



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART I

#### ADMINISTRATION

##### *The Secretary of State*

#### **1 Functions of Secretary of State.**

- (1) The Secretary of State shall continue to be charged with the general duty of organising, carrying out and encouraging measures for—
  - (a) the development of civil aviation;
  - (b) the designing, development and production of civil aircraft;
  - (c) the promotion of safety and efficiency in the use thereof; and
  - (d) research into questions relating to air navigation.
- (2) Subsection (1) above shall not authorise the production of civil aircraft by the Secretary of State.
- (3) The acquisition and disposal of aircraft, aero-engines and aviation equipment in discharge of the Secretary of State's duty under subsection (1) above shall be subject to the approval of the Treasury.

##### *Constitution and functions of CAA*

#### **2 Constitution of CAA.**

- (1) There shall continue to be a body corporate called the Civil Aviation Authority (in this Act referred to as "the CAA"), which shall be constituted in accordance with the following provisions of this section.
- (2) The CAA shall consist of not less than six nor more than [<sup>F1</sup>sixteen] persons appointed by the Secretary of State to be members of the CAA, and the Secretary of State—

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- (a) shall appoint one member to be the chairman of the CAA; and
  - (b) may appoint not more than two other members to be deputy chairmen of the CAA.
- (3) Schedule 1 to this Act shall have effect with respect to the CAA.
- (4) It is hereby declared that the CAA is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that its property is not to be regarded as property of, or held on behalf of, the Crown.

#### Textual Amendments

F1 Word substituted by [Airports Act 1986 \(c. 31, SIF 9\), s. 72](#)

### 3 Functions of CAA.

The functions of the CAA shall be—

- (a) the functions conferred on it by the following provisions of this Part of this Act;
- (b) the functions conferred on it by or under this Act with respect to the licensing of air transport, the licensing of the provision of accommodation in aircraft, the provision of air navigation services, the operation of aerodromes and the provision of assistance and information;
- (c) such functions as are for the time being conferred on it by or under Air Navigation Orders with respect to the registration of aircraft, the safety of air navigation and aircraft (including airworthiness), the control of air traffic, the certification of operators of aircraft and the licensing of air crews and aerodromes;
- (d) such other functions as are for the time being conferred on it by virtue of this Act or any other enactment;

and nothing in this Act relating to the CAA shall be construed as derogating from any power exercisable by virtue of any enactment whatsoever (including an enactment contained in this Act) to make an Order in Council or other instrument conferring a function on the CAA.

#### *Regulation of performance by CAA of its functions*

### 4 General objectives.

- (1) It shall be the duty of the CAA to perform the functions conferred on it otherwise than by this section in the manner which it considers is best calculated—
- (a) to secure that British airlines provide air transport services which satisfy all substantial categories of public demand (so far as British airlines may reasonably be expected to provide such services) at the lowest charges consistent with a high standard of safety in operating the services and an economic return to efficient operators on the sums invested in providing the services and with securing the sound development of the civil air transport industry of the United Kingdom; and
  - (b) to further the reasonable interests of users of air transport services.

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(2) In subsection (1) above “British airline” means an undertaking having power to provide air transport services and appearing to the CAA to have its principal place of business in the United Kingdom, the Channel Islands or the Isle of Man and to be controlled by persons who either are United Kingdom nationals or are for the time being approved by the Secretary of State for the purposes of this subsection.

[<sup>F2</sup>(3) The duty mentioned in subsection (1) above does not apply in relation to anything done by the CAA in the performance of functions mentioned in subsection (3) of section 86 of the Transport Act 2000 which, by virtue of that section, are concurrent functions of the CAA and [<sup>F3</sup>the Office of Fair Trading] .

(4) However, when performing such a function the CAA may have regard to any matter in respect of which a duty is imposed by subsection (1) above if it is a matter to which [<sup>F4</sup>the Office of Fair Trading] could have regard when performing that function.]

#### Textual Amendments

- F2** S. 4(3)(4) inserted (1.2.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. IV para. 13** (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (with transitional provisions and savings in Sch. 2 Pt. II)
- F3** Words in s. 4(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 11(2)**; S.I. 2003/766, art. 2, Sch. (with transitional and transitory provisions in art. 3)
- F4** Words in s. 4(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 11(2)**; S.I. 2003/766, art. 2, Sch. (with transitional and transitory provisions in art. 3)

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

- C1** S. 4 excluded by Airports Act 1986 (c. 31, SIF 9), s. 34(2)
- C2** S. 4 applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), s. 69(6)
- C3** S. 4 excluded (1.2.2001) by 2000 c. 38, ss. 70(5), 87(8) (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (with transitional provisions and savings in Sch. 2 Pt. II)
- C4** S. 4 excluded (31.8.2004) by The Single European Sky (National Supervisory Authority) Regulations 2004 (S.I. 2004/1958), regs. 2, {3}, Sch.
- C5** S. 4 excluded (31.1.2008) by The Civil Aviation (Allocation of Scarce Capacity) Regulations 2007 (S.I. 2007/3556), reg. 9(2)

## 5 Duty of CAA to consider environmental factors when licensing certain aerodromes.

(1) Subject to section 4 above, it shall be the duty of the CAA, in exercising any aerodrome licensing function in relation to any aerodrome to which this section applies, to have regard to the need to minimise so far as reasonably practicable—

- (a) any adverse effects on the environment, and
- (b) any disturbance to the public,

from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

(2) The reference in subsection (1) above to an aerodrome licensing function of the CAA is a reference to any function conferred on it by or under an Air Navigation Order with respect to the licensing of aerodromes.

(3) This section applies to any aerodrome in the United Kingdom specified in an order made by the Secretary of State for the purposes of this section; but the Secretary of

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State may not specify in any such order an aerodrome which is designated for the purposes of section 78 below.

## 6 Secretary of State's directions in national interest, etc.

- (1) Without prejudice to subsection (2)(a) below, the Secretary of State may, after consultation with the CAA, give it such directions of a general character as to the performance of its functions as he thinks it appropriate to give in the interests of national security;<sup>F5</sup> . . .
- (2) The Secretary of State may, after consultation with the CAA, give it directions to do a particular thing which it has power to do or refrain from doing a particular thing, if the Secretary of State considers it appropriate to give such directions—
- (a) in the interests of national security; or
  - (b) in connection with any matter appearing to him to affect the relations of the United Kingdom with a country or territory outside the United Kingdom; or
  - (c) in order to discharge or facilitate the discharge of an obligation binding on the United Kingdom by virtue of its being a member of an international organisation or a party to an international agreement; or
  - (d) in order to attain or facilitate the attainment of any other object the attainment of which is in his opinion appropriate in view of the fact that the United Kingdom is a member of an international organisation or a party to an international agreement; or
  - (e) in order to enable the United Kingdom to become a member of an international organisation or a party to an international agreement; or
  - (f) in order to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation;
- <sup>F5</sup> . . .
- [<sup>F6</sup>(3) In so far as any directions given under this section conflict with the requirements of section 93 of the Transport Act 2000 or of an order under section 94 of that Act, the directions shall be disregarded.
- (4) In so far as any directions given under this section conflict with the requirements of any enactment or instrument relating to the CAA (other than section 93 of the Transport Act 2000 or an order under section 94 of that Act) the requirements shall be disregarded.]

### Textual Amendments

**F5** Words in s. 6(1)(2) omitted (1.2.2001) and repealed (1.4.2001) by 2000 c. 38, ss. 97, 274, Sch. 8 Pt. V para. 17(2), Sch. 31 Pt. I(3) (with s. 106); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II); S.I. 2001/869, art. 2

**F6** S. 6(3)(4) inserted (1.2.2001) by 2000 c. 38, s. 97, Sch. 8 Pt. V para. 17(3) (with s. 106); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to savings and transitional provisions in Sch. 2 Pt. II)

## 7 Special provisions as respects certain functions.

- (1) Such functions of the CAA as may be prescribed for the purposes of this subsection shall not be performed on behalf of the CAA by any other person; and regulations made by the Secretary of State may provide that for the purpose of performing a function

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prescribed in pursuance of this subsection the quorum of the CAA shall be such as may be prescribed.

(2) Regulations made by the Secretary of State may provide for regulating the conduct of the CAA and other persons, including the procedure to be followed by them, in connection with the performance by the CAA of such of its functions as may be prescribed for the purposes of this subsection; and, without prejudice to the generality of the preceding provisions of this subsection, regulations made in pursuance of this subsection may include provision—

- (a) requiring or entitling the CAA, notwithstanding any rule of law, to withhold from any person (hereafter in this paragraph referred to as “the prospective recipient”) information which is furnished to the CAA by another person in connection with any function so prescribed and which in the opinion of the CAA relates to the commercial or financial affairs of the other person and cannot be disclosed to the prospective recipient without disadvantage to the other person which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted;
- (b) for the imposition on summary conviction of a fine of an amount not exceeding [<sup>F7</sup>level 3 on the standard scale] for any contravention of the regulations.

<sup>F8</sup>(3) .....

#### Textual Amendments

**F7** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 40, 46**, (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), **ss. 289F, 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **arts. 5, 8**

**F8** S. 7(3) repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 Pt. I**.

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

**C6** S. 7(1) excluded (1.2.2001) by 2000 c. 38, **s. 66(4)(a)** (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I**(subject to savings and transitional provisions in Sch. 2 Pt. II)

**C7** S. 7(2) extended (1.9.1995) by S.I. 1994/426 (N.I. 1), **art. 27(3)**; S.R. 1995/294, art. 2, **Sch.** (with arts. 2(3), 16)

**C8** S. 7(2)(b) amended (E.W.) by Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 40, 46(2)** and (N.I.) S.I. 1984/703, **arts. 5, 8**

### *Financial provisions in relation to CAA*

## **8 General financial duties.**

(1) It shall be the duty of the CAA so to conduct its affairs as to secure that its revenue (including any grant towards revenue made to it in pursuance of section 12(1) below is not less than sufficient to meet charges properly chargeable to revenue account, taking one year with another.

(2) Subject to subsection (3) below, it shall be the duty of the CAA—

- (a) in framing and carrying out proposals involving substantial outlay on capital account, and

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- (b) in framing and carrying out proposals involving the taking on hire of any equipment the purchase of which at the time of taking on hire would involve such an outlay,

to act on lines settled from time to time with the approval of the Secretary of State; and it shall also be the duty of the CAA to secure that any subsidiary of the CAA acts on those lines in framing and carrying out either description of proposals.

- (3) Subsection (2)(b) above shall not apply to proposals by the CAA, or one of its subsidiaries, involving the taking on hire of equipment from a subsidiary or another of the subsidiaries of the CAA or from the CAA itself, as the case may be.
- (4) The Secretary of State may, with the approval of the Treasury, give the CAA a direction as to any matter relating to the establishment or management of reserves or the carrying of sums to the credit of any reserves or the application of any reserves for the purposes of the CAA.

## 9 The initial debt.

- (1) In this Act “the initial debt” means the debt which was assumed by the CAA on 16th November 1973 under section 7 of the <sup>M1</sup>Civil Aviation Act 1971 as a debt to the Secretary of State and which was subsequently reduced under subsection (5) of that section to £27,073,104.
- (2) The rate of interest payable on the initial debt, the arrangements for paying off the principal and the other terms of the debt shall be such as the Secretary of State may from time to time determine with the approval of the Treasury.
- (3) Any sums received by the Secretary of State by way of interest on or repayment of the initial debt shall be paid into the National Loans Fund.

### Marginal Citations

M1 1971 c. 75.

## 10 Borrowing powers.

- (1) Subject to the following provisions of this section, the CAA shall have power to borrow such sums as it may require for performing its functions.
- (2) The CAA’s power to borrow sums in sterling otherwise than by way of temporary loan shall be limited to borrowing from the Secretary of State, or with the consent of the Secretary of State from the Commission of the European Communities or the European Investment Bank, any sums which the CAA may require for capital purposes or for fulfilling a guarantee entered into by the CAA.
- (3) Except as provided by subsection (2) above, the CAA may borrow any sums it has power to borrow under subsection (1) above from the Secretary of State or, with the consent of, or in accordance with a general authorisation given by, the Secretary of State, from any other person (and whether in sterling or in a currency other than sterling).
- (4) The Secretary of State shall not give any consent or authorisation for the purposes of subsection (2) or (3) above except with the approval of the Treasury.

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- (5) A statement in writing by the Secretary of State to the effect that the approval of the Treasury has been given for any such consent or authorisation shall be conclusive evidence of that fact in any legal proceedings.
- (6) The aggregate amount outstanding in respect of the principal of any money borrowed by the CAA under this section and the initial debt shall not exceed [<sup>F9</sup>£500 million or such greater sum not exceeding £750 million as may from time to time be specified by an order made by the Secretary of State; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.]
- [<sup>F10</sup>(7) In subsection (3) above the reference to a currency other than sterling includes a reference to units of account defined by reference to more than one currency.]

#### Textual Amendments

- F9** Words substituted by [Civil Aviation Authority \(Borrowing Powers\) Act 1990 \(c. 2, SIF 9\), s. 1\(2\)](#)
- F10** S. 10(7) inserted by [Civil Aviation Authority \(Borrowing Powers\) Act 1990 \(c. 2, SIF 9\), s. 1\(1\)\(3\)](#)

## 11 Charges.

- (1) The CAA may, after consultation with the Secretary of State, make a scheme for determining the charges which are to be paid to the CAA in respect of the performance of such of its functions as are specified in the scheme; and a scheme under this section may as respects any of those functions—
- specify the amount of the charge or a scale of charges by reference to which that amount is to be ascertained or provide that the charges shall be of such amount, not exceeding that specified in the scheme, as may be decided by the CAA, having regard to the expense incurred by the CAA in performing the function in question and to such other factors (if any) as may be so specified;
  - provide for different charges for cases of such different descriptions as may be so specified;
  - specify the manner in which, the time at which and the person by whom any charge is to be paid.
- (2) A scheme under this section shall come into force on such day as may be specified in the scheme, not being earlier than the expiration of the period of sixty days beginning with the day on which the scheme is published in the prescribed manner; and a scheme made under this section may vary or revoke a previous scheme so made.
- (3) Regulations made by the Secretary of State may make provision for determining the charges which are to be paid to the CAA, or for securing that no charge is payable to the CAA, in respect of such of its functions as may be prescribed; and regulations for determining the said charges may—
- prescribe the amount of a charge or the maximum or minimum amount of a charge or a scale of charges by reference to which those amounts are to be ascertained;
  - prescribe the manner in which, the time at which and the person by whom a charge is to be paid.
- (4) In so far as a scheme and regulations under this section make different provision with respect to the same matter the provision made by the scheme shall be disregarded.



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- (5) Where as respects any function of the CAA provision for a charge to be paid is made by virtue of this section it shall be the duty of the CAA to charge accordingly, except that it may, if it thinks fit to do so in a particular case, waive the whole or part of the charge.
- (6) Nothing in the preceding provisions of this section shall be construed as derogating from the power of the CAA to enter into an agreement for the payment to it of charges of such amounts as may be determined in pursuance of the agreement in respect of the performance by it of any of its functions, other than a function in respect of which provision is made in pursuance of those provisions for the making of a charge or of no charge.
- (7) Charges shall not be determined in pursuance of this section in respect of the provision of air navigation services; and provision shall not be made by or under an Air Navigation Order for the payment of fees to the CAA.

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

- C9** S. 11 extended (1.9.1995) by S.I. 1994/426 (N.I. 1), **art. 30(6)**; S.R. 1995/294, **art. 2, Sch.** (with arts. 2(3), 16)

## 12 Grants and loans by Secretary of State.

- (1) The Secretary of State may—
  - (a) make the CAA grants of such amounts as he thinks fit;
  - (b) give the CAA a direction providing that the whole or part of a grant made in pursuance of paragraph (a) above is not to be used by the CAA otherwise than for the purposes of such of the CAA's functions as are specified in the direction.
- (2) The Secretary of State may, with the approval of the Treasury, lend the CAA any sums which the CAA has power to borrow from him by virtue of section 10 above.
- (3) Any loan which the Secretary of State makes in pursuance of subsection (2) above shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such rates and at such times, as the Secretary of State may with the approval of the Treasury from time to time determine.
- (4) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are necessary to enable him to make loans in pursuance of subsection (2) above; and any sums received by the Secretary of State in pursuance of subsection (3) above shall be paid into that Fund.

## 13 Payments to Secretary of State.

- (1) Any excess of the revenues of the CAA for any accounting year over the total sums properly chargeable by the CAA to revenue account for that year shall be applied by the CAA in such manner as the Secretary of State may direct with the approval of the Treasury and after consultation with the CAA; and the direction may require the whole or part of the excess to be paid to the Secretary of State.
- (2) The Secretary of State may, with the approval of the Treasury and after consultation with the CAA, direct the CAA to pay to the Secretary of State the whole or part of the sums for the time being standing to the credit of any of its reserves.



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## 14 Guarantees.

- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, [<sup>F11</sup>the payment of interest on and the discharge of any other financial obligation in connection with], any sums which the CAA borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this section the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given the Treasury shall, as soon as possible after the end of each financial year (beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this section, the CAA shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rate as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.

### Textual Amendments

**F11** Words substituted by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), s. 4(1), [Sch. 2](#)

## 15 Accounts and audit.

- (1) It shall be the duty of the CAA—
  - (a) to keep proper accounts and proper records in relation to the accounts;
  - (b) to prepare in respect of each accounting year a statement of accounts, in such form as the Secretary of State may direct with the approval of the Treasury, showing the state of affairs and the profit or loss of the CAA; and
  - [<sup>F12</sup>(c) as soon as the accounts kept and statement prepared have been audited in accordance with the following subsection, to send to the Secretary of State a copy of the statement together with a copy of any report made by the auditors on that statement or on the accounts of the CAA.]
- [<sup>F13</sup>(2) (a) The accounts kept and the statement prepared in pursuance of subsection (1) above shall be audited by auditors appointed annually by the Secretary of State after consultation with the CAA; and a person[<sup>F14</sup> shall not be so appointed unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989] —
  - the Institute of Chartered Accountants in England and Wales;
  - the Institute of Chartered Accountants of Scotland;
  - the Association of Certified Accountants;
  - the Institute of Chartered Accountants in Ireland;
  - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of [<sup>F15</sup>section 389(1)(a) of the Companies Act 1985] by the Secretary of State,

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but a Scottish firm may be so appointed if each of the partners therein is qualified to be so appointed.

