



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

### CHAPTER I

#### AIR TRAFFIC SERVICES

##### *General duties*

#### **1 Secretary of State's general duty.**

- (1) The Secretary of State must exercise his functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The Secretary of State must exercise his functions under this Chapter in the manner he thinks best calculated—
  - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of licence holders;
  - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Secretary of State thinks it appropriate) by promoting competition in the provision of air traffic services.

*Status: Point in time view as at 01/12/2003.*

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- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Secretary of State must apply them in the manner he thinks is reasonable having regard to them as a whole.
- (6) The Secretary of State must exercise his functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.
- (7) This section does not apply to the exercise of the Secretary of State's functions under section 38.

#### Commencement Information

- II** S. 1 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 2 CAA's general duty.

- (1) The CAA must exercise its functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The CAA must exercise its functions under this Chapter in the manner it thinks best calculated—
  - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of licence holders;
  - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;
  - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);
  - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.
- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (6) The CAA must exercise its functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.
- (7) Section 4 of the <sup>MI</sup>Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its functions under this Chapter.

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#### Commencement Information

- I2** S. 2 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

- M1** 1982 c. 16.

### *Restrictions*

#### **3 Restrictions on providing services.**

- (1) A person commits an offence if he provides air traffic services in respect of a managed area.
- (2) But subsection (1) is subject to subsections (3) to (5).
- (3) Subsection (1) does not apply if the person—
  - (a) is authorised by an exemption to provide the services, or
  - (b) acts as an employee or agent of a person who is authorised by an exemption to provide the services.
- (4) Subsection (1) does not apply if the person—
  - (a) holds a licence authorising him to provide the services, or
  - (b) acts as an employee or agent of a person who is authorised by a licence to provide the services.
- (5) Subsection (1) does not apply if the services are provided by the CAA in pursuance of directions under section 66(1).
- (6) For the purposes of this section—
  - (a) air traffic services are to be treated as provided at the place from which they are provided;
  - (b) air traffic services may be provided in respect of a managed area whether or not the aircraft concerned is in that area when they are provided.
- (7) A person who commits an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (8) No proceedings may be started in England and Wales or Northern Ireland for an offence under this section except by or on behalf of—
  - (a) the Secretary of State, or
  - (b) the CAA acting with his consent.

#### **4 Exemptions.**

- (1) The Secretary of State may by order grant an exemption authorising the provision of air traffic services in respect of a managed area.
- (2) An exemption—

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- (a) may be granted to a particular person or to persons of a specified description or to all persons;
  - (b) may be granted in respect of air traffic services of one or more specified descriptions;
  - (c) may be granted in respect of air traffic services provided in specified circumstances;
  - (d) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area);
  - (e) may be granted subject to such conditions as may be specified.
- (3) An exemption granted to persons of a specified description must be published in such manner as the Secretary of State thinks appropriate for bringing it to the attention of persons of that description.
- (4) An exemption continues in force for the period specified in or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.

**Commencement Information**

**I3** S. 4 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**5 Licences: general.**

- (1) A licence may be granted to a company authorising it to provide air traffic services in respect of a managed area.
- (2) A licence—
- (a) may be granted in respect of air traffic services of one or more specified descriptions;
  - (b) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area).
- (3) A licence is not valid unless it is in writing.
- (4) A licence is not valid unless it is granted to a company which is—
- (a) limited by shares and formed and registered under the <sup>M2</sup>Companies Act 1985 or the <sup>M3</sup>Companies (Northern Ireland) Order 1986, or
  - (b) an existing company within the meaning given by section 735(1) of the <sup>M4</sup>Companies Act 1985 or Article 3 of the <sup>M5</sup>Companies (Northern Ireland) Order 1986.
- (5) A licence continues in force for the period specified in it or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.
- (6) A licence may not be transferred.

**Commencement Information**

**I4** S. 5 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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#### **Marginal Citations**

- M2** 1985 c. 6.
- M3** S.I. 1986/1032 (N.I. 6).
- M4** 1985 c. 6.
- M5** S.I. 1986/1032 (N.I. 6).

## **6 Licences: grant.**

- (1) A licence may be granted by—
  - (a) the Secretary of State after consulting the CAA,
  - (b) the CAA with the consent of the Secretary of State, or
  - (c) the CAA in accordance with a general authority given by the Secretary of State.
- (2) A general authority may be given on condition that the CAA complies with specified requirements (whether as to consulting the Secretary of State or obtaining his consent before granting a licence, as to the provisions to be included in a licence, or otherwise).
- (3) An application for a licence—
  - (a) must be made in the prescribed manner;
  - (b) must contain or be accompanied by prescribed information;
  - (c) must be accompanied by the application fee (if any);
  - (d) must, if the licence authority requires, be published by the applicant in the prescribed manner and within a period notified to it by the licence authority.
- (4) On an application the licence authority may grant or refuse the licence.
- (5) Before granting or refusing a licence the licence authority must—
  - (a) publish a notice in such manner as the authority thinks appropriate for bringing it to the attention of persons likely to be affected by the grant or refusal,
  - (b) serve a copy of the notice on the applicant, and
  - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (6) The notice must—
  - (a) state either that the licence authority proposes to grant the licence or that it proposes to refuse it and (in either case) the reasons for so proposing, and
  - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed grant or refusal.
- (7) As soon as practicable after granting a licence the grantor must send a copy—
  - (a) to the CAA, if the grantor is the Secretary of State;
  - (b) to the Secretary of State, if the grantor is the CAA.
- (8) The following requirements do not apply in relation to licences which need to be granted before the coming into force of section 3—
  - (a) the requirement to consult imposed by subsection (1)(a);
  - (b) the requirements imposed by subsection (3);
  - (c) the requirements imposed by subsections (5) and (6).

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- (9) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).
- (10) The application fee is—
- (a) the prescribed fee, if the licence authority is the Secretary of State;
  - (b) the charge determined under a scheme or regulations made under section 11 of the <sup>M6</sup>Civil Aviation Act 1982, if the licence authority is the CAA.
- (11) “Prescribed” means prescribed by regulations made by the Secretary of State.

**Commencement Information**

**I5** S. 6 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Marginal Citations**

**M6** 1982 c. 16.

**7 Licences: provisions.**

- (1) A licence may include such provisions as the licence authority thinks are necessary or expedient; and a provision need not relate to services authorised by the licence.
- (2) In particular, provision of the following kinds may be included—
- (a) provision requiring the licence holder to enter into an agreement for a purpose specified in the licence and provision for determining the terms of the agreement;
  - (b) provision requiring the licence holder to comply with any requirements imposed at any time (by directions or otherwise) by a person with respect to any matter specified, or of a description specified, in the licence;
  - (c) provision requiring the licence holder, except in so far as a person consents to its doing or not doing them, not to do or to do such things as may be specified, or of a description specified, in the licence;
  - (d) provision requiring the licence holder to refer to a person for approval or determination such matters as may be specified, or of a description specified, in the licence.
- (3) A reference in subsection (2) to a person is to—
- (a) a person specified, or of a description specified, in the licence for the purpose concerned, or
  - (b) if the licence so provides, a person nominated for the purpose concerned by a person falling within paragraph (a);
- and any of those persons may be the licence authority or some other person.
- (4) A licence may include provisions requiring a payment on its grant or payments during its currency (or both)—
- (a) of an amount or amounts specified in the licence or determined by or under it;
  - (b) to a person or persons specified in the licence or determined by or under it.
- (5) A provision relating to the modification of a licence is to have effect in addition to the provisions of this Chapter regarding modification.

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- (6) Such provisions as the licence authority thinks fit may be expressed as conditions.
- (7) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).

#### Commencement Information

- I6** S. 7 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 8 Duties of licence holders.

- (1) While a licence is in force its holder—
  - (a) must secure that a safe system for the provision of authorised air traffic services in respect of a licensed area is provided, developed and maintained;
  - (b) must take all reasonable steps to secure that the system is also efficient and co-ordinated;
  - (c) must take all reasonable steps to secure that the demand for authorised air traffic services in respect of a licensed area is met;
  - (d) must have regard, in providing, developing and maintaining the system, to the demands which are likely to be placed on it in the future.
- (2) A licensed area is an area in respect of which the licence authorises its holder to provide air traffic services.
- (3) Authorised services are services of the description specified in the licence as the description of services which the holder of the licence is authorised to provide.
- (4) For the purposes of subsection (1)(a) a system for the provision of services is safe if (and only if) in providing the services the person who provides them complies with such requirements as are imposed by Air Navigation Orders with regard to their provision.
- (5) An Air Navigation Order is an Order in Council under section 60 of the <sup>M7</sup>Civil Aviation Act 1982.

#### Commencement Information

- I7** S. 8 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

- M7** 1982 c. 16.

### 9 Power to exclude services from effect of section 8.

- (1) If a notice given by the CAA to a licence holder so provides, such air traffic services as are specified in the notice are to be treated as not being authorised services for the purposes of section 8 in its application to that holder.

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- (2) A notice under subsection (1) may specify the air traffic services by reference to part of a licensed area.
- (3) A notice under this section may be modified or revoked by a further notice given by the CAA to the holder concerned.

**Commencement Information**

- I8** S. 9 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**10 Breach of duties or conditions.**

- (1) No action is to lie in respect of a failure by a licence holder to perform—
  - (a) a duty imposed by section 8;
  - (b) a condition of a licence.
- (2) But subsection (1) does not affect—
  - (a) a right of action in respect of an act or omission which takes place in the course of the provision of air traffic services;
  - (b) the power to make an order under section 20, a duty to comply with the order and a power to bring proceedings in respect of the duty.

**Commencement Information**

- I9** S. 10 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Modification of licences*

**11 Modification by agreement.**

- (1) The CAA may modify the conditions of a licence if its holder consents to the modifications.
- (2) Before making modifications under this section the CAA must—
  - (a) publish a notice in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by the making of the modifications,
  - (b) serve a copy of the notice on the licence holder,
  - (c) send a copy of the notice to the Secretary of State, and
  - (d) consider any representations made in accordance with the notice.
- (3) The notice must—
  - (a) state that the CAA proposes to make the modifications and state their effect and the reasons for so proposing, and
  - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.



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- (4) If within the period stated under subsection (3)(b) the Secretary of State gives a direction to the CAA requiring it not to make the modifications the CAA must comply with the direction.
- (5) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.

#### **Commencement Information**

**I10** S. 11 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## **12 References to Competition Commission.**

- (1) The CAA may make to the Competition Commission a reference requiring the Commission to investigate and report on—
  - (a) whether any matters which are specified in the reference and which relate to the provision of air traffic services by or on behalf of a licence holder operate against the public interest or may be expected to do so;
  - (b) if so, whether the effects adverse to the public interest which the matters have or may be expected to have could be remedied or prevented by modifying the conditions of the licence.
- (2) The CAA may at any time by notice given to the Commission vary a reference by adding to the matters specified in it or by excluding from it one or more of those matters; and on receiving a notice the Commission must give effect to the variation.
- (3) To help the Commission in its investigation the CAA may specify in the reference or a variation of it—
  - (a) any effects adverse to the public interest which in its opinion the matters specified in the reference or variation have or may be expected to have;
  - (b) any modifications of the conditions of the licence by which in its opinion those effects could be remedied or prevented.
- (4) As soon as practicable after making a reference or variation the CAA must—
  - (a) serve a copy of the reference or variation on the licence holder;
  - (b) publish particulars of the reference or variation in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it;
  - (c) send a copy of the reference or variation to the Secretary of State.
- (5) If before the end of the period of 28 days starting with the day on which the Secretary of State receives the copy he gives a direction to the Commission requiring it not to proceed with the reference or not to give effect to the variation, the Commission must comply with the direction.
- (6) To help the Commission in its investigation the CAA must give to the Commission—
  - (a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;
  - (b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;

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- (c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.
- (7) In carrying out the investigation concerned the Commission must take account of any information given under subsection (6).
- (8) In deciding under this section whether a matter operates, or may be expected to operate, against the public interest the Commission must have regard to the matters as respects which duties are imposed on the Secretary of State and the CAA by sections 1 and 2.
- <sup>F1</sup>(9) .....
- <sup>F1</sup>(10) .....
- <sup>F1</sup>(11) .....

**Textual Amendments**

**F1** S. 12(9)(10)(11) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 44(2), [Sch. 26](#); [S.I. 2003/1397](#), art. 2(1), Sch. (with art. 8)

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**Commencement Information**

**I11** S. 12 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57](#), art. 3(1), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

**[<sup>F2</sup>12A References under section 12: time limits**

- (1) Every reference under section 12 shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.
- (2) A report of the Competition Commission on a reference under section 12 shall not have effect (and no action shall be taken in relation to it under section 14) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the CAA under subsection (3).
- (3) The CAA may, if it has received representations on the subject from the Competition Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.
- (4) No more than one extension is possible under subsection (3) in relation to the same reference.
- (5) The CAA shall, in the case of an extension made by it under subsection (3)—
  - (a) publish that extension in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
  - (b) send a copy of what has been published by it under paragraph (a) to the licence holder and the Secretary of State.

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### Textual Amendments

**F2** Ss. 12A, 12B inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 44\(3\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with art. 8)

## 12B References under section 12: application of Enterprise Act 2002

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3), for the purposes of references under section 12 as they apply for the purposes of references under that Part—
  - (a) section 109 (attendance of witnesses and production of documents etc.);
  - (b) section 110 (enforcement of powers under section 109: general);
  - (c) section 111 (penalties);
  - (d) section 112 (penalties: main procedural requirements);
  - (e) section 113 (payments and interest by instalments);
  - (f) section 114 (appeals in relation to penalties);
  - (g) section 115 (recovery of penalties); and
  - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1), have effect as if—
  - (a) subsection (2) were omitted; and
  - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1), have effect as if—
  - (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
  - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
  - (c) the words “by this Part” were omitted.
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with references under section 12 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words “the OFT,” and “or the Secretary of State” were omitted.
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) or (4), have effect in relation to those sections as applied by virtue of those subsections.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.]

### Textual Amendments

**F2** Ss. 12A, 12B inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 44\(3\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with art. 8)

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### 13 Reports on references.

- (1) In making a report on a reference under section 12 the Competition Commission—
- (a) must include definite conclusions on the questions contained in the reference and such an account of its reasons for the conclusions as in its opinion facilitates a proper understanding of the questions and of the conclusions;
  - (b) if it concludes that any of the matters specified in the reference operate against the public interest or may be expected to do so, must specify the effects adverse to the public interest which the matters have or may be expected to have;
  - (c) if it concludes that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the licence, must specify modifications by which the effects could be remedied or prevented.
- [<sup>F3</sup>(1A) For the purposes of sections 14 to 17, a conclusion contained in a report of the Competition Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.
- (1B) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under section 12 as the conclusions of the Competition Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.]
- [<sup>F4</sup>(2) the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Competition Commission on a reference under section 12.
- (2A) In making any report on a reference under section 12 the Competition Commission must have regard to the following considerations before disclosing any information.
- (2B) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest.
- (2C) The second consideration is the need to exclude from disclosure (so far as practicable)
- (a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.
- (2D) The third consideration is the extent to which the disclosure of the information mentioned in subsection (2C)(a) or (b) is necessary for the purposes of the report.]
- (3) A report of the Commission on a reference under section 12 must be made to the CAA.
- (4) The CAA—
- (a) must on receiving such a report send a copy to the licence holder and a copy to the Secretary of State;
  - (b) must, after the end of the specified period, publish the report in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it.

*Status: Point in time view as at 01/12/2003.*

*Changes to legislation: Transport Act 2000, Part I is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) But if the Secretary of State thinks that the publication of any matter would be against the public interest or any person's commercial interests, he may before the end of the specified period give a direction to the CAA requiring it to exclude the matter from every copy of the report to be published as mentioned above.
- (6) The specified period is the period of 14 days starting with the day after the Secretary of State receives the copy under subsection (4).

