



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART III

#### REGULATION OF CIVIL AVIATION

##### *Air transport, etc.*

#### **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.
- (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>F1</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>F2</sup>(d) a flight for the undertaking of carriage by air for which a valid operating licence issued in accordance with [<sup>F3</sup>the Operation of Air Services in the Community Regulation] is required.]

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- (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.
- (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>F1</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

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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

**F1** Words in s. 64(2)(6)(b) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. II**

**F2** S. 64(2)(d) inserted (1.1.1993) by **S.I. 1992/2992, reg. 20.**

**F3** Words in s. 64(2)(d) substituted (26.1.2009) by **The Operation of Air Services in the Community Regulations 2009 (S.I. 2009/41), regs. 1, 33**

## 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 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

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- (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>F4</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 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.

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- (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

**F4** 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 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.

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- (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 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.

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- (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—
- (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.

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

## **[<sup>F5</sup>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.



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- (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 [<sup>F6</sup>the Operation of Air Services in the Community 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 [<sup>F7</sup>article 16 of the Operation of Air Services in the Community 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>F8</sup>EEA State [<sup>F9</sup>or Switzerland]], 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>F10</sup>. . . ;
- [ the following modifications relating to appeals—
- <sup>F11</sup>(ca)
- (i) the substitution in section 65(6), for paragraphs (a) to (c), of the words until the specified date (see section 69A(7A) below),
  - (ii) the substitution in section 66(5), for the words from “before the expiration” onwards, of the words before the specified date (see section 69A(7B) below), and
  - (iii) the omission of section 66(6)(a) and section 67(5);]
    - (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

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- (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.

[ For the purposes of section 65(6) as applied by subsection (6) above, “ the specified <sup>F12</sup>(7A) date ” means—

- (a) such date as is specified by the CAA for those purposes when giving its decision on the application in question, or  
(b) such later date as the CAA may specify for those purposes in accordance with subsection (7C) below.

(7B) For the purposes of section 66(5) as applied by subsection (6) above, “ the specified date ” means—

- (a) such date as is specified by the CAA for those purposes when giving its decision to revoke, vary or suspend the licence in question, or  
(b) such later date as the CAA may specify for those purposes in accordance with subsection (7C) below.

(7C) Where the CAA has specified a date as mentioned in subsection (7A)(a) or (7B) (a) above, it may (on one or more occasions) specify a later date for the purposes mentioned in that subsection if the holder of the licence in question—

- (a) makes an application to the CAA for it to specify such a date, and  
(b) does so before the date that is currently specified for those purposes.]

(8) In this section—

<sup>F13</sup>  
...

“Community air carrier” has the same meaning as in [<sup>F14</sup>the Operation of Air Services in the Community Regulation];

“operating licence” means an operating licence granted in any [<sup>F15</sup>EEA State][<sup>F16</sup>or Switzerland] in accordance with [<sup>F17</sup>the Community licensing Regulation].

#### Textual Amendments

- F5** S. 69A inserted (1.1.1993) by S.I. 1992/2992, **reg.21**.
- F6** Words in s. 69A(2)(d) substituted (26.1.2009) by The Operation of Air Services in the Community Regulations 2009 (S.I. 2009/41), regs. 1, **34(a)**
- F7** Words in s. 69A(3) substituted (26.1.2009) by The Operation of Air Services in the Community Regulations 2009 (S.I. 2009/41), regs. 1, **34(b)**
- F8** Words in s. 69A(5)(a) substituted (1.7.1994) by S.I. 1994/1732, **reg. 3(2)**
- F9** Words in s. 69A(5)(a) inserted (1.6.2004) by The EC/Swiss Air Transport Agreement (Consequential Amendments) Regulations 2004 (S.I. 2004/1256), **reg. 2(a)**
- F10** Words in s. 69A(7)(c) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. II**
- F11** S. 69A(7)(ca) inserted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 7(2)**, 14 (with s. 7(5)); S.I. 2007/598, **art. 2**, Sch. 1
- F12** S. 69A(7A)-(7C) inserted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 7(3)**, 14 (with s. 7(5)); S.I. 2007/598, **art. 2**, Sch. 1
- F13** Words in s. 69A(8) omitted (26.1.2009) by virtue of The Operation of Air Services in the Community Regulations 2009 (S.I. 2009/41), regs. 1, **34(c)(i)**
- F14** Words in s. 69A(8) substituted (26.1.2009) by The Operation of Air Services in the Community Regulations 2009 (S.I. 2009/41), regs. 1, **34(c)(ii)**
- F15** Words in s. 69A(8) substituted (1.7.1994) by S.I. 1994/1732, **reg. 3(4)**

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- F16** Words in s. 69A(8) inserted (1.6.2004) by The EC/Swiss Air Transport Agreement (Consequential Amendments) Regulations 2004 (S.I. 2004/1256), **reg. 2(b)(ii)**
- F17** Words in s. 69A(8) substituted (1.1.1994) by S.I. 1993/3039, **reg. 3(b)(ii)**

## **70 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**

- F5** S. 69A inserted (1.1.1993) by S.I. 1992/2992, **reg.21.**
- 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.**

[<sup>F21</sup>(1) The Secretary of State may by regulations make provision so as to secure—

- (a) that a person does not in the United Kingdom make available flight accommodation, either as principal or agent, unless the person meets the condition in subsection (1A) or (1B);
- (b) that a person does not in the United Kingdom hold himself or herself out as one who may make flight accommodation available, either as principal or agent or without disclosing the person's capacity, unless the person meets the condition in subsection (1A) or (1B);
- (c) that a person (“A”) acting as an agent for another person (“B”), in the course of a business carried on by A, does not in the United Kingdom procure flight accommodation on behalf of B unless A meets the condition in subsection (1A);
- (d) that a person (“P”) acting in the course of a business carried on by P does not in the United Kingdom facilitate the making available of flight accommodation by another person in circumstances in which one or more prescribed arrangements relating to payment apply, unless P meets the condition in subsection (1A).