- (b) It shall be the duty of the Secretary of State to lay before each House of Parliament a copy of every statement and report of which a copy is received by him in pursuance of paragraph (c) of subsection (1) above.]
- (3) The Secretary of State may by order made with the consent of the treasury modify or repeal subsections (1)(c) and (2) above as for the time being in force.
- (4) It shall be the duty of the Secretary of State as respects each financial year—
- (a) to prepare, in such form and manner as the Treasury may direct, an account of sums issued to the Secretary of State in pursuance of subsection (4) of section 12 above and of any sums required to be paid into the National Loans Fund in pursuance of that subsection or section 9 above or received by the Secretary of State in pursuance of section 13 above and of the disposal by the Secretary of State of those sums respectively; and
- (b) to send a copy of the account to the Comptroller and Auditor General not later than the end of the month of November next following that year;

and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it and of his report on it before each House of Parliament.

#### Textual Amendments

- F12** S. 15(1)(c) substituted by virtue of [S.I. 1984/65, art. 2](#)
- F13** S. 15(2) substituted by virtue of [S.I. 1984/65, art. 3](#)
- F14** Words in s. 15(2)(a) substituted (01.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para. 45](#) (with reg. 4).
- F15** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\), s. 30, Sch. 2](#)

*Assistance, information, etc. to be given by CAA*

## 16 Provision by CAA of assistance, etc. for Secretary of State and others.

- (1) Subject to subsection (3) below, it shall be the duty of the CAA to provide such assistance and advice as the Secretary of State may require it to provide for him or any other person in connection with any of the Secretary of State's functions relating to civil aviation.
- (2) Without prejudice to subsection (1) above, it shall also be the duty of the CAA—
- (a) to consider what aerodromes are in its opinion likely to be required from time to time in the United Kingdom in addition to, or in place of, or by way of alteration of, existing aerodromes; and
- (b) to make recommendations to the Secretary of State arising out of its consideration of that matter;
- and it shall be the duty of the Secretary of State to publish the recommendations (except any of them of which the publication appears to him unnecessary) in such manner as he considers appropriate for bringing them to the notice of the public.
- (3) Where in pursuance of subsection (1) above the Secretary of State requires the CAA to provide assistance or advice for a person other than the Secretary of State but does

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not undertake to pay the CAA the cost of doing so, the CAA shall be entitled to refuse to do so until the other person pays it—

- (a) in so far as provision is made in pursuance of section 11 above for charges in respect of the assistance or advice, those charges; and
  - (b) in so far as provision is not so made, such reasonable charges in respect of the assistance or advice as it may determine.
- (4) The CAA shall be entitled to recover from the Secretary of State a sum equal to any expense reasonably incurred by it in providing him with assistance or advice in pursuance of subsection (1) above and in performing the duty imposed on it by subsection (2) above.
- (5) Without prejudice to subsection (1) above, the CAA may provide for any person technical assistance and advice, including research services, with respect to any matter in which it has skill or experience.

## 17 Provision by CAA of information, etc. for Secretary of State.

- (1) It shall be the duty of the CAA—
- (a) to furnish the Secretary of State with such information as he may specify and the CAA has or can reasonably be expected to obtain with respect to such matters relating to it or to civil aviation as the Secretary of State may specify;
  - (b) to permit the Secretary of State to have access to all documents which are under its control and relate to matters specified in pursuance of paragraph (a) above;
  - (c) if it comes to its notice that a body which is the holder of an air transport licence [<sup>F16</sup>or operating licence granted in accordance with [<sup>F17</sup>the Community licensing Regulation]] is proposing to merge or has merged with another body, to give the Secretary of State notice in writing of the proposal or merger;
  - (d) if it appears to the CAA that any matter which it is dealing with, or has dealt with, is likely—
    - (i) to affect the relations of the United Kingdom with any other country or territory or any international organisation, or
    - (ii) to be of special interest to the Secretary of State by reason of the fact that the matter involves or may involve noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation,to give notice in writing of the matter to the Secretary of State.
- (2) Nothing in subsection (1) above shall be construed as prejudicing the generality of section 16(1) above, and nothing in subsection (1)(c) or (d) above shall be construed as prejudicing the generality of subsection (1)(a) above.
- (3) The CAA shall be entitled to recover from the Secretary of State a sum equal to any expense reasonably incurred by it in furnishing information in pursuance of subsection (1) above.

### Textual Amendments

**F16** Words in s. 17(1)(c) inserted (1.1.1993) by S.I. 1992/2992, reg. 23, Sch. 2 para. 4.

**F17** Words in s. 17(1)(c) substituted (1.1.1994) by S.I. 1993/3039, reg. 3(a)

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### *Supplemental provisions in relation to CAA*

## **18 Official secrets.**

- (1) ..... <sup>F18</sup>
- (2) For the purposes of section 3(c) of the said Act of 1911 (under which the Secretary of State may by order declare any place belonging to Her Majesty to be a prohibited place for the purposes of that Act) a place belonging to or used for the purposes of the CAA shall be deemed to be a place belonging to Her Majesty.
- (3) Subject to subsection (4) below, no person shall, except with the consent of and in accordance with any conditions imposed by the CAA, be entitled to exercise any right of entry (whether arising by virtue of a statutory provision or otherwise) upon a place which by virtue of subsection (2) above is a prohibited place for the purposes of the said Act of 1911.
- (4) Subsection (3) above shall not apply to—
- (a) a constable acting in the course of his duty as such; or
  - (b) an officer of customs and excise or inland revenue acting in the execution of his duty as such; or
  - (c) an officer of any government department specially authorised for the purpose by or on behalf of a Minister of the Crown;
  - <sup>F19</sup>(d) a member of the staff of the Scottish Administration specially authorised for the purpose by or on behalf of the Scottish Ministers;

and if the CAA refuses consent or imposes conditions on the exercise by any person of a right of entry upon such a place as is mentioned in subsection (3) above and that person applies to <sup>F20</sup>the Secretary of State or the Scottish Ministers as the case may be for an authorisation to exercise the right, the Secretary of State or the Scottish Ministers may if he or they think fit authorise that person to exercise it subject to such conditions, if any, as the Secretary of State or the Scottish Ministers may determine].

#### **Textual Amendments**

**F18** S. 18(1) repealed by [Official Secrets Act 1989 \(c. 6, SIF 39:2\)](#), s. 16(4), [Sch. 2](#)

**F19** S. 18(4)(d) inserted (1.7.1999) by [S.I. 1999/1820](#), art. 4, [Sch. 2 Pt. I para. 69\(2\)\(a\)](#)

**F20** Words in s. 18(4)(d) substituted (1.7.1999) by [S.I. 1999/1820](#), art. 4, [Sch. 2 Pt. I para. 69\(2\)\(b\)](#)

## **19 Application of certain enactments to CAA.**

- (1) The CAA shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916, and accordingly the expressions “public body” and “such public body” in those Acts shall include the CAA.
- (2) Schedule 2 to this Act shall have effect as respects the application of the enactments mentioned in that Schedule (which relate to statutory undertakers, statutory undertakings and related matters).
- (3) For the purposes of the law relating to rating, the undertaking of the CAA shall be treated as not being a public utility undertaking.

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## **20 Supplementary provisions with respect to the functions of CAA.**

### (1) The CAA—

- (a) shall, without prejudice to its powers apart from this paragraph but subject to paragraph (b) below, have power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions (including a function conferred on it by virtue of this paragraph); but
- (b) shall not without the consent in writing of the Secretary of State promote the formation of, acquire or acquire a financial interest in a body corporate or lend money to or enter into a guarantee for the benefit of a body corporate;

and it is hereby declared that the CAA has power to do elsewhere than in the United Kingdom such things as it considers appropriate for the purpose of performing any of its functions.

### (2) Notwithstanding anything in section 2(4) above, the CAA shall act on behalf of the Crown—

- (a) in performing any function which the CAA is authorised by an Air Navigation Order to perform and which in pursuance of, or of an Annex to, or of an amendment for the time being in force of, the Chicago Convention falls to be performed on behalf of the Crown; and
- (b) in performing such of its other functions as Her Majesty may by Order in Council require it to perform on behalf of the Crown as being functions appearing to Her Majesty in Council to relate to the exercise of powers or the discharge of obligations of the United Kingdom under an international agreement.

### (3) It shall be the duty of the CAA to comply with any direction given to it by the Secretary of State in pursuance of any provision of this Act.

### (4) Provision may be made by regulations made by the Secretary of State as to the mode of giving evidence of—

- (a) any instrument made by the CAA; and
- (b) the publication by the CAA of any matter.

## **21 Annual report.**

### (1) It shall be the duty of the CAA to make to the Secretary of State, as soon as possible after the end of each accounting year, a report on the performance of its functions during that year.

### (2) The report for any accounting year—

- (a) shall set out any direction given to the CAA in pursuance of section 6<sup>F21</sup> . . . of this Act during that year except a direction or part of a direction as to which the Secretary of State has notified the CAA that in his opinion it is against the national interest to set it out in the report;
- (b) shall incorporate any statements published by the CAA under section 69 below during that year;
- (c) shall include particulars of any case in which during that year the CAA has decided not to proceed in accordance with advice given to it in pursuance of section 85(2)(a)(i) below; and

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- (d) shall include such information as the Secretary of State may from time to time specify with respect to the plans and the past and present activities of the CAA and its financial position.
- (3) The Secretary of State shall lay before each House of Parliament a copy of every report made to him in pursuance of this section.

#### Textual Amendments

**F21** Words in s. 21(2)(a) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(5)**; S.I. 2001/869, **art. 2**

## 22 Matters arising in connection with original transfer to CAA of property, staff, etc.

Schedule 3 to this Act shall have effect with respect to the matters there dealt with, being matters arising out of the transfer by virtue of paragraph 1 of Schedule 2 to the <sup>M2</sup>Civil Aviation Act 1971 to the CAA of the aerodromes mentioned in the said Schedule 2 and of the other property, rights and liabilities there mentioned and out of the transfer of staff to the CAA.

#### Marginal Citations

**M2** 1971 c. 75.

### *Disclosure of information*

## 23 Disclosure of information.

- (1) Subject to subsection (4) below, no information which relates to a particular person and has been furnished to the CAA in pursuance of any provision of this Act to which this section applies or of an Air Navigation Order shall be disclosed by the CAA, or a member or employee of the CAA unless—
- (a) the person aforesaid has consented in writing to disclosure of the information; or
  - (b) the CAA, after affording that person an opportunity to make representations about the information and considering any representation then made by that person about it, determines that the information may be disclosed; or
  - (c) that person is an individual who is dead, or is a body corporate that has ceased to exist or, whether an individual or a body corporate, cannot be found after all reasonable inquiries have been made, and the CAA determines that the information may be disclosed; or
  - (d) the CAA determines that the information is of the same kind as other information as respects which it has made a determination in pursuance of paragraph (b) or (c) above.
- (2) Subsection (1) above shall apply in relation to the disclosure by an officer of the Secretary of State of information furnished to the Secretary of State in pursuance of any provision of this Act to which this section applies or of an Air Navigation Order as it applies in relation to disclosure by the CAA or a member or employee of the CAA

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of information so furnished to the CAA, but with the substitution for references to the CAA in paragraphs (b) to (d) of references to the Secretary of State.

- (3) For the purposes of subsection (1) above, all reasonable inquiries to find a body corporate shall be deemed to have been made if—
- (a) in the case of a company within the meaning of the [Companies Act 1985] or the [Companies (Northern Ireland) Order 1986], inquiries have been made at its registered office; or
  - (b) in the case of a company incorporated outside the United Kingdom and having a place of business within the United Kingdom, inquiries have been <sup>F22</sup>made—
    - (i) at every address registered in respect of that company for the purposes of section 691(1)(b)(ii) of the said Act of 1985 or, as the case may be, at every address for service registered in respect of a branch of that company under Schedule 21A to that Act, and
    - (ii) at every address registered in respect of that company for the purposes of Article 641(1)(b)(ii) of the said Order of 1986 or, as the case may be, at every address for service registered in respect of a branch of that company under Schedule 20A to that Order.]
- (4) Nothing in subsection (1) above prohibits the disclosure of any information—
- (a) by the CAA or a member or employee of the CAA to the Secretary of State or an officer of his or, with the consent of the Secretary of State, to an international organisation of which the United Kingdom is a member;
  - (b) by an officer of the Secretary of State to the CAA or a member or employee of the CAA or to such an organisation or, in accordance with directions given by the Secretary of State—
    - (i) to an officer of any government department; or
    - (ii) in connection with negotiations conducted by officers of the Secretary of State with representatives of the government of any country or territory outside the United Kingdom; or
    - (iii) in connection with the discharge of any obligation of the United Kingdom under international arrangements;
  - (c) to a person to whom the information in question is required to be disclosed by regulations made in pursuance of section 7(2) above;
  - (d) in pursuance of section 67(2) or (4) below;
  - (e) by the CAA for the purpose of complying with any duty imposed on it by section 85(1) below;
  - (f) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings arising out of any enactment relating to civil aviation or for the purposes of any investigation undertaken in pursuance of regulations made by virtue of section 75 below.
- (5) If the CAA or a member or employee of the CAA or an officer of the Secretary of State discloses any information in contravention of subsection (1) above, it or he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to a fine or, except in the case of the CAA, to imprisonment for a term not exceeding two years or to both.
- (6) This section applies to the following provisions of this Act, that is to say, sections 16, 17, <sup>F23</sup>and 28], section 36 (so far only as it relates to aerodromes owned or managed



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by the CAA) sections 64 to 72 (except section 69), sections 78 to 80 and sections 84 and 85.

#### Textual Amendments

**F22** Words in s. 23(3)(b) substituted (E.W.S.) (1.1.1993) by virtue of S.I. 1992/3179, reg. 4, **Sch. 3 para. 1** and (N.I.) (8.6.1993) by S.R. 1993/198, reg. 4, **Sch. 3 para.1**.

**F23** Words substituted by **Airports Act 1986** (c. 31, SIF 9), s. 83(1), **Sch. 4 para. 8(1)**

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

**C10** S. 23(1) modified (16.2.2004) by **The Aviation Safety Regulations 2004** (S.I. 2004/77), **reg. 2(7)**

### *Eurocontrol*

#### **24 Eurocontrol.**

Schedule 4 to this Act shall have effect in relation to the European Organisation for the Safety of Air Navigation established by the International Convention relating to co-operation for the safety of air navigation (entitled Eurocontrol) concluded at Brussels on 13th December 1960 (copies of which Convention were laid before Parliament by Command of Her Majesty on 13th June 1961); and in this Act—

“Eurocontrol” means that organisation, including, except where the context otherwise requires, the Permanent Commission for the Safety of Air Navigation and the Air Traffic Services Agency comprised in that Organisation; and

“the Eurocontrol Convention” means that Convention [<sup>F24</sup>as from time to time amended with the agreement of the contracting parties thereto].

#### Textual Amendments

**F24** Words substituted by **Civil Aviation (Eurocontrol) Act 1983** (c. 11, SIF 9), s. **3(1)**

## **PART II**

### **AERODROMES AND OTHER LAND**

#### *Secretary of State's aerodromes*

#### **25 Secretary of State's power to provide aerodromes.**

- (1) The Secretary of State may for the purposes of civil aviation establish and maintain aerodromes and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.
- (2) The Secretary of State shall appoint for each aerodrome vested in him an officer who shall be responsible to the Secretary of State for all services (including signalling services, flying control services and services connected with the execution of works) provided on the aerodrome on the Secretary of State's behalf.

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**26 Consultation with local bodies.**

In the management and administration of any aerodrome vested in him the Secretary of State shall make such provision as he thinks necessary to ensure that adequate facilities for consultation are provided for—

- (a) the local authorities in whose areas the aerodrome or any part thereof is situated;
- (b) other local authorities whose areas are in the neighbourhood of the aerodrome; and
- (c) other organisations representing the interests of persons concerned with the locality in which the aerodrome is situated.

27 ..... F25

<p><b>Textual Amendments</b> F25 Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II</p>
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*CAA's aerodromes*

**28 Management, etc. of aerodromes by CAA.**

- (1) The CAA shall not establish any aerodrome and shall not acquire any aerodrome in addition to those owned by it by virtue of paragraph 1 of Schedule 2 to the <sup>M3</sup>Civil Aviation Act 1971; but the CAA may with the consent in writing of the Secretary of State undertake the management of any aerodrome (whether in the United Kingdom or elsewhere) which it does not own and to which the consent extends.
- (2) The CAA shall not discontinue the use of any aerodrome owned or managed by it except with the consent in writing of the Secretary of State.
- (3) It shall be the duty of the CAA to provide at the aerodromes in the United Kingdom which are owned or managed by it such services and facilities as it considers are necessary or desirable for their operation; and in carrying out that duty the CAA shall have regard to the development of air transport and to efficiency, economy and safety of operation.
- (4) Subject to section 78 below, it shall also be the duty of the CAA to secure that, at all times when an aerodrome in the United Kingdom which is owned or managed by it is available for the landing or departure of aircraft, it is so available to all persons on equal terms.
- (5) Notwithstanding anything in section 7 above, the CAA may, with the consent in writing of the Secretary of State, appoint another person to manage on its behalf any aerodrome which is owned or is being managed by it; and any reference in this Act to an aerodrome managed by the CAA includes a reference to an aerodrome managed by a person appointed in pursuance of this subsection.