#### Textual Amendments

- F3** S. 13(1A)(1B) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(4)(a); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F4** S. 13(2)-(2D) substituted for s. 13(2) (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(4)(b); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

#### Commencement Information

- I12** S. 13 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

## 14 Modification following report.

- (1) This section applies if a report of the Competition Commission on a reference under section 12—
  - (a) includes conclusions to the effect that any of the matters specified in the reference operate against the public interest or may be expected to do so,
  - (b) specifies effects adverse to the public interest which the matters have or may be expected to have,
  - (c) includes conclusions to the effect that the effects could be remedied or prevented by modifications of the conditions of the licence, and
  - (d) specifies modifications by which the effects could be remedied or prevented.
- (2) The CAA must suggest such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the report.
- (3) Before suggesting modifications the CAA must—
  - (a) have regard to the modifications specified in the report,
  - (b) publish a notice in such manner as the CAA thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,
  - (c) serve a copy of the notice on the licence holder, and
  - (d) consider any representations made in accordance with the notice (and not withdrawn).
- (4) The notice must—
  - (a) state that the CAA proposes to suggest the modifications and state their effect and the reasons for so proposing, and
  - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposals.
- (5) If the CAA suggests modifications under this section it must—

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- (a) give notice to the Commission setting out the modifications it suggests and the reasons for its suggestions, and
- (b) send to the Commission copies of any representations made in accordance with the notice published under subsection (3) (and not withdrawn).

#### **Commencement Information**

**I13** S. 14 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### **15 Commission’s power to give direction.**

- (1) This section applies if the Competition Commission is given notice under section 14.
- (2) Within the permitted period the Commission may give a direction to the CAA—
  - (a) not to make the modifications set out in the notice, or
  - (b) not to make such of those modifications as are specified in the direction.
- (3) But the Commission may give a direction only if it thinks the modifications set out in the notice are not the modifications which are needed to remedy or prevent the adverse effects specified in the Commission’s report on the reference under section 12.
- (4) If the Commission gives a direction it must—
  - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the direction, and
  - (b) serve a copy of the notice on the licence holder.
- (5) The notice must set out—
  - (a) the modifications set out in the notice given under section 14,
  - (b) the direction, and
  - (c) the reasons for giving the direction.
- (6) If the permitted period expires without a direction being given under subsection (2) the CAA must make the modifications set out in the notice given under section 14.
- (7) If within the permitted period a direction is given under subsection (2)(b) the CAA must make the modifications which are—
  - (a) set out in the notice given under section 14, and
  - (b) not specified in the direction.
- (8) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.
- (9) The permitted period is the period of four weeks starting with the day the Commission is given notice under section 14.
- (10) But if within that period—
  - (a) the Commission applies to the Secretary of State to extend it to six weeks, and
  - (b) he directs that it is to be so extended,
 the permitted period is the period of six weeks starting with the day the Commission is given notice under section 14.

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#### **Commencement Information**

**II4** S. 15 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

## **16 Position where Commission gives direction.**

- (1) This section applies if the Competition Commission gives a direction under section 15(2).
- (2) If the direction is given under section 15(2)(a) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the Commission's report on the reference under section 12.
- (3) If the direction is given under section 15(2)(b) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent such of the adverse effects as—
  - (a) are specified in the Commission's report on the reference under section 12, and
  - (b) would not be remedied or prevented by the modifications set out in the notice under section 14 and not specified under section 15(2)(b).
- (4) Before making modifications under this section the Commission must—
  - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,
  - (b) serve a copy of the notice on the licence holder and a copy on the CAA, and
  - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (5) The notice must—
  - (a) state that the Commission proposes to make the modifications and state their effect and the reasons for so proposing, and
  - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.
- (6) As soon as practicable after making modifications under this section the Commission must—
  - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the modifications, and
  - (b) serve a copy of the notice on the licence holder, a copy on the Secretary of State and a copy on the CAA.
- (7) The notice under subsection (6) must—
  - (a) state that the modifications have been made,
  - (b) set them out, and
  - (c) set out the reasons for making them.



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#### Commencement Information

**I15** S. 16 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

### 17 Commission’s duty as to modifications under section 16.

- (1) The Competition Commission must exercise its functions under section 16(2) and (3) so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The Commission must exercise its functions under section 16(2) and (3) in the manner it thinks best calculated—
  - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of licence holders;
  - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;
  - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification) and notified to the Commission by the CAA;
  - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section and notified to the Commission by the CAA.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Commission thinks it appropriate) by promoting competition in the provision of air traffic services.
- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Commission must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (6) The Commission must exercise its functions under section 16(2) and (3) so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.

#### Commencement Information

**I16** S. 17 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

### <sup>F5</sup>18 Sections 15 and 16: general.

- (1) For the purposes of the law relating to defamation, absolute privilege attaches to any notice under section 15(4) or 16(4) or (6).



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- (2) In publishing or serving any notice under section 15(4) or 16(4) or (6), the Competition Commission must have regard to the following considerations before disclosing any information.
- (3) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest.
- (4) The second consideration is the need to exclude from disclosure (so far as practicable)
  - (a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.
- (5) The third consideration is the extent to which the disclosure of the information mentioned in subsection (4)(a) or (b) is necessary for the purposes of the notice.
- (6) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (7) and (8), for the purposes of any investigation by the Competition Commission for the purposes of the exercise of its functions under section 15 or 16, as they apply for the purposes of any investigation on references under that Part—
  - (a) section 109 (attendance of witnesses and production of documents etc.);
  - (b) section 110 (enforcement of powers under section 109: general);
  - (c) section 111 (penalties);
  - (d) section 112 (penalties: main procedural requirements);
  - (e) section 113 (payments and interest by instalments);
  - (f) section 114 (appeals in relation to penalties);
  - (g) section 115 (recovery of penalties); and
  - (h) section 116 (statement of policy).
- (7) Section 110 shall, in its application by virtue of subsection (6), have effect as if—
  - (a) subsection (2) were omitted;
  - (b) in subsection (4), for the words “the publication of the report of the Commission on the reference concerned” there were substituted “the publication by the Commission of a notice under section 16(6) of the Transport Act 2000 in connection with the reference concerned or, if no direction has been given by the Commission under section 15(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period”; and
  - (c) in subsection (9) the words from “or section” to “section 65(3))” were omitted.
- (8) Section 111(5)(b) shall, in its application by virtue of subsection (6), have effect as if for sub-paragraph (ii) there were substituted—
  - (“ if earlier, the day on which a notice is published by the Commission under section 16(6) of the Transport Act 2000 in connection with the reference concerned or, if no direction is given by the Commission under section 15(2) of that Act in connection with the reference concerned and within the period

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permitted for that purpose, the latest day on which such a direction may be given within the permitted period. ”

- (9) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with the exercise of its functions under section 15 or 16 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words “the OFT,” and “or the Secretary of State” were omitted.
- (10) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (6) or (9), have effect in relation to those sections as applied by virtue of those subsections.
- (11) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.]

#### Textual Amendments

- F5** S. 18 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(5\)](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#) (with art. 8)

## 19 Modification by order under other enactments.

- [<sup>F6</sup>(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In subsection (1) above “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the 2002 Act where—
    - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of air traffic services; or
    - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of air traffic services; or
  - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of air traffic services.]
- (5) As soon as practicable after making modifications under this section the [<sup>F7</sup>relevant authority] must send a copy of them to the licence holder and a copy to the CAA.
- [<sup>F8</sup>(6) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the 2002 Act have the same meanings in that subsection as in that Part.]
- (7) The [<sup>F9</sup>2002 Act is the Enterprise Act 2002].

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#### Textual Amendments

- F6** S. 19(1)(2) substituted for s. 19(1)-(4) (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 15\(2\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#)
- F7** Words in s. 19(5) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 15\(3\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#)
- F8** S. 19(6) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 15\(4\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#)
- F9** Words in s. 19(7) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 15\(5\)](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#)

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

- C1** S. 19(2)(a) modified (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\), art. 1\(1\), Sch. 4 para. 17](#)

#### Commencement Information

- I17** S. 19 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\), Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

### Enforcement

## 20 Orders for securing compliance.

- (1) If the CAA is satisfied that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition it must make a final order containing provision it thinks is needed to secure compliance with the duty or condition.
- (2) If the CAA is not so satisfied but it appears to it that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition and that a provisional order is needed, it must make a provisional order containing provision it thinks is needed to secure compliance with the duty or condition.
- (3) In deciding whether a provisional order is needed the CAA must have regard in particular to—
  - (a) the extent to which any person is likely to sustain loss or damage as a result of anything likely to be done or omitted in contravention of the section 8 duty or licence condition unless a provisional order is made, and
  - (b) the fact that the only remedy for a contravention of a section 8 duty or licence condition is under this section and section 24 (unless there is an act or omission which takes place in the course of the provision of air traffic services).
- (4) A final or provisional order must require the licence holder to do or not to do specified things or things of a specified description.
- (5) A final or provisional order—
  - (a) takes effect at a time determined by or under the order;
  - (b) must secure that that time is the earliest practicable time;
  - (c) may be revoked at any time by the CAA.
- (6) A final order continues to have effect until such time (if any) as the CAA revokes it.

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- (7) A provisional order ceases to have effect at the termination time, and that is the earlier of—
- (a) the end of the period (not exceeding three months) which is determined by or under the order and which starts when it takes effect;
  - (b) such time (if any) as the CAA revokes it.
- (8) But if the CAA confirms a provisional order under subsection (9) before the termination time it continues to have effect until such time (if any) as the CAA revokes it.
- (9) The CAA must confirm a provisional order (with or without modifications) if—
- (a) it is satisfied that the licence holder is contravening or is likely to contravene a section 8 duty or a licence condition, and
  - (b) it thinks its confirmation (with any modifications) is needed to secure compliance with the duty or condition.
- (10) In relation to a licence holder—
- (a) a section 8 duty is a duty imposed on the holder by section 8;
  - (b) a licence condition is a condition of the licence concerned.
- (11) In sections 21 to 25 any reference to a section 8 duty or to a licence condition or to a final or provisional order must be construed in accordance with this section.
- (12) This section has effect subject to section 21.

#### **Commencement Information**

**I18** S. 20 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## **21 Exceptions.**

- (1) The CAA must not make a final order or make or confirm a provisional order if it is satisfied that—
- (a) the duty imposed on it by section 2 precludes it from doing so, or
  - (b) the most appropriate way of proceeding is under the <sup>M8</sup>Competition Act 1998.
- (2) If the CAA is satisfied that any of the conditions in subsection (3) applies it must not make a final order or make or confirm a provisional order unless it believes that it is appropriate to do so.
- (3) The conditions are that—
- (a) the licence holder has agreed to take and is taking all the steps the CAA thinks appropriate to secure or facilitate compliance with the duty or condition concerned;
  - (b) the contraventions or apprehended contraventions are trivial;
  - (c) the contraventions or apprehended contraventions will not adversely affect the interests of the persons referred to in subsection (4);
  - (d) the Secretary of State has made an application under section 28 for an air traffic administration order in relation to the licence holder.

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- (4) The persons are operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them.
- (5) These interests are the only ones to be considered under subsection (3)(c)—
  - (a) interests regarding safety;
  - (b) interests regarding the range, availability, continuity, cost and quality of air traffic services.

#### Commencement Information

**I19** S. 21 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

#### Marginal Citations

**M8** 1998 c. 41.

## 22 Procedural requirements.

- (1) Before making a final order or confirming a provisional order the CAA must—
  - (a) publish a notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them,
  - (b) serve on the licence holder a copy of the notice and a copy of the order proposed (or proposed to be confirmed), and
  - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (2) The notice must—
  - (a) state that the CAA proposes to make or confirm the order and state its effect,
  - (b) state the section 8 duty or licence condition with which the order is intended to secure compliance, the acts or omissions which the CAA thinks constitute (or would constitute) contraventions of the duty or condition, and any other facts which it thinks justify the making or confirmation of the order, and
  - (c) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed order or confirmation.
- (3) The CAA must not make a final order with modifications, or confirm a provisional order with modifications, unless—
  - (a) the licence holder consents to the modifications, or
  - (b) subsection (4) is complied with.
- (4) This subsection is complied with if the CAA—
  - (a) serves on the licence holder a notice of the proposal to make or confirm the order with modifications,
  - (b) states in the notice the period (not less than seven days starting with the date of the service of the notice) within which representations may be made regarding the proposed modifications, and
  - (c) considers any representations made in accordance with the notice (and not withdrawn).

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- (5) But if the modifications are trivial the CAA must be treated as complying with subsection (4) if it serves on the licence holder a notice of the proposal to make or confirm the order with modifications.
- (6) As soon as practicable after making a final order or making or confirming a provisional order the CAA must—
  - (a) serve a copy of the order on the licence holder and a copy on the Secretary of State, and
  - (b) publish the order in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by it.
- (7) Before revoking a final order or a provisional order which has been confirmed the CAA must—
  - (a) publish a notice in such manner as it thinks appropriate for bringing the revocation to the attention of persons likely to be affected by it,
  - (b) serve a copy of the notice on the licence holder, and
  - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (8) The notice must—
  - (a) state that the CAA proposes to revoke the order and state its effect, and
  - (b) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed revocation.
- (9) If after acting under subsection (7) the CAA decides not to revoke the order it must—
  - (a) publish a notice of its decision in such manner as it thinks appropriate for bringing the decision to the attention of persons likely to be affected by it, and
  - (b) serve a copy of the notice on the licence holder.
- (10) If the CAA is satisfied as mentioned in section 21(1) it must—
  - (a) serve a notice that it is so satisfied on the licence holder, and
  - (b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (11) If the CAA is satisfied as mentioned in section 21(2) and it does not believe it is appropriate to make a final order or make or confirm a provisional order, it must—
  - (a) serve a notice to that effect on the licence holder, and
  - (b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

#### **Commencement Information**

**I20** S. 22 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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## 23 Validity of orders.

- (1) This section applies if a licence holder to which a final or provisional order relates is aggrieved by the order and wants to question its validity on the ground that—
  - (a) its making or confirmation was not within the powers conferred by sections 20 and 21, or
  - (b) any of the requirements of section 22(1) to (6) have not been complied with.
- (2) The licence holder may apply to the court.
- (3) If a copy of the order as made or confirmed was served on the licence holder the application to the court must be made within the period of 42 days starting with the day the copy was served on it.
- (4) On an application under this section the court may quash the order or any provision of it if satisfied that—
  - (a) the making or confirmation of the order was not within the powers conferred by sections 20 and 21, or
  - (b) the interests of the licence holder have been substantially prejudiced by a failure to comply with the requirements of section 22(1) to (6).
- (5) Except as provided by this section, the validity of a final or provisional order may not be questioned in any legal proceedings.
- (6) A reference to the court is to—
  - (a) the High Court in relation to England and Wales or Northern Ireland;
  - (b) the Court of Session in relation to Scotland.

### Commencement Information

**I21** S. 23 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 24 Effect of orders.

- (1) The licence holder to which a final or provisional order relates has a duty to comply with it.
- (2) The duty is owed to any person who may be affected by a contravention of the order.
- (3) A breach of the duty which causes such a person to sustain loss or damage is actionable by him.
- (4) In proceedings brought against a licence holder under subsection (3) it is a defence for it to prove that it took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (5) Compliance with a final or provisional order is also enforceable by civil proceedings brought by the CAA for an injunction or for interdict or for any other appropriate relief or remedy.
- (6) Subsection (5) does not prejudice a right a person may have by virtue of subsection (3) to bring civil proceedings for contravention or apprehended contravention of a final or provisional order.



