



Finance Act 1994

1994 CHAPTER 9

PART I

CUSTOMS AND EXCISE

CHAPTER IV

AIR PASSENGER DUTY

The duty

28 Air passenger duty.

- (1) A duty to be known as air passenger duty shall be charged in accordance with this Chapter on the carriage on a chargeable aircraft of any chargeable passenger.
- (2) Subject to the provisions of this Chapter about accounting and payment, the duty in respect of any carriage on an aircraft of a chargeable passenger—
 - (a) becomes due when the aircraft first takes off on the passenger's flight, and
 - (b) shall be paid by the operator of the aircraft.
- (3) Subject to section 29 below, every aircraft designed or adapted to carry persons in addition to the flight crew is a chargeable aircraft for the purposes of this Chapter.
- (4) Subject to sections 31 and 32 below, every passenger on an aircraft is a chargeable passenger for the purposes of this Chapter if his flight begins at an airport in the United Kingdom.
- (5) In this Chapter, "flight", in relation to any person, means his carriage on an aircraft; and for the purposes of this Chapter, a person's flight is to be treated as beginning when he first boards the aircraft and ending when he finally disembarks from the aircraft.

Status: Point in time view as at 24/07/2002.

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29 Chargeable aircraft.

- (1) Where—
- (a) the authorised take-off weight in respect of an aircraft is less than ten tonnes, or
 - (b) an aircraft is not authorised to seat twenty or more persons (excluding members of the flight crew and cabin attendants),
- the aircraft is not a chargeable aircraft for the purposes of this Chapter.
- (2) In this section “take-off weight”, in relation to an aircraft, means the total weight of the aircraft and its contents when taking off; and for the purposes of this section the authorised take-off weight of an aircraft is less than ten tonnes if—
- (a) there is a certificate of airworthiness in force in respect of the aircraft showing that the maximum authorised take-off weight (assuming the most favourable circumstances for take-off) is less than ten tonnes, or
 - (b) the Commissioners are satisfied that the aircraft is not designed or adapted to take off when its take-off weight is ten tonnes or more (assuming the most favourable circumstances for take-off) or the aircraft belongs to a class or description of aircraft in respect of which the Commissioners are so satisfied.
- (3) For the purposes of this section an aircraft is not authorised as mentioned in subsection (1)(b) above if—
- (a) there is a certificate of airworthiness in force in respect of the aircraft showing that the maximum number of persons who may be seated on the aircraft (excluding members of the flight crew and cabin attendants) is less than twenty, or
 - (b) the Commissioners are satisfied that the aircraft is not designed or adapted to seat twenty or more persons (excluding members of the flight crew and cabin attendants) or the aircraft belongs to a class or description of aircraft in respect of which the Commissioners are so satisfied.
- (4) In this section “certificate of airworthiness” has the same meaning as in the Air Navigation Order.

30 The rate of duty.

- (1) Air passenger duty shall be charged on the carriage of each chargeable passenger at the rate [^{F1}determined in accordance with subsections (2) to (4) below.]
- [^{F2}(2) [^{F3}If the place where the passenger’s journey ends] is in the area specified in subsection (3) below and in—
- (a) the United Kingdom or another EEA State, ^{F4} . . .
 - (b) any territory for whose external relations the United Kingdom or another member State is responsible
- [^{F5}or
- (c) any qualifying territory (so long as not falling within paragraph (a) above),]
- [^{F6}the rate shall be determined in accordance with subsection (3A) below.]
- (3) The area referred to in subsection (2) above is the area bounded by the meridians of longitude 32° W and [^{F7}45 degrees E] and the parallels of latitude 26° N and 81° N.
- [^{F8}(3A) In a case falling within subsection (2) above—

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- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on his journey, the rate is £5;
- (b) in any other case, the rate is £10.]

[^{F9}(4) In a case not falling within subsection (2) above—

- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on his journey, the rate is £20;
- (b) in any other case, the rate is £40.]

(5) Subject to subsection (6) below, the journey of a passenger whose agreement for carriage is evidenced by a ticket ends for the purposes of this section at his final place of destination.

