



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART IV **U.K.**

#### AIRCRAFT

##### *Design, construction and maintenance of aircraft*

#### **85 Design, construction and maintenance of aircraft. **U.K.****

**F1** .....

#### **Textual Amendments**

**F1** S. 85 repealed (16.2.2004) by [The Aviation Safety Regulations 2004 \(S.I. 2004/77\)](#), [reg. 2\(4\)](#)

##### *Rights etc. in relation to aircraft*

#### **86 Power to provide for the mortgaging of aircraft. **U.K.****

- (1) Her Majesty may by Order in Council make provision for the mortgaging of aircraft registered in the United Kingdom or capable of being so registered.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular—
  - (a) include provisions which correspond (subject to such modifications as appear to Her Majesty in Council to be necessary or expedient) to any of the provisions of the [<sup>F2</sup>Merchant Shipping Act 1995] relating to the mortgaging of ships;
  - (b) make provision as respects the rights and liabilities of mortgagors and mortgagees of such aircraft as are mentioned in subsection (1) above, and as respects the priority inter se of such rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work

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done to such aircraft and rights under section 88 below or under regulations made by virtue of [<sup>F3</sup>section 83 of the Transport Act 2000 (detention and sale of aircraft)];

- (c) make provision as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;
- (d) provide for the rights of mortgagees of such aircraft to be exercisable, in such circumstances as may be specified in the Order, in relation to payments for the use of the aircraft;
- (e) confer on courts in the United Kingdom powers in respect of any register maintained in pursuance of the Order and in respect of transactions affecting aircraft registered therein;
- (f) make provision for enabling the mortgage of an aircraft to extend to any store of spare parts for that aircraft and for applying, for that purpose, to any such spare parts provisions such as are mentioned in the preceding paragraphs of this subsection;
- (g) make provision specifying, subject to the consent of the Treasury, the fees to be paid in respect of the making or deletion of entries in any such register as aforesaid and in respect of any other matters in respect of which it appears to Her Majesty in Council to be expedient for the purposes of the Order to charge fees;
- (h) provide for the imposition of penalties in respect of the making of false statements in connection with matters dealt with in the Order and in respect of the forgery of documents relating to such matters.

#### Textual Amendments

- F2** Words in s. 86(2) substituted (1.1.1996) by 1995 c. 21, s. 314(2), **Sch. 13 para. 64(b)** (with s. 312(1))
- F3** Words in s. 86(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 5** (with s. 106); S.I. 2001/869, **art. 2**

## 87 Application of law of wreck and salvage to aircraft. **U.K.**

- (1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel.
- (2) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.
- (3) Subsections (1) and (2) above shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of Her Majesty's dominions.
- (4) Her Majesty may by Order in Council direct that any provisions of any Act for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications, if any, as

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may be specified in the Order apply in relation to aircraft as those provisions apply in relation to vessels.

- (5) For the purposes of this section—
- (a) any provisions of an Act which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck; and
  - (b) “Act” shall include any local or special Act and any provisions of the <sup>M1</sup>Harbours, Docks and Piers Clauses Act 1847, as incorporated with any local or special Act, whenever passed.

**Marginal Citations**

M1 1847 c. 27.

**88 Detention and sale of aircraft for unpaid airport charges. E+W+S**

- (1) Where default is made in the payment of airport charges incurred in respect of any aircraft at an aerodrome to which this section applies, the aerodrome authority may, subject to the provisions of this section—
- (a) detain, pending payment, either—
    - (i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins); or
    - (ii) any other aircraft of which the person in default is the operator at the time when the detention begins; and
  - (b) if the charges are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.
- (2) An aerodrome authority shall not detain or continue to detain an aircraft under this section by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein—
- (a) disputes that the charges, or any of them, are due or, if the aircraft is detained under subsection (1)(a)(i) above, that the charges in question were incurred in respect of that aircraft; and
  - (b) gives to the authority, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.
- (3) An aerodrome authority shall not sell an aircraft under this section without the leave of the court; and the court shall not give leave except on proof—
- (a) that a sum is due to the authority for airport charges;
  - (b) that default has been made in the payment thereof; and
  - (c) that the aircraft which the authority seek leave to sell is liable to sale under this section by reason of the default.
- (4) An aerodrome authority proposing to apply for leave to sell an aircraft under this section shall take such steps as may be prescribed—
- (a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the court thereon; and
  - (b) for affording to any such person an opportunity of becoming a party to the proceedings on the application;

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and, if leave is given, the aerodrome authority shall secure that the aircraft is sold for the best price that can reasonably be obtained.