*Status: Point in time view as at 01/12/2003.*

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### Commencement Information

**I22** S. 24 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 25 Power to obtain information.

- (1) This section applies if it appears to the CAA that a licence holder may have contravened or may be contravening or is likely to contravene a section 8 duty or a licence condition.
- (2) For any purpose connected with such of the CAA's functions under sections 20 and 21 as are exercisable in relation to the matter it may serve on any person a notice which—
  - (a) requires the person to produce any documents which are specified or described in the notice and are in his custody or under his control, and to produce them at a time and place so specified and to a person so specified, or
  - (b) requires the person to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.
- (3) A requirement may be made under subsection (2)(b) only if the person is carrying on a business.
- (4) No person may be required under this section—
  - (a) to produce documents which he could not be compelled to produce in civil proceedings in the court;
  - (b) to supply information which he could not be compelled to supply in such proceedings.
- (5) If a person without reasonable excuse fails to do anything required of him by a notice under subsection (2) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) If a person intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under subsection (2) he is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (7) If a person makes default in complying with a notice under subsection (2) the court may on the CAA's application make such order as the court thinks fit for requiring the default to be made good.
- (8) An order under subsection (7) may provide that all the costs or expenses of and incidental to the application are to be borne—
  - (a) by the person in default, or
  - (b) if officers of a company or other association are responsible for its default, by those officers.
- (9) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.



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- (10) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (11) A reference to the court is to—
- (a) the High Court in relation to England and Wales or Northern Ireland;
  - (b) the Court of Session in relation to Scotland.

#### Commencement Information

**I23** S. 25 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### *Administration orders etc.*

## 26 Protection of licence companies etc.

- (1) No licence company may be wound up voluntarily.
- (2) No application may be made to a court for an administration order under Part II of the 1986 Act in relation to a licence company, and—
- (a) anything purporting to be such an application is of no effect;
  - (b) no administration order may be made under that Part in relation to a licence company.
- (3) No step may be taken by a person to enforce any security over the property of a licence company unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to take the step.
- (4) No application for the winding up of a licence company may be made by a person other than the Secretary of State unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to make the application.
- (5) In subsection (3) “security” and “property” have the same meanings as in Parts I to VII of the 1986 Act.
- (6) In this section and sections 27 to 30—
- (a) references to a licence company are to a company which holds a licence;
  - (b) references to the 1986 Act are to the <sup>M9</sup>Insolvency Act 1986.

#### Commencement Information

**I24** S. 26 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### Marginal Citations

**M9** 1986 c. 45.

## 27 Duty to make order.

- (1) This section applies if an application is made to any court for the winding up of a licence company.

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- (2) The Secretary of State and the CAA are entitled to be heard by the court.
- (3) The court must not make a winding up order or appoint a provisional liquidator.
- (4) But if the court is satisfied that it would be appropriate to make a winding up order if the company were not a licence company, it must instead make an air traffic administration order.
- (5) The Secretary of State and the CAA may propose a person to manage the company's affairs, business and property while an air traffic administration order is in force; and if they do the court must appoint that person.
- (6) A reference to the court is to the court which (but for this section) would have jurisdiction to wind up the company.

#### Commencement Information

**I25** S. 27 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 28 Power to make order.

- (1) The court may make an air traffic administration order in relation to a licence company if—
  - (a) an application by petition is made by the Secretary of State or by the CAA with his consent, and
  - (b) the court is satisfied that one or more of the following four conditions is satisfied.
- (2) The first condition is that the company is or is likely to be unable to pay its debts.
- (3) The second condition is that—
  - (a) the Secretary of State certifies that but for section 27 it would be appropriate for him to petition for the company's winding up under section 124A of the 1986 Act (petition following inspectors' report etc), and
  - (b) but for section 27 it would be just and equitable (as mentioned in section 124A) for the company to be wound up.
- (4) The third condition is that—
  - (a) there has been or is or is likely to be a contravention by the company of a section 8 duty,
  - (b) no notice has been served under section 22(10) or (11) in relation to the contravention or apprehended contravention, and
  - (c) the contravention or apprehended contravention is serious enough to make it inappropriate for the company to continue to hold the licence concerned.
- (5) The fourth condition is that—
  - (a) a final or provisional order has been made or confirmed in relation to a section 8 duty or a licence condition,
  - (b) the order is not the subject of proceedings under section 23, and

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- (c) there has been or is or is likely to be such a contravention of the order by the company as to make it inappropriate for it to continue to hold the licence concerned.
- (6) For the purposes of subsection (2) a company is unable to pay its debts if it is deemed to be unable to do so under section 123 of the 1986 Act.
- (7) A reference in subsection (4) or (5) to a section 8 duty or to a licence condition or to a final or provisional order is to be construed in accordance with section 20.
- (8) A reference to the court is to the court which (but for section 27) would have jurisdiction to wind up the company.

#### Commencement Information

**I26** S. 28 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

## 29 Air traffic administration orders.

- (1) An air traffic administration order made under section 27 or 28 is an order directing that in the period while the order is in force the company's affairs, business and property are to be managed by a person appointed by the court—
  - (a) for the achievement of the following two purposes, and
  - (b) in a manner which protects the interests of the company's members and creditors.
- (2) The first purpose is—
  - (a) the transfer to another company, as a going concern, of so much of the licence company's undertaking as it is necessary to transfer to ensure that its licensed activities may be properly carried out, or
  - (b) the transfer to different companies of different parts of the licence company's undertaking, as going concerns, where the parts together constitute so much of its undertaking as is described in paragraph (a).
- (3) The second purpose is the carrying on, pending the transfer, of the licence company's licensed activities.
- (4) A reference to a licence company's licensed activities is to the activities which the licence concerned authorises the company to carry out.
- (5) In subsection (1) "business" and "property" have the same meanings as in the 1986 Act.
- (6) The reference in subsection (1) to the court is to the court making the order.

#### Commencement Information

**I27** S. 29 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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### 30 Petitions and orders: supplementary.

- (1) A petition under section 28 above cannot be withdrawn except with the court's leave.
- (2) Section 9(4) and (5) of the 1986 Act (court's powers) apply on the hearing of a petition under section 28 above as they apply on the hearing of a petition for an administration order.
- (3) Section 10(1), (2), (4) and (5) of the 1986 Act (effect of petition) apply in the case of a petition under section 28 above as if—
  - (a) the reference in subsection (1) to an administration order were to an air traffic administration order;
  - (b) the reference in subsection (1)(c) to proceedings included a reference to proceedings under or for the purposes of section 20 above;
  - (c) in subsection (1)(c) after “its property” there were inserted “, and no right of re-entry or forfeiture may be enforced against the company in respect of any land,”;
  - (d) subsection (2)(b) and (c) were omitted.
- (4) Schedules 1 and 2 contain provisions relating to air traffic administration orders.
- (5) The power given by section 411 of the 1986 Act to make rules applies for the purpose of giving effect to the air traffic administration order provisions as it applies for the purpose of giving effect to Parts I to VII of that Act, but taking references to those Parts as references to those provisions.
- (6) The air traffic administration order provisions are sections 27 to 29, this section and Schedules 1 and 2.
- (7) The reference in subsection (1) to the court is to the court to which the application by petition is made.

#### Commencement Information

**I28** S. 30 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 31 Government financial help.

- (1) If an air traffic administration order is in force in relation to a company the Secretary of State may—
  - (a) make grants or loans to the company of such sums as he thinks appropriate to facilitate the achievement of the order's purposes;
  - (b) agree to indemnify the air traffic administrator in respect of liabilities incurred and loss or damage sustained by him in connection with carrying out his functions under the order.
- (2) The Secretary of State may guarantee, in such manner and on such terms as he thinks fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed from any person by a company in relation to which an air traffic administration order is in force when the guarantee is given.

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*Changes to legislation: Transport Act 2000, Part 1 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The terms on which a grant is made under this section may require all or part of it to be repaid to the Secretary of State if there is a contravention of the other terms on which it is made.
- (4) A loan made under this section must be repaid to the Secretary of State at such times and by such methods, and interest must be paid to him at such rates and times, as may be specified in directions given by him from time to time.
- (5) Subsections (3) and (4) do not prejudice any provision applied in relation to the company by Schedule 1.
- (6) A grant, loan, agreement to indemnify, guarantee or direction under this section requires the Treasury's consent.
- (7) The air traffic administrator is the person appointed by the court to achieve the purposes of the air traffic administration order.

#### **Commencement Information**

**I29** S. 31 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## **32 Guarantees under section 31.**

- (1) This section applies to a guarantee given under section 31.
- (2) Immediately after a guarantee is given the Secretary of State must lay a statement of it before each House of Parliament.
- (3) If a sum is paid out for fulfilling a guarantee, as soon as possible after the end of each relevant financial year the Secretary of State must lay a statement relating to the sum before each House of Parliament.
- (4) If any sums are paid out for fulfilling a guarantee the borrowing company must make to the Secretary of State at such times and in such manner as may be specified in directions given by him from time to time—
  - (a) payments of such amounts as he may specify in such directions in or towards repayment of the sums paid out, and
  - (b) payments of interest at such rate as he may specify in such directions on what is outstanding in respect of sums paid out.
- (5) Subsection (4) does not prejudice any provision applied in relation to the borrowing company by Schedule 1.
- (6) A direction under this section requires the Treasury's consent.
- (7) Relevant financial years are financial years starting with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and interest on it is finally discharged.
- (8) The borrowing company is the company which borrowed the sums in respect of which the guarantee was given.

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**Commencement Information**

- I30** S. 32 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**33 Northern Ireland.**

Schedule 3 contains provisions relating to Northern Ireland.

**Commencement Information**

- I31** S. 33 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Miscellaneous*

**34 Investigations.**

- (1) The CAA must investigate an alleged or apprehended contravention of a section 8 duty or of a condition of a licence if the alleged or apprehended contravention is the subject of a representation made to the CAA by or on behalf of a person who appears to it to have an interest in the matter.
- (2) But this does not apply if the representation appears to the CAA to be frivolous or vexatious.
- (3) A section 8 duty is a duty imposed on a licence holder by section 8.

**Commencement Information**

- I32** S. 34 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**35 Register.**

- (1) The CAA must compile and maintain a register for the purposes of this Chapter.
- (2) The register must be kept at such premises and in such form as the CAA decides.
- (3) The CAA must cause these matters to be entered in the register—
  - (a) the provisions of every exemption;
  - (b) the provisions of every licence;
  - (c) every modification of the conditions of a licence;
  - (d) every revocation or surrender of a licence;
  - (e) the provisions of every requirement or determination made or direction, consent or approval given under a licence;
  - (f) the terms of every notice given under section 9;
  - (g) the terms of every final or provisional order made under section 20, every revocation of such an order, and every notice under section 22(10) or (11).

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- (4) The duty in subsection (3) does not extend to anything of which the CAA is unaware.
- (5) So far as practicable the CAA must secure the exclusion from the register of any matter relating to the affairs of a person if the CAA thinks its inclusion would or might seriously and prejudicially affect the person's interests.
- (6) If the Secretary of State thinks that entry of anything in the register would be against the public interest or any person's commercial interests, he may give a direction to the CAA requiring the CAA not to enter it.
- (7) The CAA must secure that the contents of the register are available for inspection by the public during such hours as may be specified in an order made by the Secretary of State.
- (8) If requested by any person to do so the CAA must supply him with a copy (certified to be true) of the register or of an extract from it.
- (9) But subsection (8) does not apply if a charge required by a scheme or regulations made under section 11 of the <sup>M10</sup>Civil Aviation Act 1982 is not paid.

#### Commencement Information

**I33** S. 35 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M10** 1982 c. 16.

### 36 Land.

Schedule 4 gives licence holders powers in relation to land.

### 37 Licence holders as statutory undertakers.

Schedule 5 contains provisions treating licence holders as statutory undertakers.

### 38 Directions in interests of national security etc.

- (1) The Secretary of State may give to a licence holder or to licence holders generally such directions of a general character as he thinks are necessary or expedient—
  - (a) in the interests of national security, or
  - (b) in the interests of encouraging or maintaining the United Kingdom's relations with another country or territory.
- (2) The Secretary of State may give to a licence holder a direction requiring it to do or not to do a particular thing, if the Secretary of State thinks it necessary or expedient to give the direction in the interests of national security.
- (3) The Secretary of State may give to a licence holder a direction requiring it—
  - (a) to do or not to do a particular thing in connection with anything authorised by the licence, or



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- (b) to secure that a particular thing is done or not done in connection with anything authorised by the licence,  
 if the Secretary of State thinks it necessary or expedient to give the direction in order to discharge or facilitate the discharge of an international obligation of the United Kingdom.
- (4) In exercising his powers under subsections (1) to (3) the Secretary of State must have regard to the need to maintain a high standard of safety in the provision of air traffic services.
- (5) In so far as a direction under this section conflicts with the requirements of section 93 or of an order under section 94, the direction is to be disregarded.
- (6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 93 or an order under section 94, the requirements are to be disregarded.
- (7) Before giving a direction under this section to a particular licence holder (as opposed to licence holders generally) the Secretary of State must consult it.
- (8) The Secretary of State must send a copy of a direction under this section to the CAA.
- (9) The Secretary of State must lay before each House of Parliament a copy of a direction under this section unless he thinks its disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person.
- (10) A person must not disclose, and is not required by any enactment or otherwise to disclose, a direction given or other thing done by virtue of this section if the Secretary of State notifies him that he thinks disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person (other than the person notified).
- (11) A person commits an offence if—
- (a) without reasonable excuse he contravenes or fails to comply with a direction under this section, or
  - (b) he makes a disclosure in contravention of subsection (10).
- (12) A person who commits an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

#### Commencement Information

**I34** S. 38 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 39 Directions relating to the environment.

- (1) The Secretary of State may give such directions as he thinks are necessary or expedient—
- (a) to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation;



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- (b) to limit or mitigate the effects of such noise, vibration, pollution or disturbance.
- (2) Directions under this section may be given to—
  - (a) a licence holder or licence holders generally;
  - (b) a person who is authorised by an exemption to provide air traffic services (an authorised person) or authorised persons generally.
- (3) A direction under this section may be of a general character or may require a licence holder or an authorised person to do or not to do a particular thing.
- (4) A direction under this section may include provision requiring persons to have regard to guidance which relates to the environment and which the Secretary of State may issue from time to time.
- (5) In so far as a direction under this section conflicts with the requirements of section 38 or 93 or of an order under section 94, the direction is to be disregarded.
- (6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 38 or 93 or an order under section 94, the requirements are to be disregarded.
- (7) Before giving a direction under this section to a particular licence holder or authorised person (as opposed to licence holders or authorised persons generally) requiring him to do or not to do a particular thing, the Secretary of State must consult—
  - (a) that licence holder or authorised person;
  - (b) the CAA.

#### **Commencement Information**

**I35** S. 39 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### *Interpretation*

#### **40 Interpretation.**

- (1) This section defines these expressions (here listed alphabetically) for the purposes of this Chapter—
  - (a) aerodrome;
  - (b) condition of a licence;
  - (c) exemption;
  - (d) licence;
  - (e) licence holder;
  - (f) managed area;
  - (g) manager of an aerodrome;
  - (h) modification.
- (2) An aerodrome is an aerodrome as defined in section 105(1) of the <sup>MI</sup>Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a

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licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).

- (3) These are managed areas—
  - (a) the United Kingdom;
  - (b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to provide air traffic services.
- (4) An exemption is an exemption under this Chapter.
- (5) A licence is a licence under this Chapter, and references to a licence holder must be construed accordingly.
- (6) A condition of a licence is a provision of the licence which is expressed as a condition.
- (7) “Modification” includes addition, alteration and omission, and cognate expressions are to be construed accordingly.