(6) Where in the case of such a passenger—

- (a) his journey includes two or more flights, and
- (b) any of those flights is not followed by a connected flight,

his journey ends for those purposes where the first flight not followed by a connected flight ends.

(7) The journey of any passenger whose agreement for carriage is not evidenced by a ticket ends for those purposes where his flight ends.

(8) For the purposes of this Chapter, successive flights are connected if (and only if) they are treated under an order as connected.

[^{F10}(9) In this section “EEA State” means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein; and “EEA Agreement” here means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.]

[^{F11}(9A) In this section “qualifying territory” means each of the following territories—

Bulgaria	Latvia	Slovak Republic
Cyprus	Lithuania	Slovenia
Czech Republic	Malta	Switzerland
Estonia	Poland	Turkey.
Hungary	Romania	

(9B) The Treasury may by order amend the definition of “qualifying territory” in subsection (9A) above by adding, removing, or varying the description of, any territory.]

[^{F12}(10) In this section “standard class travel”, in relation to carriage on an aircraft, means—

- (a) in the case of an aircraft on which only one class of travel is available, that class of travel;
- (b) in any other case, the lowest class of travel available on the aircraft.]

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Textual Amendments

- F1** Words in s. 30(1) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(2)
- F2** S. 30(2) substituted (*retrospectively*) by 1995 c. 4, s. 15(1)(2)
- F3** Words in s. 30(2) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(3)(a)
- F4** Word in s. 30(2) repealed (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), ss. {121(2)}, 141, {Sch. 40 Pt. 4(1)}
- F5** S. 30(2)(c) and word inserted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(2)
- F6** Words in s. 30(2) added (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(3)(b)
- F7** Words in s. 30(3) substituted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(3)
- F8** S. 30(3A) inserted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(4)
- F9** S. 30(4) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(5)
- F10** S. 30(9) inserted (*retrospectively*) by 1995 c. 4, s. 15(1)(3)
- F11** S. 30(9A)(9B) inserted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(4)
- F12** S. 30(10) added (with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(6)

31 Passengers: exceptions.

^{F13}(1)

^{F13}(2)

(3) A passenger whose agreement for carriage is evidenced by a ticket is not a chargeable passenger in relation to a flight which is the second or a subsequent flight on his journey if—

- (a) the prescribed particulars of the flight are shown on the ticket, and
- (b) that flight and the previous flight are connected.

(4) A child who—

- (a) has not attained the age of two years, and
- (b) is not allocated a separate seat before he first boards the aircraft,

is not a chargeable passenger.

[^{F14}(4A) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket)—

- (a) the flight is to depart from and return to the same airport, and
- (b) the duration of the flight (excluding any period during which the aircraft's doors are open for boarding or disembarkation) is not to exceed 60 minutes.]

[^{F15}(4B) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket) the flight is to depart from an airport which is in a region of the United Kingdom designated by order.

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- (4C) An order may be made for the purposes of subsection (4B) above in respect of any region which has a population density of not more than 12.5 persons per square kilometre.
- (4D) In subsections (4B) and (4C) above, references to a region are references to an area which is determined by the Treasury to constitute a region for the purposes of those subsections.]
- (5) A passenger not carried for reward is not a chargeable passenger if he is carried—
- (a) in pursuance of any requirement imposed under any enactment, or
 - (b) for the purpose only of inspecting matters relating to the aircraft or the flight crew.

^{F13}(6)

Textual Amendments

F13 S. 31(1)(2)(6) repealed (28.7.2000 with application as mentioned in s. 19(6) of the repealing Act) by 2000 c. 17, ss. 19(2)(4), 156, **Sch. 40 Pt. I(4)**

F14 S. 31(4A) inserted (29.4.1996) by 1996 c. 8, **s. 13(1)**

F15 S. 31(4B)-(4D) inserted (28.7.2000 with application as mentioned in s. 19(6) of the amending Act) by 2000 c. 17, **s. 19(3)**

