



# Civil Aviation (Eurocontrol) Act 1983

## 1983 CHAPTER 11

An Act to make further provision with respect to the European Organisation for the Safety of Air Navigation known as Eurocontrol and to amend section 73(4) of the Civil Aviation Act 1982. [11 April 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Enforcement of foreign judgments etc. in respect of route charges**

After section 74 of the Civil Aviation Act 1982 (supplementary provision about charges for air navigation services), there shall be inserted the following section:—

#### **“74A Enforcement of foreign judgments etc. in respect of route charges.**

- (1) Subject to the following provisions of this section, where a relevant 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 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

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*Status: This is the original version (as it was originally enacted).*

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- (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
  - (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 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 Euro-control 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.”

## **2 Immunities and privileges of Eurocontrol**

- (1) Schedule 4 to the Civil Aviation Act 1982 (which makes provision in relation to the organisation known as Euro-control) shall be amended as follows.
- (2) In paragraph 1(3) (which includes provision according Eurocontrol the same inviolability of archives and premises as an envoy of a foreign sovereign Power accredited to Her Majesty), for the words from " any rule " to " Her Majesty " there shall be substituted the words " the inviolability which, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission " .
- (3) In paragraph 1(4) (which allows constables and other specified persons in certain cases to have access to the premises of Eurocontrol and to inspect its documents) after the word "document" there shall be inserted the words " where the Director-General of the Agency is given advance notice of the exercise of the power conferred by this sub-paragraph and the access or inspection is " .
- (4) After paragraph 1(4) there shall be inserted the following sub-paragraphs: —
  - “(4A) Without prejudice to the preceding provisions of this paragraph, the property and assets of Eurocontrol shall be immune from the exercise by any person of any right or power without the leave of a court to seize or otherwise interfere with such property or assets.
  - (4B) No court or tribunal in the United Kingdom shall have jurisdiction in respect of any matter involving Euro-control and any of its officers or servants, being a matter which by virtue of any international agreement to which the United Kingdom is a party is within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation.
  - (4C) For the purposes of sub-paragraph (4B) above, a certificate of the Secretary of State that any matter is or is not, as mentioned in that sub-paragraph, within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation shall be conclusive of what is certified.”.

- (5) In paragraph 1(5) (interpretation of paragraph 1), after the definition of "installations" there shall be inserted the following definition: —
- “ the 1961 Convention Articles' means the Articles (being certain Articles of the Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 ;”.
- (6) In sub-paragraph (1) of paragraph 3 (which confers jurisdiction on United Kingdom courts in respect of claims against Eurocontrol), after the words " Subject to " there shall be inserted the words " paragraph 1 above and " .

### **3 Minor amendments**

- (1) in section 24 of the Civil Aviation Act 1982, in the definition of " the Eurocontrol Convention", for the words from "and includes any amendment" onwards there shall be substituted the words " as from time to time amended with the agreement of the contracting parties thereto " .
- (2) In subsection (4) of section 73 of that Act (under which charges for air navigation services may be imposed on the operator of an aircraft whether or not the aircraft is registered in the United Kingdom and whether or not the services are provided to or from a place in the United Kingdom), after the word " operator " there shall be inserted the words " or owner " ; and that subsection and, in relation to any time before the coming into force of that Act, subsection (3) of section 15 of the Civil Aviation Act 1968 (so far as re-enacted in the said subsection (4)) shall be deemed always to have had effect with that amendment or, as the case may be, with a corresponding amendment.

### **4 Short title, commencement and extent**

- (1) This Act may be cited as the Civil Aviation (Euro-control) Act 1983.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes of the same provision.
- (3) The power conferred by section 108(1) of the Civil Aviation Act 1982 to extend provisions of that Act to a place outside the United Kingdom includes, in the case of a provision amended by this Act, power so to extend that provision with the amendments made by this Act and includes power so to extend the section inserted in that Act by section 1 above.
- (4) This Act extends to Northern Ireland.