- (5) Failure to comply with any requirement of subsection (4) above in respect of any sale, while actionable as against the aerodrome authority concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.
- (6) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say—
- (a) in payment of any duty (whether of customs or excise) chargeable on imported goods or value added tax which is due in consequence of the aircraft's having been brought into the United Kingdom;
  - (b) in payment of the expenses incurred by the aerodrome authority in detaining, keeping and selling the aircraft, including their expenses in connection with the application to the court;
  - (c) in payment of the airport charges which the court has found to be due;
  - (d) in payment of any charge in respect of the aircraft which is due by virtue of [F<sup>4</sup>section 73 of the Transport Act 2000 (or, if more than one such charge is due, in payment of them in such order as the Secretary of State may specify by order)];

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

- (7) The power of detention and sale conferred by this section in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in subsections (2) to (6) above include, except where the context otherwise requires, references to any such equipment and stores.
- (8) The power of detention conferred by this section in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this section, be transferred by the aerodrome authority to the purchaser.
- (9) The power conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred or on any other aerodrome owned or managed by the aerodrome authority concerned.
- (10) This section applies to any aerodrome owned or managed by any government department . . . F<sup>5</sup> or a local authority [F<sup>6</sup>, other than a district council in Scotland,] and to any other aerodrome designated for the purpose of this section by an order made by the Secretary of State; and in this section—

“aerodrome authority” in relation to any aerodrome, means the person owning or managing it;

“airport charges” means charges payable to an aerodrome authority for the use of, or for services provided at, an aerodrome but does not include charges payable by virtue of [F<sup>7</sup>section 73 of the Transport Act 2000];

“aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document;

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“the court” means—

- (a) as respects England and Wales, the High Court; and
  - (b) respects Scotland, the Court of Session.
- (11) The Secretary of State may, after consultation with any local authority which appears to him to be concerned, by order repeal any enactment in a local Act which appears to the Secretary of State to be unnecessary having regard to the provisions of this section or to be inconsistent therewith.
- (12) Nothing in this section shall prejudice any right of an aerodrome authority to recover any charges, or any part thereof, by action.

#### Textual Amendments

- F4** Words in s. 88(6)(d) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F5** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. I**
- F6** Words in s. 88(10) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 126(4)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)**, **Sch. 2**
- F7** S. 88(10): words in definition of “airport charges” substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C1** S. 88(10)(11): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, **art. 2**, **Sch. 1**
- C2** S. 88(10) amended by **Local Government Act 1985 (c. 51, SIF 81:1)**, **s. 40(3)**

## 89 Exemption of aircraft and parts thereof from seizure on patent claims. **U.K.**

- (1) Any lawful entry into the United Kingdom or any lawful transit across the United Kingdom, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the United Kingdom, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.
- (2) Subject to subsection (3) below, the importation into, and storage in, the United Kingdom of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the United Kingdom on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.
- (3) Subsection (2) above shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the United Kingdom or are exported from the United Kingdom for sale or distribution.
- (4) This section applies—
- (a) to an aircraft other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time

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being in force a declaration made by Her Majesty by Order in Council with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory; and

(b) to such other aircraft as Her Majesty may by Order in Council specify.

(5) Schedule 12 to this Act shall have effect with respect to detention on patent claims in respect of foreign aircraft other than aircraft to which this section applies.

## 90 Power to give effect to Convention on rights in aircraft. **U.K.**

(1) Her Majesty may by Order in Council make such provision as appears to Her Majesty in Council to be necessary or expedient for giving effect to the Convention on the International Recognition of Rights in Aircraft which was signed at Geneva on behalf of the United Kingdom on 19th June 1948.