32 Change of circumstances after ticket issued etc.

- (1) [^{F16}Subsections (2) and (3) below apply] in the case of a person whose agreement for carriage is evidenced by a ticket.
- (2) Where—
- (a) at the time the ticket is issued or, if it is altered, at the time it is last altered, he would not (assuming there is no change of circumstances) be a chargeable passenger in relation to any flight in the course of his journey, and
 - (b) by reason only of a change of circumstances not attributable to any act or default of his, he arrives at or departs from an airport in the course of that journey on a flight the prescribed particulars of which were not shown on his ticket at that time,
- he shall not by reason of the change of circumstances be treated as a chargeable passenger in relation to that flight.
- (3) Where—
- (a) at the time the ticket is issued or, if it is altered, at the time it is last altered, he would (assuming there is no change of circumstances) be a chargeable passenger in relation to one or more flights (“the proposed chargeable flights”) in the course of his journey,
 - (b) by reason only of a change of circumstances not attributable to any act or default of his, he arrives at or departs from an airport in the course of that journey on a flight the prescribed particulars of which were not shown on his ticket at that time, and
 - (c) but for this subsection he would by reason of the change be a chargeable passenger in relation to a number of flights exceeding the number of the proposed chargeable flights,

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he shall not by reason of the change of circumstances be treated as a chargeable passenger in relation to that flight.

[^{F17}(4) Where—

- (a) at the time a passenger's flight begins, by virtue of section 31(4A) above he would not (assuming there is no change of circumstances) be a chargeable passenger in relation to the flight, and
- (b) by reason only of a change of circumstances not attributable to any act or default of his, the flight does not return to the airport from which it departed or exceeds 60 minutes in duration (excluding any period during which the aircraft's doors are open for boarding or disembarkation),

he shall not by reason of the change of circumstances be treated as a chargeable passenger in relation to that flight.]

Textual Amendments

F16 Words in s. 32(1) substituted (29.4.1996) by 1996 c. 8, s. 13(2)(a)

F17 S. 32(4) added (29.4.1996) by 1996 c. 8, s. 13(2)(b)

Persons liable for the duty

33 Registration of aircraft operators.

- (1) The Commissioners shall under this section keep a register of aircraft operators.
- (2) The operator of a chargeable aircraft becomes liable to be registered under this section if the aircraft is used for the carriage of any chargeable passengers.
- (3) A person who has become liable to be registered under this section ceases to be so liable if the Commissioners are satisfied at any time—
 - (a) that he no longer operates any chargeable aircraft, or
 - (b) that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers.
- (4) A person who is not registered and has not given notice under this subsection shall, if he becomes liable to be registered at any time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.
- (5) Notice under subsection (4) above shall be in such form, be given in such manner and contain such information as the Commissioners may direct.
- (6) If a person who is required to give notice under subsection (4) above fails to do so, his failure shall attract a penalty under section 9 above which, if any amount of duty is then due from him and unpaid, shall be calculated by reference to that amount.
- (7) Regulations may make provision as to the information to be included in, and the correction of, the register kept under this section.
- (8) In particular, the regulations may provide—
 - (a) for the inclusion in the register of persons who have not given notice under this section but appear to the Commissioners to be liable to be registered,
 - (b) for persons who are liable to be registered—

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- (i) not to be included in, or
 - (ii) to be removed from,
- the register in prescribed circumstances,
- (c) for the removal from the register of persons who have ceased to be so liable, and
 - (d) for the time from which an entry in the register is to be effective (which may be earlier than the time when the entry is first made in the register).

34 Fiscal representatives.

- (1) An aircraft operator who—
 - (a) is or is liable to be registered, and
 - (b) does not meet the requirements of subsection (3) below,is required to have a fiscal representative.
- (2) In this Chapter “fiscal representative”, in relation to an aircraft operator, means a person who meets those requirements and stands appointed by the operator for the purposes of this section.
- (3) A person meets the requirements of this subsection if—
 - (a) he has any business establishment or other fixed establishment in the United Kingdom, or
 - (b) if he is an individual, he has his usual place of residence in the United Kingdom.
- (4) Where any person is appointed under this section to be the fiscal representative of any aircraft operator (in this section referred to as his “principal”), then, subject to subsection (5) below [F18 and section 34A], the fiscal representative—
 - (a) shall be entitled to act on his principal’s behalf for any of the purposes of the enactments relating to duty,
 - (b) shall, subject to such provisions as may be made by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of those enactments, and
 - (c) shall be personally liable in respect of any failure of his principal to comply with or discharge any such obligation or liability as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the fiscal representative and his principal.
- (5) A fiscal representative shall not be liable by virtue of subsection (4) above himself to be registered under section 33 above, but regulations may—
 - (a) require the names of fiscal representatives to be shown in such manner as may be prescribed against the names of their principals in the register kept under that section, and
 - (b) make it the duty of a fiscal representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.