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### Marginal Citations

**M3** 1971 c. 75.

29 ..... F26

### Textual Amendments

**F26** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

*Aerodromes and facilities at aerodromes provided by local authorities*

## 30 Provision of aerodromes and facilities at aerodromes by local authorities.

- (1) A local authority [<sup>F27</sup>, other than a district council in Scotland,] may do one or both of the following things, namely—
- (a) with the consent of the Secretary of State and subject to such conditions as he may impose, establish and maintain aerodromes;
  - (b) make arrangements with the person owning or managing an aerodrome in Great Britain whereby the local authority provide and maintain facilities for civil aviation at that aerodrome;
- [<sup>F27</sup> and a district council in Scotland may do as mentioned in paragraph (b) above].
- (2) A local authority [<sup>F28</sup>, other than a district council in Scotland,] may in connection with—
- (a) the establishment and maintenance by them of aerodromes in pursuance of subsection (1)(a) above, or
  - (b) any aerodrome in respect of which the local authority have made such an arrangement as is mentioned in subsection (1)(b) above,
- provide and maintain roads, approaches, apparatus, equipment and buildings and other accommodation.
- (3) Nothing in subsection (1)(a) or (2) above shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with plans and sections previously approved in writing by the Secretary of State and subject to such conditions as he may impose.
- (4) Without prejudice to any power conferred otherwise than by this Act, a local authority may, for the purpose of exercising any of the powers conferred on them by subsections (1)(a) and (2) above, acquire land by agreement or be authorised by the Secretary of State to purchase land compulsorily.
- (5) In relation to the compulsory purchase of land under this section—
- (a) if the land is in England and Wales, the <sup>M4</sup>Acquisition of Land Act 1981, and
  - (b) if the land is in Scotland, the <sup>M5</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- shall apply and, in the latter case, shall apply as if this Act had been in force immediately before the commencement of that Act.

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- (6) For the avoidance of doubt, it is hereby declared that one of the purposes for which a local authority may acquire land under this section is the purpose of securing that the land adjacent to the site of an aerodrome which the local authority have established, or are about to establish, shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving the aerodrome.
- (7) Without prejudice to any power conferred otherwise than by virtue of this Act, the powers conferred on a local authority by subsections (1)(a), (2) and (4) above shall be exercisable by that authority outside, as well as within, their area.
- (8) For the purpose of the purchase of land by agreement under this section—
- (a) if the land is in England and Wales, the provisions of Part I of the <sup>M6</sup>Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31 shall apply; and
  - (b) if the land is in Scotland, the Lands Clauses Acts, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, shall be incorporated with this Act.

#### Textual Amendments

**F27** Words in s. 30(1) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 126(2)(a)(i)(ii), Sch. 14; S.I. 1996/323, art. 4(1), Sch. 2

**F28** Words in s. 30(2) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 126(2)(b), Sch. 14; S.I. 1996/323, art. 4(1), Sch. 2

#### Marginal Citations

**M4** 1981 c. 67.

**M5** 1947 c. 42.

**M6** 1965 c. 65.

### 31 Power to carry on ancillary business.

- (1) If the Secretary of State is satisfied with respect to any local authority aerodrome that it is necessary or expedient that the local authority maintaining the aerodrome should be empowered to carry on in connection with the aerodrome any ancillary business which the authority would not otherwise have power to carry on, he may make an order authorising that local authority, subject to such conditions (if any) as may be specified in the order, to carry on that business in connection with the aerodrome.
- (2) In this section—
- “ancillary business” means any business which appears to the Secretary of State to be ancillary to the maintaining of an aerodrome; and
- “local authority aerodrome” means—
- (a) any aerodrome maintained by a local authority under section 30 above;  
or
  - (b) so much of any other aerodrome as consists of buildings or other works maintained by a local authority by virtue of that section.

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**Modifications etc. (not altering text)**  
C11 S. 31, 35 extended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 40(3)

32 ..... F29

**Textual Amendments**  
F29 Ss. 27, 29, 32, 33, 37, 40 repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. II](#)

*Other aerodromes*

33 ..... F30

**Textual Amendments**  
F30 Ss. 27, 29, 32, 33, 37, 40 repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. II](#)

*Miscellaneous provisions as to aerodromes*

**34 Financial assistance for certain aerodromes.**

- (1) Subject to subsection (2) below, the Secretary of State may, with the approval of the Treasury, make grants or loans—
  - (a) in respect of any expenses incurred or to be incurred by any person—
    - (i) in investigating the need for, or for the expansion of, an aerodrome in any part of Great Britain;
    - (ii) in establishing or expanding any such aerodrome;
    - (iii) in maintaining any such aerodrome or in providing or maintaining, in connection therewith, roads, approaches, apparatus, equipment, buildings or other accommodation;
  - (b) for making good any losses incurred by any person in the operation of, or in the provision of any services at, any such aerodrome.

(2) ..... F31

- (3) Any loan made under this section shall be repaid to the Secretary of State at such times and by such methods, and (except in the case of a loan made free of interest) interest thereon shall be paid to the Secretary of State at such rates and at such times, as he may with the approval of the Treasury from time to time direct.

**Textual Amendments**  
F31 S. 34(2) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. I](#)

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### 35 Facilities for consultation at certain aerodromes.

- (1) This section applies to any aerodrome which . . . <sup>F32</sup> is designated for the purposes of this section by an order made by the Secretary of State.
- (2) The person having the management of any aerodrome to which this section applies shall provide—
  - (a) for users of the aerodrome,
  - (b) for any local authority (or, if the person having the management of the aerodrome is a local authority, for any other local authority) in whose area the aerodrome or any part thereof is situated or whose area is in the neighbourhood of the aerodrome, and—
  - (c) for any other organisation representing the interests of persons concerned with the locality in which the aerodrome is situated,

adequate facilities for consultation with respect to any matter concerning the management or administration of the aerodrome which affects their interests.

- [<sup>F33</sup>(3) The reference in subsection (2)(b) above to any local authority includes in relation to the area of Greater London a reference to the Mayor of London acting on behalf of the Greater London Authority.]

#### Textual Amendments

**F32** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6 Pt. 1](#)

**F33** [S. 35\(3\)](#) inserted (3.7.2000) by [1999 c. 29, s. 372\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2) (c), [Sch. Pt. 3](#)

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

**C12** [S. 31, 35](#) extended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 40(3)

### 36 Health control at Secretary of State's aerodromes and aerodromes of CAA. **E** **+W**

- (1) Without prejudice to his general duties under any Act of Parliament or otherwise, it shall be the duty of the Secretary of State to make such arrangements as appear to him to be necessary—
  - (a) for preventing danger to public health from aircraft arriving at any aerodrome which is vested in or under the control of the Secretary of State or at any aerodrome in the United Kingdom which is owned or managed by the CAA; and
  - (b) for preventing the spread of infection by means of any aircraft leaving any aerodrome mentioned in paragraph (a) above, so far as may be expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country;and in relation to aerodromes in the United Kingdom owned or managed by the CAA it shall also, to such extent as the Secretary of State may direct, be the CAA's duty to make such arrangements as appear to him to be so necessary.
- (2) A relevant authority may, and shall if the Secretary of State so requires, undertake duties in connection with the execution of any such arrangements as are mentioned in subsection (1) above, and the Secretary of State shall make to the relevant authority

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such payments as the relevant authority may reasonably require in respect of expenses incurred by the relevant authority in the performance of those duties.

- (3) In the application of subsections (1) and (2) above to Northern Ireland, for references to the Secretary of State (except the reference in paragraph (a) of subsection (1) above) there shall be substituted references to the Department of Health and Social Services for Northern Ireland.
- (4) In subsection (2) above “relevant authority” means—
- (a) in relation to England and Wales any local authority for the purposes of the <sup>M7</sup>Public Health Act 1936, any county council and any port health authority and any joint board of which all the constituent authorities are authorities or councils as aforesaid;
  - (b) in relation to Scotland, any islands or district council and any port local authority as defined in section 172 of the <sup>M8</sup>Public Health (Scotland) Act 1897; and
  - (c) in relation to Northern Ireland, such authority as the Department of Health and Social Services for Northern Ireland may designate for the purposes of that subsection.
- [<sup>F34</sup>(5) Section 143 of the <sup>M9</sup>Public Health Act 1936 (which authorises the making of health regulations) shall have effect in relation to relevant aerodromes and in relation to persons and aircraft [<sup>F35</sup>arriving at or] departing from such aerodromes subject to the following modifications, that is to say—
- (a) in subsection (1), the proviso shall be omitted;
  - (b) in subsection (3), for the words from “shall specify” to “executed” there shall be substituted the words “may provide for their enforcement and execution by officers designated for that purpose by the Secretary of State”, and paragraphs (i) and (ii) of the proviso shall be omitted;
  - (c) in subsection (4), for the words “Authorised officers of any such authority” there shall be substituted the words “Officers designated as aforesaid”.]

[<sup>F34</sup>(6) In subsection (5) above “relevant aerodromes” means aerodromes for the time being vested in or under the control of the Secretary of State and aerodromes in Great Britain which are owned or managed by the CAA.]

[<sup>F34F36</sup>(7) Without prejudice to the generality of the power conferred by the said section 143, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.]

(8) In the application of subsections (5) to (7) above to Scotland any reference to section 143 of the <sup>M10</sup>Public Health Act 1936 shall have effect as if it were a reference to section 1 of the <sup>M11</sup>Public Health (Scotland) Act 1945, and in subsection (5), paragraph (a) and in paragraph (b) the words from “and paragraphs” onwards shall be omitted.

[<sup>F34</sup>(9) Her Majesty may by Order in Council direct that any regulations made under the said section 143, as that section has effect by virtue of subsections (5) and (7) above in relation to aerodromes vested in or under the control of the Secretary of State, shall extend with such modifications, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man; and for the purposes of this subsection, subsections (4) and (5) of that section shall be deemed to form part of those regulations.]



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#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F34** S. 36(5)–(7)(9) repealed (E.W.) by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, Sch. 3
- F35** Words repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), art. 19, Sch.
- F36** S. 36(7) repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), art. 19, Sch.

#### Marginal Citations

- M7** 1936 c. 49.
- M8** 1897 c. 38.
- M9** 1936 c. 49.
- M10** 1936 c. 49.
- M11** 1945 c. 15 (9 & 10 Geo. 6).

## 36 Health control at Secretary of State’s aerodromes and aerodromes of CAA. **S**

- (1) Without prejudice to his general duties under any Act of Parliament or otherwise, it shall be the duty of the Secretary of State to make such arrangements as appear to him to be necessary—
- for preventing danger to public health from aircraft arriving at any aerodrome which is vested in or under the control of the Secretary of State or at any aerodrome in the United Kingdom which is owned or managed by the CAA; and
  - for preventing the spread of infection by means of any aircraft leaving any aerodrome mentioned in paragraph (a) above, so far as may be expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country;
- and in relation to aerodromes in the United Kingdom owned or managed by the CAA it shall also, to such extent as the Secretary of State may direct, be the CAA’s duty to make such arrangements as appear to him to be so necessary.
- (2) A relevant authority may, and shall if the Secretary of State so requires, undertake duties in connection with the execution of any such arrangements as are mentioned in subsection (1) above, and the Secretary of State shall make to the relevant authority such payments as the relevant authority may reasonably require in respect of expenses incurred by the relevant authority in the performance of those duties.
- (3) In the application of subsections (1) and (2) above to Northern Ireland, for references to the Secretary of State (except the reference in paragraph (a) of subsection (1) above) there shall be substituted references to the Department of Health and Social Services for Northern Ireland.
- (4) In subsection (2) above “relevant authority” means—
- in relation to England and Wales any local authority for the purposes of the <sup>M66</sup>Public Health Act 1936, any county council and any port health authority and any joint board of which all the constituent authorities are authorities or councils as aforesaid;

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- (b) in relation to Scotland, any [<sup>F204</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] and any port local authority as defined in section 172 of the <sup>M67</sup>Public Health (Scotland) Act 1897; and
  - (c) in relation to Northern Ireland, such authority as the Department of Health and Social Services for Northern Ireland may designate for the purposes of that subsection.
- [<sup>F205</sup>(5) Section 143 of the <sup>M68</sup>Public Health Act 1936 (which authorises the making of health regulations) shall have effect in relation to relevant aerodromes and in relation to persons and aircraft [<sup>F206</sup>arriving at or] departing from such aerodromes subject to the following modifications, that is to say—
- (a) in subsection (1), the proviso shall be omitted;
  - (b) in subsection (3), for the words from “shall specify” to “executed” there shall be substituted the words “may provide for their enforcement and execution by officers designated for that purpose by the Secretary of State”, and paragraphs (i) and (ii) of the proviso shall be omitted;
  - (c) in subsection (4), for the words “Authorised officers of any such authority” there shall be substituted the words “Officers designated as aforesaid”.]
- [<sup>F205</sup>(6) In subsection (5) above “relevant aerodromes” means aerodromes for the time being vested in or under the control of the Secretary of State and aerodromes in Great Britain which are owned or managed by the CAA.]
- [<sup>F205F207</sup>(7) Without prejudice to the generality of the power conferred by the said section 143, regulations made thereunder may provide for requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection.]
- (8) In the application of subsections (5) to (7) above to Scotland any reference to section 143 of the <sup>M69</sup>Public Health Act 1936 shall have effect as if it were a reference to section 1 of the <sup>M70</sup>Public Health (Scotland) Act 1945, and in subsection (5), paragraph (a) and in paragraph (b) the words from “and paragraphs” onwards shall be omitted.
- [<sup>F205</sup>(9) Her Majesty may by Order in Council direct that any regulations made under the said section 143, as that section has effect by virtue of subsections (5) and (7) above in relation to aerodromes vested in or under the control of the Secretary of State, shall extend with such modifications, if any, as may be specified in the Order, to any of the Channel Islands or to the Isle of Man; and for the purposes of this subsection, subsections (4) and (5) of that section shall be deemed to form part of those regulations.]

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F204** Words in s. 36(4)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 126(3)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F205** S. 36(5)–(7)(9) repealed (E.W.) by **Public Health (Control of Disease) Act 1984** (c. 22, SIF 100:1), s. 78, **Sch. 3**
- F206** Words repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), **art. 19, Sch.**
- F207** S. 36(7) repealed (for N.I.) by S.I. 1986/2229 (N.I. 24), **art. 19, Sch.**

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**Marginal Citations**

- M66** 1936 c. 49.
- M67** 1897 c. 38.
- M68** 1936 c. 49.
- M69** 1936 c. 49.
- M70** 1945 c. 15 (9 & 10 Geo. 6).

**37** ..... <sup>F37</sup>

**Textual Amendments**

- F37** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. II**

**38 Fixing by reference to noise factors the charges for using licensed aerodromes.**

- (1) Without prejudice to any power of any aerodrome authority to enter into an agreement on such terms as it thinks fit, an aerodrome authority may, for the purpose of encouraging the use of quieter aircraft and of diminishing inconvenience from aircraft noise, fix its charges by reference, among other things, to any fact or matter relevant to—
  - (a) the amount of noise caused by the aircraft in respect of which the charges are made; or
  - (b) the extent or nature of any inconvenience resulting from such noise.
- (2) ..... <sup>F38</sup> below, the Secretary of State may by order direct specified aerodrome authorities to fix their charges in exercise of the power conferred by subsection (1) above; and any such order may contain directions as to the manner in which those charges are to be so fixed.
- (3) In this section—
  - “aerodrome authority” means a person owning or managing an aerodrome licensed under an Air Navigation Order; and
  - “charges”, in relation to an aerodrome authority, means the charges the authority makes for the use of an aerodrome so licensed which is owned or managed by the authority.

**Textual Amendments**

- F38** Words “Without prejudice to section 60(3)(o),” expressed to be repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. II**

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

- C13** S.38(2): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

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VALID FROM 01/03/2007

### **[<sup>F39</sup>38A Noise control schemes**

- (1) An aerodrome operator may establish and maintain a scheme (referred to in this section and sections 38B and 38C below as a “noise control scheme”) for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.
- (2) A noise control scheme may—
  - (a) require operators of aircraft which are to take off or land at the aerodrome to secure that specified requirements are complied with in relation to the aircraft after they take off, or before they land, at the aerodrome;
  - (b) prohibit aircraft of specified descriptions from taking off or landing at the aerodrome during specified periods;
  - (c) specify the maximum number of occasions on which aircraft of specified descriptions may take off or land at the aerodrome during specified periods;
  - (d) impose other restrictions for limiting the cumulative amount of noise caused by aircraft of specified descriptions taking off or landing at the aerodrome during specified periods.

In this subsection “specified” means specified in the scheme.

- (3) A noise control scheme which contains—
  - (a) provision under paragraph (c) of subsection (2) above, or
  - (b) provision under paragraph (d) of that subsection which has the effect of limiting the number of occasions on which aircraft may take off or land at the aerodrome during the periods specified under that paragraph,shall make provision for determining the matters mentioned in subsection (4).
- (4) The matters mentioned in this subsection are—
  - (a) the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods in question, and
  - (b) as respects each of those persons, the number of occasions (whether determined by reference to a maximum number or otherwise) on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods.
- (5) Before making, amending or revoking any provision in a noise control scheme by virtue of subsection (3) above the aerodrome operator shall consult any body appearing to it to be representative of operators of aircraft using the aerodrome.
- (6) A noise control scheme may make provision as respects any period even if that period is included in, or there is included in that period, any other period as respects which provision relating to the aerodrome is made by the scheme.
- (7) A noise control scheme may—
  - (a) provide for circumstances in which the scheme (or any provision of the scheme) is not to apply,
  - (b) contain such incidental or supplementary provisions as the aerodrome operator considers appropriate, and

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- (c) be amended or revoked by the aerodrome operator.
- (8) A noise control scheme shall not be established in relation to an aerodrome which is designated for the purposes of section 78 of this Act; and on such a designation coming into force in relation to an aerodrome any noise control scheme which has effect in relation to the aerodrome shall cease to have effect.
- (9) The amendment or revocation of a noise control scheme, or its ceasing to have effect by virtue of subsection (8) above, shall not affect the validity of anything previously done under the scheme.
- (10) The powers conferred on an aerodrome operator by this section and sections 38B and 38C below are in addition to, and do not prejudice, any other power of the aerodrome operator to take steps for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.
- (11) In this section and sections 38B and 38C below “aerodrome operator” means a person owning or managing an aerodrome.

