to the payment of such amounts to be given, in advance of licences being varied;
  - (f) for the CAA, in accordance with the regulations, to reimburse to persons, or credit persons with, amounts paid by them by way of contributions (and for the CAA to exercise in that connection such discretion as is conferred by the regulations);
  - (g) for contributions that are not paid in accordance with the regulations or any undertaking as to payment to bear interest at the rate specified in the regulations, and for such contributions and interest to be recoverable as debts due to the Air Travel Trust;
  - (h) for the CAA to act as the agent of the trustees of the Air Travel Trust in collecting and recovering contributions, and for the reimbursement of costs incurred by the CAA in so acting;
  - (i) for the CAA, after complying with prescribed consultation requirements, to suspend, either generally or in relation to any description of persons, the requirement to make contributions in respect of a period;
  - (j) for the CAA to exempt persons, or descriptions of persons, from the requirement to make contributions on such conditions as the CAA, after consulting the Secretary of State, thinks fit;
  - (k) for requiring the CAA to publish prescribed matters in the prescribed manner;
  - (l) for creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as is prescribed.
- (3) Regulations under section 71 above may authorise the CAA—
- (a) to refuse to issue a licence to a person,
  - (b) to refuse to vary a licence held by a person, or
  - (c) to vary, suspend or revoke a licence held by a person,
- where that person has failed to comply with a prescribed requirement of regulations under this section or has breached an undertaking given as mentioned in subsection (2)(c) or (e) above.
- (4) Section 4 above does not apply in relation to any functions conferred on the CAA by regulations under this section.
- (5) In this section and section 71B below the “Air Travel Trust” means the trust established by that name by a deed dated 5th January 2004 and made between the Secretary of State for Transport and the persons described as the Original Trustees.

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#### Textual Amendments

**F21** Ss. 71A, 71B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 10, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

VALID FROM 01/03/2007

#### **71B Procedure relating to regulations under section 71A**

- (1) Before making any regulations under section 71A above, the Secretary of State must consult the CAA and the trustees of the Air Travel Trust.
- (2) Before responding to the consultation, the CAA must consult the following persons so far as it considers it reasonably practicable to do so—
  - (a) persons who hold licences by virtue of section 71 above, and
  - (b) any other person or body appearing to it to have an interest in the matter.]

#### Textual Amendments

**F21** Ss. 71A, 71B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 10, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

### *Air navigation services*

#### **72 Duty of CAA to provide air navigation services.**

- (1) It shall be the duty of the CAA to provide air navigation services—
  - (a) in the United Kingdom, and
  - (b) for any area outside the United Kingdom for which the United Kingdom has, in pursuance of international arrangements, undertaken to provide air navigation services,

to the extent to which it appears to the CAA that such services are necessary and are not being provided by it (either alone or jointly with another person) or by some other person.
- (2) It shall be the duty of the CAA to join with the Secretary of State, in such manner as may be specified in directions given to the CAA by the Secretary of State—
  - (a) in providing such air navigation services in respect of such areas (whether in the United Kingdom or elsewhere) as may be specified in the directions; and
  - (b) in defraying the cost of providing the services so specified; and
  - (c) without prejudice to the generality of paragraph (b) above, in discharging any liability to a third party which is incurred by the CAA and the Secretary of State or either of them in providing the services so specified.
- (3) Without prejudice to any right of action in respect of an act or omission which takes place in the course of providing air navigation services in pursuance of this section, no action shall lie in respect of a failure by the CAA to perform the duty imposed on it by subsection (1) or (2) above.

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### 73 Charges for air navigation services etc.

(1) The Secretary of State may make regulations—

- (a) for requiring the payment to him or the CAA or Euro-control of charges, of such amounts and in such currencies as may be prescribed, in respect of air navigation services which, either in pursuance of international arrangements or otherwise, are provided for aircraft by him, the CAA, Eurocontrol or any other person or by any persons jointly;
- (b) for requiring the payment to any international organisation other than Eurocontrol or to any government outside the United Kingdom of charges of such amounts as may be prescribed in respect of air navigation services provided for aircraft, being services provided by that international organisation or government, as the case may be, in pursuance of an agreement to which the United Kingdom is a party.

[<sup>F22</sup>(1A) Regulations under subsection (1)(a) above may—

- (a) prescribe any charges to which the regulations apply in units of account defined by reference to more than one currency; and
- (b) make provision for any charges prescribed in such units to be paid and recovered either in such units or in their equivalent, as determined in accordance with the regulations, in such currencies as may be prescribed.]

(2) The Secretary of State may make regulations—

- (a) providing for the payment of an annual charge of such amount as may be prescribed to the CAA in respect of any aircraft for which there is in force at the time the charge becomes payable a certificate of airworthiness; and
- (b) requiring the CAA to refund so much of any such payment made in respect of an aircraft by any person as is equal to the amount which that person becomes liable (whether by virtue of regulations under this section or otherwise) to pay to Eurocontrol in respect of so much of any flight made by that aircraft as is made over the United Kingdom during the period of twelve months commencing with the date on which the payment to the CAA became due.