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Textual Amendments

F18 Words in s. 34(4) inserted (31.7.1998) by 1998 c. 36, s. 15(2)

[^{F19}34A Administrative representatives.

- (1) Subject to the following provisions of this section, where—
 - (a) the appointment of any person to be the fiscal representative of an aircraft operator contains a statement that the appointment is made for administrative purposes only,
 - (b) the operator has complied with any obligations for the provision of security imposed, in relation to appointments containing such statements, by any general directions given by the Commissioners, and
 - (c) the operator is not for the time being in contravention of any requirement to provide any security that he is required to provide under section 36 below,
 that appointment shall have effect in accordance with subsection (2) below.
- (2) Where the appointment of any person as a fiscal representative has effect in accordance with this subsection section 34(4)(b) and (c) above shall be taken, in the case of that person—
 - (a) not to impose any requirement on the representative to secure the payment of amounts of duty which are or may become due from his principal, and
 - (b) not to make him personally liable either to pay any such amounts or in respect of any failure by his principal to pay them.
- (3) The security that may be required by general directions given by the Commissioners for the purposes of this section is any such security for the payment of amounts of duty which are or may become due from the person providing the security as may be determined in accordance with the directions.
- (4) The power of the Commissioners under section 36 below to require the provision of security shall not include any power to require a fiscal representative of an aircraft operator whose appointment has effect in accordance with subsection (2) above to provide any security for the payment of amounts of duty which are or may become due from his principal.
- (5) In this section references to an amount of duty include references to any penalty or interest that is recoverable as if it were an amount of duty, but only in so far as the penalty or interest is in respect of a failure by an aircraft operator to pay an amount of duty, or to pay such an amount before a certain time.]

Textual Amendments

F19 S. 34A inserted (31.7.1998) by 1998 c. 36, s. 15(1)

35 Fiscal representatives: supplementary.

- (1) Regulations may make provision about—
 - (a) the manner in which a person is to be appointed as a fiscal representative, and

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- (b) the circumstances in which a person is to be treated as having ceased to be a fiscal representative.
- (2) If any aircraft operator who is required to have a fiscal representative fails to appoint such a representative before the prescribed time, his failure shall attract a penalty under section 9 above.
- (3) Any failure of a fiscal representative to give any notice which he is required to give by regulations under section 34(5)(b) above shall attract a penalty under section 9 above.

36 Security for payment of duty.

- (1) The Commissioners may require—
 - (a) any operator of an aircraft who is or is liable to be registered, or
 - (b) any fiscal representative,to provide such security, or further security, as they may think appropriate for the payment of any duty which is or may become due from the operator.
- (2) Any failure by a person to provide any security which he is required by the Commissioners to provide under subsection (1) above shall attract a penalty under section 9 above.
- (3) For the purposes of this section, a person shall not be treated as having been required to provide security under subsection (1) above unless the Commissioners have either—
 - (a) served notice of the requirement on him, or
 - (b) taken all such other steps as appear to them to be reasonable for bringing the requirement to his attention.

37 Handling agents.

- (1) Where any amount of duty becomes payable at any time by the operator of an aircraft and, within the period of ninety days beginning with that time, that amount, or any other amount which becomes payable by him within the period, is not paid, the Commissioners may give notice under this section to any handling agent of his.
- (2) If any operator of an aircraft who is required to have a fiscal representative fails to appoint such a representative before the prescribed time, the Commissioners may give notice under this section to any handling agent of his.
- (3) In this Chapter “handling agent”, in relation to the operator of an aircraft (“the principal”), means any person (other than an individual) who, under an agreement with the principal, makes arrangements for—
 - (a) the allocation of seats to passengers on aircraft operated by the principal, or
 - (b) the supervision of the boarding of such aircraft by passengers.
- (4) A notice under this section—
 - (a) may be given on the ground referred to in subsection (1) above only if the Commissioners consider it necessary to do so for the protection of the revenue, and
 - (b) may at any time be withdrawn by the Commissioners.