#### Commencement Information

**I36** S. 40 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

#### Marginal Citations

**M11** [1982 c. 16](#).

## CHAPTER II

### TRANSFER SCHEMES

#### *Introduction*

#### 41 Meaning of transfer scheme.

- (1) For the purposes of this Chapter a transfer scheme is a scheme which contains provisions falling within one or more of subsections (2) to (8).
- (2) Provisions falling within this subsection are ones for the transfer of any of the CAA’s property, rights or liabilities or of all or part of its undertaking to any of the following—
  - (a) the Secretary of State;
  - (b) a company which is wholly owned by the Crown;
  - (c) a company which is wholly owned by the CAA;
  - (d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).
- (3) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the CAA or of all or part of the transferor’s undertaking to any of the following—
  - (a) the Secretary of State;
  - (b) the CAA;

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- (c) a company which is wholly owned by the Crown;
  - (d) a company which is wholly owned by the CAA;
  - (e) a company which is a wholly owned subsidiary of a company falling within paragraph (c) or (d).
- (4) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is a wholly owned subsidiary of a company wholly owned by the CAA, or of all or part of the transferor's undertaking, to any of the following—
- (a) the CAA;
  - (b) a company which is wholly owned by the Crown;
  - (c) a company which is wholly owned by the CAA;
  - (d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).
- (5) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the Crown but which was wholly owned by the CAA on the coming into force of this section, or of all or part of the transferor's undertaking, to any of the following—
- (a) a company which is wholly owned by the Crown;
  - (b) a company which is a wholly owned subsidiary of the transferor.
- (6) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the Crown, or of all or part of the transferor's undertaking, to the CAA.
- (7) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) in circumstances where the transferor is a wholly owned subsidiary of a company (the holding company) wholly owned by the Crown and the holding company was wholly owned by the CAA on the coming into force of this section, or of all or part of the transferor's undertaking, to any of the following—
- (a) a company which is wholly owned by the Crown;
  - (b) a company which is a wholly owned subsidiary of a company falling within paragraph (a).
- (8) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is a wholly owned subsidiary of a company wholly owned by the Crown, or of all or part of the transferor's undertaking, to the CAA.
- (9) To the extent that a scheme provides for the transfer of all or part of an undertaking, references in the following provisions of this Chapter to property, rights and liabilities are to the undertaking or part (including property, rights and liabilities falling within it).

#### **Commencement Information**

**I37** S. 41 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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## 42 Transfer schemes: supplementary.

- (1) The things which may be transferred by a transfer scheme include—
  - (a) anything which the transferor would not otherwise be capable of transferring or assigning;
  - (b) anything to which the transferor may become entitled or subject after the scheme is made and before it comes into force;
  - (c) anything situated anywhere in the United Kingdom or elsewhere;
  - (d) anything subsisting under an enactment;
  - (e) anything subsisting under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (2) A scheme may divide any property, rights or liabilities of a transferor and in connection with the division may—
  - (a) create for a transferor or transferee an interest in any property to which the scheme relates;
  - (b) create new rights and liabilities as between a transferor and a transferee with respect to any property to which the scheme relates;
  - (c) in connection with any provision made by virtue of paragraph (a) or (b), make incidental provision as to the interests, rights and liabilities of other persons with respect to any property to which the scheme relates.
- (3) A scheme may impose obligations on a transferor and transferee to take any necessary steps to secure that the following have effect—
  - (a) any interest, right or liability created by virtue of subsection (2)(a) or (b);
  - (b) any incidental provision made by virtue of subsection (2)(c).
- (4) A scheme may—
  - (a) impose on a transferor or transferee an obligation to enter into a specified written agreement with a specified person or persons (who may be or include a transferor or transferee);
  - (b) impose on a transferor or transferee an obligation to execute a specified instrument in favour of a specified person or persons (who may be or include a transferor or transferee);
  - (c) make provision (for instance, where part of particular property is transferred) that rights and liabilities specified or identified in the scheme are enforceable by or against a transferor or transferee (or both).
- (5) A scheme may make such supplementary, incidental, consequential or transitional provisions as the scheme's maker thinks are appropriate.

### Commencement Information

**I38** S. 42 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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### CAA's schemes

#### 43 Transfer schemes made by CAA.

- (1) After consulting the CAA the Secretary of State may give a direction requiring it to make a transfer scheme.
- (2) A direction may specify how a scheme is to be made and the time within which it is to be made and submitted to the Secretary of State (as well as what is to be transferred, the transferor and the transferee).
- (3) In so far as a direction conflicts with the requirements of an enactment or instrument, the requirements are to be disregarded.
- (4) No direction may be given under this section before the end of the period of three months starting with the day on which this Act is passed.

#### Commencement Information

**I39** S. 43 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### 44 Effect of scheme made by CAA.

- (1) This section applies to a scheme made under section 43.
- (2) A scheme does not come into force unless the Secretary of State approves it in writing.
- (3) Subject to that, a scheme comes into force on—
  - (a) the day it specifies for it to come into force, or
  - (b) if the approval specifies a day for it to come into force, that day.
- (4) The Secretary of State may modify a scheme before approving it and after consulting each person who is a transferor or a transferee.
- (5) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (6) Any transferor or transferee (other than the Secretary of State) must provide the Secretary of State with any information and other assistance he may reasonably require in connection with his powers to approve and modify under this section.
- (7) If a body fails without reasonable excuse to comply with subsection (6) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) In this section “modify” includes add to, omit from and otherwise alter.
- (9) No approval may be given under this section before the end of the period of three months starting with the day on which this Act is passed.

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**Commencement Information**

**I40** S. 44 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Secretary of State's schemes*

**45 Transfer schemes made by Secretary of State.**

- (1) This section applies if—
  - (a) the CAA fails to submit a transfer scheme within the time specified in a direction under section 43, or
  - (b) the Secretary of State does not approve a transfer scheme submitted by the CAA.
- (2) In such a case the Secretary of State may make a transfer scheme after consulting each person who is a transferor or a transferee.
- (3) A scheme made under this section comes into force on the day it specifies for it to come into force.
- (4) When the scheme comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.
- (5) No scheme may be made under this section before the end of the period of three months starting with the day on which this Act is passed.

**Commencement Information**

**I41** S. 45 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**46 Information for purposes of section 45.**

- (1) If the Secretary of State proposes to make a transfer scheme he may give a direction to an interested body requiring it—
  - (a) to provide him with such information as he thinks necessary to enable him to make the scheme, and
  - (b) to do so within the period (not less than 28 days starting with the date on which the direction is given) specified in the direction.
- (2) These are interested bodies—
  - (a) the CAA;
  - (b) a company which is wholly owned by the Crown;
  - (c) a company which is wholly owned by the CAA;
  - (d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).
- (3) If a body fails to comply with a direction under subsection (1) the Secretary of State may serve on it a notice which—

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- (a) requires it to produce any documents which are specified or described in the notice and are in its custody or under its control, and to produce them at a time and place so specified and to a person so specified, or
  - (b) requires it to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.
- (4) No body may be required under this section—
- (a) to produce documents which it could not be compelled to produce in civil proceedings in the court;
  - (b) to supply information which it could not be compelled to supply in such proceedings.
- (5) If a body fails without reasonable excuse to do anything required of it by a notice under subsection (3) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) If a body intentionally alters, suppresses or destroys a document which it has been required to produce by a notice under subsection (3) it is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (7) If a body makes default in complying with a notice under subsection (3) the court may on the Secretary of State's application make such order as the court thinks fit for requiring the default to be made good.
- (8) An order under subsection (7) may provide that all the costs or expenses of and incidental to the application are to be borne—
- (a) by the body in default, or
  - (b) if officers of the body are responsible for its default, those officers.
- (9) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.
- (10) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (11) A reference to the court is to—
- (a) the High Court in relation to England and Wales or Northern Ireland;
  - (b) the Court of Session in relation to Scotland.

#### **Commencement Information**

**142** S. 46 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)



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### *Accounting provisions*

#### **47 Accounting provisions.**

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme—
  - (a) from the CAA to a company,
  - (b) from a company to the CAA, or
  - (c) from a company to a company.
- (2) The transfer scheme may state—
  - (a) the value at which any asset transferred to the transferee under the scheme is to be entered in the opening accounts of the transferee;
  - (b) the amount at which any liability so transferred is to be entered in those accounts.
- (3) The value or amount which may be stated by virtue of subsection (2) is—
  - (a) in a case where the whole of the asset or liability is transferred by the transfer scheme, the value or amount at which the asset or liability appeared in the last full accounts of the transferor;
  - (b) in a case where part only of the asset or liability is so transferred, such part of the value or amount at which the asset or liability appeared in the last full accounts of the transferor as may be determined by or in accordance with the transfer scheme.
- (4) But if the maker of the transfer scheme considers that some other value or amount is appropriate, the value or amount which may be stated by virtue of subsection (2) is that other amount or value.
- (5) If no value or amount appeared as mentioned in subsection (3) in the case of an asset or liability, the value or amount which may be stated by virtue of subsection (2) is the value or amount which the maker of the transfer scheme considers appropriate.
- (6) The transfer scheme may provide that the amount to be included in the opening accounts of the transferee as representing its accumulated realised profits is to be determined as if such proportion of any profits realised and retained by the transferor as may be determined by or in accordance with the transfer scheme had been realised and retained by the transferee.
- (7) The transfer scheme may provide that the amount to be included in the opening accounts of the transferee as representing its accumulated realised losses is to be determined as if such proportion of any accumulated realised losses of the transferor as may be determined by or in accordance with the transfer scheme had been losses realised by the transferee.
- (8) When the transfer scheme comes into force a statement or provision under subsection (2), (6) or (7) has effect to require any value or amount concerned to be entered or determined accordingly.

#### **Commencement Information**

**I43** S. 47 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)



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#### **48 Accounting provisions: interpretation.**

- (1) This section applies for the purposes of section 47.
- (2) The opening accounts of the transferee are—
  - (a) if the transferee is the CAA, the annual accounts prepared by it in accordance with section 15 of the <sup>M12</sup>Civil Aviation Act 1982 for the accounting year next ending after the transfer date;
  - (b) if the transferee is a company, any statutory accounts prepared by it for the accounting year next ending after the transfer date.
- (3) The last full accounts of the transferor are—
  - (a) if the transferor is the CAA, the annual accounts prepared by it in accordance with section 15 of the <sup>M13</sup>Civil Aviation Act 1982 for the accounting year last ended before the making of the transfer scheme;
  - (b) if the transferor is a company, the statutory accounts of the company for the accounting year last ended before the making of the transfer scheme.
- (4) An accounting year is—
  - (a) in the case of the CAA, the period of 12 months ending with 31 March in any year;
  - (b) in the case of a company, its financial year within the meaning of the <sup>M14</sup>Companies Act 1985 or the <sup>M15</sup>Companies (Northern Ireland) Order 1986.
- (5) Statutory accounts are accounts prepared by a company for the purpose of any provision of the <sup>M16</sup>Companies Act 1985 or the <sup>M17</sup>Companies (Northern Ireland) Order 1986 (including group accounts).

#### **Commencement Information**

**I44** S. 48 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### **Marginal Citations**

**M12** 1982 c. 16.  
**M13** 1982 c. 16.  
**M14** 1985 c. 6.  
**M15** S.I. 1986/1032 (N.I. 6).  
**M16** 1985 c. 6.  
**M17** S.I. 1986/1032 (N.I. 6).

#### *Ownership of transferee companies*

#### **49 Issue of securities.**

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (4).
- (2) The Secretary of State may give a direction under this section to the transferee if when the direction is given it is a company falling within subsection (4).
- (3) A direction under this section is one requiring the transferee—

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- (a) to issue to the appropriate person such securities of the transferee as are specified in the direction,
  - (b) to do so at a time or times (specified in the direction) when it is a company falling within subsection (4), and
  - (c) to do so on such terms as are specified in the direction.
- (4) A company falls within this subsection if it is—
- (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (5) The appropriate person is such of the following as the Secretary of State may specify in the direction—
- (a) the transferor;
  - (b) the Secretary of State;
  - (c) the CAA;
  - (d) a company which is wholly owned by the Crown;
  - (e) a company which is wholly owned by the CAA;
  - (f) a company which is a wholly owned subsidiary of a company falling within paragraph (d) or (e).
- (6) Shares issued in pursuance of this section—
- (a) must be of such nominal value as may be specified in a direction given by the Secretary of State, and
  - (b) must be issued as fully paid and treated for the purposes of the <sup>M18</sup>Companies Act 1985 or the <sup>M19</sup>Companies (Northern Ireland) Order 1986 as if they had been paid up by virtue of the payment to the transferee of their nominal value in cash.

#### Commencement Information

**I45** S. 49 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M18** 1985 c. 6.

**M19** S.I. 1986/1032 (N.I. 6).

## 50 Government investment in securities.

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is—
- (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (2) The Treasury or the Secretary of State with the Treasury's consent may—
- (a) acquire securities of the transferee by subscription or purchase;

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- (b) acquire options to acquire or dispose of securities of the transferee.
- (3) The Secretary of State must not dispose of any securities or options acquired under this section without the Treasury's consent.

#### Commencement Information

**I46** S. 50 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 51 Crown shareholding.

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is—
  - (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (2) The Secretary of State may by order designate such a transferee for the purposes of this section.
- (3) The Secretary of State must ensure that the Crown does not dispose of any of the shares it holds in the designated company unless he is satisfied that a scheme is in place to ensure the completion of any project which—
  - (a) concerns the development of major facilities connected with air traffic services, and
  - (b) was commissioned before the coming into force of this section by the CAA or a company wholly owned by the CAA.
- (4) The Secretary of State must ensure that the Crown does not dispose of any of the shares it holds in the designated company unless—
  - (a) the Crown holds at least 49 per cent of the company's issued ordinary share capital immediately before the disposal, and
  - (b) the Crown will continue to hold at least 49 per cent of that share capital immediately after the disposal.
- (5) The Secretary of State must ensure that at any given time the Crown holds at least 25 per cent of the designated company's issued ordinary share capital.
- (6) The Secretary of State must ensure that the Crown continues to hold any special share provided for under the designated company's articles of association.
- (7) A special share is a share which can be held only by the Crown and which gives the shareholder the right to prevent certain events by withholding consent.
- (8) The Secretary of State must not consent to any alteration of the designated company's articles of association which requires his consent on behalf of the Crown as special shareholder unless a statement of the intended consent has been laid before and approved by resolution of each House of Parliament.
- (9) If a person enters into a transaction relating to shares issued by the designated company—

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- (a) he need not enquire whether the transaction results in a contravention of subsection (3), (4), (5) or (6), and
  - (b) his rights in relation to the shares are not to be questioned on the grounds of, or affected by, a contravention of subsection (3), (4), (5) or (6).
- (10) Grounds on which the Secretary of State may be satisfied that a scheme is in place as mentioned in subsection (3) include the grounds that the arrangements for the disposal of the shares include provision obliging the person acquiring them to ensure the completion of the project.
- (11) For the purposes of this section a project concerns the development of major facilities if (and only if) the Secretary of State thinks that the value of the project is above £200 million.
- (12) The Secretary of State may by order amend or repeal this section.

**Commencement Information**

**I47** S. 51 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Transferee companies: other provisions*

**52 Loans.**

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).
- (2) With the Treasury's approval the Secretary of State may make loans of such amounts as he thinks fit to the transferee if when the loans are made it is a company falling within subsection (3).
- (3) A company falls within this subsection if it is—
  - (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (4) If loans are made under this section—
  - (a) they must be repaid to the Secretary of State at such times and by such methods as he may specify in a direction given with the Treasury's approval;
  - (b) interest on them must be paid to him at such rates and at such times as may be specified in such a direction.
- (5) The Secretary of State must exercise his powers under this section so as to ensure that the aggregate of the amounts outstanding in respect of the principal of loans made under this section does not at any time exceed £1,000 million.
- (6) In respect of each financial year the Secretary of State must prepare, in such form as may be specified in a direction given by the Treasury, an account of—
  - (a) sums issued to him out of the National Loans Fund for making loans under this section,

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- (b) sums received by him under subsection (4), and
  - (c) how he has disposed of those sums.
- (7) The Secretary of State must send the account to the Comptroller and Auditor General not later than the end of the month of August in the following financial year.
- (8) The Comptroller and Auditor General must examine, certify and report on the account and must lay copies of it and of his report before each House of Parliament.