(2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular, make provision—

- (a) for the recognition in the United Kingdom of rights of the kind specified in the Convention in or over aircraft registered in other states party to the Convention, being rights registered or recorded in those states in accordance with the Convention and recognised as valid by the law of the state party to the Convention in which the aircraft in question was registered when the rights were constituted;
- (b) for subordinating to any such rights as aforesaid, to such extent as may be required under the Convention, any other rights in or over such aircraft as aforesaid, including possessory liens for work done to such aircraft and rights under section 88 above or under regulations made by virtue of [F8 section 83 of the Transport Act 2000 (detention and sale of aircraft)];
- (c) as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;
- (d) for prohibiting the sale in execution of any such aircraft as aforesaid without an order of a court, and otherwise for safeguarding in the case of such a sale any such rights as are mentioned on paragraph (a) above;
- (e) for the recognition in the United Kingdom, in priority to other rights in or over any such aircraft as aforesaid or any aircraft registered in the United Kingdom or a relevant overseas territory, of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other state party to the Convention in which those operations terminated;
- (f) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) above to cases where a right such as is mentioned in the said paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

### Textual Amendments

**F8** Words in s. 90(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 7** (with s. 106); S.I. 2001/869, **art. 2**

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*Jurisdiction, etc.*

**91 Jurisdiction in civil matters. U.K.**

Her Majesty may by Order in Council make provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide—

- (a) for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction; and
- (b) for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

**92 Application of criminal law to aircraft. U.K.**

- (1) Any act or omission taking place on board a British-controlled aircraft [<sup>F9</sup>or (subject to subsection (1A) below) a foreign aircraft]while in flight elsewhere than in or over the United Kingdom which, if taking place in, or in a part of, the United Kingdom, would constitute an offence under the law in force in, or in that part of, the United Kingdom shall constitute that offence; but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside the United Kingdom.

[<sup>F10</sup>(1A) Subsection (1) above shall only apply to an act or omission which takes place on board a foreign aircraft where—

- (a) the next landing of the aircraft is in the United Kingdom, and
- (b) in the case of an aircraft registered in a country other than the United Kingdom, the act or omission would, if taking place there, also constitute an offence under the law in force in that country.

- (1B) Any act or omission punishable under the law in force in any country is an offence under that law for the purposes of subsection (1A) above, however it is described in that law.]

- (2) Subject to any provision to the contrary in any Act passed after 14th July 1967, no proceedings for any offence under the law in force in, or in a part of, the United Kingdom committed on board an aircraft while in flight elsewhere than in or over the United Kingdom (other than an offence under, or under any instrument made under, any of the air navigation enactments) shall be instituted—

- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions; or
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland;

but, unless the Attorney General for Northern Ireland otherwise directs, paragraph (b) above shall be deemed to be complied with as respects the institution of any proceedings if the Director of Public Prosecutions for Northern Ireland gives his consent to the institution or carrying on of the proceedings.

[<sup>F11</sup>(2A) The requirement in subsection (1A)(b) above shall be taken to be met unless, not later than the rules of court may provide, the defence serve on the prosecution a notice—

- (a) stating that, on the facts as alleged with respect to the act or omission, the requirement is not in their opinion met;
- (b) showing the grounds for their opinion; and

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- (c) requiring the prosecution to prove that it is met.
- (2B) The court, if it thinks fit, may permit the defence to require the prosecution to prove that the requirement is met without the prior service of a notice under subsection (2A) above.
- (2C) In the Crown Court the question whether the requirement is met is to be decided by the judge alone.]
- (3) For the purpose of conferring jurisdiction, any offence under the law in force in, or in a part of, the United Kingdom committed on board an aircraft in flight shall be deemed to have been committed in any place in the United Kingdom (or, as the case may be, in that part thereof) where the offender may for the time being be.
- (4) For the purpose of this section the period during which an aircraft is in flight shall be deemed to include any period from the moment when 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; and any reference in this section to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.
- (5) In this section, except where the context otherwise requires—
- “aircraft” means any aircraft, whether or not a British-controlled aircraft, other than—
- (a) a military aircraft; or
  - (b) subject to section 101(1)(b) below, an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of Her Majesty in right of the United Kingdom;
- “the air navigation enactments” means the enactments contained in sections 60 to 62, 72 to 77, 81 to 83, 87 and 97 of this Act;
- “British-controlled aircraft” means an aircraft—
- (a) which is for the time being registered in the United Kingdom; or
  - (b) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely—
    - (i) that he is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in the United Kingdom; and
    - (ii) that he resides or has his principal place of business in the United Kingdom; or
  - (c) which, being for the time being registered in some other country, is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the requirements aforesaid;
- [<sup>F12</sup>“foreign aircraft” means any aircraft other than a British-controlled aircraft;]
- “military aircraft” means—
- (a) an aircraft of the naval, military or air forces of any country; or
  - (b) any other aircraft in respect of which there is in force a certificate issued in accordance with any Order in Council in force under section 60, 87, 89, 91, 101(1)(a) or 107(2) of this Act that the aircraft is to be treated for the purposes of that Order in Council as a military aircraft;



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and a certificate of the Secretary of State that any aircraft is or is not a military aircraft for the purposes of this section shall be conclusive evidence of the fact certified.