(3) The liability for any charges payable by virtue of regulations under subsection (1) above may be imposed upon the operators or owners of aircraft for which the air navigation services in question are available (whether or not they are actually used or could be used with the equipment installed in the aircraft) or upon those operators and owners or upon the managers of aerodromes used by such aircraft, or partly upon those operators or owners or operators and owners and partly upon those managers.

(4) Regulations under subsection (1) above may provide for charges payable by virtue of the regulations to be so payable elsewhere than in the United Kingdom and to be recoverable in the United Kingdom wherever they are payable (without prejudice to their recovery elsewhere); and liability for any charges payable by virtue of regulations under that subsection may be imposed upon the operator [<sup>F23</sup>or owner] of any aircraft whether or not it is registered in the United Kingdom, whether or not it is in or over the United Kingdom at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in the United Kingdom.

(5) Regulations under subsection (2) above may—

- (a) impose liability for any charges payable by virtue of the regulations upon the operators or owners of the aircraft in respect of which the charge is payable; and

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- (b) impose that liability whether or not the aircraft is registered in the United Kingdom and whether or not it is in the United Kingdom during the year in respect of which the charge is payable.
- (6) The charges to be prescribed under this section shall—
- (a) in the case of charges payable to the Secretary of State or the CAA, be at such rates or of such amounts as the Secretary of State may, with the consent of the Treasury, determine;
  - (b) in the case of charges payable to Eurocontrol, be at such rates as the Secretary of State may determine in pursuance of tariffs which are either—
    - (i) approved under any international agreement to which the United Kingdom is a party; or
    - (ii) in the opinion of the Secretary of State likely to be approved before or within one month after the date when the regulations come into force, under any international agreement to which the United Kingdom is likely to be party before or within one month after that date;
  - (c) in the case of charges payable to an international organisation other than Eurocontrol or to a government outside the United Kingdom, be at such rates as the Secretary of State may determine in pursuance of tariffs which are either—
    - (i) approved under the relevant international agreement with the United Kingdom; or
    - (ii) in the opinion of the Secretary of State likely to be approved under that agreement before or within one month after the date when the regulations come into force;

and the regulations may prescribe different charges in respect of aircraft of different classes or descriptions or in respect of aircraft used in different circumstances, may provide for the payment, with any charges or separately, of interest on the charges in respect of any period during which the charges were due but unpaid and may dispense with charges in such cases as may be prescribed by or determined under the regulations.

- (7) For the purpose of facilitating the assessment and collection of charges payable by virtue of regulations under this section, the regulations may make provision for requiring operators of aircraft or managers of aerodromes—
- (a) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as may be prescribed, and to preserve those records for such period as may be prescribed;
  - (b) to produce for inspection at such times as may be prescribed and—
    - (i) in the case of charges payable by virtue of regulations made under subsection (1)(a) or (2) above, by such officers of the Secretary of State or of the CAA or of Eurocontrol as may be prescribed, and
    - (ii) in the case of charges payable by virtue of regulations made under subsection (1)(b) above, by such officers of the international organisation or government, as the case may be, to whom the charges are payable or of the Secretary of State or of the CAA as may be prescribed,
 any records which are required by the regulations or an Air Navigation Order to be preserved by those operators or managers;
  - (c) to furnish such particulars of any such records as may be prescribed—

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- (i) in the case of charges payable by virtue of regulations made under subsection (1)(a) or (2) above, to the Secretary of State or to the CAA or to Eurocontrol; and
  - (ii) in the case of charges payable by virtue of regulations made under subsection (1)(b) above, to the international organisation or government, as the case may be, to whom the charges are payable or to the Secretary of State or the CAA.
- (8) The requirements mentioned in subsection (7) above may be imposed upon the operator of any aircraft whether or not it is registered in the United Kingdom, whether or not it is in or over the United Kingdom at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in the United Kingdom.
- (9) Regulations under this section may contain provision for regulating the disposal by the CAA of sums received by it by virtue of the regulations.
- (10) In this section—
- “manager”, in relation to an aerodrome, means a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 above;
  - “record” includes, in addition to a record in writing—
    - (a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;
    - (b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and
    - (c) any photograph;
- and any reference to a copy of a record includes in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with such a still reproduction.