#### Textual Amendments

**F39** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; [S.I. 2007/598](#), **art. 2, Sch. 1**

VALID FROM 01/03/2007

#### **38B** Noise control schemes: supplementary

- (1) This section applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The requirements so imposed shall have effect in relation to such an aircraft only—
- while it is within such area as may be specified in relation to the aerodrome by order made by the Secretary of State, or
  - if no area has been so specified, while it is within the area represented by a circle with a radius of 40 kilometres from the centre of the longest runway at the aerodrome.
- (3) An area may be specified for the purposes of subsection (2)(a) above by description, by reference to a map or in any other way.
- (4) No point in the area so specified may be more than 60 kilometres in a straight line from the centre of the longest runway at the aerodrome.
- (5) Before making an order under this section the Secretary of State shall consult—
- the CAA,
  - the aerodrome operator,
  - any body appearing to the Secretary of State to be representative of operators of aircraft using the aerodrome,
  - the local authorities in whose areas the aerodrome (or any part of it) is situated,

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- (e) other local authorities whose areas are in the neighbourhood of the aerodrome, and
- (f) any other body appearing to the Secretary of State to be representative of persons concerned with the locality in which the aerodrome is situated.

#### Textual Amendments

**F39** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; S.I. 2007/598, **art. 2, Sch. 1**

VALID FROM 01/03/2007

### 38C Breaches of noise control schemes

- (1) This section also applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The scheme may provide for the aerodrome operator to require the payment of a penalty if any such requirement is not complied with in relation to an aircraft taking off or landing at the aerodrome.
- (3) Any such penalty shall be—
  - (a) of an amount specified in the scheme, and
  - (b) paid to the aerodrome operator by the operator of the aircraft in question.
- (4) The scheme shall afford the operator of the aircraft an opportunity to make representations to the aerodrome operator with respect to the matter either before or after the penalty is imposed.
- (5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the aerodrome operator to cancel the penalty if it considers it appropriate to do so having considered those representations.
- (6) An aerodrome operator which receives penalties under a noise control scheme shall make payments equal to the amount of those penalties for purposes which appear to it to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.]

#### Textual Amendments

**F39** Ss. 38A-38C inserted (E.W.S.) (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 4, 14**; S.I. 2007/598, **art. 2, Sch. 1**

### 39 Trespassing on licensed aerodromes.

- (1) Subject to subsection (2) below, if any person trespasses on any land forming part of an aerodrome licensed in pursuance of an Air Navigation Order, he shall be liable on summary conviction to a fine not exceeding [<sup>F40</sup>level 3 on the standard scale].

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- (2) No person shall be liable under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

**Textual Amendments**

**F40** Words in s. 39(1) substituted (14.12.2001 with effect as mentioned in s. 83(2) of the amending Act) by 2001 c. 24, ss. 83(1), 127(2)

**40** ..... **F41**

**Textual Amendments**

**F41** Ss. 27, 29, 32, 33, 37, 40 repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

*Powers in relation to land exercisable in connection with civil aviation*

**41 Power of Secretary of State to acquire and manage land.**

- (1) The Secretary of State may, for any purpose connected with the exercise of his functions relating to civil aviation, acquire land by agreement or be authorised to acquire land compulsorily.
- (2) The <sup>M12</sup>Acquisition of Land Act 1981—
- (a) shall have effect, without Part VI, with respect to the compulsory purchase of land in England and Wales by the Secretary of State under this section; and
  - (b) may, for the purpose of the compulsory purchase under subsection (1) above by the Secretary of State of land in Northern Ireland, be extended by Order in Council to Northern Ireland subject to any modifications which may be provided for by the Order.
- (3) The Secretary of State shall have power to manage, sell, let or exchange any land vested in him and to pay or receive money in respect of equality of exchange; but nothing in this subsection shall be taken to affect the operation of section 5 of the Defence of the <sup>M13</sup>Realm (Acquisition of Land) Act 1916 (which confers on a person from whom land was acquired under that Act a right of pre-emption in the case of the subsequent sale of the land) as respects any land acquired under that Act.
- (4) The Secretary of State shall have power to manage and (subject to the terms of the lease) to sublet any land taken on lease by him or assign the lease.

**Marginal Citations**

**M12** 1981 c. 67.  
**M13** 1916 c. 63.



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## 42 Acquisition of land by CAA.

- (1) The CAA may be authorised by the Secretary of State to acquire land in Great Britain compulsorily for any purpose connected with the performance of the CAA’s functions and the following enactments, that is to say—
- (a) if the land is in England and Wales, the <sup>M14</sup>Acquisition of Land Act 1981, other than Part VI, and
  - (b) if the land is in Scotland, the <sup>M15</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, except section 3 of that Act,
- shall apply in relation to the compulsory purchase of land by the CAA and, in the case of the latter Act, shall so apply as if the CAA were a local authority and as if this subsection were contained in an Act in force immediately before the commencement of that Act.
- (2) Where the CAA proposes to acquire, otherwise than by agreement, any land in Northern Ireland required by it for any purpose connected with the performance of its functions, or as to which it can reasonably be foreseen that it will be so required, it may apply to the Secretary of State for an order vesting that land in it, and the Secretary of State shall have power to make such an order.
- (3) Schedule 6 to the <sup>M16</sup>Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 6 to this Act, apply for the purposes of the acquisition of land by means of an order under subsection (2) above as it applies to the acquisition of land by means of a vesting order under that Act.
- (4) For the purpose of the acquisition by the CAA of land in Great Britain by agreement the following provisions shall apply, that is to say—
- (a) if the land is in England and Wales, the provisions of Part I of the <sup>M17</sup>Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 27 and 31; and
  - (b) if the land is in Scotland, the provision of the <sup>M18</sup>Lands Clauses Consolidation (Scotland) Act 1845 (so far as applicable), other than sections 120 to 125, 127, 142 and 143.
- (5) Any land vested in the CAA by virtue of this section shall be deemed for all purposes to have been acquired by the CAA for the purposes of its undertaking.
- (6) In subsections (2) and (3) above, “land” has the meaning assigned to it by section 45(1) (a) of the <sup>M19</sup>Interpretation Act (Northern Ireland) 1954.

### Modifications etc. (not altering text)

**C14** S. 42(1): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, Sch. 1

### Marginal Citations

**M14** 1981 c. 67.  
**M15** 1947 c. 42.  
**M16** 1972 c. 9 (N.I.).  
**M17** 1965 c. 56.  
**M18** 1845 c. 19.  
**M19** 1954 c. 33 (N.I.).

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**[<sup>F42</sup>42A Acquisition of land: air traffic services licence holders.**

- (1) A licence holder may be authorised by the Secretary of State to acquire land in Great Britain compulsorily for any purpose connected with the carrying out of the activities authorised by the licence.
- (2) Where a licence holder proposes to acquire, otherwise than by agreement, any land in Northern Ireland—
  - (a) which is required by the licence holder for any purpose connected with the carrying out of the activities authorised by the licence, or
  - (b) as to which it can reasonably be foreseen that it will be so required,the licence holder may apply to the Secretary of State for an order vesting the land in it, and the Secretary of State shall have power to make such an order.
- (3) The Secretary of State shall not grant an authorisation under subsection (1) or an order under subsection (2) to a licence holder in respect of land which is owned by another licence holder who—
  - (a) is using it, or
  - (b) will, in the opinion of the Secretary of State, use it at some time in the period of five years beginning with the date on which he receives the request for the authorisation or order.
- (4) A reference in subsection (3) to use of land by a licence holder is a reference to use for a purpose connected with the carrying out of the activities authorised by the licence.
- (5) The following provisions of section 42 shall apply for the purposes of this section in relation to a licence holder as they apply for the purposes of that section in relation to the CAA—
  - (a) in subsection (1), the words from “and the following enactments” to the end,
  - (b) subsection (3),
  - (c) subsection (5) (with the reference to acquisition for the purposes of the CAA’s undertaking being construed as a reference to acquisition in connection with the carrying out of the activities authorised by the licence), and
  - (d) subsection (6).]

**Textual Amendments**

**F42** S. 42A inserted (1.4.2001) by 2000 c. 38, s. 36, Sch. 4 para. 2 (with s. 106); S.I. 2001/869, art. 2

**43 Rights granted over land to Secretary of State or CAA to bind grantor’s successors.**

- (1) Subject to section 55 below, where any person having an interest in land (in this section referred to as “the grantor”) grants or agrees to grant any relevant right in or in relation to that land—
  - (a) for any purpose connected with the exercise by the Secretary of State of his functions relating to civil aviation, to the Secretary of State,<sup>F43</sup> . . .
  - (b) to the CAA,  
[<sup>F44</sup>or,
  - (c) for any purpose connected with the carrying out of the activities authorised by the licence, to a licence holder,]

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the grant or agreement shall, to the same extent that it is binding upon the grantor, be binding upon any person deriving title or otherwise claiming under the grantor, notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.

- (2) In this section “relevant right” means any right, whether in perpetuity or for any other period and whether or not capable of subsisting as a legal estate (or, in Scotland, as an estate), in or in relation to land, including the following rights, that is to say—
- (a) right to enter upon that land;
  - (b) a right to carry out and maintain works on that land;
  - (c) a right to install or maintain structures or apparatus on, under, over or across that land; and
  - (d) a right restrictive of the user of that land.

#### Textual Amendments

**F43** Word in s. 43(1)(a) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(4)**; S.I. 2001/869, **art. 2**

**F44** S. 43(1)(c) and the preceding word “or” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 3** (with s. 106); S.I. 2001/869, **art. 2**

#### 44 Power to obtain rights over land.

- (1) The Secretary of State may make an order under this section if he is satisfied that it is expedient to do so in order—
- (a) to secure the safe and efficient use for civil aviation purposes of any land which is vested in a relevant authority or which such an authority proposes to acquire; or
  - (b) to secure the provision of any services required in relation to any such land; or
  - (c) to secure that civil aircraft may be navigated with safety and efficiency.
- (2) Such an order may provide for the creation—
- (a) if it is made by virtue of paragraph (a) or (b) of subsection (1) above, in favour of the relevant authority in question or, where that authority is Eurocontrol, either of Eurocontrol or of the Secretary of State, or
  - (b) if it is made by virtue of paragraph (c) of that subsection, in favour of the Secretary of State,
- of easements or servitudes over land or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to install and maintain structures and apparatus on, under, over or across any land.
- (3) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to enter upon land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.
- (4) Subject to subsection (5) below, no person shall, in the exercise of a power conferred by any such order, enter upon land which is occupied, unless, not less than seven days before the day upon which the entry is made, there has been served upon the occupier of the land a notice—

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- (a) stating that an entry will be made upon the land upon that day in the exercise of powers conferred by the order; and
  - (b) specifying the purposes for which the entry will be made.
- (5) Nothing in subsection (4) above shall restrict the right of any person to enter upon land in a case of emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.
- (6) Where any land is damaged in the exercise of any power of entry conferred by any such order, then—
  - (a) if the relevant authority in whose favour the order was made is the Secretary of State or Eurocontrol, the Secretary of State, <sup>F45</sup> . . .
  - (b) if the relevant authority in whose favour the order was made is the CAA, the CAA,  
<sup>F46</sup>and
  - (c) if the relevant authority in whose favour the order was made is a licence holder, the licence holder,]shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.
- <sup>F47</sup>(7) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed, to, any land in pursuance of any such order.
- <sup>F47</sup>(7A) So long as any such order is in force, no person shall, except with the necessary consent, wilfully interfere—
  - (a) with any works carried out on any land in pursuance of the order, or
  - (b) with anything installed on, under, over or across any land in pursuance of the order.
- <sup>F47</sup>(7B) The necessary consent is—
  - (a) if the relevant authority in whose favour the order is made is the Secretary of State or Eurocontrol, the consent of the Secretary of State,
  - (b) if that relevant authority is the CAA, the consent of the Secretary of State or the CAA, and
  - (c) if that relevant authority is a licence holder, the consent of the licence holder.]
- (8) Subject to the special provisions of this Part of this Act relating to statutory undertakers, Schedule 7 to this Act shall have effect with respect to orders under this section.
- (9) Where an order under this section provides for the creation of an easement or servitude over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any other right in or in relation to such land, then, if on a representation made to the Secretary of State before the expiration of the time within which objections to the order may be made the Secretary of State is satisfied that the easement, servitude or right could not be enjoyed without serious detriment to the carrying on of the undertaking, and certifies accordingly, the order shall be subject to special parliamentary procedure.

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- (10) If any person contravenes the provisions of subsection (7) above he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both; and every person who wilfully obstructs any person in the exercise of any power of entry conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding £100.
- (11) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland;
- except that in England and Wales and in Northern Ireland such proceedings may be instituted by the CAA without such consent if the relevant authority in whose favour the order in question was made is the CAA.
- (12) The following are relevant authorities for the purposes of this section, that is to say—
- (a) the Secretary of State;
  - (b) Eurocontrol; <sup>F45</sup> . . .
  - (c) the CAA;
  - <sup>F48</sup>and
  - (d) a licence holder;]
- and in this section and in Schedule 7 to this Act as it has effect with respect to orders under this section, references to land vested in or proposed to be acquired by a relevant authority shall include references to land occupied or, as the case may be, proposed to be occupied by Eurocontrol.

#### Textual Amendments

- F45** Words in s. 44(6)(a)(12)(b) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(4)**; S.I. 2001/869, **art. 2**
- F46** S. 44(6)(c) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F47** S. 44(7)(7A)(7B) substituted (1.4.2001) for s. 44(7) by 2000 c. 38, s. 36, **Sch. 4 para. 4(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F48** S. 44(12)(d) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(4)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C15** Ss. 44–46 extended with modifications by **Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)**

## 45 Power to restrict use of land for purpose of securing safety at aerodromes.

- (1) Subject to subsection (2) below, the Secretary of State may by order impose such prohibitions or restrictions on the use of any area of land or water as a place for the arrival and departure of civil aircraft as he thinks expedient for the purpose of securing that aircraft may arrive and depart with safety at any aerodrome vested in him or under his control or at any aerodrome in the United Kingdom owned or managed by the CAA.

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- (2) Nothing in subsection (1) above shall authorise the imposition of any such prohibition or restriction in relation to tidal waters beyond those of the territorial waters adjacent to the United Kingdom.
- (3) Part I of Schedule 7 to this Act shall have effect in relation to any order made under this section other than an order for the imposition of prohibitions or restrictions on the use of water; and in the case of an order for the imposition of prohibitions or restrictions on the use of water the Secretary of State—
  - (a) shall, before making the order, publish notice of his intention to make the order in such manner as he thinks best calculated to bring his intention to the notice of persons who will be affected thereby; and
  - (b) shall, immediately after the order has been made, publish in one or more newspapers circulating in the locality to which the order relates a notice stating that the order has been made and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice upon any person who in his opinion will be affected thereby.
- (4) Part II of Schedule 7 to this Act and Schedule 8 to this Act shall have effect with respect to orders under this section; but where any aerodrome was first established as such after 31st July 1946 no compensation shall be payable by reason of the imposition under this section of prohibitions or restrictions upon the use of that aerodrome unless it was so established with the consent of the Secretary of State.
- (5) Any person who contravenes the provisions of any order under this section shall be liable in respect of each offence—
  - (a) on summary conviction to a fine which shall not exceed the statutory maximum or to imprisonment for a term not exceeding three months or to both; and
  - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.
- (6) Any offence against any order under this section committed on tidal waters outside the ordinary jurisdiction of a court of summary jurisdiction may be tried and punished by such a court as if it had been committed in the nearest part of the United Kingdom which is within the ordinary jurisdiction of such a court; but nothing in this subsection shall in its application to Scotland be construed as conferring jurisdiction on any court of summary jurisdiction other than the sheriff court.
- (7) Proceedings for an offence against any order under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland;except that in England and Wales and in Northern Ireland such proceedings may be instituted by the CAA without such consent if the order in question is made in respect of an aerodrome owned or managed by the CAA.
- (8) In this section “aerodrome” includes part of an aerodrome; and, without prejudice to section 105(3) below, the reference in subsection (4) above to the Secretary of State shall, in relation to any time before the passing of this Act, have effect as a reference to whoever at that time was charged with exercising the functions which by virtue of this section are vested in the Secretary of State.

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

**C16** Ss. 44–46 extended with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 59(3)(4)

**46 Power to exercise control over land in interests of civil aviation.**

- (1) The Secretary of State may, if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land, structures, works or apparatus vested in a relevant authority or which such an authority proposes to acquire or install, by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the provisions of this section; and in this Part of this Act that authority, in relation to the making of such an order, is referred to as the person in respect of whom the order is or, as the case may be, is to be made.
- (2) Where an order under subsection (1) above is in force, the Secretary of State may, in pursuance of any general or special authority given by the order, give directions—
  - (a) for requiring the total or partial demolition of any building or structure within the area to which the order relates;
  - (b) for restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height;
  - (c) for extinguishing any private right of way over land within the area;
  - (d) for restricting the installation of cables, mains, [<sup>F49</sup>sewers,] pipes, wires or other apparatus upon, across, under or over any land within the area;
  - (e) for extinguishing, at the expiration of such period as may be determined by the directions, any subsisting right of installing or maintaining any such apparatus as aforesaid upon, across, under or over any land within the area;
  - (f) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.
- (3) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions, as appear to the Secretary of State to be necessary or expedient for the purposes of the order, including, in particular, provisions for empowering any person authorised for the purpose by the Secretary of State, to remove, pull down, cut down, or alter so as to bring into conformity with the requirements of any directions given under the order, any building, structure, tree or apparatus which contravenes those requirements.
- (4) An order under subsection (1) above, other than an order relating to land in Northern Ireland, shall be subject to special parliamentary procedure.
- (5) Before making any order under this section, the Secretary of State shall consult every local authority within the area of which the whole or any part of the area of land to which the proposed order will relate is situated.
- (6) Notwithstanding anything in section 2(1) of the <sup>M20</sup>Statutory Orders (Special Procedure) Act 1945, the duty of the Secretary of State to comply with the requirements of subsection (5) above in relation to England and Wales shall not excuse him from the duty of complying with the requirements of Schedule 1 to that Act.