- (6) In subsection (2) above, the words from “but” onwards shall (notwithstanding their enactment in this Act) have effect subject to any question arising as to the validity, in relation to any such provision as is re-enacted in the preceding provisions of that subsection, of the provisions from which the words derive, that is to say, Article 7 of the <sup>M2</sup>Prosecution of Offences (Northern Ireland) Order 1972 and paragraphs 67 and 68 of Part II of Schedule 1 to the <sup>M3</sup>Criminal Justice (Northern Ireland) Order 1980.

#### Textual Amendments

- F9** Words in s. 92(1) inserted (18.7.1996) by 1996 c. 39, s. 1(2)  
**F10** S. 92(1A)(1B) inserted (18.7.1996) by 1996 c. 39, s. 1(3)  
**F11** S. 92(2A)-(2C) inserted (18.7.1996) by 1996 c. 39, s. 1(4)  
**F12** Definition in s. 92(5) inserted (18.7.1996) by 1996 c. 39, s. 1(5)

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

- C3** S. 92(4)(5) extended by Extradition Act 1989 (c. 33, SIF 48), ss. 1, 22(7), Sch. 1 para. 15(3)

#### Marginal Citations

- M2** S.I. 1972/538 (N.I. 1).  
**M3** S.I. 1980/704 (N.I. 6).

93 ..... <sup>F13</sup> **U.K.**

#### Textual Amendments

- F13** S. 93 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

### *Powers of commander of aircraft*

94 **Powers of commander of aircraft.** **U.K.**

- (1) The provisions of subsections (2) to (5) below shall have effect for the purposes of any proceedings before any court in the United Kingdom.
- (2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds to believe in respect of any person on board the aircraft—
- (a) that the person in question has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise—
- (i) the safety of the aircraft or of persons or property on board the aircraft,  
or
- (ii) good order and discipline on board the aircraft, or
- (b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

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then, subject to subsection (4) below, the commander may take with respect to that person such reasonable measures, including restraint of his person, as may be necessary—

- (i) to protect the safety of the aircraft or of persons or property on board the aircraft; or
- (ii) to maintain good order and discipline on board the aircraft; or
- (iii) to enable the commander to disembark or deliver that person in accordance with subsection (5) below,

and for the purposes of paragraph (b) of this subsection any British-controlled aircraft shall be deemed to be registered in the United Kingdom whether or not it is in fact so registered and whether or not it is in fact registered in some other country.

- (3) Any member of the crew of an aircraft and any other person on board the aircraft may, at the request or with the authority of the commander of the aircraft, and any such member shall if so required by that commander, render assistance in restraining any person whom the commander is entitled under subsection (2) above to restrain; and at any time when the aircraft is in flight any such member or other person may, without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures such as are mentioned in that subsection which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.
- (4) Any restraint imposed on any person on board an aircraft under the powers conferred by the preceding provisions of this section shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to an appropriate authority of the country in which the aircraft so ceases to be in flight, but subject to such notification may be continued after that time—
  - (a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (5) below; or
  - (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.
- (5) The commander of an aircraft—
  - (a) if in the case of any person on board the aircraft he has reasonable grounds—
    - (i) to believe as mentioned in subsection (2)(a) above, and
    - (ii) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,
 may disembark that person in any country in which that aircraft may be; and
  - (b) if in the case of any person on board the aircraft he has reasonable grounds to believe as mentioned in subsection (2)(b) above, may deliver that person—
    - (i) in the United Kingdom, to a constable or immigration officer; or
    - (ii) in any other country which is a Convention country, to an officer having functions corresponding to the functions in the United Kingdom either of a constable or of an immigration officer.
- (6) The commander of an aircraft—