#### Textual Amendments

**F22** S. 73(1A) inserted by Civil Aviation (Air Navigation) Charges Act 1989 (c. 9, SIF 9), s. 1

**F23** Words inserted (*retrospectively*) by Civil Aviation (Eurocontrol) Act 1983 (c. 11, SIF 9), s. 3(2)

#### 74 Provisions supplementary to s. 73.

- (1) Any person who, without reasonable cause, fails to comply with any requirement of regulations made by virtue of subsection (7) of section 73 above shall be liable on summary conviction to a fine not exceeding [<sup>F24</sup>level 3 on the standard scale].
- (2) Any person who, being in possession of information furnished to or obtained by him in pursuance of regulations under the said subsection (7), discloses that information otherwise than—
  - (a) with the consent of the person by whom it was furnished or from whom it was obtained, or
  - (b) for the purposes of the regulations, or

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- (c) for the purposes of any proceedings arising out of section 73 above, of proceedings brought by virtue of paragraph 3 of Schedule 4 to this Act or of any criminal proceedings whether or not arising out of this Act, or
- (d) for the purposes of any public inquiry or Inspector’s investigation held or carried out in pursuance of regulations made under section 75 below, or
- (e) for the purpose of any report of any such proceedings, inquiry or investigation as aforesaid,

shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or to both.

- (3) Any person who, in furnishing in pursuance of such regulations any such particulars as are described in paragraph (c) of the said subsection (7), furnishes any particulars which to his knowledge are false in any material particular, or recklessly furnishes any particulars which are false in any material particular, shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; and
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

- (4) Without prejudice to paragraph 4 of Part III of Schedule 13 to this Act, regulations under section 73 above may make provision—

- (a) in the case of default in the payment of any charge payable by an operator under the regulations, for authorising the detention, pending payment, of the aircraft in respect of which the charge was incurred or of any other aircraft of which the person in default is the operator at the time when the detention begins;
- (b) in the case of default in complying with any requirement imposed by the regulations on the operators of aircraft with respect to the production for inspection, or the furnishing of particulars, of any records, for authorising the detention, pending compliance, of any aircraft of which the person in default is the operator at the time when the detention begins;

and such regulations may make such further provision as appears to the Secretary of State to be necessary or expedient for securing such detention.

- (5) Regulations in pursuance of subsection (4) above may make, in relation to aircraft detained for non-payment of any charge payable by virtue of regulations under section 73 above, provision corresponding to any provision made by or under section 88 below.
- (6) A court in any part of the United Kingdom shall have jurisdiction to hear and determine a claim for charges or interest payable to the Secretary of State or the CAA or Eurocontrol by virtue of regulations under section 73 above, notwithstanding that the person against whom the claim is made is not resident within the jurisdiction of the court.
- (7) In this section “record” has the same meaning as in section 73 above.

#### Textual Amendments

**F24** Words substituted by virtue of (E.W.) *Criminal Justice Act 1982 (c. 48, SIF 39:1)* ss. 38, 46, (S.) *Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1)*, **ss. 289F**, 289G and (N.I.) *S.I. 1984/703 (N.I. 3)*, **arts. 5, 6**

*Status: Point in time view as at 08/11/1995. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part III. (See end of Document for details)*

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#### **[<sup>F25</sup>74A Enforcement of foreign judgments etc. in respect of route charges.**

- (1) Subject to the following provisions of this section, where a relevant <sup>M3</sup> authority in a Contracting State has made a determination as to whether or not any sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or by some other person, that determination shall, in the United Kingdom, be enforceable or, as the case may be, recognised in accordance with the following provisions of this section, but not otherwise.
- (2) For the purposes of the enforcement in any part of the United Kingdom of any determination which is enforceable by Eurocontrol under this section, the provisions of sections 2, 3(1) and 5(2) and (3) of the Foreign Judgments (Reciprocal Enforcement) Act <sup>M4</sup>1933 (registration of judgments, rules of court and powers of court on application to set aside registration) shall apply, with the necessary modifications, in relation to the determination as they apply in relation to a judgment to which Part I of that Act applies; and accordingly, for the purposes of this section, in subsection (2) of section 5 of that Act—
  - (a) the reference to subsection (1) of that section shall have effect as a reference to subsection (7) below; and
  - (b) the reference to an appeal shall include a reference to an application for review of a determination.
- (3) On an application for the purpose made by any person against whom a determination registered by virtue of subsection (2) above may be enforced, the registration shall (subject to subsection (7) below) be set aside if the court to which the application to register is made is satisfied—
  - (a) that the determination is not a determination to which this section applies;
  - (b) that the determination was registered in contravention of any provision applied by subsection (2) above; or
  - (c) that, by virtue of any of the following provisions of this section, the determination is not to be enforced in the part of the United Kingdom in which it is sought to enforce it.
- (4) Subject to subsection (7) below, a determination in respect of any sum by a relevant authority in a Contracting State shall not under this section be enforced or recognised in a part of the United Kingdom if—
  - (a) that Contracting State is not the country, or one of the countries, in which, under subsection (5) below, proceedings in respect of that sum should have been brought; or
  - (b) the determination is not final; or
  - (c) the determination is manifestly contrary to public policy in the part of the United Kingdom in which it is sought to enforce the determination or, as the case may be, in which recognition of the determination is sought; or
  - (d) the person against whom the proceedings resulting in the determination were brought did not (notwithstanding that process may have been duly served on him in the Contracting State in which those proceedings were brought) receive notice of the proceedings in sufficient time to enable him to defend them or, as the case may require, to apply for the proceedings to be reviewed; or
  - (e) proceedings relating to the same sum have been brought previously, and are pending, in any part of the United Kingdom; or
  - (f) the determination is incompatible with the judgment of any court in any part of the United Kingdom; or