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- (7) Subject to the special provisions of this Part of this Act relating to statutory undertakers, Schedule 9 to this Act shall have effect with respect to directions given under an order made under this section.
- (8) The powers of the Secretary of State under this section shall not prejudice his power to acquire land for the purpose of securing the observance of any requirement or restriction which might have been imposed in relation to the land under this section.
- (9) The Secretary of State may, after consultation with any local authority which appears to him to be concerned, by order repeal or amend any enactment in a local Act which appears to him to be unnecessary having regard to, or to be inconsistent with, the provisions of this Part of this Act relating to orders made or to be made under subsection (1) above in respect of a relevant authority falling with paragraph (d) of subsection (10) below.
- (10) The following are relevant authorities for the purposes of this section, that is to say—
- (a) the Secretary of State;
  - (b) Eurocontrol;
  - (c) the CAA; <sup>F50</sup> . . .
  - (d) the licensee of any aerodrome licensed under an Air Navigation Order; <sup>F51</sup>and
  - (e) a licence holder (within the meaning of section 105(1) below);]
- and in this section and in Schedule 9 to this Act, references to land, structures, works or apparatus vested in or proposed to be acquired or installed by a relevant authority shall include references to land, structures, works or apparatus occupied or, as the case may be, proposed to be occupied by Eurocontrol.

#### Textual Amendments

**F49** Word inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\), 101\(1\)](#). 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 67(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

**F50** Word in [s. 46\(10\)\(c\)](#) repealed (1.4.2001) by [2000 c. 38, s. 274, Sch. 31 Pt. I\(4\)](#); [S.I. 2001/869, art. 2](#)

**F51** [S. 46\(10\)\(e\)](#) and the preceding word “and” inserted (1.4.2001) by [2000 c. 38, s. 36, Sch. 4 para. 5](#) (with [s. 106](#)); [S.I. 2001/869, art. 2](#)

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

**C17** [Ss. 44–46](#) extended with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), [s. 59\(3\)\(4\)](#)

#### Marginal Citations

**M20** [1945 c. 18](#). (9 & 10 Geo. 6).

## 47 Warning of presence of obstructions near licensed aerodromes.

- (1) Subject to the provisions of this section, if the Secretary of State is satisfied with respect to any building, structure or erection in the vicinity of a licensed aerodrome that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor’s instructions—

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- (a) to execute, install, maintain, operate and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and
  - (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order.
- (2) An order shall not be made under this section in relation to any building, structure or erection if it appears to the Secretary of State that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.
- (3) The Secretary of State shall, before making an order under this section—
- (a) cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge; and
  - (b) take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order;
- and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Secretary of State thinks proper.
- (4) Every order under this section shall provide—
- (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner specified in the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified in or in accordance with the order; and
  - (b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Secretary of State;
- and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Lord Chief Justice or, in Scotland, by a single arbiter appointed by the Lord President of the Court of Session.
- (5) For the purposes of subsection (4) above, any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of an order under this section, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

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- (6) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of an order under this section; and (subject to the provisions of subsection (8) below) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.
- (7) If any person contravenes the provisions of subsection (6) above, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [F52]level 4 on the standard scale] or to both; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding [F53]level 3 on the standard scale].
- (8) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection if—
- (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and
  - (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.
- (9) The following provisions shall have effect, without prejudice to the general application of subsections (4) and (5) above, for the protection of statutory undertakers—
- (a) any order made under this section affecting any property held by such undertakers for the purposes of their undertaking shall be so framed as to avoid interference with the proper carrying on of the undertaking;
  - (b) no person shall, except in a case of emergency, enter, in pursuance of such an order, upon any land held by such undertakers for the purposes of their undertaking, unless he has given to the undertakers at least three clear days' notice of his intention so to do, and any person so entering on any such land shall comply with any reasonable directions given to him by or on behalf of the undertakers for preventing interference with the proper carrying on of the undertaking;
  - (c) if any such undertakers show that, by reason of the operation of such an order, they have been obliged to take special measures for the purpose of ensuring the safety of persons so entering on any such land or otherwise acting under the order in relation to any property of the undertakers, the amount of any expenses reasonably incurred by the undertakers in taking such measures shall be paid to them by the proprietor of the aerodrome to which the order relates, and any dispute as to whether any sum is payable under this paragraph, or as to the amount of any sum so payable, shall unless the parties otherwise agree, be referred for determination to a single arbitrator appointed by the Lord Chief Justice or, in Scotland, to a single arbiter appointed by the Lord President of the Court of Session.
- (10) In this section—
- “licensed aerodrome” means any premises which, by virtue of an Air Navigation Order, are for the time being licensed as an aerodrome for public use, but does not include any premises belonging to the Secretary of State;

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“proprietor of the aerodrome” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises;

and nothing in section 104(1) below shall affect the construction of the reference in the definition in this subsection of “licensed aerodrome” to premises belonging to the Secretary of State.

#### Textual Amendments

**F52** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703 (N.I. 3), **arts. 5, 6**

**F53** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), **s. 289G** and (N.I.) by S.I. 1984/703 (N.I. 3), **arts. 5, 6**

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

**C18** S. 47, 48 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

**C19** S. 47 modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(a)**; S.R. 1992/117, **art. 3(1)**.

#### 48 Power of Secretary of State to stop up and divert highways etc. in interests of civil aviation. **E+W+N.I.**

- (1) Subject to subsection (2) below, the Secretary of State may if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land vested in the Secretary of State [<sup>F54</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F54</sup>, the CAA or a licence holder] proposes to acquire, by order authorise the stopping-up or diversion of any highway.
- (2) The power conferred by subsection (1) above shall, in Northern Ireland, be exercisable by the Department of the Environment for Northern Ireland (in this section referred to as “the Department”) instead of by the Secretary of State, and notwithstanding anything in section 104(1) below, the reference in subsection (1) above to land which is vested in the Secretary of State or which the Secretary of State proposes to acquire shall include a reference to land which is vested in him, or which he proposes to acquire, as the case may be, in connection with the exercise of the following functions, that is to say—
  - (a) his functions under the <sup>M21</sup>Supply Powers Act 1975; and
  - (b) the related functions which by virtue of the <sup>M22</sup>Ministry of Supply (Transfer of Powers) (No. 1) Order 1939 became exercisable by the Minister of Supply and which have subsequently become vested in the Secretary of State.
- (3) An order under subsection (1) above may provide for all or any of the following matters, that is to say—
  - (a) for securing the provision or improvement of any highway so far as the Secretary of State or, as the case may be, the Department thinks such provision or improvement necessary or desirable in consequence of any such stopping-up or diversion as aforesaid;

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- (b) for directing that any highway to be provided or improved in pursuance of the order shall—
    - (i) in England and Wales, be a highway which for the purposes of the <sup>M23</sup>Highways Act 1980 is maintainable at public expense;
    - (ii) in Scotland, be maintained and managed by a regional, islands or district council; and
    - (iii) in Northern Ireland be a public road within the meaning of the <sup>M24</sup>Roads (Northern Ireland) Order [<sup>F55</sup>1993];
  - (c) for specifying—
    - (i) in England and Wales or Northern Ireland, the highway authority which is to be the highway authority for any highway to be provided or improved in pursuance of the order; and
    - (ii) in Scotland, the council which is to be responsible for the maintenance and management referred to in paragraph (b)(ii) above;
  - (d) for directing that any highway to be provided or improved in consequence of the stopping-up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the enactments relating to trunk roads;
  - (e) for the retention or removal of any cables, mains, [<sup>F56</sup>sewers,] pipes, wires or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
  - (f) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across, over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
  - (g) for requiring the Secretary of State or the department or any other specified authority or person—
    - (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work; or
    - (ii) to repay, or to make contributions in respect of, any compensation paid by a highway authority in England and Wales or Scotland in respect of restrictions imposed under section 1 or 2 of the <sup>M25</sup>Restriction of Ribbon Department Act 1935 as respects any highway stopped up or diverted under the order.
- (4) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State or, as the case may be, the Department to be necessary or expedient for the purposes of the order.
- (5) An order under subsection (1) above shall, if made in respect of land in England and Wales or Scotland, be subject to special parliamentary procedure; and—
- (a) if the order was made in respect of land in England and Wales, Schedule 1 to the <sup>M26</sup>Statutory Orders (Special Procedure) Act 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made), and
  - (b) if the order was made in respect of land in Scotland, section 2 of that Act (which contains comparable provision for Scotland), as that section applies by virtue of section 10 of that Act to Scotland,

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shall apply in relation to the order, but in their application in relation thereto, shall have effect as if paragraph 1 of the said Schedule 1 or subsection (1) of the said section 2, as the case may be, included the provisions set out in subsection (6) below.

- (6) The said provisions are provisions—
- (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;
  - (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the order, or any highway to be provided or improved under the order, is or will be situated; and
  - (c) requiring notice of the order as proposed to be made to be served upon any water, gas electricity undertakers having any cables, mains, [<sup>F56</sup>sewers,] pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.
- (7) In subsection (6) above—
- (a) the reference in paragraph (b) to a local authority shall include a reference to a parish council in England, to a parish meeting of a parish in England not having a separate parish council, to a council of a community in Wales <sup>F57</sup> . . . ; and
  - (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to <sup>F58</sup> . . . [<sup>F59</sup>the operator of a telecommunications code system][<sup>F60</sup>and]
  - <sup>F60</sup>(c) the reference in paragraph (c) to water undertakers is a reference to the National Rivers Authority, a water undertaker or a sewerage undertaker.]
- (8) The powers of the Secretary of State and of the Department under subsection (1) above shall include power to make an order authorising the stopping-up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Secretary of State or the Department by any other enactment to authorise the stopping-up or diversion of a highway.
- (9) The following provisions (which relate to telegraphic lines of British Telecommunications affected by the stopping-up, diversion or improvement of a highway), that is to say—
- (a) in England and Wales, [<sup>F61</sup>subsections (1) to (4) of section 256 of the Town and Country Planning Act 1990];
  - (b) in Scotland, subsections (1) and (2) of section 209 of the <sup>M27</sup>Town and Country Planning (Scotland) Act 1972; and
  - (c) in Northern Ireland, [<sup>F62</sup>paragraph 2 of Schedule 9 to the Roads (Northern Ireland) Order 1993].

shall have effect as if references in those subsections to an order under [<sup>F61</sup>section 247 of the said Act of 1990] and to an order under section 198 of the said Act of 1972 and in [<sup>F62</sup>that paragraph] to an order under Article 40 of the said Order of 1980 included references to an order made under subsection (1) above in relation to land which is vested in the CAA [<sup>F63</sup>or a licence holder]or which the CAA [<sup>F63</sup>or a licence holder] proposes to acquire.

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### Extent Information

- E2** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

### Textual Amendments

- F54** Words in s. 48(1) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F55** Words in s. 48(3)(b) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F56** Word inserted by **Water Act 1989** (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 67(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F57** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. V**
- F58** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))
- F59** Words substituted by virtue of **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, Sch. 4 para. 84, **Sch. 5 para. 45**
- F60** S. 48(7)(c) and the word “and” immediately preceding it inserted by **Water Act 1989** (c. 15, SIF 130), s. 190(1), Sch. 25 para. 67(2)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)
- F61** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(1)**
- F62** Words in s. 48(9) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1
- F63** Words in s. 48(9) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

### Modifications etc. (not altering text)

- C20** S. 48(1)–(8) extended with modifications by **Airports Act 1986** (c. 31, SIF 9), s. 59(3)(4)
- C21** S. 47, 48 extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**
- C22** S. 48(6) extended by **Electricity Act 1989** (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(3)(9)**
- C23** S. 48(6) modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(b)**; S.R. 1992/117, **art. 3(1)**
- C24** S. 48(6)(c) amended by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(f)**, Sch. 8 para. 33  
S. 48(6)(c) extended (E.W.S.) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(g)**; S.I. 1996/218, **art. 2**

### Marginal Citations

- M21** 1975 c. 9.
- M22** 1939 S.R. & O. No. 877.
- M23** 1980 c. 66.
- M24** S.I. 1980/1085 (N.I. 11).
- M25** 1935 c. 47.
- M26** 1945 c. 18 (9 & 10 Geo. 6.)
- M27** 1972 c. 52.



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#### 48 Power of Secretary of State to stop up and divert highways etc. in interests of civil aviation. **S**

- (1) Subject to subsection (2) below, the Secretary of State may if he is satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes (including the testing of aircraft designed for civil aviation) of any land vested in the Secretary of State [<sup>F208</sup>, the CAA or a licence holder], or of any land which the Secretary of State [<sup>F208</sup>, the CAA or a licence holder] proposes to acquire, by order authorise the stopping-up or diversion of any highway.
- (2) The power conferred by subsection (1) above shall, in Northern Ireland, be exercisable by the Department of the Environment for Northern Ireland (in this section referred to as “the Department”) instead of by the Secretary of State, and notwithstanding anything in section 104(1) below, the reference in subsection (1) above to land which is vested in the Secretary of State or which the Secretary of State proposes to acquire shall include a reference to land which is vested in him, or which he proposes to acquire, as the case may be, in connection with the exercise of the following functions, that is to say—
  - (a) his functions under the <sup>M71</sup>Supply Powers Act 1975; and
  - (b) the related functions which by virtue of the <sup>M72</sup>Ministry of Supply (Transfer of Powers) (No. 1) Order 1939 became exercisable by the Minister of Supply and which have subsequently become vested in the Secretary of State.
- (3) An order under subsection (1) above may provide for all or any of the following matters, that is to say—
  - (a) for securing the provision or improvement of any highway so far as the Secretary of State or, as the case may be, the Department thinks such provision or improvement necessary or desirable in consequence of any such stopping-up or diversion as aforesaid;
  - (b) for directing that any highway to be provided or improved in pursuance of the order shall—
    - (i) in England and Wales, be a highway which for the purposes of the <sup>M73</sup>Highways Act 1980 is maintainable at public expense;
    - (ii) in Scotland, be maintained and managed by a [<sup>F209</sup>local authority]; and
    - (iii) in Northern Ireland be a public road within the meaning of the <sup>M74</sup>Roads (Northern Ireland) Order [<sup>F210</sup>1993];
  - (c) for specifying—
    - (i) in England and Wales or Northern Ireland, the highway authority which is to be the highway authority for any highway to be provided or improved in pursuance of the order; and
    - (ii) in Scotland, the [<sup>F211</sup>local authority] which is to be responsible for the maintenance and management referred to in paragraph (b)(ii) above;
  - (d) for directing that any highway to be provided or improved in consequence of the stopping-up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the enactments relating to trunk roads;
  - (e) for the retention or removal of any cables, mains, [<sup>F212</sup>sewers,] pipes, wires or similar apparatus placed along, across, over or under any highway stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
  - (f) if any highway is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as aforesaid along, across,

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over or under that highway, in lieu of any apparatus removed from a highway in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;

- (g) for requiring the Secretary of State or the department or any other specified authority or person—
- (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work; or
  - (ii) to repay, or to make contributions in respect of, any compensation paid by a highway authority in England and Wales or Scotland in respect of restrictions imposed under section 1 or 2 of the <sup>M75</sup>Restriction of Ribbon Department Act 1935 as respects any highway stopped up or diverted under the order.

(4) An order under subsection (1) above may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State or, as the case may be, the Department to be necessary or expedient for the purposes of the order.

(5) An order under subsection (1) above shall, if made in respect of land in England and Wales or Scotland, be subject to special parliamentary procedure; and—

- (a) if the order was made in respect of land in England and Wales, Schedule 1 to the <sup>M76</sup>Statutory Orders (Special Procedure) Act 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made), and
- (b) if the order was made in respect of land in Scotland, section 2 of that Act (which contains comparable provision for Scotland), as that section applies by virtue of section 10 of that Act to Scotland,

shall apply in relation to the order, but in their application in relation thereto, shall have effect as if paragraph 1 of the said Schedule 1 or subsection (1) of the said section 2, as the case may be, included the provisions set out in subsection (6) below.

(6) The said provisions are provisions—

- (a) requiring notice of the order as proposed to be made to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order;
- (b) requiring notice of the order as proposed to be made to be sent to every local authority in whose area any highway to be stopped up or diverted under the order, or any highway to be provided or improved under the order, is or will be situated; and
- (c) requiring notice of the order as proposed to be made to be served upon any water, gas electricity undertakers having any cables, mains, [<sup>F212</sup>sewers,] pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.