[<sup>F22</sup>(1ZA) Subsection (1) applies to an activity in the European Economic Area by a person established in the United Kingdom as it applies to an activity in the United Kingdom.]

(1A) A person meets the condition in this subsection if the person—

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- (a) holds and acts in accordance with a licence issued in pursuance of the regulations, or
  - (b) is exempt from the need to hold a licence as a result of provision made by or under the regulations.
- (1B) A person meets the condition in this subsection if the person—
- (a) is the operator of the aircraft on which flight accommodation is made available, and
  - (b) in making the flight accommodation available is acting as a flight-only provider.
- (1C) The regulations may make provision for the purposes of subsection (1B) about when the operator of an aircraft acts as a flight-only provider.
- (1D) The arrangements relating to payment that may be prescribed under subsection (1) (d) are any arrangements under which P makes or receives payment, or facilitates the making or receipt of payment by another person, in connection with the making available of the flight accommodation.]
- [<sup>F23</sup>(1E) The provision that may be made under or by virtue of subsection (1A)(b) includes provision granting exemption in relation to cases where the person by whom flight accommodation is or may be made available or procured does not make available or procure any other services.]
- (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 [<sup>F24</sup>goods, services and other benefits which are or are not to be provided by any person in prescribed circumstances;];
  - (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;
  - <sup>F25</sup>(f) .....
- [<sup>F26</sup>(3) The Secretary of State may by regulations make provision—
- (a) imposing requirements to be complied with by persons holding licences issued in pursuance of regulations under subsection (1), or by prescribed descriptions of such persons, which may include requirements as to goods, services or other benefits which are or are not to be provided by any person in prescribed circumstances;

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- (b) about rights of action in respect of contraventions of requirements imposed by virtue of paragraph (a);
  - (c) imposing criminal penalties for contraventions of such requirements.
- (4) Regulations made by virtue of subsection (3)(c) may not provide for penalties exceeding, in the case of each contravention—
- (a) on summary conviction, a fine of the statutory maximum;
  - (b) on conviction on indictment, a fine and imprisonment for a term not exceeding 2 years.
- (5) In this section “flight accommodation” means accommodation for the carriage of persons on flights in any part of the world.]

#### Textual Amendments

- F21** S. 71(1)-(1D) substituted for s. 71(1) (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(2)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))
- F22** S. 71(1ZA) inserted (16.11.2017) by [Air Travel Organisers Licensing Act 2017 \(c. 33\)](#), **ss. 1(2)**, 4(2)
- F23** S. 71(1E) inserted (16.11.2017) by [Air Travel Organisers Licensing Act 2017 \(c. 33\)](#), **ss. 1(3)**, 4(2)
- F24** Words in s. 71(2)(b) substituted (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(3)(a)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))
- F25** S. 71(2)(f) omitted (19.2.2013) by virtue of [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(3)(b)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))
- F26** S. 71(3)-(5) inserted (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(4)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))

#### [<sup>F27</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 [<sup>F28</sup>71(1)] 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 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;

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- (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 [F<sup>29</sup>71(1)] 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 [F<sup>30</sup>(as it has effect from time to time)] 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.
- [ The Secretary of State may by regulations amend the definition of “Air Travel Trust”
- <sup>F31</sup>(6) in subsection (5) above so that it refers, in addition to or instead of any trust for the time being referred to in that subsection, to one or more other qualifying trusts.]
- (7) A trust is a qualifying trust for the purposes of subsection (6) above if—
- (a) the Secretary of State for Transport is a party to the deed establishing the trust, and
  - (b) the primary purpose of the trust is the assistance of persons who suffer losses or incur costs as a result of failure by contributors to the trust to fulfil obligations with regard to the provision of flight accommodation in connection with those persons' trips or holidays.
- In paragraph (b) “flight accommodation” has the same meaning as in section 71.

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#### Textual Amendments

- F27** 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
- F28** Reference in s. 71A(1) substituted (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(5)(a)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))
- F29** Reference in s. 71A(3) substituted (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(5)(a)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))
- F30** Words in s. 71A(5) inserted (16.11.2017) by [Air Travel Organisers Licensing Act 2017 \(c. 33\)](#), **ss. 2(1)**, 4(2)
- F31** S. 71A(6)(7) inserted (16.11.2017) by [Air Travel Organisers Licensing Act 2017 \(c. 33\)](#), **ss. 2(2)**, 4(2)

### **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 [<sup>F32</sup>71(1)] above, and
  - (b) any other person or body appearing to it to have an interest in the matter.]

#### Textual Amendments

- F27** 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
- F32** Reference in s. 71B(2)(a) substituted (19.2.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), **ss. 94(5)(a)**, 110(3)(b) (with [Sch. 10 paras. 12, 17](#))

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