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- (g) the determination—
  - (i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in the part of the United Kingdom in which it is sought to enforce the determination, or as the case may be, in which recognition of the determination is sought), and
  - (ii) was different from the determination which would have been made if those corresponding rules had been applied.
- (5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum—
  - (a) in the Contracting State (if any) in which that person’s residence or, as the case may be, his registered office is situated;
  - (b) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business;
  - (c) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting State, in any Contracting State in which he has assets;
  - (d) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.
- (6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say—
  - (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal;
  - (b) the time within which an appeal must be brought, or an application for review must be made, has expired;
  - (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn; or
  - (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.
- (7) If, on an application to set aside the registration by virtue of subsection (2) above of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either—
  - (a) set aside the registration; or
  - (b) adjourn the application to set aside the registration until such time as the determination has become final,

but nothing in this section shall require that court to take either of these courses where there is no other ground for setting aside the registration and the court is not satisfied



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that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.

(8) In this section—

“Contracting State” means a country designated in an Order in Council which has been laid before Parliament as a party to the Multilateral Agreement relating to Route Charges signed at Brussels on 12th February 1981 at the Diplomatic Conference on the Protocol amending the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation of 13th December 1960;

“relevant authority”, in relation to a Contracting State, means—

- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person;
- (b) any administrative authority which, under that law, has jurisdiction to make, or is otherwise authorised to make, determinations in respect of such questions, being determinations which in that State are subject to appeal to, or review by, a court or tribunal;
- (c) any court or tribunal which, under that law, has jurisdiction to determine any appeal from, or carry out any review of, a determination made in respect of any such question by another relevant authority.

(9) This section shall not affect the enforceability or recognition of any determination made before the coming into force of section 1 of the Civil Aviation (Eurocontrol) Act 1983.]

#### Textual Amendments

**F25** S. 74A inserted by [Civil Aviation \(Eurocontrol\) Act 1983 \(c. 11, SIF 9\)](#), s. 1

#### Marginal Citations

**M3** [1982 c.16\(9\)](#).

**M4** [1933 c.13\(45:3\)](#).

### *Investigation of accidents*

## **75 Investigation of accidents.**

(1) Without prejudice to section 60 above, the Secretary of State may by regulations under this section make such provision as appears to him to be requisite or expedient—

- (a) for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over the United Kingdom or occurring elsewhere to aircraft registered in the United Kingdom; and
- (b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as “the Annex”).

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part III. (See end of Document for details)*

- (2) Without prejudice to the generality of subsection (1)(b) above, the provision there authorised includes provision with respect to any of the following matters, that is to say—
- (a) the definition of “accident” for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex;
  - (b) the participation of any persons authorised for the purpose in accordance with the regulations in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other state; and
  - (c) the investigation of any incident other than one to which subsection (1)(a) above applies for the purpose of securing any information, articles or other material which it is the duty of the United Kingdom in accordance with any requirements of the Annex to furnish to any other state.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may contain provisions—
- (a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) above in such manner and by such persons as may be specified in the regulations;
  - (b) applying any of the provisions of section 3 of the <sup>M5</sup>Notice of Accidents Act 1894 (with or without modifications) for the purposes of any investigations held in accordance with the regulations or any inquiries undertaken in accordance with the regulations with a view to determining whether any such investigation should be held;
  - (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft;
  - (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under an Air Navigation Order or an order under section 62 above where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered and requiring the production of any such licence or certificate for the purpose of being so dealt with.
- (4) Without prejudice to subsection (2)(a) above, in this section “accident” shall be construed as including any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened.
- (5) If any person contravenes or fails to comply with any regulations under this section he shall be liable on summary conviction to a fine not exceeding [<sup>F26</sup>level 5 on the standard scale] or to imprisonment for a term not exceeding three months.
- (6) Nothing in this section shall limit the powers of any authority under sections 530 to 537 of the <sup>M6</sup>Merchant Shipping Act 1894 or any enactment amending those sections.

#### Textual Amendments

**F26** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) S.I. 1984/703 (N.I. 3), art. 5

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**Modifications etc. (not altering text)**

**C2** S. 75 excluded (16.5.1995) by S.I. 1995/1038, **art. 106(2)(b)**

**C3** S. 75 amended by S.I. 1989/2062, **reg. 2(2)**

**Marginal Citations**

**M5** 1894 c. 28.

**M6** 1894 c. 60.

*Trespass by aircraft and aircraft nuisance, noise, etc.*

**76 Liability of aircraft in respect of trespass, nuisance and surface damage.**

- (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of any Air Navigation Order and of any orders under section 62 above have been duly complied with and there has been no breach of section 81 below.
- (2) Subject to subsection (3) below, where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.
- (3) Where material loss or damage is caused as aforesaid in circumstances in which—
  - (a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2) above, and
  - (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.
- (4) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

**Modifications etc. (not altering text)**

**C4** S. 76(4) extended (with modifications) (Overseas Territories) (10.10.2001) by S.I. 2001/3367, **art. 2**, **Schs. 1, 2**

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## 77 Nuisance caused by aircraft on aerodromes.