(7) In subsection (6) above—

- (a) the reference in paragraph (b) to a local authority shall include a reference to a parish council in England, to a parish meeting of a parish in England not having a separate parish council, to a council of a community in Wales <sup>F213</sup> . . . ; and
- (b) the reference in paragraph (c) to electricity undertakers shall be deemed to include references to <sup>F214</sup> . . . [<sup>F215</sup>the operator of a telecommunications code system]<sup>F216</sup> and]

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- [<sup>F216</sup>(c) the reference in paragraph (c) to water undertakers is a reference to the National Rivers Authority, a water undertaker or a sewerage undertaker].
- (8) The powers of the Secretary of State and of the Department under subsection (1) above shall include power to make an order authorising the stopping-up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Secretary of State or the Department by any other enactment to authorise the stopping-up or diversion of a highway.
- (9) The following provisions (which relate to telegraphic lines of British Telecommunications affected by the stopping-up, diversion or improvement of a highway), that is to say—
- (a) in England and Wales, [<sup>F217</sup>subsections (1) to (4) of section 256 of the Town and Country Planning Act 1990];
  - (b) in Scotland, [<sup>F218</sup>subsections (1) to (4) of section 212 of the Town and Country Planning (Scotland) Act 1997]; and
  - (c) in Northern Ireland, [<sup>F219</sup>paragraph 2 of Schedule 9 to the Roads (Northern Ireland) Order 1993].

shall have effect as if references in those subsections to an order under [<sup>F217</sup>section 247 of the said Act of 1990] and to an order under [<sup>F218</sup>section 202 of the said Act of 1997] and in [<sup>F219</sup>that paragraph] to an order under Article 40 of the said Order of 1980 included references to an order made under subsection (1) above in relation to land which is vested in the CAA [<sup>F220</sup>or a licence holder] or which the CAA [<sup>F220</sup>or a licence holder] proposes to acquire.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

#### Textual Amendments

- F208** Words in s. 48(1) substituted (1.4.2001) by 2000 c. 38, s. 36 Sch. 4 para. 6(2) (with s. 106); S.I. 2001/869, art. 2
- F209** Words in s. 48(3)(b)(ii) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), Sch. 1 Pt. 1 para. 6(a)
- F210** Words in s. 48(3)(b) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), Sch. 10, with Sch. 9 para. 1
- F211** Words in s. 48(3)(c)(ii) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), Sch. 1 Pt. 1 para. 6(b)
- F212** Word inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 67(2)(a) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F213** Words in s. 48(7)(a) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. V
- F214** Words in s. 48(7)(b) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), Sch. 2 (with art. 4(11))
- F215** Words substituted by virtue of Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 84, Sch. 5 para. 45
- F216** S. 48(7)(c) and the word “and” immediately preceding it inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 67(2)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F217** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 55(1)
- F218** Words in s. 48(9) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 35(1)

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**F219** Words in s. 48(9) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10**, with Sch. 9 para. 1

**F220** Words in s. 48(9) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

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

**C56** S. 48(1)–(8) extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)

**C57** S. 47, 48 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

**C58** S. 48(6) extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(3)(9)**

**C59** S. 48(6) modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(b)**; S.R. 1992/117, **art. 3(1)**

**C60** S. 48(6)(c) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(f)**, Sch. 8 para. 33

S. 48(6)(c) extended (E.W.S.) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(g)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

**M71** 1975 c. 9.

**M72** 1939 S.R. & O. No. 877.

**M73** 1980 c. 66.

**M74** S.I. 1980/1085 (N.I. 11).

**M75** 1935 c. 47.

**M76** 1945 c. 18 (9 & 10 Geo. 6.)

#### 49 Power to acquire land in connection with order under s. 48.

- (1) The Secretary of State may be authorised to purchase land in Great Britain compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 48(1) above or for any other purpose for which land is required in connection with such an order.
- (2) The <sup>M28</sup>Acquisition of Land Act 1981 shall apply, in relation to land in England and Wales, to a compulsory purchase under subsection (1) above.
- (3) The CAA's power of acquiring land compulsorily under this Act may be exercised for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under section 48(1) above in relation to land which is vested in the CAA or which the CAA proposes to acquire or for any other purpose for which land is required in connection with such an order.

[<sup>F64</sup>(3A) A licence holder's power of acquiring land compulsorily under this Act may be exercised for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under section 48(1) above in relation to land which is vested in the licence holder or which the licence holder proposes to acquire or for any other purpose for which land is required in connection with such an order.]

- (4) The powers of compulsory acquisition of land exercisable by the Department of the Environment for Northern Ireland under [<sup>F65</sup>Articles 110 and 113 of the Roads (Northern Ireland) Order 1993] shall include the power to acquire lands compulsorily in accordance with the provisions of that Article for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 48(1) above or for any other purpose for which land is required

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in connection with such an order; and the said Order of [<sup>F65</sup>1993] shall have effect accordingly.

- (5) The powers conferred on the Department of the Environment for Northern Ireland by subsection (4) above shall be exercisable in relation to any land notwithstanding that the land is the property of a statutory undertaker or is declared by any other enactment to be inalienable

#### Textual Amendments

**F64** S. 49(3A) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 7** (with s. 106); S.I. 2001/869, **art. 2**

**F65** Words in s. 49(4) substituted (17.2.1994) by S.I. 1993/3160 (N.I. 15), art. 134(2), **Sch. 10** (with Sch. 9 para. 1)

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

**C25** Ss. 49, 51 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

**C26** S. 49 modified (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 3(a)**; S.R. 1992/117, **art. 3(1)**.

#### Marginal Citations

**M28** 1981 c. 67.

## 50 Power of entry for purposes of survey.

(1) This section applies—

- (a) where the Secretary of State has confirmed or is considering the confirmation of an order authorising the CAA [<sup>F66</sup>or a licence holder] to acquire land in Great Britain compulsorily;
- (b) where the CAA [<sup>F66</sup>or a licence holder] proposes to acquire land in Northern Ireland compulsorily;
- (c) where the Secretary of State has made or has under consideration the making of an order under section 44 above providing for the creation in favour of the CAA [<sup>F66</sup>or a licence holder] of easements or servitudes over land or of other rights in or in relation to land;
- (d) where the Secretary of State has made, or has under consideration the making of, an order under section 46(1) above in respect of the CAA [<sup>F67</sup>, a licence holder (within the meaning of section 105(1) below)] or the licensee of an aerodrome licensed under an Air Navigation Order, being an order declaring that an area of land shall be subject to control by directions; and
- (e) in any case not falling within paragraphs (a) to (d) above where the Secretary of State has made, or has under consideration the making of, an order under or in pursuance of this Part of this Act, being—
  - (i) an order authorising the compulsory purchase of land; or
  - (ii) an order providing for the creation in favour of a particular person of easements or servitudes over land or of other rights in or in relation to land; or
  - (iii) an order declaring that an area of land shall be subject to control by directions.

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- (2) Where this section applies any person authorised in writing by the Secretary of State may at all reasonable times on producing if so required evidence of his authority for the purpose enter upon any of the land in question in order to make a relevant survey.
- (3) In subsection (2) above “a relevant survey” means—
  - (a) in a case falling within subsection (1)(a) above, any survey which the Secretary of State [<sup>F68</sup>, the CAA or a licence holder] requires to be made for the purpose of any steps to be taken in consequence of the order, or, as the case may be, for the purpose of determining whether the order should be confirmed;
  - (b) in a case falling within subsection (1)(b) above, any survey which the Secretary of State [<sup>F68</sup>, the CAA or a licence holder] requires to be made for the purpose of ascertaining whether the land would be suitable for the purposes for which it is proposed to acquire it;
  - (c) in a case falling within subsection (1)(c) above, any survey which the Secretary of State [<sup>F68</sup>, the CAA or a licence holder] requires to be made for the purpose of any steps to be taken in consequence of the order or, as the case may be, for the purpose of determining whether the order should be made;
  - (d) In a case falling within subsection (1)(d) above, any survey which the Secretary of State or the person in respect of whom the order under the said section 46(1) has been, or is to be, made requires to be made for the purpose of any steps to be taken in consequence of that order or, as the case may be, for the purpose of determining whether the order should be made;
  - (e) in a case falling within subsection (1)(e) above, any survey which the Secretary of State requires to be made for the purpose of any steps to be taken in consequence of the order in question or, as the case may be, for the purpose of determining whether the order should be made.
- (4) Admission shall not, by virtue of subsection (2) above, be demanded as of right to any land which is occupied unless the following notice of the intended entry has been served on the occupier, that is to say—
  - (a) in a case falling within subsection (1) (a) to (d) above, eight days’ notice; and
  - (b) in a case falling within subsection (1)(e) above, twenty-four hours’ notice.
- (5) If any person obstructs a person authorised as mentioned in subsection (2) above in the exercise of any power conferred by this section he shall be liable on summary conviction to a fine not exceeding [<sup>F69</sup>level 2 on the standard scale].
- (6) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland,except that in England and Wales and in Northern Ireland such proceedings may be instituted without such consent, in a case falling within subsection (1)(a) to (c) above, by the CAA and, in a case falling within subsection (1)(d) above, by the person in respect of whom the order in question has been, or is to be, made.
- (7) Where any land is damaged in the exercise of a power of entry conferred in pursuance of an authority given under this section, or in the making of any survey for the purpose of which any such power of entry has been conferred—

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- [<sup>F70</sup>(a) in a case falling within subsection (1)(a) to (c) above in respect of the CAA, the CAA,
- <sup>F70</sup>(aa) in a case falling within subsection (1)(a) to (c) above in respect of a licence holder, the licence holder,]
- (b) in a case falling within subsection (1)(d) above, the person in respect of whom the order in question has been, or is to be, made,
- (c) in a case falling within subsection (1)(e) above, the Secretary of State,
- shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

#### Textual Amendments

- F66** Words in s. 50(1)(a)(b)(c) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F67** Words in s. 50(1)(d) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F68** Words in s. 50(3)(a)(b)(c) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 8(4)** (with s. 106); S.I. 2001/869, **art. 2**
- F69** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46**, (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**
- F70** S. 50(7)(a)(aa) substituted (1.4.2001) for s. 50(7)(a) by 2000 c. 38, s. 36, **Sch. 4 para. 8(5)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C27** S. 50 extended with modifications by **Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)**
- C28** S. 50(2): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

### Supplemental

#### 51 Special provisions relating to statutory undertakers.

- (1) Subject to the provisions of this section, the compensation to be paid to a statutory undertaker—
- (a) in respect of the compulsory purchase in pursuance of this Part of this Act, otherwise than under section 30, of any land held by the undertaker for the purposes of the carrying on of his undertaking,
- (b) in respect of the creation, by virtue of an order made under this Part of this Act, otherwise than under section 30 above, of any easement or servitude over any such land or of any other right in or in relation to any such land,
- (c) in respect of any direction under section 46 above which affects any building, structure or apparatus held or used by him for the purposes of his undertaking, or which affects any of his rights to install or maintain apparatus for those purposes or which affects any right of way enjoyed by him for those purposes,
- shall, in default of agreement, be assessed by the Lands Tribunal; but this subsection shall not apply to any compensation payable by virtue of section 42 above.



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- (2) Subject to those provisions, the amount of any compensation payable as mentioned in subsection (1) above shall be an amount calculated in accordance with the following enactments, that is to say—
- (a) if the land is in England and Wales, [<sup>F71</sup>section 280(2) to (5), (7) and (8) of the Town and Country Planning Act 1990]; and
  - (b) if the land is in Scotland, [<sup>F72</sup>section 233(2) to (5), (7) and (8) of the Town and Country Planning (Scotland) Act 1997].
- (3) Subsection (4) below applies in relation to compensation payable as so mentioned in respect of a compulsory purchase.
- (4) If, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried on, that person gives notice in writing to the Secretary of State that he elects that as respects all or any of the land comprised in the purchase the compensation shall be ascertained in accordance with the enactments, other than Rule (5) of the Rules set out in section 5 of the <sup>M29</sup>Land Compensation Act 1961 and section 12(1) of the <sup>M30</sup>Land Compensation (Scotland) Act 1963, which would be applicable apart from subsection (2) above, the compensation shall be so ascertained.
- (5) [<sup>F73</sup>Subsections (2) to (5), (7) and (8) of the said section 280 and][<sup>F74</sup>subsections (2) to (5), (7) and (8) of the said section 233] shall have effect for the purposes of this section with the following modifications, that is to say—
- (a) in subsection (2)(c) of the said [<sup>F75</sup>section 280] the words “is under [<sup>F75</sup>section 279(2) or (3)] of this Act and” and in subsection (2)(c) of the said [<sup>F76</sup>section 233] the words “is under [<sup>F76</sup>section 232(2) or (3)] of this Act and” shall be omitted;
  - (b) after subsection (2)(c) of each of the said sections there shall be inserted the following paragraph:—
    - “(d) in respect of the imposition of a requirement to demolish a building or structure either wholly or in part, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirement, reduced by the value to that person of any materials derived from the demolished building or structure, or from the demolished part of the building or structure, as the case may be;”;
  - (c) in [<sup>F77</sup>subsection (8) of the said section 280 and [<sup>F78</sup>subsection (8) of the said section 233]] any reference to the imposition of a requirement shall include a reference to anything which may be done by virtue of an order made, otherwise than by virtue of section 42 above, under this Part of this Act.
- (6) The preceding provisions of this section as to the assessment of compensation shall not have effect—
- (a) in the case of the compulsory purchase of land, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which objections may be made to the compulsory purchase order, certified that the land is in respect of its nature or situation of such a kind that it is comparable less with the generality of land than with land held for the purpose of the carrying on of statutory undertakings;
  - (b) in the case of the creation of any easement or servitude over land or any other right in or in relation to land, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which

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- objections may be made to the order providing for the creation of that easement, servitude or right, certified that the land in question is of such a kind as aforesaid; and
- (c) in the case of any direction which affects a building or structure, unless the Secretary of State has, upon a representation made to him before the expiration of the time within which an application may be made to the court with respect to the direction in accordance with the provisions of Part II of Schedule 7 to this Act, certified that the building or structure is in respect of its nature or situation comparable less with the generality of buildings or structures than with buildings or structures held for the purpose of the carrying on of statutory undertakings.
- (7) Schedule 10 to this Act (which broadly corresponds to [F79]sections 275 to 277 of the Town and Country Planning Act 1990] and [F80]sections 228 to 230 of the Town and Country Planning (Scotland) Act 1997]) shall have effect for the purpose of making any adjustments of the functions of statutory undertakers which may be necessary in consequence of the provisions of this Part of this Act; but in that Schedule references to an order made or proposed to be made in pursuance of this Part of the Act—
- (a) shall, in relation to an order for the compulsory purchase of land by the CAA [F81]or a licence holder], have effect as references to an order confirmed or, as the case may be, proposed to be confirmed by the Secretary of State; but
- (b) shall be deemed not to include a reference to an order made or, as the case may be, proposed to be made in pursuance of section 30 above or under any enactment conferring a power exercisable by statutory instrument.

#### Textual Amendments

- F71** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(a)**
- F72** Words in s. 51(2)(b) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 35(2)(a)**
- F73** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(b)(i)**
- F74** Words in s. 51(5) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para.35(2)(b)(i)**
- F75** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(b)(ii)**
- F76** Words in s. 51(5)(a) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 35(2)(b)(ii)**
- F77** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(b)(iii)**
- F78** Words in s. 51(5)(c) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 35(2)(b)(iii)**
- F79** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 55(2)(c)**
- F80** The words “sections 222 and 224 of the Town and Country Planning (Scotland) Act 1972” in s. 51(7) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 35(2)(c)**
- F81** Words in s. 51(7)(a) inserted (1.4.2001) by [2000 c. 38, s. 36](#), **Sch. 4 para. 9** (with s. 106); S.I. 2001/869, **art. 2**

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

- C29** Ss. 49, 51 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 2(2)(h)(9)**

#### Marginal Citations

- M29** 1961 c. 33.  
**M30** 1963 c. 51.

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## 52 Displacements from land.

(1) This section applies where—

- (a) the Secretary of State has acquired land for purposes connected with the exercise of his functions relating to civil aviation;
- (b) the Secretary of State (in a case not falling within paragraph (a) above) or the Department of the Environment for Northern Ireland has acquired land in pursuance of this Part of this Act;
- (c) the CAA has acquired land for purposes connected with the discharge of its functions; or
- [<sup>F82</sup>(ca) a licence holder has acquired land for purposes connected with the carrying out of the activities authorised by the licence;]
- (d) the Secretary of State gives a direction in relation to any land in pursuance of an order made under section 46(1) above;

and the use of the land by the person who has acquired it for the purpose for which he acquired it or, as the case may be, the execution of the direction will involve the displacement of persons residing in premises on the land.

(2) Where this section applies, the following, that is to say—

- (a) in a case falling within paragraph (a), (b) [<sup>F83</sup>, (c) or (ca)] of subsection (1) above, the person who has acquired the land,
- (b) in a case falling within paragraph (d) of that subsection where the person in respect of whom the order was made is the Secretary of State or Eurocontrol, the Secretary of State, and
- (c) in any other case falling within the said paragraph (d), the person in respect of whom the order was made,

shall be under a duty, in so far as there is no other residential accommodation available on reasonable terms to the persons who require it in consequence of the displacement, being residential accommodation suitable to the reasonable requirements of those persons, to secure the provision of such accommodation.

(3) A person required under subsection (2) above to secure the provision of accommodation shall secure its provision in advance of the displacement unless—

- (a) in a case falling within paragraph (a), (c) [<sup>F84</sup>, (ca)] or (d) of subsection (1) above, the Secretary of State is satisfied that for reasons of exceptional public importance it is essential that the displacement should be effected before such accommodation as aforesaid can be found; or
- (b) in a case falling within paragraph (b) of that subsection, the Secretary of State or, as the case may be, the Department of the Environment for Northern Ireland is so satisfied.