#### Commencement Information

**I48** S. 52 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

### 53 Guarantees.

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).
- (2) The Treasury or the Secretary of State may guarantee the discharge of any financial obligation of the transferee if when the guarantee is made it is a company falling within subsection (3).
- (3) A company falls within this subsection if it is—
- (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (4) In the case of a financial obligation incurred before the giving of a guarantee, it is immaterial when the obligation was incurred.
- (5) A guarantee may be given on such terms and in such manner as the Treasury or the Secretary of State decides.
- (6) A guarantee may continue to have effect after the transferee has ceased to be a company falling within subsection (3).
- (7) The Treasury may not give a guarantee in relation to a financial obligation which is owed by the transferee to the Secretary of State.
- (8) A guarantee may not be given unless the Treasury or the Secretary of State has entered into arrangements under which the transferee will be liable to make payments (including payments of interest) in respect of sums issued in fulfilment of the guarantee.
- (9) The Treasury and the Secretary of State must exercise their powers under this section so as to ensure that the aggregate of the amounts of principal in relation to which guarantees are given under this section does not at any time exceed £500 million.
- (10) As soon as practicable after giving a guarantee under this section the Treasury or the Secretary of State must lay a statement of the guarantee before each House of Parliament.

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- (11) As soon as practicable after issuing a sum in fulfilment of a guarantee under this section the Treasury or the Secretary of State must lay a statement relating to the sum before each House of Parliament.
- (12) If a payment is not made as required by arrangements under subsection (8), as soon as practicable after the default occurs the Treasury or the Secretary of State (depending on who made the arrangements) must lay a statement of the default before each House of Parliament.

#### Commencement Information

**I49** S. 53 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 54 Grants.

- (1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).
- (2) With the Treasury's approval the Secretary of State may make grants towards the transferee's expenditure if when the grants are made it is a company falling within subsection (3).
- (3) A company falls within this subsection if it is—
  - (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (4) Grants may be of such amounts and be made at such times and in such manner as the Secretary of State may determine with the Treasury's approval.
- (5) Grants may be made subject to such conditions as the Secretary of State may determine with the Treasury's approval.
- (6) Grants may be retained by the transferee after it has ceased to be a company falling within subsection (3) (subject to any condition imposed under subsection (5)).

#### Commencement Information

**I50** S. 54 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 55 Trustee investments.

- (1) This section applies if—
  - (a) any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company wholly owned by the Crown,

*Status: Point in time view as at 01/12/2003.*

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- (b) at a time after the transfer the first condition (set out in subsection (2)) is satisfied, and
  - (c) the second condition (set out in subsection (3)) is satisfied.
- (2) The first condition is that the transferee is a company whose shares or debentures are included in the Official List, within the meaning of Part IV of the <sup>M20</sup>Financial Services Act 1986, in pursuance of that Part.
- (3) The second condition is that immediately before its shares or debentures are admitted to the Official List the transferee is wholly owned by the Crown.
- (4) If this section applies, subsection (5) has effect for the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the <sup>M21</sup>Trustee Investments Act 1961 (dividends to be paid in each of the five years immediately preceding investment year) in relation to investment in shares or debentures of the transferee in the year of issue or any later year.
- (5) The transferee must be taken to have paid a dividend as mentioned in paragraph 3(b)—
- (a) in every year which precedes the year of issue and which is included in the relevant five years, and
  - (b) in the year of issue, if it is included in the relevant five years and the transferee does not in fact pay such a dividend in that year.
- (6) For the purposes of this section—
- (a) the year of issue is the calendar year in which shares in the transferee are first issued in pursuance of section 49;
  - (b) the relevant five years are the five years immediately preceding the year in which the investment in question is made or proposed to be made.

#### Commencement Information

**I51** S. 55 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M20** 1986 c. 60.

**M21** 1961 c. 62.

## 56 Shadow directors.

- (1) This section applies if—
- (a) any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (2), and
  - (b) at a time after the transfer the condition set out in subsection (3) is satisfied.
- (2) A company falls within this subsection if it is—
- (a) a company which is wholly owned by the Crown,
  - (b) a company which is wholly owned by the CAA, or
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).



*Status: Point in time view as at 01/12/2003.*

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- (3) The condition is that—
- (a) the transferee continues to be, or becomes and continues to be, a company which is wholly owned by the Crown or a wholly owned subsidiary of such a company, or
  - (b) the Crown continues to hold any special share provided for under the transferee's articles of association.
- (4) For the purposes of the provisions of the <sup>M22</sup>Companies Act 1985 listed in subsection (5) none of the persons listed in subsection (8) is to be regarded as a shadow director of the transferee or of a company associated with the transferee at a time while the condition set out in subsection (3) is satisfied.
- (5) The provisions are—
- (a) section 288 (register of directors);
  - (b) section 305 (directors' names on correspondence etc);
  - (c) section 317 (disclosure of interests in contracts);
  - (d) section 320 (transactions involving directors);
  - (e) section 323 (prohibition on dealing in share options);
  - (f) section 324 (disclosure of shareholdings);
  - (g) section 325 (register of directors' interests);
  - (h) section 330 (restriction on loans).
- (6) For the purposes of the provisions of the <sup>M23</sup>Companies (Northern Ireland) Order 1986 listed in subsection (7) none of the persons listed in subsection (8) is to be regarded as a shadow director of the transferee or of a company associated with the transferee at a time while the condition set out in subsection (3) is satisfied.
- (7) The provisions are—
- (a) Article 296 (register of directors);
  - (b) Article 313 (directors' names on correspondence etc);
  - (c) Article 325 (disclosure of interests in contracts);
  - (d) Article 328 (transactions involving directors);
  - (e) Article 331 (prohibition on dealing in share options);
  - (f) Article 332 (disclosure of shareholdings);
  - (g) Article 333 (register of directors' interests);
  - (h) Article 338 (restriction on loans).
- (8) The persons are—
- (a) a Minister of the Crown;
  - (b) a Northern Ireland Minister;
  - (c) a nominee of a person falling within paragraph (a) or (b);
  - (d) a Northern Ireland Department.
- (9) A special share is a share which can be held only by the Crown and which gives the shareholder the right to prevent certain events by withholding consent.
- (10) A company is associated with the transferee if the conditions in subsections (11) and (12) are satisfied.
- (11) The first condition is that the company is designated for the purposes of this subsection by an order of the Secretary of State.

*Status: Point in time view as at 01/12/2003.*

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(12) The second condition is that the company is—

- (a) wholly owned by the Crown, or
- (b) a subsidiary of the transferee.

#### Commencement Information

**I52** S. 56 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M22** 1985 c. 6.

**M23** S.I. 1986/1032 (N.I. 6).

### *Extinguishment of liabilities*

#### **57 Extinguishment of liabilities.**

- (1) With the Treasury's consent the Secretary of State may give a direction under this section to the CAA if he thinks that to do so would be appropriate in connection with a transfer scheme which has been or is proposed to be made.
- (2) A direction may be given in relation to a company which is wholly owned by the CAA when the direction is given, and it may require the CAA—
  - (a) to release the company from liability in respect of debts which the company owes to the CAA and which are specified in the direction;
  - (b) to do so at a time when the company is wholly owned by the CAA;
  - (c) to become a party to such arrangements as the direction may specify with a view to the release taking effect.
- (3) A direction may by virtue of subsection (2)(c) include provision as to instruments, their form and the time they are to be made.
- (4) A direction has effect to require the CAA to act in accordance with it even if to do so would not be in furtherance of the CAA's functions arising apart from this section.
- (5) If a direction is given the Secretary of State may by order extinguish the CAA's liability in respect of debts which satisfy these conditions—
  - (a) the CAA owes the debts to him,
  - (b) he thinks they correspond to those specified in the direction, and
  - (c) they are specified in the order.
- (6) A direction or order may relate to liability for principal only.

#### Commencement Information

**I53** S. 57 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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## 58 Securities to be issued.

- (1) With the Treasury's consent the Secretary of State may give one or more directions under this section if he thinks that to do so would be appropriate in connection with a direction which has been given under section 57.
- (2) A direction under this section may be given to a company falling within subsection (3), and it may require the company—
  - (a) to issue to the appropriate person specified in the direction such securities of the company as the direction specifies, or
  - (b) to issue to different appropriate persons so specified such securities of the company as the direction specifies.
- (3) These companies fall within this subsection—
  - (a) the company whose liability the direction under section 57 requires to be released;
  - (b) a company which wholly owns that company;
  - (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).
- (4) These are appropriate persons—
  - (a) the Secretary of State;
  - (b) the company whose liability the direction under section 57 requires to be released;
  - (c) a company which wholly owns that company.
- (5) But a company does not fall within subsection (3), and a company is not an appropriate person, unless—
  - (a) it is wholly owned by the Crown when the direction under this section is given, or
  - (b) it is a wholly owned subsidiary of a company which is wholly owned by the Crown when the direction under this section is given.
- (6) Different directions may be given under this section to the same company; and different directions may be given to different companies.
- (7) A company which is given a direction under this section must issue securities in accordance with it.
- (8) Securities issued in pursuance of this section must be issued at such times and on such terms as the direction concerned specifies.
- (9) Shares issued in pursuance of this section—
  - (a) must be of such nominal value as the direction concerned specifies, and
  - (b) must be issued as fully paid and treated for the purposes of the <sup>M24</sup>Companies Act 1985 or the <sup>M25</sup>Companies (Northern Ireland) Order 1986 as if they had been paid up by virtue of the payment to the issuing company of their nominal value in cash.

### Commencement Information

**I54** S. 58 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Status: Point in time view as at 01/12/2003.*

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#### **Marginal Citations**

**M24** 1985 c. 6.

**M25** S.I. 1986/1032 (N.I. 6).

### **59 Securities: other provisions.**

- (1) If a security is issued to a company in pursuance of section 49 or 58, for the purposes of its statutory accounts the value of the security when issued must be taken to have been equal to—
  - (a) its nominal value (if it is a share);
  - (b) the principal sum payable under it (if it is a debenture).
- (2) The nominal value or principal sum mentioned above must be taken to be accumulated realised profits for the purposes of the company's statutory accounts.
- (3) If a direction under section 49 or 58 requires a company to issue a debenture the direction may specify—
  - (a) the principal sum payable under the debenture;
  - (b) the terms as to the payment of the principal sum;
  - (c) the terms as to the payment of interest on the principal sum.
- (4) The principal sum payable under the debenture, and the terms as to the payment of it and of interest on it, must be taken to be those so specified.
- (5) Statutory accounts are accounts prepared by a company for the purpose of any provision of the<sup>M26</sup>Companies Act 1985 or the<sup>M27</sup>Companies (Northern Ireland) Order 1986 (including group accounts).

#### **Commencement Information**

**I55** S. 59 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### **Marginal Citations**

**M26** 1985 c. 6.

**M27** S.I. 1986/1032 (N.I. 6).

### *Miscellaneous*

### **60 Enforcement of certain obligations.**

- (1) An obligation imposed by a provision included in a scheme by virtue of section 42(4)
  - (a) is enforceable by civil proceedings by a person with whom the agreement is to be made or by any transferor or transferee.
- (2) An obligation imposed by a provision included in a scheme by virtue of section 42(4)
  - (b) is enforceable by civil proceedings by a person in whose favour the instrument is to be executed or by any transferor or transferee.
- (3) The proceedings may be for an injunction or for interdict or for any other appropriate relief or remedy.

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- (4) A transaction effected in pursuance of an obligation mentioned in subsection (1) or (2)—
- (a) is to have effect subject to the provisions of any enactment providing for transactions of the kind concerned to be registered in a statutory register, but
  - (b) subject to that, is to be binding on all other persons, even if it would otherwise require the consent or concurrence of any other person.

#### Commencement Information

**I56** S. 60 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 61 Special provisions about land.

- (1) For the purposes of this section these rights affecting land are relevant land rights—
- (a) a right of reverter (or in Scotland the right of the fiar on the termination of a liferent);
  - (b) a right of pre-emption;
  - (c) a right of forfeiture;
  - (d) a right of re-entry;
  - (e) a right of irritancy;
  - (f) an option;
  - (g) a right similar to anything falling within paragraphs (a) to (f).
- (2) No relevant land right is to operate or become exercisable as a result of a transfer of land—
- (a) under a transfer scheme,
  - (b) in consequence of anything done under Schedule 6, or
  - (c) pursuant to an obligation imposed by a provision included in a scheme by virtue of section 42(4)(a) or (b).
- (3) In the case of a transfer mentioned in subsection (2) a relevant land right is to have effect as if—
- (a) the person to whom the land is transferred were the same person in law as the person transferring the land, and
  - (b) no transfer of the land had taken place.
- (4) Subsection (5) applies if—
- (a) apart from subsections (2) and (3) a relevant land right would have operated in favour of a person or become exercisable by him, but
  - (b) the circumstances are such that in consequence of those subsections the right cannot subsequently operate in his favour or become exercisable by him (as the case may be).
- (5) In such a case just compensation is payable to him by the person to whom the land is transferred or the person transferring it (or both) in respect of the right's extinguishment.
- (6) A dispute about whether or how much compensation is payable or about the person to or by whom it is payable must be referred to and decided by—

*Status: Point in time view as at 01/12/2003.*

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- (a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),
  - (b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or
  - (c) an arbitrator appointed by the Lord Chancellor (if the proceedings are to be held in Northern Ireland).
- (7) If it appears to the person transferring the land that a person is or may be entitled to compensation he must—
- (a) notify that person in writing that he is or may be entitled, and
  - (b) invite him to make representations to the person transferring the land, and to do so not later than the expiry of the period of 14 days starting with the date of issue of the notification.
- (8) But if the person transferring the land is not aware of the name and address of the person concerned he must publish in such manner as he thinks appropriate a notice—
- (a) containing information about the right affected, and
  - (b) inviting any person who thinks he is or may be entitled to compensation to make representations to the person transferring the land, and to do so within the period (not less than 28 days starting with the date of publication of the notice) specified in the notice.
- (9) Subsections (2) and (3) apply in relation to the doing of any thing in relation to land (including the grant or creation of an estate or interest in it or right over it) as they apply in relation to a transfer of land; and a reference in this section to the person to whom the land is transferred or the person transferring it is to be construed accordingly.

#### **Commencement Information**

**I57** S. 61 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## **62 Exercise of functions through nominees.**

- (1) The Treasury or the Secretary of State with the Treasury's approval may for the purposes of section 49, 50 or 58 appoint a person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State.
- (2) In accordance with directions given from time to time by the Treasury or by the Secretary of State—
- (a) securities may be issued under section 49 or 58 to a nominee of the Secretary of State appointed for the purposes of that section, and
  - (b) a nominee of the Treasury or the Secretary of State appointed for the purposes of section 50 may acquire securities under that section.
- (3) A person holding any securities as a nominee of the Treasury or the Secretary of State by virtue of this section must hold and deal with them (or any of them) on such terms and in such manner as may be specified in directions given by the Treasury or the Secretary of State.
- (4) A direction of the Secretary of State under subsection (2) or (3) requires the Treasury's consent.

*Status: Point in time view as at 01/12/2003.*

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**Commencement Information**

**I58** S. 62 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**63 Further provisions about transfer schemes.**

Schedule 6 contains provisions about transfer schemes.

**Commencement Information**

**I59** S. 63 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**64 Tax.**

Schedule 7 contains provisions about tax.

**Commencement Information**

**I60** S. 64 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Interpretation*

**65 Interpretation.**

- (1) This section defines these expressions (here listed alphabetically) for the purposes of this Chapter—
  - (a) company;
  - (b) company which wholly owns a company;
  - (c) company wholly owned by the CAA;
  - (d) company wholly owned by the Crown;
  - (e) a Northern Ireland Minister;
  - (f) securities;
  - (g) shares held by the Crown;
  - (h) subsidiary and wholly owned subsidiary;
  - (i) transferee;
  - (j) transferor.
- (2) “Company” has the meaning given by section 735(1) of the <sup>M28</sup>Companies Act 1985 or Article 3 of the <sup>M29</sup>Companies (Northern Ireland) Order 1986.
- (3) A company is wholly owned by the Crown at any time when all its shares are held by the Crown.
- (4) Shares are held by the Crown if they are held—
  - (a) by a Minister of the Crown or his nominee,



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- (b) by a Northern Ireland Minister or his nominee,
  - (c) by a Northern Ireland department, or
  - (d) by a company of which all the shares are held by the Crown.
- (5) “Northern Ireland Minister” includes the First Minister and the deputy First Minister in Northern Ireland.
- (6) A company is wholly owned by the CAA at any time when it has no members except—
- (a) the CAA and its wholly owned subsidiaries, or
  - (b) persons acting on behalf of the CAA or its wholly owned subsidiaries.
- (7) A company which wholly owns another company is a company of which the other is a wholly owned subsidiary.
- (8) The expressions “subsidiary” and “wholly owned subsidiary” have the meanings given by section 736 of the <sup>M30</sup>Companies Act 1985 or Article 4 of the <sup>M31</sup>Companies (Northern Ireland) Order 1986.
- (9) “Securities” has the same meaning as in section 142 of the <sup>M32</sup>Financial Services Act 1986.
- (10) A transferee is any person to whom anything is or is to be transferred by a scheme.
- (11) A transferor is any person from whom anything is or is to be transferred by a scheme.
- (12) The definitions in this section apply unless the contrary intention appears.