- (1) An Air Navigation Order may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) below shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.
- (2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Air Navigation Order, as long as the provisions of any such Order are duly complied with.

### Modifications etc. (not altering text)

- C5 S. 77(2) applied (16.5.1995) by S.I. 1995/1038, art. 97
- C6 S. 77(2) applied (20.8.2005) by The Air Navigation Order 2005 (S.I. 2005/1970), art. 131(2) (with art. 168)

## 78 Regulation of noise and vibration from aircraft.

- (1) The Secretary of State may by a notice published in the prescribed manner provide that it shall be the duty of the person who is the operator of an aircraft which is to take off or land at a designated aerodrome to secure that, after the aircraft takes off or, as the case may be, before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Secretary of State to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.
- (2) If it appears to the Secretary of State that any requirement specified in relation to a designated aerodrome in a notice published in pursuance of subsection (1) above has not been complied with as respects any aircraft he may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any representations then made by that person, give to the person managing the aerodrome a direction requiring him to secure that, until the Secretary of State revokes the direction, facilities for using the aerodrome are withheld to the extent specified in the direction from aircraft of which the person aforesaid is the operator and from his servants; and it shall be the duty of the person for the time being managing the aerodrome to comply with the direction.
- (3) If the Secretary of State considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with the taking-off or landing of aircraft at a designated aerodrome, to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome during certain periods, he may by a notice published in the prescribed manner do all or any of the following, that is to say—
  - (a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified;
  - (b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified;

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- (c) determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) above and, as respects each of those persons, the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods; and subject to subsection (4) below and paragraphs (e) and (f) of subsection (5) below it shall be the duty of the person for the time being managing the aerodrome to secure that the prohibitions or restrictions relating to the aerodrome which are imposed by the notice are complied with.
- (4) Without prejudice to subsection (5)(f) below, a particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) above in respect of that aerodrome if—
- (a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the Secretary of State in a notice published in the prescribed manner; and
  - (b) the person for the time being managing the aerodrome or a person authorised by him for the purpose, determines that that occasion or series of occasions should be so disregarded,
- but it shall be the duty of the first-mentioned person to notify the Secretary of State in writing, within one week from its occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this subsection applies.
- (5) The following supplementary provisions shall have effect for the purposes of subsection (3) above, that is to say—
- (a) it shall be the duty of the Secretary of State, before he makes a determination in respect of an aerodrome in pursuance of paragraph (c) of that subsection, to consult any body appearing to him to be representative of operators of aircraft using the aerodrome;
  - (b) a notice under that subsection may make, in relation to a designated aerodrome, provision as respects any period notwithstanding that the period is included in or that there is included in the period, any other period as respects which provision relating to the aerodrome is made by the notice or by another notice under that subsection;
  - (c) if it appears to the Secretary of State that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then, without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome, any person authorised by the Secretary of State for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;
  - (d) if it appears to a person authorised for the purpose by the person for the time being managing the relevant aerodrome that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then without prejudice to paragraph (c) above, or the powers mentioned therein, the first-mentioned person, or a person authorised by him for the purpose, may detain the aircraft for such period as the first-mentioned person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;

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- (e) nothing in that subsection requires a person managing an aerodrome to prevent an aircraft from landing at the aerodrome; and
  - (f) the Secretary of State may, by a notice given in the prescribed manner to the person managing an aerodrome to which a notice under that subsection relates, determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded for the purposes of the notice under that subsection.
- (6) The Secretary of State may give to the person managing a designated aerodrome such directions as the Secretary of State considers appropriate for the purpose of avoiding, limiting, or mitigating the effect of, noise and vibration connected with the taking-off or landing of aircraft at the aerodrome; and it shall be the duty of the person for the time being managing the aerodrome to comply with the directions.
- (7) The duties imposed by subsections (1) to (3) and (6) above in relation to aerodromes in Scotland shall be enforceable by order of the Court of Session on an application by or on behalf of the Secretary of State under section 91 of the <sup>M7</sup>Court of Session Act 1868.
- (8) The Secretary of State may, after consultation with the person managing a designated aerodrome, by order require him at his own expense—
- (a) to provide in an area and within a period specified in the order, and to maintain and operate in accordance with any instructions so specified, such equipment for measuring noise in the vicinity of the aerodrome as is so specified; and
  - (b) to make to the Secretary of State such reports as are so specified with respect to the noise measured by the equipment and to permit any person authorised by the Secretary of State for the purpose to inspect the equipment on demand at any time;
- and it shall be the duty of the person for the time being managing the aerodrome to comply with the requirements of the order.
- (9) If a person fails to perform any duty imposed on him by subsection (8) above the Secretary of State may, after affording him an opportunity of making representations to the Secretary of State with respect to the matter and after considering any representations then made by him—
- (a) take such steps as the Secretary of State considers appropriate for remedying the failure, which may include steps to secure the provision, maintenance and operation of equipment by the Secretary of State or the CAA; and
  - (b) recover in any court of competent jurisdiction from the person aforesaid any expense attributable to the taking of those steps which is incurred by the Secretary of State from time to time;
- and if a person fails to perform any duty imposed on him by virtue of paragraph (b) of subsection (8) above, then without prejudice to the preceding provisions of this subsection he shall—
- (i) be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F27</sup>level 3 on the standard scale]; and
  - (ii) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and liable to be fined accordingly.
- (10) Paragraph (b) of subsection (9) above is without prejudice to the Secretary of State's power apart from that paragraph to recover the expenses mentioned therein.