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- (5) A notice under this section shall become effective on the date stated in it or, if later, the time when the notice is received by the handling agent and shall continue to be effective until withdrawn.
- (6) If, where a notice given to a handling agent under this section is effective—
- (a) the allocation of seats to passengers on aircraft operated by his principal, or the supervision of the boarding of such aircraft by passengers, is carried out in pursuance of arrangements made by him under any agreement with his principal, and
 - (b) any duty payable in respect of those passengers is not paid,
- the handling agent shall be liable jointly and severally with his principal for the payment of the duty.

38 Accounting for and payment of duty.

- (1) Regulations shall require aircraft operators who are registered or liable to be registered—
- (a) to keep accounts for the purposes of duty in such form and manner as may be prescribed, and
 - (b) to make returns in respect of duty—
 - (i) by reference to such periods as may be prescribed or as may be allowed by the Commissioners, in relation to a particular operator, in accordance with regulations, and
 - (ii) at such time and in such manner as may be prescribed or specified.
- (2) Any person from whom any duty is due shall pay the duty at such time and in such manner as may be prescribed or specified.
- (3) In this section “specified” means specified in a notice published, and not withdrawn, by the Commissioners.
- (4) Any failure by any person to comply with regulations under this section shall, unless he is complying with the corresponding provisions of such a notice, attract a penalty under section 9 above and, in the case of any failure to keep accounts, daily penalties.

39 Schemes for simplifying operation of reliefs etc.

- (1) If in the opinion of the Commissioners it is expedient to do so in the light of difficulties encountered or expected to be encountered by any registered operator in obtaining and recording information about passengers and their journeys, they may in accordance with the provisions of this section prepare a scheme for the registered operator.
- (2) Any scheme so prepared shall specify the period for which it is to have effect.

[^{F20}(2A) A scheme may be either a standard scheme or an extended scheme.]

- (3) [^{F21}A standard scheme] for a registered operator shall relate only to passengers—
- (a) who are carried on chargeable aircraft operated by that operator,
 - (b) whose flights begin in the United Kingdom, and
 - (c) who are not passengers of a description mentioned in section 31(4) or (5) above;

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and in this section any reference to the relevant passengers of a registered operator is a reference to passengers who fall within this subsection in relation to him.

(4) [^{F21}A standard scheme] for a registered operator shall provide, in relation to passengers who are relevant passengers of his in the period specified in the scheme, for methods of calculating—

- (a) how many of those relevant passengers may be treated as passengers who are not chargeable passengers, and
- (b) how many of them may be treated as passengers on the carriage of whom duty shall be charged
 - [^{F22}(i) at the rate mentioned in paragraph (a) of section 30(3A) above, and
 - (ii) at the rate mentioned in paragraph (b) of that provision]

[^{F23}(4A) An extended scheme for a registered operator shall relate to all persons who are carried—

- (a) on chargeable aircraft operated by that operator, and
- (b) in circumstances where the aircraft take off in the United Kingdom;

and in this section any reference to persons travelling with a registered operator is a reference to persons who fall within this subsection in relation to him.

(4B) An extended scheme for a registered operator shall provide, in relation to persons travelling with him in the period specified in the scheme, for methods of calculating—

- (a) how many of them may be treated as persons who are not passengers,
- (b) how many of them may be treated as passengers who are not chargeable passengers, and
- (c) how many of them may be treated as passengers on the carriage of whom duty shall be charged—

- [at the rate mentioned in paragraph (a) of section 30(3A) above, and
 - ^{F24}(i)
 - (ii) at the rate mentioned in paragraph (b) of that provision]]

(5) A calculation provided for by the scheme may be provided by reference to such factors as appear to the Commissioners to be expedient in the circumstances, including in particular information—

- (a) derived from surveys of [^{F25}persons] carried on chargeable aircraft operated by the operator for whom the scheme is prepared, or
- (b) relating to airports and routes used by that operator,

whether obtained before or during the specified period.