#### Marginal Citations

- M28 1985 c. 6.
- M29 S.I. 1986/1032 (N.I. 6).
- M30 1985 c. 6.
- M31 S.I. 1986/1032 (N.I. 6).
- M32 1986 c. 60.

## CHAPTER III

### AIR NAVIGATION

#### 66 Air navigation: directions.

- (1) The Secretary of State may give directions to the CAA imposing duties or conferring powers (or both) on it with regard to air navigation in a managed area.
- (2) No action is to lie in respect of a failure by the CAA to perform a duty imposed on it by a direction under subsection (1); but that does not affect a right of action in respect of an act or omission which takes place in the course of performing the CAA’s air navigation functions.
- (3) The Secretary of State may nominate a member of the CAA for the purposes of this section, and a person so nominated must perform on the CAA’s behalf such of its air navigation functions as the Secretary of State may specify.
- (4) The following provisions are not to apply to the CAA’s air navigation functions—

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- (a) section 7(1) of the <sup>M33</sup>Civil Aviation Act 1982 (Secretary of State’s power to prescribe functions not to be performed by a person on CAA’s behalf);
  - (b) paragraph 15 of Schedule 1 to that Act (CAA’s power to authorise a person to perform functions on its behalf).
- (5) A person nominated under subsection (3) may authorise a member or employee of the CAA to perform on his behalf the functions which he is to perform by virtue of that subsection.

**Commencement Information**

**I61** S. 66 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Marginal Citations**

**M33** 1982 c. 16.

**67 National security.**

- (1) The Secretary of State may nominate a member of the CAA for the purposes of this section, and in this section references to the national security nominee are to the person nominated under this section.
- (2) Subsection (3) applies if—
- (a) there is a difference of opinion between the national security nominee and the CAA,
  - (b) the difference of opinion relates to the CAA’s air navigation functions, and
  - (c) the national security nominee thinks that if the CAA’s opinion prevailed it could have an effect contrary to the interests of national security.
- (3) In such a case—
- (a) the CAA must refer the matter to the Secretary of State, and
  - (b) after consulting the CAA the Secretary of State may give it such directions regarding the matter as he thinks fit.
- (4) The national security nominee may authorise a member or employee of the CAA to perform on his behalf the functions which he is to perform by virtue of this section; and while such an authorisation is effective references in subsection (2) to the national security nominee are to the person authorised under this subsection.

**Commencement Information**

**I62** S. 67 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**68 Directions: further provision.**

- (1) Directions under section 66(1) may include provision as to the manner in which the CAA is to exercise its air navigation functions.
- (2) The provision may include—

*Status: Point in time view as at 01/12/2003.*

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- (a) provision requiring consultation with specified persons or specified descriptions of persons in relation to specified matters;
  - (b) provision requiring the CAA to seek the approval of the Secretary of State in relation to specified matters;
  - (c) provision requiring the CAA in specified circumstances to refer specified matters to the Secretary of State.
- (3) If a matter is referred to the Secretary of State by virtue of subsection (2)(b) or (c) he may give such directions to the CAA as he thinks fit.

#### Commencement Information

**I63** S. 68 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### 69 Directions: supplementary.

- (1) In so far as a direction under section 66(1), 67(3) or 68(3) conflicts with the requirements of section 93 or of an order under section 94, the direction is to be disregarded.
- (2) In so far as a direction under section 66(1), 67(3) or 68(3) conflicts with the requirements of an enactment or instrument other than section 93 or an order under section 94, the requirements are to be disregarded.
- (3) If a direction is given under section 66(1) the CAA—
  - (a) must publish the direction in such manner as may be specified in regulations made by the Secretary of State;
  - (b) must set out the direction in the report made under section 21 of the <sup>M34</sup>Civil Aviation Act 1982 (annual report) for the accounting year in which the direction is given.
- (4) If a direction is given under section 67(3) or section 68(3) the CAA—
  - (a) must set out the direction in the report made under section 21 of the <sup>M35</sup>Civil Aviation Act 1982 for the accounting year in which the direction is given, but
  - (b) must exclude a direction or part of a direction as to which the Secretary of State notifies the CAA that in his opinion it is against the national interest to set it out in the report.

#### Commencement Information

**I64** S. 69 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### Marginal Citations

**M34** 1982 c. 16.

**M35** 1982 c. 16.

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*Changes to legislation: Transport Act 2000, Part I is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 70 General duty.

- (1) The CAA must exercise its air navigation functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) and (3).
- (2) The CAA must exercise its air navigation functions in the manner it thinks best calculated—
  - (a) to secure the most efficient use of airspace consistent with the safe operation of aircraft and the expeditious flow of air traffic;
  - (b) to satisfy the requirements of operators and owners of all classes of aircraft;
  - (c) to take account of the interests of any person (other than an operator or owner of an aircraft) in relation to the use of any particular airspace or the use of airspace generally;
  - (d) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section;
  - (e) to facilitate the integrated operation of air traffic services provided by or on behalf of the armed forces of the Crown and other air traffic services;
  - (f) to take account of the interests of national security;
  - (g) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification).
- (3) If in a particular case there is a conflict in the application of the provisions of subsection (2), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (4) The CAA must exercise its air navigation functions so as to impose on providers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.
- (5) Section 4 of the <sup>M36</sup>Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its air navigation functions.

### Commencement Information

**I65** S. 70 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### Marginal Citations

**M36** 1982 c. 16.

## 71 Information for purposes of Chapter III.

- (1) The CAA may, for any purpose connected with its air navigation functions, serve on a person who provides air traffic services a notice which—
  - (a) requires the person to produce any documents which are specified or described in the notice and are in his custody or under his control, and to produce them at a time and place so specified and to a person so specified, or
  - (b) requires the person to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.

*Status: Point in time view as at 01/12/2003.*

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- (2) A requirement may be made under subsection (1)(b) only if the person is carrying on a business.
- (3) No person may be required under this section—
  - (a) to produce documents which he could not be compelled to produce in civil proceedings in the court;
  - (b) to supply information which he could not be compelled to supply in such proceedings.
- (4) If a person without reasonable excuse fails to do anything required of him by a notice under subsection (1) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) If a person intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under subsection (1) he is guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) If a person makes default in complying with a notice under subsection (1) the court may on the CAA's application make such order as the court thinks fit for requiring the default to be made good.
- (7) An order under subsection (6) may provide that all the costs or expenses of and incidental to the application are to be borne—
  - (a) by the person in default, or
  - (b) if officers of a company or other association are responsible for its default, by those officers.
- (8) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.
- (9) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (10) A reference to the court is to—
  - (a) the High Court in relation to England and Wales or Northern Ireland;
  - (b) the Court of Session in relation to Scotland.

#### **Commencement Information**

**I66** S. 71 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## **72 Interpretation.**

- (1) This section applies for the purposes of this Chapter.
- (2) The CAA's air navigation functions are the functions which the CAA is to perform in pursuance of directions under section 66(1).
- (3) These are managed areas—
  - (a) the United Kingdom;

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- (b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to carry out activities with regard to air navigation.

**Commencement Information**

**I67** S. 72 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## CHAPTER IV

### CHARGES FOR AIR SERVICES

#### *Charges*

**73 Charges for services.**

- (1) The CAA may specify—
- (a) the amounts of, or methods of calculating, the charges which are to be paid by virtue of this section in respect of chargeable air services (or of such descriptions of those services as the CAA specifies),
  - (b) the operators and owners of aircraft (or descriptions of such operators and owners) who are to pay the charges,
  - (c) the persons (or descriptions of persons) to whom they are to be paid, and
  - (d) the currencies in which they are to be paid.
- (2) On or after making specifications under subsection (1) the CAA may stipulate—
- (a) that charges are to be dispensed with in cases of specified descriptions;
  - (b) that interest at a specified rate is to be paid on charges in respect of any period in which they are due but unpaid;
  - (c) that interest is to be paid with the charges or separately;
  - (d) that charges of a specified description are payable elsewhere than in the United Kingdom;
  - (e) that charges of a specified description are to be disposed of in a specified way when received.
- (3) Charges of the specified amounts, or calculated in accordance with the specified methods, must be paid in accordance with specifications made under subsection (1).
- (4) But if stipulations are made under subsection (2)(a) the charges concerned are not to be paid.
- (5) If stipulations are made under subsection (2)(b) or (c) interest must be paid accordingly.
- (6) If stipulations are made under subsection (2)(d) the charges concerned are payable accordingly.
- (7) If stipulations are made under subsection (2)(e) the charges concerned must be disposed of accordingly.

*Status: Point in time view as at 01/12/2003.*

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- (8) Subsections (3) to (7) have effect subject to section 74.
- (9) For the purposes of subsection (1)(c) persons include—
  - (a) Eurocontrol and other international organisations, and
  - (b) governments of countries or territories outside the United Kingdom.

#### Commencement Information

**I68** S. 73 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 74 Publication, commencement, amendment and revocation.

- (1) If the CAA makes specifications or stipulations under section 73—
  - (a) it must publish a notice containing them;
  - (b) they become effective as provided in the published notice.
- (2) The CAA may amend or revoke any specifications or stipulations published under this section, and—
  - (a) it must publish a notice containing any amendment or revocation;
  - (b) the amendment or revocation becomes effective as provided in the published notice.
- (3) An amendment or revocation does not affect any liability incurred before the amendment or revocation becomes effective.
- (4) Publication under this section must be made—
  - (a) in the London Gazette, the Edinburgh Gazette and the Belfast Gazette, or
  - (b) in such other manner as the Secretary of State may provide by order.

#### Commencement Information

**I69** S. 74 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 75 Specifications: supplementary.

- (1) This section applies for the purposes of specifications under section 73(1).
- (2) The CAA may specify—
  - (a) different amounts or methods in respect of different descriptions of services;
  - (b) different amounts or methods in respect of different classes or descriptions of aircraft;
  - (c) different amounts or methods in respect of different circumstances in which aircraft are used.
- (3) In specifying amounts or methods the CAA must have regard to—
  - (a) tariffs which are approved under any international agreement to which the United Kingdom is a party;



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- (b) tariffs which in the CAA's opinion are likely to be approved under any such agreement before or within one month after the date when the specifications are to take effect;
  - (c) tariffs which in the CAA's opinion are likely to be approved, before or within one month after the date when the specifications are to take effect, under any international agreement to which the United Kingdom is likely to be a party before or within one month after that date.
- (4) Methods may be expressed by reference to such factors (including exchange rates between currencies) as the CAA thinks fit.
- (5) A description of services may be expressed by reference to such factors (including the area in respect of which they are provided) as the CAA thinks fit.
- (6) A description of operators and owners may be so general as to refer to all operators and owners.
- (7) Owners and operators may be specified (or of a description specified) if the services concerned are available for the aircraft concerned, and it is immaterial whether or not the services are actually used or could be used with the equipment installed in the aircraft.

#### Commencement Information

**I70** S. 75 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 76 Liability, recovery etc.

- (1) Liability to pay a charge by virtue of section 73 arises whether or not—
- (a) the aircraft concerned is registered in the United Kingdom;
  - (b) it is in the United Kingdom when the services concerned are provided;
  - (c) the services concerned are provided from a place in the United Kingdom.
- (2) A charge payable by virtue of section 73 is recoverable in the United Kingdom wherever it is payable (without prejudice to its recovery elsewhere).
- (3) A court in any part of the United Kingdom has jurisdiction to hear and determine—
- (a) a claim for a charge or interest payable by virtue of section 73;
  - (b) a claim, by a person appearing to the court to have an interest in the matter, that a charge which by virtue of that section must be disposed of in a particular way has not been disposed of in that way.
- (4) Subsection (3) applies even if the person against whom the claim is made is not resident within the court's jurisdiction.

#### Commencement Information

**I71** S. 76 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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## 77 Chargeable air services.

- (1) For the purposes of this Chapter chargeable air services are services which—
    - (a) fall within subsection (2), and
    - (b) are not excepted air services (as defined in subsection (3)).
  - (2) These services fall within this subsection—
    - (a) air traffic services provided in respect of the United Kingdom;
    - (b) air traffic services which the United Kingdom has undertaken under international arrangements to provide in respect of an area outside the United Kingdom;
    - (c) air traffic services which are provided in respect of an area outside the United Kingdom and the charges for which the United Kingdom has undertaken to collect under international arrangements;
    - (d) services which are provided by the CAA in performing its air navigation functions (within the meaning of Chapter III) and for which Eurocontrol is to collect charges under the Eurocontrol agreement;
    - (e) air traffic services which do not fall within paragraph (d) and for which Eurocontrol is to collect charges under the Eurocontrol agreement.
  - (3) These are excepted air services—
    - (a) air traffic services provided by the owner or manager of an aerodrome or by his employee [<sup>F10</sup>other than services which fall within subsection (3A)];
    - (b) air traffic services provided on behalf of the owner or manager of an aerodrome (other than a designated aerodrome) in circumstances where the person providing the services is not an employee of the owner or manager and they are provided under a contract or other arrangement made by the owner or manager and the person providing them.
- [<sup>F11</sup>(3A) Air traffic services fall within this subsection if—
- (a) they are services for which Eurocontrol is to collect charges under the Eurocontrol agreement, and
  - (b) they are provided by the owner or manager of an aerodrome or by his employee under a contract or other arrangement made by the owner or manager with the CAA and the CAA in making that contract or other arrangement is acting in pursuance of its air navigation functions (within the meaning of Chapter III).]
    - (4) A designated aerodrome is an aerodrome designated by the Secretary of State by order for the purposes of subsection (3)(b).
    - (5) The Secretary of State may by order amend the meaning of chargeable air services for the purposes of this Chapter.

### Textual Amendments

**F10** Words in s. 77(3)(a) added (1.4.2001) by S.I. 2001/492, art. 2(2)

**F11** S. 77(3A) inserted (1.4.2001) by S.I. 2001/492, art. 2(3)

### Commencement Information

**I72** S. 77 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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## 78 Amounts for recovery etc.

- (1) This section applies if—
- (a) an amount of a charge is specified under section 73(1) in respect of a service falling within section 77(2)(d) or (e), and
  - (b) under the Eurocontrol agreement Eurocontrol is to collect a charge in respect of the specification and publication of the amount of the charge and its recovery.
- (2) In specifying the amount of the charge the CAA may include an amount in respect of the specification and publication of the amount of the charge and its recovery.
- (3) References to an amount include references to a method of calculating an amount.

### Commencement Information

**I73** S. 78 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 79 Further duties of the CAA.

- (1) The CAA—
- (a) must exercise its powers under section 73 if it thinks it should do so in order for international agreements to which the United Kingdom is a party to be fulfilled, and
  - (b) in exercising those powers must act in the manner it thinks best calculated to take account of those agreements.
- (2) The CAA must exercise its powers under section 73 in relation to services falling within section 77(2)(b) if it thinks it should do so in order to enable the provider of the services to be paid for their provision.