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- (11) The Secretary of State may, after consultation with any local authority appearing to him to be concerned, by order repeal any provision of a local Act which he considers is unnecessary having regard to the provisions of this section and of section 79 below.
- (12) Any notice published in pursuance of subsection (1), (3) or (4) above may contain such incidental or supplementary provisions as the Secretary of State considers appropriate for the purposes of that subsection and may be varied or revoked by a subsequent notice published in pursuance of that subsection.

#### Textual Amendments

- F27** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6

#### Modifications etc. (not altering text)

- C7** S. 78: Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, Sch. 1  
**C8** S. 78(9) applied with modifications by Airports Act 1986 (c. 31, SIF 9), s. 68(3)  
**C9** S. 78(10) applied with modifications by Airports Act 1986 (c. 31, SIF 9), s. 68(3)

#### Marginal Citations

- M7** 1868 c. 100.

VALID FROM 01/03/2007

#### <sup>F28</sup>78A Penalty schemes

- (1) The person for the time being managing an aerodrome (referred to in this section and section 78B below as the “relevant manager”) may establish and maintain a penalty scheme.
- (2) In this section and section 78B below “penalty scheme” means a scheme which requires a penalty to be paid if any requirement imposed under section 78(1) above in relation to an aircraft taking off or landing at the aerodrome is not complied with.
- (3) Any such penalty shall be—
  - (a) of an amount specified in the scheme, and
  - (b) paid to the relevant manager by the operator of the aircraft in question.
- (4) The penalty scheme shall afford the operator of the aircraft an opportunity to make representations to the relevant manager with respect to the matter either before or after the penalty is imposed.
- (5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the relevant manager to cancel the penalty if he considers it appropriate to do so having considered those representations.
- (6) A penalty scheme may—
  - (a) contain such incidental or supplementary provisions as the relevant manager considers appropriate, and
  - (b) be amended or revoked by the relevant manager.

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- (7) The amendment or revocation of a penalty scheme shall not affect the validity of anything previously done under the scheme.
- (8) A relevant manager who receives penalties under a penalty scheme shall make payments equal to the amount of those penalties for purposes which appear to him to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.

#### Textual Amendments

**F28** Ss. 78A, 78B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 3, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

VALID FROM 01/03/2007

#### **78B** Direction to establish, amend or revoke penalty scheme

- (1) The Secretary of State may direct a specified relevant manager—
  - (a) to establish a penalty scheme, or
  - (b) to amend or revoke a penalty scheme.
- (2) The Secretary of State shall publish any direction given under subsection (1) above in such manner as appears to him to be appropriate.
- (3) A direction under subsection (1) above which requires a relevant manager to establish or amend a penalty scheme may include directions as to the provisions which are to be included in the scheme.
- (4) Before giving a direction under subsection (1) above the Secretary of State shall consult—
  - (a) the relevant manager, and
  - (b) any body appearing to him to be representative of operators of aircraft using the aerodrome in question.
- (5) If a relevant manager fails to comply with a direction given to him under subsection (1) above he shall—
  - (a) be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
  - (b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and be liable on summary conviction to a fine not exceeding 10% of level 5 on the standard scale.]

#### Textual Amendments

**F28** Ss. 78A, 78B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 3, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)



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## **79 Grants towards cost of sound-proofing buildings.**

- (1) If it appears to the Secretary of State that buildings near a designated aerodrome require protection from noise and vibration attributable to the use of the aerodrome, he may by statutory instrument make a scheme requiring the person for the time being managing the aerodrome (hereafter in this section referred to as “the relevant manager”) to make grants towards the cost of insulating such buildings or parts of such buildings against noise; but a scheme under this section need apply only to such classes of buildings as the Secretary of State thinks fit.
- (2) A scheme under this section shall specify the area or areas in which buildings must be situated for the grants to be payable, and the persons to whom, the expenditure in respect of which and the rate at which the grants are to be paid, and may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme.
- (3) A scheme under this section may require the relevant manager, in any case where an application for a grant is refused, to give the applicant at his request a written statement of the relevant manager’s reasons for the refusal.
- (4) A scheme under this section may authorise or require local authorities to act as agents of the relevant manager in dealing with applications for and payments of grants and may provide for the making by the relevant manager of payments to local authorities in respect of anything done by them as such agents.
- (5) A scheme under this section may make different provision with respect to different areas or different circumstances.
- (6) Before making a scheme under this section relating to an aerodrome the Secretary of State shall consult the relevant manager.
- (7) In this section “local authorities” in relation to England and Wales does not include the council of a county.
- (8) A statutory instrument containing a scheme under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **80 Designation of aerodromes for purposes of ss. 78 and 79.**