### Textual Amendments

**F82** S. 52(1)(ca) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(2)** (with s. 106); S.I. 2001/869, **art. 2**

**F83** Words in s. 52(2)(a) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(3)** (with s. 106); S.I. 2001/869, **art. 2**

**F84** Words in s. 52(3)(a) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 10(4)** (with s. 106); S.I. 2001/869, **art. 2**

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

C30 S. 52 extended with modifications by Airports Act 1986 (c. 31, SIF 9), s. 59(3)(4)

### 53 Compensation in respect of planning decisions relating to safety of aerodromes, etc.

- (1) A local planning authority (in this section referred to as “a planning authority”) shall be <sup>[F85]</sup>entitled to recover from the relevant person] a sum equal to any compensation which the planning authority has become liable to pay, if—
- (a) it has become so liable under <sup>[F86]</sup>section 107, 108, <sup>F87</sup>. . . 144(2) or 279(1) of the Town and Country Planning Act 1990] or <sup>[F88]</sup>section 76, 77, 95(2) or 232(1) of the Town and Country Planning (Scotland) Act 1997] (which relate to compensation for certain planning restrictions, for purchase notices which do not take effect and in respect of undertakers’ operational land); and
  - (b) the liability is attributable to a planning decision which would not have been taken, or, in the case of compensation under <sup>[F89]</sup>the said section 107] or <sup>[F90]</sup>the said section 76] to an order under <sup>[F89]</sup>section 97 of the said Act of 1990] or <sup>[F90]</sup>section 65 of the said Act of 1997] which would not have been made, but for the need—
    - (i) to secure the safe and efficient operation of an aerodrome owned by the CAA; or
    - (ii) to prevent persons or buildings from being struck by aircraft using such an aerodrome; or
    - <sup>[F91]</sup>(iii) to secure the safe and efficient operation of apparatus which is in the possession of a licence holder and is provided for the purpose of the activities authorised by the licence.]
- (2) Where a sum equal to any compensation is payable or paid to a planning authority in pursuance of subsection (1) above, the planning authority <sup>[F92]</sup>shall refund to the person who paid that sum] any amount received by the planning authority in respect of the compensation under <sup>[F93]</sup>sections 111 and 112 of the said Act of 1990] or <sup>[F94]</sup>section 82 of the said Act of 1997] (which relate to the recovery of compensation on subsequent development).
- (3) Where a purchase notice is served under <sup>[F95]</sup>section 137 of the said Act of 1990] or <sup>[F96]</sup>section 88 of the said Act of 1997] in respect of a planning decision which would not have been taken but for <sup>[F97]</sup>a need referred to in subsection (1)(b)(i) to (iii),] any local authority who are deemed under <sup>[F95]</sup>section 139(3) or 143(1) of the said Act of 1990] or <sup>[F96]</sup>section 90(3) or 94(1) of the said Act of 1997] to have served a notice to treat in respect of the interest to which the purchase notice relates may, by notice in writing <sup>[F98]</sup>given to the relevant person] not later than one month from the time when the amount of compensation payable by the local authority for the interest is agreed or determined, <sup>[F98]</sup>require the relevant person] to purchase the interest from the local authority for a sum equal to the amount of compensation so agreed or determined.
- (4) Where a notice in writing is given to <sup>[F99]</sup>the relevant person] under subsection (3) above, <sup>[F99]</sup>the relevant person] shall, subject to any agreement between it and the local authority, be deemed to have contracted with the local authority to purchase the interest at that price.
- (5) Any dispute as to whether a planning decision would not have been taken or an order under <sup>[F100]</sup>the said section 97] or <sup>[F101]</sup>the said section 65] would not have been made

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but for such a need as is mentioned in subsection (1) above shall be referred to and determined by the Secretary of State.

- (6) In the preceding provisions of this section “planning decision” means a decision made on an application under Part III of [<sup>F102</sup>the said Act of 1990] or Part III of [<sup>F103</sup>the said Act of 1997]; and references in those provisions to a local planning authority include, in relation to England and Wales, references to any authority to whom functions of a local planning authority are delegated.
- (7) Where by reason of a planning decision taken under the Planning Acts (Northern Ireland) 1931 and 1944 by a planning authority in Northern Ireland or under the <sup>M31</sup>Planning (Northern Ireland) Order [<sup>F104</sup>1991] by the Department of the Environment for Northern Ireland or the Planning Appeals Commission—
- (a) the Department of the Environment for Northern Ireland becomes liable to pay compensation to any person; and
- [<sup>F105</sup>(b) the decision would not have been taken but for the need to secure the safe and efficient operation of apparatus which is in the possession of a licence holder and is provided for the purpose of the activities authorised by the licence, the Department shall be entitled to recover from the licence holder a sum equal to that compensation.]
- (8) Where a sum equal to any compensation is payable or paid to the said Department in pursuance of subsection (7) above, the Department shall pay [<sup>F106</sup>the licence holder]any amount received by the Department in respect of the compensation under section 24 of the <sup>M32</sup>Land Development Values (Compensation) Act (Northern Ireland) 1965 (which relates to the recovery of compensation on subsequent development).
- (9) In subsection (7) above, “planning decision” includes a revocation or modification of planning permission under section 3 of the <sup>M33</sup>Planning (Interim Development) Act (Northern Ireland) 1944.
- [<sup>F107</sup>(10) The relevant person for the purposes of this section is—
- (a) in a case to which subsection (1)(b)(i) or (ii) applies, the CAA, and
- (b) in a case to which subsection (1)(b)(iii) applies, the licence holder.]

#### Textual Amendments

- F85** Words in s. 53(1) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(2)(a)** (with s. 106); S.I. 2001/869, **art. 2**
- F86** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(a)(i)**
- F87** Figure "114," in s. 53(1)(a) repealed (E.W.) (25.9.1991) by **Planning and Compensation Act 1991** (c. 34, SIF 28:1, 23:1), ss. 31(4), 84(6), Sch. 6 para. 6, **Sch. 19**, Pt. II (with s. 84(5)); S.I. 1991/2067, **art. 3**
- F88** Words in s. 53(1)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(a)(i)**
- F89** Words substituted by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(a)(ii)**
- F90** Words in s. 53(1)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(a)(ii)**
- F91** S. 53(1)(b)(iii) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(2)(b)** (with s. 106); S.I. 2001/869, **art. 2**
- F92** Words in s. 53(2) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(3)** (with s. 106); S.I. 2001/869, **art. 2**

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- F93** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(b)**
- F94** Words in s. 53(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(b)**
- F95** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(c)**
- F96** Words in s. 53(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(c)**
- F97** Words in s. 53(3) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(4)(a)** (with s. 106); S.I. 2001/869, **art. 2**
- F98** Words in s. 53(3) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(4)(b)(c)** (with s. 106); S.I. 2001/869, **art. 2**
- F99** Words in s. 53(4) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(5)** (with s. 106); S.I. 2001/869, **art. 2**
- F100** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(d)**
- F101** Words in s. 53(5) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(d)**
- F102** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 55(3)(e)**
- F103** Words in s. 53(6) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 35(3)(e)**
- F104** Words in s. 53(7) substituted (21.8.1991) by S.I. 1991/1220 (N.I. 11), art. 133(1), **Sch. 5**
- F105** S. 53(7)(b) and the words following it substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(6)** (with s. 106); S.I. 2001/869, **art. 2**
- F106** Words in s. 53(8) substituted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(7)** (with s. 106); S.I. 2001/869, **art. 2**
- F107** S. 53(10) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 11(8)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C31** S. 53 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxxv)**

#### Marginal Citations

- M31** S.I. 1972/1634 (N.I.17).  
**M32** 1965 c. 23 (N.I.).  
**M33** 1944 c. 3 (N.I.).

## 54 Consecrated land and burial grounds.

- (1) Subject to subsection (2) below, [F108sections 238 to 240 of the Town and Country Planning Act 1990] and [F109section 197 of the Town and Country Planning (Scotland) Act 1997] (consecrated land and burial grounds) shall have effect in relation—
- to land acquired by the Secretary of State for purposes connected with the exercise of his functions relating to civil aviation, and
  - to land acquired by the Secretary of State in pursuance of this Part of this Act and otherwise than as mentioned in paragraph (a) above,
- as if the Secretary of State had acquired that land under [F108Part IX of the said Act of 1990] or, as the case may be, [F109Part VIII of the said Act of 1997].
- (2) [F110The said sections 238 to 240][F111and 197] shall have effect [F112in relation to any land—
- acquired by the CAA, or
  - acquired by a licence holder for purposes connected with the carrying out of the activities authorised by the licence,]



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as they have effect in relation to land acquired by statutory undertakers under [F110]Part IX of the said Act of 1990] or, as the case may be, [F111]Part VIII of the said Act of 1997].

#### Textual Amendments

**F108** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 55\(4\)\(a\)](#)

**F109** Words in s. 54(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 35\(4\)\(a\)](#)

**F110** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 55\(4\)\(b\)](#)

**F111** Words in s. 54(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 35\(4\)\(b\)](#)

**F112** Words in s. 54(2) and s. 54(2)(a)(b) substituted (1.4.2001) for words in s. 54(2) by 2000 c. 38, s. 36, [Sch. 4 para. 12](#) (with s. 106); S.I. 2001/869, [art. 2](#)

## 55 Registration of orders, etc. under Part II.

- (1) The following shall be local land charges in England and Wales:—
  - (a) a right in or in relation to land granted or agreed to be granted on or after 25th October 1968 and enforceable by virtue of section 43 above;
  - (b) the following instruments when operative that is to say
    - (i) an order under section 44 above;
    - (ii) an order under section 45 above, other than an order for the imposition of prohibitions or restrictions on the use of water; and
    - (iii) an order under section 46(1) above or any direction given under such an order.
- (2) A grant or agreement made as respects land in Scotland shall not be enforceable by virtue of section 43 above against a third party who shall have in good faith and for value acquired a right (whether completed by infestment or not) to the land prior to the grant or agreement being registered in the Land Register of Scotland or against any person deriving title from such third party.
- (3) In Scotland where any such instrument as is mentioned in subsection (1)(b) above becomes operative it shall be registered as a deed in the said Land Register, and on being so registered shall be enforceable against any person having or subsequently acquiring any estate or interest in the land to which the order or direction relates.
- (4) For the purposes of the recording of a deed in the Register of Sasines under section 8 of the <sup>M34</sup>Land Registration (Scotland) Act 1979 or of the application of subsection (2) or (3) above in relation to any area in respect of which section 29(2) of that Act (modification of references to Register of Sasines) is not yet in force, any reference in subsections (2) and (3) above to the registration of any grant, agreement or instrument in the Land Register of Scotland shall have effect as a reference to the recording of the grant, agreement or instrument in the Register of Sasines.
- (5) A right in or in relation to land in Northern Ireland granted or agreed to be granted to the CAA [F113] or a licence holder] shall not be enforceable by virtue of section 43 above against a purchaser for money or money's worth of any estate or interest in the land to which the grant or agreement in question relates unless before the completion of the purchase the grant or agreement is registered in the Statutory Charges Register pursuant to Part X of the <sup>M35</sup>Land Registration Act (Northern Ireland) 1970; and



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accordingly such a grant or agreement shall be included among the matters which are required to be registered in that Register.

- (6) Where any such instrument as is mentioned in subsection (1)(b) above adversely affects land in Northern Ireland, then—
- (a) if the land is registered land to which the Land Registration Act (Northern Ireland) 1970 applies, the instrument on the lodgment by the relevant authority of a copy thereof with the Registrar of Titles shall, notwithstanding anything in the said Act or rules made thereunder, be registered as a burden affecting the land and created after the first registration of the land, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate; and
  - (b) if the land is not registered land to which that Act applies, the instrument shall, on lodgment by the relevant authority of a copy thereof with the Registrar of Deeds for Northern Ireland, be registered in the Registry of Deeds, Northern Ireland, as an instrument affecting the lands to which the instrument relates.
- (7) In subsection (6) above “the relevant authority” means—
- (a) in the case of an order under section 44 above—
    - (i) if the order is made in favour of the Secretary of State or Eurocontrol, the Secretary of State; <sup>F114</sup> . . .
    - (ii) if the order is made in favour of the CAA, the CAA; and
    - <sup>F115</sup>(iii) if the order is made in favour of a licence holder, the licence holder; and]
  - (b) in the case of an order under section 45 above—
    - (i) if the order is made in respect of an aerodrome owned or managed by the CAA, the CAA; and
    - (ii) in any other case, the Secretary of State; and
  - (c) in the case of an order under section 46(1) above or of a direction given under such an order—
    - (i) if the order is made in respect of the CAA, the CAA;
    - <sup>F116</sup>(ia) if the order is made in respect of a licence holder, the licence holder; and
    - (ii) in any other case, the Secretary of State.

#### Textual Amendments

**F113** Words in s. 55(5) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(2)** (with s. 106); S.I. 2001/869, **art. 2**

**F114** Word in s. 55(7)(a)(i) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. I(4)**; S.I. 2001/869, **art. 2**

**F115** S. 55(7)(a)(iii) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(3)** (with s. 106); S.I. 2001/869, **art. 2**

**F116** S. 55(7)(c)(ia) inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 13(4)** (with s. 106); S.I. 2001/869, **art. 2**

#### Marginal Citations

**M34** 1979 c. 33.

**M35** 1970 c. 18 (N.I.).

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## 56 Notices.

- (1) Any notice required to be served on any person for the purposes of any provision to which this section applies may be served on him either by delivering it to him or by leaving it at his proper address, or by post, so however that the notice shall not be duly served by post unless it is sent by registered letter or by the recorded delivery service.
- (2) Any such notice required to be served upon an incorporated company or body shall be duly served if it is served on the secretary or clerk of the company or body.
- (3) For the purposes of this section and of section 7 of the <sup>M36</sup>Interpretation Act 1978, the proper address of any person upon whom any such notice is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body and in any other case be the last known address of the person to be served, except that, where the person to be served has furnished an address for service, that address shall be his proper address for those purposes.
- (4) If it is not practicable after reasonable inquiry to ascertain the name or address of any owner, lessee or occupier of land on whom any such notice is to be served, the notice may be served by addressing it to him by the description of “owner”, “lessee” or “occupier” of the land (describing it) to which the notice relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- (5) In the application to Scotland of any provision to which this section applies and which requires notice to be served on the owners, lessees or occupiers of any land, that requirement shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll to have an interest in the land, and any reference in this Part of this Act to “owners”, “lessees” or “occupiers” shall be construed accordingly.
- (6) Service of a notice under subsection (5) above on any person appearing from the valuation roll to have an interest in land may be effected by sending the notice either—
  - (a) in a registered letter addressed to him at his address as entered in that roll; or
  - (b) by the recorded delivery service to him at that address.
- (7) This section applies to any provision of this Part of this Act except section 42 above and so much of section 50 above as relates to the service of a notice under the said section 50 otherwise than by the Secretary of State.
- (8) In this section “owner”—
  - (a) in relation to any land in England and Wales, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits under a lease or agreement, the unexpired term whereof exceeds three years;
  - (b) in relation to any land in Scotland or Northern Ireland, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes also a lessee under a lease the unexpired period of which exceeds three years.

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#### Marginal Citations

M36 1978 c. 30.

### 57 Power to appoint special constables.

- (1) Any two justices of the peace may appoint such persons as may be nominated for the purpose by the Secretary of State to be special constables on any premises for the time being vested in or under the control of the Secretary of State.
- (2) Every person so appointed shall be sworn in by the justices duly to execute the office of a constable on those premises and when so sworn in shall, on those premises, have the powers and privileges and be liable to the duties and responsibilities of a constable.
- (3) Special constables appointed under this section shall be under the exclusive control of the Secretary of State, and the Secretary of State shall have power to suspend or terminate the appointment of any such special constable.
- (4) In the application of this section to Scotland references to two justices of the peace shall be construed as references to a single justice of the peace, and references to swearing in shall be construed as references to making a declaration in the terms prescribed under section 16 of the <sup>M37</sup>Police (Scotland) Act 1967.

#### Marginal Citations

M37 1967 c. 77.

### 58 ..... F117

#### Textual Amendments

F117 Ss. 58, 60(3)(o), 61(6) repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

### 59 Expenses and stamp duty.

- (1) Any expenses incurred by the Department of the Environment for Northern Ireland under this Part of this Act shall, to such extent as the Treasury may direct, be defrayed by the Secretary of State.
- (2) Stamp duty shall not be payable on any conveyance of land, or on any instrument creating or disposing of any right in or in relation to land being a conveyance or instrument to which the Secretary of State is a party if he certifies that the duty would fall to be defrayed as part of his expenses and either—
  - (a) that the expenses as part of which the duty would fall to be defrayed are his expenses in connection with the performance of his functions relating to civil aviation; or
  - (b) in a case not falling within paragraph (a) above of a conveyance of land, that the conveyance is made for the purpose of this Part of this Act.

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- (3) Stamp duty shall not be payable on any conveyance of land to which the Department of the Environment for Northern Ireland is a party if that Department certifies that the conveyance is made for the purpose of this Part of this Act and that the duty would fall to be defrayed as part of that Department's expenses.

### PART III

#### REGULATION OF CIVIL AVIATION

##### *General*

#### **60 Power to give effect to Chicago Convention and to regulate air navigation, etc.**

- (1) Subject to section 11(7) above, Her Majesty may by Order in Council under this section (in this Act referred to as "an Air Navigation Order") make such provision as is authorised by subsections (2) and (3) below or otherwise by this Act or any other enactment.
- (2) An Air Navigation Order may contain such provision as appears to Her Majesty in Council to be requisite or expedient—
- (a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or
  - (b) generally for regulating air navigation.
- (3) Without prejudice to the generality of subsection (2) above or to any other provision of this Act, an Air Navigation Order may contain provision—
- (a) as to the registration of aircraft in the United Kingdom;
  - (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Order;
  - (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes;
  - (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft;
  - (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Kingdom may fly, and as to the conditions under which aircraft may fly from one part of the United Kingdom to another;

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- (f) as to the conditions under which passengers . . . <sup>F118</sup> may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, . . . <sup>F118</sup>
- [<sup>F119</sup>(ff) as to the conditions under which goods may be carried by air, for prohibiting the carriage by air of goods of such classes as may be specified in the Order, and for conferring, on such persons as may be so specified, powers relating to the enforcement of any such condition or prohibition (including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing goods or to require them to be opened and powers to require the production of any documents);]
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;
- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- <sup>F120</sup>(k) . . . . .
- (l) for prohibiting aircraft from flying over such areas in the United Kingdom as may be specified in the Order;
- (m) for applying, adapting or modifying the enactments for the time being in force relating to customs or excise in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to Her Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into the United Kingdom without payment of duty;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (o) . . . . . <sup>F121</sup>
- (p) for specifying, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any other matters in respect of which it appears to Her Majesty in Council to be expedient for the purpose of the Order to charge fees;
- (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons;
- (r) for prohibiting aircraft from taking off or landing in the United Kingdom unless there are in force in respect of those aircraft such certificates of

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- compliance with standards as to noise as may be specified in the Order and except upon compliance with the conditions of those certificates; and
- (s) for regulating or prohibiting the flight of aircraft over the United Kingdom at speeds in excess of Flight Mach 1.
- (4) An Air Navigation Order may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the United Kingdom but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

<sup>F122</sup>(5) .....

- (6) In this section a reference to goods shall include a reference to mails or animals.