### Commencement Information

**I74** S. 79 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 80 Secretary of State's duties.

- (1) If information is given to the Secretary of State by the CAA concerning the charges the CAA would like to be paid in respect of chargeable air services which fall within section 77(2)(d), he must (so far as practicable) ensure that the information is given to Eurocontrol.
- (2) If information is given to the Secretary of State by a licence holder concerning the charges it would like to be paid in respect of chargeable air services which it provides and which fall within section 77(2)(e), he must (so far as practicable) ensure that the information is given to Eurocontrol.
- (3) But subsection (2) does not apply if the CAA tells the Secretary of State that giving the information to Eurocontrol could result in the licence holder being paid charges whose calculation was in contravention of the provisions of the licence.

*Status: Point in time view as at 01/12/2003.*

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- (4) If money is received by the government of the United Kingdom from Eurocontrol in respect of a chargeable air service falling within section 77(2)(d) or (e), the Secretary of State must (so far as practicable) ensure that the money is paid to the person who provided the service.
- (5) If money falls to be paid by Eurocontrol in respect of a chargeable air service falling within section 77(2)(d) or (e), the Secretary of State must (so far as practicable) ensure that the money falls to be paid by Eurocontrol to the person who provided the service.
- (6) The reference to money being received by the government of the United Kingdom is to money being received by a person on behalf of that government.

#### Commencement Information

**I75** S. 80 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Miscellaneous

### 81 Records.

- (1) The Secretary of State may make regulations in order to facilitate the assessment and collection of charges payable by virtue of section 73.
- (2) The regulations may require operators or owners of aircraft or managers of aerodromes—
  - (a) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as are specified;
  - (b) to preserve the records for a specified period;
  - (c) to produce relevant records for inspection by specified persons at specified times;
  - (d) to provide specified particulars of relevant records to specified persons.
- (3) Relevant records are records required to be preserved by the operators, owners or managers by the regulations or an Air Navigation Order.
- (4) The persons who may be specified under subsection (2)(c) or (d) are—
  - (a) in the case of charges payable to Eurocontrol, officers of the CAA or of Eurocontrol;
  - (b) in the case of other charges, officers of the CAA or of the organisation, government or other person to whom the charges are payable.
- (5) The requirements may be imposed on the operator or owner of an aircraft whether or not—
  - (a) it is registered in the United Kingdom;
  - (b) it is in the United Kingdom when the services concerned are provided;
  - (c) the services concerned are provided from a place in the United Kingdom.
- (6) A record includes (in addition to a record in writing)—

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- (a) a disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument);
  - (b) a film, tape or other device in which visual images are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument);
  - (c) a photograph.
- (7) An Air Navigation Order is an Order in Council under section 60 of the <sup>M37</sup>Civil Aviation Act 1982.
- (8) In subsection (4)—
- (a) a reference to officers of the CAA includes a reference to persons authorised to act as such officers;
  - (b) a reference to officers of Eurocontrol includes a reference to persons authorised to act as such officers.

**Commencement Information**

**I76** S. 81 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Marginal Citations**

**M37** 1982 c. 16.

**82 Offences.**

- (1) A person commits an offence if without reasonable excuse he fails to comply with a requirement of regulations made under section 81.
- (2) A person commits an offence if he is in possession of information provided to him or obtained by him under regulations made under section 81 and he discloses the information otherwise than—
  - (a) with the consent of the person by whom it was provided or from whom it was obtained,
  - (b) for the purposes of the regulations,
  - (c) for the purposes of any proceedings arising out of this Chapter,
  - (d) for the purposes of any criminal proceedings (however arising),
  - (e) for the purposes of any proceedings brought by virtue of paragraph 3 of Schedule 4 to the <sup>M38</sup>Civil Aviation Act 1982 (claims against Eurocontrol),
  - (f) for the purposes of a public inquiry or investigation held or carried out under regulations made under section 75 of the <sup>M39</sup>Civil Aviation Act 1982, or
  - (g) for the purposes of a report of any proceedings, inquiry or investigation mentioned above.
- (3) A person commits an offence if in providing particulars under a provision contained in regulations by virtue of section 81(2)(d)—
  - (a) he provides particulars which he knows are false in a material particular, or
  - (b) he recklessly provides particulars which are false in a material particular.

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- (4) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.
- (6) A person who commits an offence under subsection (3) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

#### Commencement Information

**I77** S. 82 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M38** 1982 c. 16.

**M39** 1982 c. 16.

## 83 Detention and sale.

- (1) The Secretary of State may make regulations containing—
  - (a) provision which, in the case of default by an operator in paying a charge payable by virtue of section 73, authorises the detention (pending payment) of any aircraft falling within subsection (2);
  - (b) provision which, in the case of default by an operator in complying with a requirement imposed by regulations made under section 81 to produce records for inspection or provide particulars of records, authorises the detention (pending compliance) of any aircraft of which he is the operator when detention begins;
  - (c) provision which authorises the sale of any detained aircraft if the default is not remedied within a specified period.
- (2) These aircraft fall within this subsection—
  - (a) the aircraft in respect of which the charge was incurred (whether or not the person who is the operator of the aircraft when detention begins is the defaulter);
  - (b) any aircraft of which the defaulter is the operator when detention begins.
- (3) Regulations under subsection (1) may—
  - (a) provide that detention (or continued detention) is authorised only in specified circumstances or at specified places;
  - (b) provide that in specified circumstances detention is authorised only if a specified person consents;
  - (c) provide that sale is authorised only in specified circumstances (which may relate to the court's consent, to be given only in specified circumstances);
  - (d) specify the descriptions of person authorised to detain or sell aircraft;

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- (e) provide for the power of detention or sale to extend to other matters (such as the aircraft's equipment);
- (f) provide for the application of the proceeds of sale;
- (g) provide for them to be applied in a specified order;
- (h) make provision corresponding to any provision made by or under section 88 of the <sup>M40</sup>Civil Aviation Act 1982 (detention and sale of aircraft for unpaid airport charges);
- (i) generally make such provision as the Secretary of State thinks is necessary or expedient to secure detention or sale.

#### Commencement Information

**I78** S. 83 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M40** 1982 c. 16.

### *Interpretation*

#### **84 Interpretation.**

- (1) This section applies for the purposes of this Chapter.
- (2) Eurocontrol has the meaning given by section 24 of the <sup>M41</sup>Civil <sup>M42</sup>Aviation Act 1982.
- (3) The Eurocontrol agreement is the multilateral agreement relating to route charges signed at Brussels on 12 February 1981 or any agreement replacing it.
- (4) An aerodrome is an aerodrome as defined in section 105(1) of the Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).
- (5) “Licence holder” has the meaning given by section 40.

#### Commencement Information

**I79** S. 84 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### Marginal Citations

**M41** 1982 c. 16.

**M42** 1982 c. 16.



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## CHAPTER V

### COMPETITION

#### 85 Interpretation of Chapter V.

- (1) For the purposes of this Chapter—
  - [<sup>F12</sup>(a) the 2002 Act is the Enterprise Act 2002;]
  - (b) the 1998 Act is the <sup>M43</sup>Competition Act 1998;
  - [<sup>F13</sup>(c) the OFT is the Office of Fair Trading.]
- (2) For the purposes of this Chapter these expressions have the meanings given by section 40—
  - (a) aerodrome;
  - (b) licence;
  - (c) licence holder.
- (3) If an expression is used in this Chapter and also in <sup>F14</sup>... the 1998 Act it has the same meaning in this Chapter as it has in the [<sup>F15</sup>1998 Act].

#### Textual Amendments

- F12** S. 85(1)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(2); S.I. 2003/1397, art. 2(1), Sch.
- F13** S. 85(1)(c) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(6); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F14** Words in s. 85(3) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(a), Sch. 26; S.I. 2003/1397, art. 2(1), Sch.
- F15** Words in s. 85(3) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(b); S.I. 2003/1397, art. 2(1), Sch.

#### Commencement Information

- I80** S. 85 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### Marginal Citations

- M43** 1998 c. 41.

#### 86 Functions exercisable by CAA and Director.

- (1) The functions to which subsections (2) and (3) apply shall be concurrent functions of the CAA and [<sup>F16</sup>the OFT].
- [<sup>F17</sup>(2) This subsection applies to the OFT's functions under Part 4 of the 2002 Act (other than sections 166 and 171) so far as they relate to the supply of air traffic services.]
- (3) This subsection applies to [<sup>F18</sup>the OFT's] functions under the provisions of Part I of the 1998 Act (other than sections 38(1) to (6) and 51) so far as they relate to—
  - (a) agreements, decisions or concerted practices which are of the kind mentioned in section 2(1) of the 1998 Act and which relate to the supply of air traffic services, or

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- (b) conduct which is of the kind mentioned in section 18(1) of the 1998 Act and which relates to the supply of air traffic services.
- (4) References to <sup>F19</sup>the OFT] in—
- (a) <sup>F20</sup>Part 4 of the 2002 Act (except for sections 166 and 171 but including provisions of that Act applied by that Part)], and
- (b) Part I of the 1998 Act (except in sections 38(1) to (6), 51, 52(6) and (8) and 54),
- must be read as including references to the CAA.
- (5) But subsection (4) applies—
- (a) only so far as it is consequential on subsections (1) to (3) above, and
- (b) only if the context does not otherwise require.
- (6) If a question arises as to whether subsections (1) to (3) above apply to a particular case the question must be referred to and determined by the Secretary of State.
- (7) No objection may be taken to anything done by or in relation to the CAA—
- (a) <sup>F21</sup>Part 4 of the 2002 Act], or
- (b) under Part I of the 1998 Act (except under section 38(1) to (6) or 51),
- on the ground that it should have been done by or in relation to <sup>F22</sup>the OFT].

#### Textual Amendments

- F16** Words in s. 86(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(7\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F17** S. 86(2) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 24\(2\)](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)
- F18** Words in s. 86(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(7\)\(b\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F19** Words in s. 86(4) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(7\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F20** Words in s. 86(4)(a) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 24\(3\)](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)
- F21** Words in s. 86(7)(a) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 24\(4\)](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)
- F22** Words in s. 86(7) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(7\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

#### Commencement Information

- I81** S. 86 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57](#), art. 3(1), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

## 87 CAA's <sup>F23</sup>2002] Act functions.

- (1) For the purposes of this section the CAA's <sup>F23</sup>2002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are functions of the CAA.
- (2) The CAA must exercise its <sup>F23</sup>2002] Act functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (3) to (6).

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- (3) The CAA must exercise its [F232002] Act functions in the manner it thinks best calculated—
- (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of suppliers of air traffic services;
  - (c) to secure that suppliers of air traffic services who are licence holders will not find it unduly difficult to finance activities authorised by their licences;
  - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);
  - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.
- (4) The only interests to be considered under subsection (3)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (5) The reference in subsection (3)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.
- (6) If in a particular case there is a conflict in the application of the provisions of subsections (3) to (5), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (7) The CAA must exercise its [F232002] Act functions so as to impose on suppliers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.
- (8) Section 4 of the <sup>M44</sup>Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its [F232002] Act functions.

#### Textual Amendments

**F23** Word in s. 87 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 25; S.I. 2003/1397, art. 2\(1\), Sch.](#)

#### Commencement Information

**I82** S. 87 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\), Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

#### Marginal Citations

**M44** 1982 c. 16.

## 88 CAA's 1998 Act functions.

- (1) For the purposes of this section the CAA's 1998 Act functions are the functions mentioned in subsection (3) of section 86 which, by virtue of that section, are functions of the CAA.

*Status: Point in time view as at 01/12/2003.*

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- (2) In exercising its 1998 Act functions the CAA may (in particular) have regard to any matter which satisfies the following condition.
- (3) The condition is that the matter is one to which, by virtue of section 87, the CAA must have regard in exercising its [F<sup>24</sup>2002] Act functions (within the meaning of that section).

#### Textual Amendments

**F24** Word in s. 88(3) substituted (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, [Sch. para. 37](#)

#### Commencement Information

**I83** S. 88 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57](#), art. 3(1), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

## 89 Carrying out functions.

- (1) For the purposes of this section the [F<sup>25</sup>2002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are concurrent functions of the CAA and [F<sup>26</sup>the OFT].
- (2) Before [F<sup>26</sup>the OFT] or the CAA first carries out the [F<sup>25</sup>2002] Act functions in relation to a matter [F<sup>27</sup>it] must consult the other.
- (3) If [F<sup>26</sup>the OFT] or the CAA has carried out the [F<sup>25</sup>2002] Act functions in relation to a matter the other must not carry out the [F<sup>25</sup>2002] Act functions in relation to the matter.
- (4) If in carrying out the [F<sup>25</sup>2002] Act functions the CAA makes a reference to the Competition Commission, to help the Commission in its investigation on the reference the CAA must give to it—
  - (a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;
  - (b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;
  - (c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.
- (5) In carrying out the investigation concerned the Commission must take account of any information given under subsection (4).

#### Textual Amendments

**F25** Word in s. 89 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 26](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)

**F26** Words in s. 89 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(8\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

**F27** Word in s. 89(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(8\)\(b\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

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*Changes to legislation: Transport Act 2000, Part I is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I84** S. 89 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## CHAPTER VI

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **90 Publication of information and advice.**

- (1) The CAA may publish information and advice which it thinks it is expedient to give to—
  - (a) operators and owners of aircraft;
  - (b) owners and managers of aerodromes;
  - (c) persons travelling in aircraft and persons with rights in property carried in them.
- (2) The CAA may instead arrange for the publication of such information and advice.
- (3) Publication under this section is to be in the form and manner the CAA thinks appropriate.
- (4) So far as practicable the CAA must secure the exclusion of any matter relating to the affairs of a person if the CAA thinks its publication would or might seriously and prejudicially affect the person's interests.
- (5) But subsection (4) does not apply if the CAA thinks publication of the matter would be in the public interest.
- (6) [<sup>F28</sup>The Office of Fair Trading must consult the CAA before publishing under section 6 of the Enterprise Act 2002] any information or advice which may be published under this section.
- (7) An aerodrome is an aerodrome as defined by section 105(1) of the <sup>M45</sup>Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).

<sup>F29</sup>(8) .....

#### Textual Amendments

- F28** Words in s. 90(6) substituted (1.4.2003) by **Enterprise Act 2002 (c. 40)**, s. 279, **Sch. 25 para. 44(9)(a)**; **S.I. 2003/766**, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by **S.I. 2007/1846**, reg. 3(2), **Sch.**)
- F29** S. 90(8) repealed (1.4.2003) by **Enterprise Act 2002 (c. 40)**, s. 279, **Sch. 25 para. 44(9)(b)**, **Sch. 26**; **S.I. 2003/766**, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by **S.I. 2007/1846**, reg. 3(2), **Sch.**)

#### Commencement Information

**I85** S. 90 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

*Status: Point in time view as at 01/12/2003.*

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### Marginal Citations

**M45** 1982 c. 16.

## 91 Review and information.

- (1) So far as it appears to the CAA practicable to do so with a view to facilitating the exercise of its functions under this Part, it must—
  - (a) keep under review the provision (in the United Kingdom and elsewhere) of air traffic services;
  - (b) collect information about the provision (in the United Kingdom and elsewhere) of those services.
- (2) The Secretary of State may give directions indicating considerations to which the CAA is to have particular regard in deciding the order of priority in which matters are to be reviewed in performing its duty under subsection (1)(a).
- (3) If the CAA thinks it expedient or it is asked by the Secretary of State or <sup>F30</sup>the Office of Fair Trading] to do so, it must provide information, advice and help to the Secretary of State or <sup>F30</sup>the Office of Fair Trading] regarding any matter in respect of which the CAA has a function under this Part.
- (4) The CAA may recover from the Secretary of State or <sup>F30</sup>the Office of Fair Trading] a sum equal to any expense reasonably incurred by it in providing anything to the person concerned under subsection (3).

<sup>F31</sup>(5) .....

### Textual Amendments

**F30** Words in s. 91(3)(4) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 44\(10\)\(a\)](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))

**F31** S. 91(5) repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 44\(10\)\(b\), Sch. 26](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))

### Commencement Information

**I86** S. 91 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\), Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

## 92 Secretary of State's directions to CAA.

The Secretary of State may give directions indicating considerations to which the CAA is to have particular regard in deciding whether and how to exercise its functions under this Part.