(6) No scheme prepared in accordance with this section shall be of any effect unless the registered operator for whom it is prepared elects in writing to be bound by it for the specified period.

(7) If the registered operator makes such an election the scheme shall have effect for the specified period ^{F26}

(8) [^{F27}Where a standard scheme has effect for the specified period, this Chapter shall have effect for that period] as if, except in accordance with provision made to the contrary by the scheme (by virtue of subsection (4) above)—

- (a) each of the passengers who are relevant passengers of the registered operator were chargeable passengers, and
- (b) duty were charged—

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- [^{F28}(i) on the carriage of each of those falling within paragraph (a) of section 30(4) above at the rate mentioned in that paragraph, and
(ii) on the carriage of each of those falling within paragraph (b) of section 30(4) above at the rate mentioned in that paragraph]
- [^{F29}(8A) Where an extended scheme has effect for the specified period, this Chapter shall have effect for that period as if, except in accordance with provision made to the contrary by the scheme (by virtue of subsection (4B) above)—
- (a) each of the persons travelling with the registered operator were passengers of his,
 - (b) each of those passengers were chargeable passengers, and
 - (c) duty were charged—
- [on the carriage of each of those falling within paragraph (a) of
^{F30}(i) section 30(4) above at the rate mentioned in that paragraph, and
(ii) on the carriage of each of those falling within paragraph (b) of section 30(4) above at the rate mentioned in that paragraph]]
- (9) Regulations may make further provision with respect to schemes under this section, including in particular provision amending this section.

Textual Amendments

- F20** S. 39(2A) inserted (1.6.1995) by S.I. 1995/1216, **reg. 2(2)**
- F21** Words in s. 39(3)(4) substituted (1.6.1995) by S.I. 1995/1216, **reg. 2(3)(4)**
- F22** S. 39(4)(b)(i)(ii) substituted for words in s. 39(4)(b) (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, **s. 18(7)(a)**
- F23** S. 39(4A)(4B) inserted (1.6.1995) by S.I. 1995/1216, **reg. 2(5)**
- F24** S. 39(4B)(c)(i)(ii) substituted for words in s. 39(4B)(c) (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, **s. 18(7)(b)**
- F25** Word in s. 39(5)(a) substituted (1.6.1995) by S.I. 1995/1216, **reg. 2(6)**
- F26** Words in s. 39(7) omitted (1.6.1995) by virtue of S.I. 1995/1216, **reg. 2(7)**
- F27** Words in s. 39(8) substituted (1.6.1995) by S.I. 1995/1216, **reg. 2(8)**
- F28** S. 39(8)(b)(i)(ii) substituted for words in s. 39(8)(b) (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, **s. 18(7)(c)**
- F29** S. 39(8A) inserted (1.6.1995) by S.I. 1995/1216, **reg. 2(9)**
- F30** S. 39(8A)(c)(i)(ii) substituted for words in s. 39(8A)(c) (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, **s. 18(7)(d)**

Administration and enforcement

40 Administration and enforcement.

- (1) Air passenger duty shall be a duty of excise and, accordingly, shall be under the care and management of the Commissioners.
- (2) Schedule 6 to this Act (administration and enforcement) shall have effect.

41 Offences.

- (1) A person who is knowingly concerned—
 - (a) in the fraudulent evasion (by him or another person) of duty, or

Status: Point in time view as at 24/07/2002.

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- (b) in taking steps with a view to such fraudulent evasion,
is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above is liable—
 - (a) on summary conviction, to a penalty of—
 - (i) the statutory maximum, or
 - (ii) if greater, treble the amount of the duty evaded or sought to be evaded,
or to imprisonment for a term not exceeding six months, or to both, or
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment
for a term not exceeding seven years, or to both.
- (3) A person who in connection with duty—
 - (a) makes a statement that he knows to be false in a material particular or
recklessly makes a statement that is false in a material particular, or
 - (b) with intent to deceive, produces or makes use of a book, account, return or
other document that is false in a material particular,is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) above is liable—
 - (a) on summary conviction, to a penalty of the statutory maximum or to
imprisonment for a term not exceeding six months, or to both, or
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment
for a term not exceeding two years, or to both.