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- (a) if he disembarks any person in pursuance of subsection (5)(a) above, in the case of a British-controlled aircraft, in any country or, in the case of any other aircraft, in the United Kingdom, shall report the fact of, and the reasons for, that disembarkation to—
  - (i) an appropriate authority in the country of disembarkation; and
  - (ii) the appropriate diplomatic or consular office of the country of nationality of that person;
- (b) if he intends to deliver any person in accordance with subsection (5)(b) above in the United Kingdom or, in the case of a British-controlled aircraft, in any other country which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor—
  - (i) where the country in question is the United Kingdom, to a constable or immigration officer or, in the case of any other country, to an officer having functions corresponding to the functions in the United Kingdom either of a constable or of an immigration officer;
  - (ii) in either case to the appropriate diplomatic or consular office of the country of nationality of that person;

and any commander of an aircraft who without reasonable cause fails to comply with the requirements of this subsection shall be liable on summary conviction to a fine not exceeding £100.

(7) In this section—

“commander” in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft; and

“pilot in command” in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

and, subject to subsection (8) below, subsections (4) and (5) of section 92 above shall apply for the purposes of this section as they apply for the purposes of that section.

- (8) The time during which an aircraft is in flight shall, for the purposes of this section, be deemed to include, in addition to such a period as is mentioned in subsection (4) of section 92 above—
  - (a) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight; and
  - (b) if the aircraft makes a forced landing, any period thereafter until the time when competent authorities of the country in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being, if the forced landing takes place in the United Kingdom, the time when a constable arrives at the place of landing).

*Evidence, etc.*

## 95 Provisions as to evidence in connection with aircraft. **U.K.**

- (1) Where in any proceedings before a court in the United Kingdom for an offence committed on board an aircraft the testimony of any person is required and the court

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is satisfied that the person in question cannot be found in the United Kingdom, there shall be admissible in evidence before that court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside the United Kingdom which was so made—

- (a) in the presence of the person charged with the offence; and
  - (b) before a judge or magistrate of a country such as is mentioned in Schedule 3 to the <sup>M4</sup>British Nationality Act 1981 as for the time being in force or which was part of Her Majesty’s dominions at the time the deposition was made or in which Her Majesty had jurisdiction at that time, or before a consular officer of Her Majesty’s Government in the United Kingdom.
- (2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.
- (3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.
- (4) If a complaint is made to such a consular officer as aforesaid that <sup>F14</sup>—
- (a) any offence has been committed on a British-controlled aircraft while in flight elsewhere than in or over the United Kingdom, or
  - (b) there has taken place on board a foreign aircraft an act or omission which constitutes an offence by virtue of section 92(1) above,]
- that officer may inquire into the case upon oath.
- (5) In this section—
- “deposition” includes any affidavit, affirmation or statement made upon oath; and
- “oath” includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing;
- and subsections (4) and (5) of section 92 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (6) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

#### Textual Amendments

**F14** Words in s. 95(4) substituted and s. 95(4)(a)(b) and the preceding dash inserted (18.7.1996) by 1996 c. 39, s. 2(2)

#### Marginal Citations

**M4** 1981 c. 61.

## 96 Use of records and documentary evidence. **U.K.**

- (1) In any legal proceedings—
- (a) a document purporting to be certified by such authority or person as may be designated for the purpose by regulations made by the Secretary of State as

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being, or being a true copy of, or of part of, a document issued or record kept in pursuance of—

- (i) an Air Navigation Order, or
- (ii) the <sup>M5</sup>Civil Aviation (Licensing) Act 1960,

by, or by the Minister in charge of, a government department, by an official of a government department specified for the purpose in an Air Navigation Order or by the Air Registration Board or the Air Transport Licensing Board, or

- (b) a document printed by either Her Majesty’s Stationery Office or the CAA and purporting to be the publication known as the “United Kingdom Air Pilot” or a publication of the series known as “Notam—United Kingdom”,

shall be evidence, and in Scotland sufficient evidence, of the matters appearing from the document.

- (2) In any legal proceedings any record made by any such authority or person as may be designated for the purposes of this subsection by regulations made by the Secretary of State, or by a person acting under the control of such an authority or person, being a record purporting to show—

- (a) the position of an aircraft at any material time, or
- (b) the terms or content of any message or signal transmitted to any aircraft, either alone or in common with other aircraft, or received from any aircraft, by the first-mentioned authority or person, or by a person acting under the control of that authority or person,

shall, if produced from the custody of that authority or person, be evidence, and in Scotland sufficient evidence, of the matters appearing from the record.