### Commencement Information

**I87** S. 92 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\), Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

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*Status: Point in time view as at 01/12/2003.*

*Changes to legislation: Transport Act 2000, Part 1 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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### **93 Control in time of hostilities etc.**

- (1) The Secretary of State may—
  - (a) give directions to any listed person in any time of actual or imminent hostilities or of severe international tension or of great national emergency;
  - (b) give directions to any listed person requiring him to participate in the planning of steps which might be taken in any time of actual or imminent hostilities or of severe international tension or of great national emergency.
- (2) The listed persons are—
  - (a) the CAA;
  - (b) a person who provides air traffic services;
  - (c) a person who operates a United Kingdom air transport undertaking;
  - (d) a person who operates an airport;
  - (e) a person who owns or operates a relevant asset.
- (3) The power under subsection (1)(a) includes—
  - (a) in the case of the CAA, power to direct it to carry out its functions in a specified manner or for specified purposes;
  - (b) in the case of a person who provides air traffic services, power to direct him to do so in a specified manner or for specified purposes;
  - (c) in the case of a person who owns a relevant asset, power to direct him to permit the use of the asset or to exercise his rights over it in a specified manner or for specified purposes;
  - (d) in the case of a person who operates a relevant asset, power to direct him to exercise his powers of management over the asset in a specified manner or for a specified purpose.
- (4) The power under subsection (1)(a) includes power to give directions designed—
  - (a) to regulate or prohibit (absolutely or subject to conditions) the navigation of all or any descriptions of aircraft over the United Kingdom or over part of it or over any area of sea;
  - (b) to regulate or prohibit (absolutely or subject to conditions) the use, building, maintenance or establishment of aerodromes or flying schools or of any description of aerodrome or flying school;
  - (c) to secure that relevant assets are taken into the Secretary of State's possession for use by or for the purposes of the armed forces of the Crown.
- (5) In so far as a direction under this section conflicts with the requirements of an order under section 94, the direction is to be disregarded.
- (6) In so far as a direction under this section conflicts—
  - (a) with the requirements of an enactment or instrument other than an order under section 94, or
  - (b) with any duty which arises otherwise than under an enactment or instrument, the requirements are or the duty is to be disregarded.
- (7) A person directed under this section commits an offence if without reasonable excuse he contravenes or fails to comply with the direction.
- (8) A person who commits an offence under subsection (7) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;



*Status: Point in time view as at 01/12/2003.*

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- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.
- (9) A person (other than the CAA) who suffers direct injury or loss arising from compliance with a direction under subsection (1)(a) is entitled to receive compensation from the Secretary of State.
- (10) The compensation must be of an amount agreed by the person and the Secretary of State or (in default of agreement) of an amount decided by—
  - (a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),
  - (b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or
  - (c) an arbitrator appointed by the Lord Chancellor (if the proceedings are to be held in Northern Ireland).

#### Commencement Information

**188** S. 93 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### 94 Orders for possession of aerodromes etc.

- (1) This section applies in any time of actual or imminent hostilities or of severe international tension or of great national emergency.
- (2) The Secretary of State may by order provide for—
  - (a) any aerodrome, and
  - (b) any aircraft, machinery, plant, material or thing found in or on any aerodrome, to be taken into his possession and used by or for the purposes of the armed forces of the Crown.
- (3) An order under this section may, for the purpose of securing compliance with the provisions of the order—
  - (a) provide for the detention of aircraft;
  - (b) make such other provision as appears to the Secretary of State to be necessary or expedient for securing such detention.
- (4) A person must comply with an order under this section notwithstanding any other duty, however arising.
- (5) An order under this section may, for the purpose of securing compliance with the provisions of the order, provide for—
  - (a) persons to be guilty of offences in such circumstances as may be specified in the order;
  - (b) persons to be liable on conviction of those offences to such penalties as may be so specified.
- (6) The power under subsection (5) does not include power—
  - (a) to provide for offences to be triable only on indictment;
  - (b) to authorise the imposition, on summary conviction of an offence, of any term of imprisonment or of a fine exceeding the statutory maximum;

*Status: Point in time view as at 01/12/2003.*

*Changes to legislation: Transport Act 2000, Part I is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) to authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.
- (7) Any person who suffers direct injury or loss arising from compliance with an order under this section is entitled to receive compensation from the Secretary of State.
- (8) The compensation must be of an amount agreed by the person and the Secretary of State or (in default of agreement) of an amount decided by—
  - (a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),
  - (b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or
  - (c) an arbitrator appointed by the Lord Chancellor (if the proceedings are to be held in Northern Ireland).

#### Commencement Information

**189** S. 94 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 95 Sections 93 and 94: interpretation.

- (1) This section defines these expressions (here listed alphabetically) for the purposes of sections 93 and 94 and this section—
  - (a) aerodrome;
  - (b) airport, and its operator;
  - (c) great national emergency;
  - (d) relevant asset, and a person who owns or operates it;
  - (e) United Kingdom air transport undertaking.
- (2) A great national emergency is a natural disaster or other emergency which the Secretary of State thinks is or may be likely to give rise to such disruption of the means of transport that the population, or a substantial part of the population, of the United Kingdom is or may be likely to be deprived of essential goods or services.
- (3) An aerodrome is an aerodrome as defined in section 105(1) of the <sup>M46</sup>Civil Aviation Act 1982.
- (4) An airport is the aggregate of the land, buildings and works comprised in an aerodrome; and a person operates an airport if he manages it.
- (5) A United Kingdom air transport undertaking is an undertaking which appears to the Secretary of State to have its principal place of business in the United Kingdom and which includes the provision of services for the carriage by air of passengers or cargo for hire or reward.
- (6) A relevant asset is any—
  - (a) aerodrome,
  - (b) property used in connection with the operation of an aerodrome,
  - (c) aircraft, or
  - (d) property used in connection with the provision of air traffic services.

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- (7) An owner of a relevant asset is a person—
- (a) who owns it or has a right over or interest in it, and
  - (b) whose consent is needed for its use by any other person.
- (8) An operator of a relevant asset is a person who manages it.

#### Commencement Information

**I90** S. 95 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### Marginal Citations

**M46** 1982 c. 16.

## 96 Civil Aviation Authority Pension Scheme.

- (1) The Secretary of State may by order make provision for the allocation of assets, rights, liabilities or obligations between different sections of the Civil Aviation Authority Pension Scheme.
- (2) An order under this section may include provision for or in connection with—
  - (a) securing that the Scheme continues to be approved for the purposes of the relevant enactments;
  - (b) the amendment of the Scheme;
  - (c) the manner in which questions arising under the order are to be determined.
- (3) The reference in subsection (2) to the amendment of the Scheme includes a reference to the amendment of—
  - (a) the trust deed of the Scheme;
  - (b) the rules of the Scheme;
  - (c) any other instrument relating to the constitution, management or operation of the Scheme.
- (4) An order under this section may be made so as to have effect from a date falling before the making of the order.
- (5) In making an order under this section the Secretary of State must secure that each person falling within subsection (6) is overall in materially at least as good a position, as respects pension arrangements, as a result of the order.
- (6) A person falls within this subsection if—
  - (a) he is or has at any time been a contributing member of the Scheme, or
  - (b) he is or may become entitled to benefits in respect of a person falling within paragraph (a).
- (7) A contributing member of the Scheme is a member who makes, and whose employer makes in respect of him, contributions under the Scheme.
- (8) The relevant enactments are—
  - (a) Chapter I of Part XIV of the <sup>M47</sup>Income and Corporation Taxes Act 1988 (retirement benefit schemes);

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- (b) Part III of the <sup>M48</sup>Pension Schemes Act 1993, so far as relating to occupational pension schemes.

**Commencement Information**

**I91** S. 96 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Marginal Citations**

**M47** 1988 c. 1.

**M48** 1993 c. 48.

**97 Amendments.**

Schedule 8 contains amendments.

**Commencement Information**

**I92** S. 97 wholly in force; s. 97 not in force at Royal Assent see s. 275(1)(2); s. 97 in force for specified purposes by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**); s. 97 in force in so far as not already in force 1.4.2001 by S.I. 2001/869, **art. 2**

*General interpretation*

**98 Air traffic services.**

- (1) For the purposes of this Part these are air traffic services—
- (a) providing instructions, information or advice with a view to preventing aircraft colliding with other aircraft or with other obstructions (whether in the air or on the ground);
  - (b) providing instructions, information or advice with a view to securing safe and efficient flying;
  - (c) managing the flow of air traffic with a view to ensuring the most efficient use of airspace;
  - (d) providing facilities for communicating with aircraft and for the navigation and surveillance of aircraft;
  - (e) notifying organisations of aircraft needing search and rescue facilities, and assisting organisations to provide such facilities.
- (2) The Secretary of State may by order amend the meaning of air traffic services for the purposes of this Part.

**Commencement Information**

**I93** S. 98 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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## 99 The CAA.

For the purposes of this Part the CAA is the Civil Aviation Authority.

### Commencement Information

**I94** S. 99 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### *Other general provisions*

## 100 Service of documents.

- (1) A document required or authorised by virtue of this Part to be served on a person may be served—
  - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
  - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body;
  - (c) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.
- (2) For the purposes of this section and section 7 of the <sup>M49</sup>Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person on whom a document is to be served is his last known address, except that—
  - (a) in the case of service on a body corporate or its secretary, it is the address of the registered or principal office of the body;
  - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.
- (3) For the purposes of subsection (2) the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (4) Subsection (5) applies if a person to be served under this Part with a document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he or someone on his behalf will accept documents of the same description as that document.
- (5) In relation to that document that address must be treated as his proper address for the purposes of this section and section 7 of the <sup>M50</sup>Interpretation Act 1978 in its application to this section, instead of that determined under subsection (2).
- (6) This section does not apply to a document if rules of court make provision about its service.
- (7) In this section references to serving include references to similar expressions (such as giving or sending).

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#### Commencement Information

**I95** S. 100 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

#### Marginal Citations

**M49** 1978 c. 30.

**M50** 1978 c. 30.

### 101 Making of false statements etc.

- (1) A person commits an offence if in giving information or making an application in relevant circumstances—
  - (a) he makes a statement which he knows to be false in a material particular, or
  - (b) he recklessly makes a statement which is false in a material particular.
- (2) A person gives information or makes an application in relevant circumstances if he gives or makes it in pursuance of—
  - (a) a provision contained in or made under this Part, or
  - (b) a direction given, notice served or other thing done in pursuance of such a provision.
- (3) A person who commits an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) No proceedings may be started in England and Wales for an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (5) No proceedings may be started in Northern Ireland for an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

#### Commencement Information

**I96** S. 101 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

### 102 Disclosure of information.

Schedule 9 contains provision about the disclosure of information.

#### Commencement Information

**I97** S. 102 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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### 103 Orders and regulations.

- (1) A power to make an Order in Council or an order or regulations under this Part may be exercised differently in relation to different cases or descriptions of case.
- (2) An Order in Council or an order or regulations under this Part may include such supplementary, incidental, consequential or transitional provisions as the person exercising the power thinks are necessary or expedient.
- (3) A power to make an order or regulations under this Part is exercisable by statutory instrument.
- (4) In subsections (1) and (3) references to a power to make an order are to a power of the Secretary of State; and in subsection (2) the reference to an order is to an order made by the Secretary of State.
- (5) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if the instrument contains an order or regulations made by the Secretary of State under any provision of this Part other than section 51 or 94.
- (6) No order is to be made under section 51 unless a draft has been laid before and approved by resolution of each House of Parliament.
- (7) The power to make an order under section 4 is exercisable only after consultation with the CAA, unless the exemption needs to be granted before the coming into force of section 3.
- (8) The power to make an order under section 98 is exercisable only after consultation with the CAA.
- (9) The power to make regulations under section 6 is exercisable only after consultation with the CAA.
- (10) The power to make an order under section 57 is exercisable only with the Treasury's consent.
- (11) The power to make an order under section 77(5) is exercisable only after consultation with the CAA and holders of licences under Chapter I.
- (12) The power to make an order under section 96 is exercisable only after consultation with the trustees of the Civil Aviation Pension Scheme.
- (13) If apart from this subsection a draft of an order under section 51 would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

#### Commencement Information

**I98** S. 103 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

### 104 Directions.

- (1) A person to whom a direction is given under this Part must give effect to the direction.



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- (2) A direction under a provision of this Part may be varied or revoked by a direction under the same provision.
- (3) A direction under this Part must be in writing.

#### Commencement Information

**I99** S. 104 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

### 105 Crown application.

- (1) The provisions mentioned in subsection (2) bind the Crown.
- (2) The provisions are—
  - (a) section 3;
  - (b) sections 26 to 30 and 33;
  - (c) sections 41, 42, 44, 45 and 60;
  - (d) Chapter V, to the extent that it applies or modifies the operation of provisions of the <sup>M51</sup>Competition Act 1998;
  - (e) sections 93 to 95;
  - (f) section 104, so far as relating to other provisions of this Part which bind the Crown;
  - (g) Schedule 1, to the extent that it applies, amends or modifies the operation of provisions of the <sup>M52</sup>Insolvency Act 1986 which bind the Crown so far as affecting or relating to the matters specified in paragraphs (a) to (e) of section 434 of that Act;
  - (h) Schedule 2;
  - (i) Schedule 3, to the extent that it applies, amends or modifies the operation of provisions of the <sup>M53</sup>Insolvency (Northern Ireland) Order 1989 which bind the Crown so far as affecting or relating to the matters specified in paragraphs (a) to (e) of Article 378 of that Order;
  - (j) Schedule 6.
- (3) Her Majesty may by Order in Council apply, with or without modification, any of the provisions mentioned in subsection (4) to any aircraft belonging to or exclusively employed in the service of Her Majesty.
- (4) The provisions are—
  - (a) Chapter IV (except section 82);
  - (b) any order or regulations under any provision mentioned in paragraph (a).
- (5) This section (except so far as it relates to Chapter V) has effect subject to section 106; and, so far as it relates to Chapter V, it has effect subject to section 73 of the <sup>M54</sup>Competition Act 1998.

#### Commencement Information

**I100** S. 105 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

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#### **Marginal Citations**

- M51** 1998 c. 41.  
**M52** 1986 c. 45.  
**M53** S.I. 1989/2405 (N.I. 19).  
**M54** 1998 c. 41.

### **106 The Crown: other provisions.**

- (1) No contravention by the Crown of a provision contained in or made under this Part shall make the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (2) Notwithstanding subsection (1), the provisions contained in or made under section 3(1), 93(7) or 94(5) apply to persons in the public service of the Crown as they apply to other persons.
- (3) However, section 3(1) does not apply if the services there mentioned are provided by or on behalf of the armed forces of the Crown; and the person to whom and aircraft for which the services are provided are immaterial.
- (4) Nothing in section 105 or this section affects Her Majesty in her private capacity; and this subsection must be construed as if section 38(3) of the <sup>M55</sup>Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity) were contained in this Act.

#### **Commencement Information**

- I101** S. 106 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

#### **Marginal Citations**

- M55** 1947 c. 44.

### **107 Extension outside United Kingdom.**

- (1) Her Majesty may by Order in Council direct that any of the provisions listed in subsection (2) is to extend to any relevant overseas territory specified in the Order, with the modifications (if any) so specified.
- (2) The provisions are—
  - (a) Chapter I;
  - (b) Chapter II;
  - (c) Chapter III;
  - (d) Chapter IV;
  - (e) sections 90 to 104 and Schedules 8 and 9;
  - (f) section 273 so far as it relates to offences under this Part.
- (3) These are relevant overseas territories—
  - (a) any of the Channel Islands;
  - (b) the Isle of Man;

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(c) any colony.

(4) In this section “modifications” includes additions, omissions and other alterations.

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**Commencement Information**

**I102** S. 107 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Status:**

Point in time view as at 01/12/2003.

**Changes to legislation:**

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