Supplementary

42 Regulations and orders.

- (1) In this Chapter “regulations” means regulations made by the Commissioners and
“order” means an order made by the Treasury.
- (2) Regulations and orders may make different provision for different cases or
circumstances and make incidental, supplemental, saving or transitional provision.
- (3) Any power to make regulations or an order is exercisable by statutory instrument.
- (4) No order which appears to the Treasury to extend the circumstances in which
passengers are to be treated as chargeable passengers shall be made unless a draft of
the order has been laid before and approved by the House of Commons.
- (5) Any other order, and any regulations, shall be subject to annulment in pursuance of a
resolution of the House of Commons.

43 Interpretation.

- (1) In this Chapter—
 - “accounting period” means any period prescribed or allowed for the
purposes of section 38 above,
 - “agreement for carriage”, in relation to the carriage of any person, means
the agreement or arrangement under which he is carried, whether the carriage
is by a single carrier or successive carriers,

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“Air Navigation Order” has the same meaning as in the ^{M1}Civil Aviation Act 1982,

“airport” means any aerodrome (within the meaning of that Act),

“carriage” means carriage wholly or partly by air, and “carried” is to be read accordingly,

“connected”, in relation to any flights, has the meaning given by section 30(8) above,

“document” includes information recorded in any form,

“duty” means air passenger duty,

“fiscal representative” has the meaning given by section 34(2) above,

“flight” has the meaning given by section 28(5) above,

“operator”, in relation to any aircraft, means the person having the management of the aircraft for the time being,

“passenger”, in relation to any aircraft, means—

(a) where the operator is an air transport undertaking (within the meaning of the Air Navigation Order), any person carried on the aircraft other than—

(i) a member of the flight crew,

(ii) a cabin attendant, or

(iii) a person who is not carried for reward, who is an employee of any aircraft operator and who satisfies such other requirements as may be prescribed, and

(b) in any other case, any person carried on the aircraft for reward,

“prescribed” means prescribed by regulations,

“reward”, in relation to the carriage of any person, includes any form of consideration received or to be received wholly or partly in connection with the carriage, irrespective of the person by whom or to whom the consideration has been or is to be given, and

“ticket” means a document or documents evidencing an agreement (wherever made) for the carriage of any person.

(2) ^{F31} . . . , in this Chapter, in relation to a passenger whose agreement for carriage is evidenced by a ticket—

“journey” means the journey from his original place of departure to his final place of destination, and

“original place of departure” and “final place of destination” mean the original place of departure and the final place of destination indicated on his ticket.

^{F32}(3)

(4) Subject to the preceding provisions of this section, expressions used in this Chapter and in the ^{M2}Customs and Excise Management Act 1979 have the same meaning as in that Act.

Textual Amendments

F31 Words in s. 43(2) repealed (28.7.2000 with effect as mentioned in s. 19(6) of the repealing Act) by 2000 c. 17, ss. 19(5)(a), 156, **Sch. 40 Pt. I(4)**

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F32 S. 43(3) repealed (28.7.2000 with effect as mentioned in s. 19(6) of the repealing Act) by 2000 c. 17, ss. 19(5)(b), 156, **Sch. 40 Pt. I(4)**

Marginal Citations

M1 1982 c. 16.

M2 1979 c. 2.

44 Commencement.

- (1) This Chapter applies to any carriage of a passenger on an aircraft which begins after 31st October 1994.
- (2) For the purpose of determining whether or not a person is a chargeable passenger in relation to any carriage on an aircraft beginning after that date, the provisions of section 31 above and any order made by virtue of that section shall be treated as having applied to any such carriage of that person which began on or before that date as they would apply to any such carriage of that person beginning after that date.

Status:

Point in time view as at 24/07/2002.

Changes to legislation:

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