In sections 78 and 79 above “designated aerodrome” means any aerodrome in Great Britain which is designated for the purposes of the section in which the expression is used by an order made by the Secretary of State; and the Secretary of State may designate an aerodrome for the purposes of either or both of those sections.

### **Modifications etc. (not altering text)**

**C10** S. 80: Functions transferred (1.7.1999) by S.I. 1999/1750, art. 2, Sch. 1

## **81 Dangerous flying.**

- (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary

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conviction to a fine not exceeding [<sup>F29</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding six months or to both.

- (2) In this section the expression “owner” in relation to an aircraft includes any person whom the aircraft is hired at the time of the offence.
- (3) The provisions of this section shall be in addition to and not in derogation of the powers conferred on Her Majesty in Council by section 60 above.

#### Textual Amendments

**F29** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5, 6**

## 82 Prohibition of aerial advertising and propaganda.

- (1) Save in such circumstances as may be prescribed, no aircraft while in the air over any part of the United Kingdom shall be used, whether wholly or partly for emitting or displaying any advertisement or other communication in such a way that the advertisement or communication is audible or visible from the ground.
- (2) Any person who uses an aircraft, or knowingly causes or permits an aircraft to be used, in contravention of subsection (1) above shall be guilty of an offence and liable on summary conviction—
  - (a) in the case of a first conviction of an offence under this section, to a fine not exceeding [<sup>F30</sup>£100 level 4 on the standard scale];
  - (b) in any other case, to a fine not exceeding [<sup>F30</sup>£200 level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both;
 but (without prejudice to section 105(3) below) a previous conviction of an offence under section 7 of the <sup>M8</sup>Civil Aviation (Licensing) Act 1960 shall be treated as a conviction of an offence under this section for the purposes of determining whether a conviction of an offence under this section is a first such conviction.

#### Textual Amendments

**F30** Words substituted (S.) for “£100” and “£200” by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

#### Modifications etc. (not altering text)

**C11** [S. 82\(2\)](#): [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35** (in relation to liability on first and subsequent convictions), **38** (increase of fines) and **46** (substitution of references to levels on the standard scale) apply (E.W.) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5** (substitution of references to levels on the standard scale) **6** (increase of fines) and **9** (in relation to liability on first and subsequent convictions) apply

#### Marginal Citations

**M8** [1960 c. 38](#).

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*Records and provision of information, etc.*

**83 Recording and registration of births and deaths, etc.**

- (1) The Secretary of State may by regulations provide for requiring such persons as may be specified in the regulations to keep records and make returns to the CAA—
  - (a) of births and deaths occurring in any part of the world in any aircraft registered in the United Kingdom; and
  - (b) of the death, outside the United Kingdom, of any person who, being a traveller on such an aircraft, is killed on the journey in consequence of an accident;and for the keeping by the CAA of a record of any returns made to it in accordance with any such requirement as aforesaid.
- (2) Any person who fails to comply with any such requirement shall be liable on summary conviction to a fine not exceeding [<sup>F31</sup>level 2 on the standard scale].
- (3) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland.
- (4) Where regulations made under subsection (1) above provide for the keeping of records by the CAA in accordance with that subsection they shall also provide for the transmission of certified copies of those records to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.
- (5) The Registrar General to whom any such certified copies are sent shall cause them to be filed and preserved in a book to be kept by him for the purpose, and to be called the Air Register Book of Births and Deaths.
- (6) Regulations made under subsection (1) above shall provide for the rectification of any records kept by the CAA in pursuance of the regulations and for the transmission of certified copies of any corrected entry in the records to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.
- (7) The Registrar General to whom a certified copy of any such corrected entry is sent in accordance with the regulations shall cause the corrected entry to be substituted for the corresponding entry for the time being made in the Air Register Book of Births and Deaths.
- (8) The enactments relating to the registration of births and deaths in England and Wales, Scotland and Northern Ireland shall have effect as if the Air Register Book of Births and Deaths were a certified copy or duplicate register transmitted to the Registrar General in accordance with those enactments.
- (9) The Secretary of State may by regulations provide—
  - (a) for the keeping by the CAA of a record of persons reported to him as missing, being persons with respect to whom there are reasonable grounds for believing

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that they have died in consequence of an accident to an aircraft registered in the United Kingdom;

- (b) for the rectification of any such record; and
- (c) for the transmission of information as to the matters for the time being entered on the record to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland or the Registrar General for Northern Ireland, as the case may require.