- (3) The references in subsection (2) above to a record made by or under the control of any authority or person include references to a document or article purporting to be a copy of a record so made, and certified to be a true copy by or on behalf of that authority or person; and in relation to such a copy that subsection shall have effect as if the words “if produced from the custody of that authority or person” were omitted.

- (4) Any person who wilfully certifies any document or article to be a true copy of any such record as is mentioned in subsection (2) above knowing it not to be a true copy 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.

- (5) In this section “record” has the same meaning as in section 73 above.

**Marginal Citations**

**M5** 1960 c. 38.

*Seaplanes*

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- (2) For the purpose of the <sup>M6</sup>Dockyard Ports Regulation Act 1865 seaplanes when on the surface of the water shall be deemed to be vessels.
- (3) In section 28 of the <sup>M7</sup>Harbours, Docks and Piers Clauses Act 1847 (which relates to the exemption of certain vessels from harbour rates) as incorporated with any statutory provision, the expression “vessel” shall be deemed to include any aircraft on the surface of the water, being an aircraft which is designed to float or manoeuvre on water.
- (4) Subject to subsection (5) below, any enactment which confers or imposes on a conservancy or harbour authority any power or duty to make byelaws for the regulation of ships or vessels shall be construed as if the power or duty so conferred or imposed included a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, and also a power to include in the byelaws provisions authorising the harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised by the enactment in question to exercise as respects ships or vessels.
- (5) Byelaws made by virtue of subsection (4) above shall not in any circumstances require, or authorise a harbour master or other officer to require, the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.
- (6) Where any enactment, whether by virtue of subsection (4) above or not, confers or imposes on a conservancy or harbour authority a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, or to include in the byelaws such provisions as are mentioned in that subsection, the following provisions shall have effect—
- (a) in the case where the enactment provides that the byelaws shall not come into force unless they have been confirmed or approved by some government department, byelaws made thereunder in relation to seaplanes shall not be confirmed or approved by that department except after consultation with the Secretary of State;
  - (b) in a case where the enactment in question does not provide as aforesaid, byelaws made thereunder in relation to seaplanes shall not, except in a case where they are required to be allowed or approved by a court or a judge, come into force unless they have been confirmed by the Secretary of State;
  - (c) in a case where the enactment in question provides that the byelaws shall not come into force unless they have been allowed or approved by a court or a judge, the conservancy or harbour authority shall, before making application to that court or judge for the allowance of the byelaws, forward a copy thereof to the Secretary of State, and the court or judge shall, before allowing or approving the byelaws, take into consideration any representations made with respect thereto by or on behalf of the Secretary of State.
- (6) In this section—
- “byelaws” includes rules and regulations;
  - “conservancy authority” and “harbour authority” shall have the [<sup>F16</sup>the same meaning as in the Merchant Shipping Act 1995];
  - “enactment” includes any provisional order for the time being in force (whether or not it has been confirmed by an Act);
  - “seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water;

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and, for the purposes of this section, seaplanes taking off from or alighting on the water shall be deemed to be on the surface of the water while in contact therewith.

#### Subordinate Legislation Made

**P1** S. 97(1): power under s. 418(1) [Merchant Shipping Act 1894 \(c. 60, SIF 111\)](#) as extended by this s. 97(1) exercised by [S.I. 1991/768](#), [S.I. 1991/769](#)

#### Textual Amendments

**F15** S. 97(1) repealed (1.1.1996) by [1995 c. 21, s. 314\(1\)](#), [Sch. 12](#) (with s. 312(1))

**F16** Words in s. 97(6) substituted (1.1.1996) by [1995 c. 21, s. 314\(2\)](#), [Sch. 13 para. 64\(e\)](#) (with s. 312(1))

#### Marginal Citations

**M6** [1865 c. 125](#).

**M7** [1847 c. 27](#).

### *Supplemental*

## 98 Construction of certain provisions of Part IV. **U.K.**

If the Secretary of State is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied (which Article makes provision as to the country which is to be treated as the country of registration of certain aircraft operated by joint air transport organisations or international operating agencies established by two or more Convention countries) the Secretary of State may by order provide that for the purposes of sections 92 to 95 above such aircraft as may be specified in the order shall be treated as registered in such Convention country as may be so specified.

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

**C4** S. 98 amended by [Extradition Act 1989 \(c. 33, SIF 48\)](#), [s. 22\(8\)](#)

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**Changes to legislation:**

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