#### Textual Amendments

**F31** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\), art. 5](#)

#### 84 Provision by others of information for the CAA and Secretary of State.

(1) The CAA may, by a notice in writing served in the prescribed manner on a person of any of the following descriptions, that is to say—

- (a) a holder of a licence issued by the CAA under this Act or a licence or certificate issued by the CAA under an Air Navigation Order [<sup>F32</sup>or an operating licence granted by the CAA in accordance with [<sup>F33</sup>the Community licensing Regulation]],
- (b) a recipient of an approval given by the CAA under an Air Navigation Order,
- (c) a person who in the United Kingdom has, at any time during the period of two years ending with the date of service of the notice, held himself out as one who may as a principal or otherwise enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in aircraft of which he is not the operator,
- (d) a person carrying on business in the United Kingdom as a manufacturer of aircraft or engines or other equipment for aircraft or as an insurer of aircraft,

require him to furnish to the CAA, in such form and at such times as may be specified in the notice, information of such descriptions as may be so specified, being—

- (i) in the case of such a holder or recipient as aforesaid (other than the holder of an aerodrome licence), descriptions of information which relates to his past, present or future activities as the holder or recipient of the licence, certificate or approval in question or his past activities as the holder or recipient of any similar licence, certificate or approval or is of a kind which the CAA considers that it requires for the purpose of reviewing the licence, certificate or approval in question,
- (ii) in the case of such a person as is mentioned in paragraph (c) of this subsection, descriptions of information which relates to his past, present or future activities in the United Kingdom connected with the making available of accommodation so mentioned,
- (iii) in the case of such a person as is mentioned in paragraph (d) of this subsection or the holder of an aerodrome licence, descriptions of information which relates to his past, present or future activities (including, in the case of the holder of an aerodrome licence, information as to the numbers of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome) and is of a kind which the CAA considers that it requires for the purpose of performing any of its functions.

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In this subsection “aerodrome licence” means a licence to operate an aerodrome issued by the CAA under an Air Navigation Order.

- (2) Without prejudice to the generality of subsection (1) above, the information relating to the activities of the holder of an air transport licence [<sup>F34</sup>or operating licence] which the CAA may require him to furnish in pursuance of that subsection includes particulars of any contract or arrangement—
- (a) to which he is or was at any time a party and, if he is not or was not then an operator of aircraft registered in the United Kingdom or a relevant overseas territory <sup>F35</sup> . . . , to which such an operator is or was then a party; and
  - (b) which constitutes or relates to an agreement or understanding between operators of aircraft or such operators and other persons with respect to any of the following matters, that is to say—
    - (i) the provision of flights or of accommodation in aircraft,
    - (ii) the sharing or transfer of revenue from flights on particular routes,
    - (iii) the sale by a party to the contract or arrangement of tickets for flights in aircraft operated by another party to it,
    - (iv) the making available by a party to the contract or arrangement of staff, equipment or other facilities for use by another party to it.
- (3) Provision may be made by regulations made by the Secretary of State for requiring a person of any description specified in subsection (1) above to furnish the Secretary of State, in such form and at such times as may be prescribed, with information of such descriptions as may be prescribed, being descriptions of information relating to civil aviation which the Secretary of State considers that he requires for the purpose of performing any of his functions or descriptions of information which he considers that he requires in order to facilitate the performance by the CAA of any of its functions.
- (4) If a person required to furnish information by virtue of any of the preceding provisions of this section fails to comply with the requirement or in purported compliance with the requirement knowingly or recklessly furnishes information which is false in a material particular, then—
- (a) in the case of a failure to comply with the requirement he shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [<sup>F36</sup>level 3 on the standard scale]; and
  - (b) in any other case he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both; and
  - (c) if the requirement was made by virtue of subsection (1) or (2) above, the CAA may, whether or not any proceedings in respect of the requirement have been brought in pursuance of paragraph (a) or (b) of this subsection, revoke any licence or certificate or approval which was issued or given by the CAA and to which the requirement related;

and a person who fails to comply with a requirement imposed on him in pursuance of this section shall be guilty of an offence by virtue of paragraph (a) of this subsection notwithstanding that at any relevant time he is outside the United Kingdom and is neither a United Kingdom national nor a body incorporated under the law of a part of the United Kingdom or of a relevant overseas territory <sup>F35</sup> . . .

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#### Textual Amendments

- F32** Words in s. 84(1)(a) inserted (1.1.1993) by S.I. 1992/2992, reg. 23, **Sch. 2 para. 6.**
- F33** Words in s. 84(1)(a) substituted (1.1.1994) by S.I. 1993/3039, **reg. 3(a)**
- F34** Words in s. 84(2) inserted (1.1.1993) by S.I. 1992/2992, reg. 23, **Sch. 2 para. 7.**
- F35** Words in s. 84(2)(a)(4) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. II**
- F36** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6**

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