#### Textual Amendments

**F118** Words repealed by [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), ss. 47(a), 53(2), **Sch. 4**

**F119** [S. 60\(3\)\(ff\)](#) inserted by [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), **s. 47(b)**

**F120** [S. 60\(3\)\(k\)](#) repealed (8.11.1995) by [1995 c. 44, s. 1, Sch. 1 Pt. V](#)

**F121** [S. 60\(3\)\(o\)](#) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), **Sch. 6 Pt. II**

**F122** [S. 60\(5\)](#) repealed (24.4.1994) by [S.I. 1994/426 \(N.I. 1\)](#) arts. 1(2), 71(4), Sch. 10 (with art. 16)

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

**C32** [S. 60](#) amended by [Airports Act 1986 \(c. 31, SIF 9\)](#), **s. 35**

## 61 Air Navigation Orders etc.: supplemental.

- (1) An Air Navigation Order may, for the purpose of securing compliance with its provisions, provide—
- (a) subject to subsection (2) below, for persons to be guilty of offences in such circumstances as may be specified in the Order and to be liable on conviction of those offences to such penalties as may be so specified; and
- (b) in the case of a provision having effect by virtue of paragraph (l) of subsection (3) of section 60 above, for the taking of such steps (including firing on aircraft) as may be specified in the Order.
- (2) The power conferred by virtue of subsection (1)(a) above shall not include power—
- (a) to provide for offences to be triable only on indictment;
- (b) to authorise the imposition, on summary conviction of any offence, of any term of imprisonment or of a fine exceeding the statutory maximum;
- (c) to authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.
- (3) Without prejudice to section 127(2) of the <sup>M38</sup>Magistrates' Courts Act 1980 or to Article 19(2) of the <sup>M39</sup>Magistrates' Courts (Northern Ireland) Order 1981 (no time limit for offences triable either way), summary proceedings for an offence against an Air Navigation Order, or any regulations made by virtue of such an Order, may be instituted at any time within twelve months from the commission of the offence if—
- (a) it was committed in connection with the flight of an aircraft in the course of which an accident occurred; and

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- (b) not more than six months after the commission of the offence—
  - (i) public notice has been given that an investigation into the accident is being carried out in accordance with regulations under section 75 below; or
  - (ii) the Secretary of State (acting alone or with any government department) has directed that a public inquiry into the accident be held in accordance with those regulations.
- (4) In subsection (3) above “accident” has the same meaning as it has for the time being for the purposes of section 75 below; and for the purposes of that subsection, the flight of an aircraft shall be deemed to include any period from the moment when the power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends.
- (5) The fact that any such direction as is mentioned in subsection (3)(b)(ii) above has been given on any date may be proved by the production of a certificate to that effect purporting to be signed by an officer of the Secretary of State.
- (6) ..... <sup>F123</sup>
- (7) There shall be paid out of moneys provided by Parliament—
  - (a) any sums payable by Her Majesty’s Government in the United Kingdom by way of contribution to the expenses of the International Civil Aviation Organisation under the Chicago Convention;
  - (b) such expenses of any delegate, representative or nominee of Her Majesty’s Government in the United Kingdom appointed for any purposes connected with the Chicago Convention as may be approved by the Treasury; and
  - (c) any expenses incurred by Her Majesty’s Government in the United Kingdom for the purposes of Chapter XV of the Chicago Convention (which relates to the provision of airports and other air navigation facilities).
- (8) There shall be paid into the Consolidated Fund—
  - (a) all sums received by Her Majesty’s Government in the United Kingdom by way of repayment of expenses incurred for the purposes of the said Chapter XV; and
  - (b) all sums received by way of fees paid under an Air Navigation Order.

#### Textual Amendments

**F123** S. 61(6) repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), **Sch. 6 Pt. II**

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

**C33** S. 61 extended (with modifications) (Overseas Territories) (16.5.2001) by [S.I. 2001/1452](#), art. 4, [Schs. 1, 2](#) (with art. 5)

#### Marginal Citations

**M38** 1980 c. 43.

**M39** [S.I. 1981/1675 \(N.I. 26\)](#).



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### War and emergencies

<sup>F124</sup>62 .....

#### Textual Amendments

**F124** S. 62 repealed (1.4.2001) by 2000 c. 38, ss. 97, 274, Sch. 8 Pt. V para. 18, **Sch. 31 Pt. I(3)** (with s. 106); S.I. 2001/869, **art. 2**

<sup>F125</sup>63 .....

#### Textual Amendments

**F125** S. 63 repealed (1.4.2001) by 2000 c. 38, ss. 97, 274, Sch. 8 Pt. V para. 18, **Sch. 31 Pt. I(3)** (with s. 106); S.I. 2001/869, **art. 2**

### Air transport, etc.<sup>F126</sup>

#### Textual Amendments

**F126** S. 69A inserted (1.1.1993) by S.I. 1992/2992, **reg.21**.

## 64 Restriction of unlicensed carriage by air for reward.

- (1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless—
  - (a) the operator of the aircraft holds a licence granted to him by the CAA in pursuance of section 65 below (in this Act referred to as an “air transport licence”) authorising him to operate aircraft on such flights as the flight in question; and
  - (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.
- (2) Subsection (1) above applies to any flight in any part of the world by an aircraft registered in the United Kingdom and to any flight beginning or ending in the United Kingdom by an aircraft registered in a relevant overseas territory<sup>F127</sup> . . . , except that it does not apply to—
  - (a) a flight of a description specified in an instrument made by the CAA for the purposes of this paragraph and in force in accordance with subsection (3) below;
  - (b) a particular flight or series of flights specified in an instrument made by the CAA for the purposes of this paragraph;
  - (c) a flight by an aircraft of which the CAA is the operator.
  - <sup>F128</sup>(d) a flight for the undertaking of carriage by air for which a valid operating licence issued in accordance with [<sup>F129</sup>the Community licensing Regulation] is required.]

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- (3) An instrument made in pursuance of paragraph (a) of subsection (2) above shall not come into force until it is published in the prescribed manner, and it shall be the duty of the CAA forthwith after making an instrument in pursuance of paragraph (b) of that subsection to publish the instrument in the prescribed manner; and an instrument made in pursuance of paragraph (a) or (b) of that subsection may be revoked or varied by a subsequent instrument made in pursuance of that paragraph.
- (4) Where an aircraft is used for the carriage of passengers or cargo in pursuance of an arrangement made between a member of an incorporated or unincorporated body of persons and that body or another member of it, then, if by reason of relationships arising from membership of the body the carriage is not apart from this subsection carriage for reward, it shall be treated for the purposes of this section as carriage for reward.
- (5) Where an aircraft is used on a flight in contravention of subsection (1) above or, after an aircraft has been used in pursuance of an air transport licence on a flight to which that subsection applies, any term of the licence relating to the flight and falling to be complied with at or after the end of the flight by the operator of the aircraft or by another person who made available such accommodation as is mentioned in paragraph (b) of this subsection is contravened, then—
- (a) if before the flight began the operator of the aircraft knew or ought to have known that the use of the aircraft on that flight was likely to be in contravention of that subsection or, as the case may be, that the term in question was likely to be contravened, he shall be guilty of an offence under this subsection; and
  - (b) if any other person, either by negotiating a contract or otherwise howsoever, made available accommodation for the carriage of passengers or cargo on the aircraft on the flight when he knew or ought to have known before the flight began that the accommodation was likely to be provided on an aircraft when used on a flight in contravention of the said subsection (1) or, as the case may be, that such a term as the term in question was likely to be contravened, that person shall be guilty of an offence under this subsection;
- but a person shall not (except in pursuance of section 99(1) below or the law relating to persons who aid, abet, counsel or procure the commission of offences) be guilty of an offence by virtue of paragraph (b) above in consequence of the contravention by another person of a term of a licence.
- (6) For the purpose of determining in pursuance of subsection (5) above whether an offence relating to a flight has been committed by the operator of the aircraft used on the flight, it is immaterial that the relevant contravention mentioned in that subsection occurred outside the United Kingdom if when it occurred the operator—
- (a) was a United Kingdom national, or
  - (b) was a body incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory<sup>F127</sup> . . . , or
  - (c) was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom;

and for the purpose of determining in pursuance of that subsection whether an offence relating to a flight has been committed by a person who made available such accommodation as is mentioned in that subsection it is immaterial that the relevant contravention there mentioned occurred outside the United Kingdom and that at any relevant time that person was not a United Kingdom national or such a body as aforesaid if any part of the negotiations resulting in the making available of the

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accommodation in question took place, whether by means of the post or otherwise, in the United Kingdom.

(7) Where the CAA has reason to believe that an aircraft is intended to be used in contravention of subsection (1) above on a particular flight beginning in the United Kingdom or that any term of an air transport licence relating to such a flight and falling to be complied with at or after the end of the flight may not be complied with, the CAA may—

- (a) give to the person appearing to it to be in command of the aircraft a direction that he shall not permit the aircraft to take off until it has informed him that the direction is cancelled;
- (b) whether or not it has given such a direction, detain the aircraft until it is satisfied that the aircraft will not be used on the flight in contravention of the said subsection (1) or, as the case may be, that the term aforesaid will be complied with;

and a person who fails to comply with a direction given to him in pursuance of this subsection shall be guilty of an offence under this subsection.

(8) A person guilty of an offence under subsection (5) or (7) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

#### Textual Amendments

**F127** Words in s. 64(2)(6)(b) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II

**F128** S. 64(2)(d) inserted (1.1.1993) by S.I. 1992/2992, reg. 20.

**F129** Words in s. 64(2)(d) substituted (1.1.1994) by S.I. 1993/3039, reg. 3(a)

## 65 Grant and refusal of air transport licences.

(1) An application for the grant of an air transport licence must be made in writing to the CAA and contain such particulars with respect to such matters as the CAA may specify in a notice published in the prescribed manner; and where an application is made for the grant of an air transport licence the CAA shall either grant a licence to the applicant in the terms requested in the application or in those terms with such modifications as the CAA thinks fit or refuse to grant a licence.

(2) The CAA shall refuse to grant an air transport licence in pursuance of an application if it is not satisfied that —

- (a) the applicant is, having regard to—
  - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
  - (ii) where the applicant is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the CAA to control that body,

a fit person to operate aircraft under the authority of the licence which, apart from this subsection, the CAA considers should be granted to him in pursuance of the application; or

- (b) the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect

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of the business activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence which, apart from this subsection, the CAA considers should be granted to him in pursuance of the application.

- (3) If the CAA is not satisfied that an applicant for an air transport licence is—
- (a) a United Kingdom national; or
  - (b) a body which is incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory<sup>F130</sup> . . . and is controlled by United Kingdom nationals,
- it shall refuse to grant a licence in pursuance of his application unless the Secretary of State consents to the grant of the licence; and where the CAA proposes to refuse to grant a licence by reason only of the preceding provisions of this subsection it shall be the duty of the CAA to give the Secretary of State notice of the proposal and to postpone its decision on the application until the Secretary of State's consent is given or refused.
- (4) Nothing in the provisions of subsections (2) and (3) above shall be construed as prejudicing the CAA's power in its discretion to refuse an air transport licence otherwise than in pursuance of any of those provisions.
- (5) An air transport licence may contain such terms as the CAA thinks fit; and (without prejudice to the generality of the CAA's power to decide those terms) the terms may—
- (a) be or include terms settled by a person other than the CAA and include provision for any of the terms to have effect with such modifications as the CAA or another person may from time to time determine; and
  - (b) include terms as to the charges which are to be made and the goods, services and other benefits which are and are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licence relates.
- (6) If the holder of a current air transport licence applies for the grant of another air transport licence in continuation of or in substitution for the current licence and does so not later than such time before the expiration of the term of the current licence as the CAA may specify in a notice published in the prescribed manner, then, unless the application is withdrawn and without prejudice to the CAA's power to revoke, suspend or vary the current licence, the current licence shall not cease to be in force by reason only of the expiration of that term—
- (a) until the CAA gives its decision on the application;
  - (b) if in pursuance of the application the CAA decides to refuse a licence or to grant a licence otherwise than in the terms requested in the application, until the expiration of the time during which an appeal to the Secretary of State against the decision may be brought in pursuance of regulations made by virtue of section 67(5) below and, if such an appeal is brought, until the appeal is determined or abandoned;
  - (c) if such an appeal against a decision to refuse a licence or to grant one otherwise than in the terms aforesaid is successful, until the date when the licence granted in consequence of the appeal comes into force.
- (7) A notice published in pursuance of subsection (1) or subsection (6) above may be altered or cancelled by subsequent notice published in pursuance of that subsection.

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### Textual Amendments

**F130** Words in s. 65(3)(b) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II

## 66 Revocation, suspension and variation of air transport licences.

- (1) An application for the revocation, suspension or variation of an air transport licence may be made to the CAA at any time by a person of a prescribed description.
- (2) The CAA may at any time revoke, suspend or vary an air transport licence if it considers it appropriate to do so, whether or not an application with respect to the licence has been made in pursuance of subsection (1) above.
- (3) It shall be the duty of the CAA to revoke or suspend or vary an air transport licence (whichever it thinks appropriate in the circumstances) if it is not or is no longer satisfied—
  - (a) that the holder of the licence is, having regard to—
    - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
    - (ii) where the holder of the licence is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the CAA to control that body, a fit person to operate aircraft under the authority of the licence; or
  - (b) that the resources of the holder of the licence and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged;and if the CAA has reason to believe that the holder of a licence is neither a United Kingdom national nor such a body as is mentioned in paragraph (b) of subsection (3) of section 65 above it shall be the duty of the CAA to inform the Secretary of State accordingly and, if he so directs, to revoke the licence.
- (4) The provisions of subsections (2) and (3) above conferring on the CAA power to suspend an air transport licence shall be construed as conferring on the CAA power to provide, by a notice in writing served in the prescribed manner on the holder of the licence, that subject to subsection (5) below the licence shall not be effective during a period specified in the notice; and while a licence is ineffective by virtue of such a notice the CAA may, by a further notice in writing served in the prescribed manner on the holder of the licence, provide that the licence shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the CAA's powers to suspend the licence again or to revoke or vary it.
- (5) Subject to subsection (6) below, if a licence is revoked, suspended or varied by the CAA otherwise than on the application of the holder of the licence and otherwise than in consequence of a direction given in pursuance of subsection (3) above, the revocation, suspension or variation shall not take effect before the expiration of the period prescribed in pursuance of subsection (5) of section 67 below for the bringing of an appeal against the CAA's decision nor, if such an appeal is brought during that period, before the determination or abandonment of the appeal.
- (6) Notwithstanding anything in subsection (5) above, the CAA may—
  - (a) direct that so much of the variation of a licence as relates to any tariff provision of the licence,

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(b) with the consent of the holder of the licence, direct that so much of the variation of a licence as relates to any other matter, shall to a specified extent take effect on a specified day earlier than is permitted by that subsection.

In this subsection “tariff provision” means, in relation to any licence, any term of that licence being a term such as is mentioned in section 65(5)(b) above.

## 67 Supplementary provisions relating to air transport licensing.

- (1) Regulations made by the Secretary of State may make provision as to the circumstances in which an air transport licence shall or may be transferred or treated as if granted to a person other than the person to whom it was granted.
- (2) Where the CAA takes a decision to grant, refuse to grant, vary, suspend or revoke an air transport licence it shall be the duty of the CAA, subject to subsection (3) below, to furnish a statement of its reasons for the decision to the applicant for the licence or, as the case may be, to the holder or former holder of it and to any other person who in accordance with regulations made by the Secretary of State has entered an objection in the case or requested such a statement, so however that no statement of reasons need be furnished in pursuance of this subsection in a case in which—
  - (a) no such objection has been entered and no such request has been made; and
  - (b) the decision is taken in pursuance of, and is in the terms requested in, an application for the grant of a licence or an application by the holder of a licence for the variation, suspension or revocation of it.
- (3) If the CAA has reason to believe that the furnishing of a statement reasons in pursuance of subsection (2) above might be contrary to the interests of national security or might affect adversely the relations of the United Kingdom with any other country or territory, it shall be the duty of the CAA to give notice of the case to the Secretary of State and, if he so directs, to refrain from furnishing the statement in question or to exclude from the statement such matter as is specified in the direction; and the CAA may—
  - (a) refrain from furnishing a statement of reasons in pursuance of subsection (2) above to a person (hereafter in this subsection referred to as a “relevant person”) who is an applicant for or holder or former holder of an air transport licence or has in accordance with regulations made by the Secretary of State entered an objection in the case or requested such a statement, or
  - (b) exclude matter from a statement furnished in pursuance of that subsection to a relevant person,

if the CAA considers it necessary to do so for the purpose of withholding from the relevant person information which in the opinion of the CAA relates to the commercial or financial affairs of another person and cannot be disclosed to the relevant person without disadvantage to the other person which, by comparison with the advantage to the public and the relevant person of its disclosure to him, is unwarranted.
- (4) The CAA may publish in such manner as it thinks fit particulars of, and of its reasons for, any decision taken by it with respect to an air transport licence or an application for such a licence.
- (5) The Secretary of State shall make regulations—

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- (a) conferring on persons of prescribed descriptions a right to appeal to the Secretary of State from any decision of the CAA with respect to or to an application for an air transport licence;
- (b) authorising the Secretary of State on such an appeal to direct the CAA to reverse or vary the decision in question and in consequence to do or refrain from doing such other things as may be specified in the direction; and
- (c) containing such provisions as the Secretary of State thinks fit with respect to such appeal, which (without prejudice to the generality of the preceding provisions of this paragraph) may include provisions as to—
  - (i) the time within which an appeal must be brought,
  - (ii) the persons in addition to the appellant who are to be parties to an appeal, and
  - (iii) the liability of any of the parties in respect of costs or expenses incurred in connection with an appeal;

and the Secretary of State shall, when considering whether to give a direction in pursuance of regulations made by virtue of paragraph (b) of this subsection and when considering the terms of any such direction, have regard in particular to the duties imposed on the CAA by section 4 above and section 68 below.

- (6) A person who, for the purpose of obtaining for himself or another person either an air transport licence or a variation of an air transport licence or the cancellation of the suspension of an air transport licence, knowingly or recklessly furnishes the CAA or the Secretary of State with any information which is false in a material particular shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

## **68 General duties in relation to air transport licensing functions of CAA.**

- (1) It shall be the duty of the CAA to perform its air transport licensing functions in the manner which it considers is best calculated to ensure that British airlines compete as effectively as possible with other airlines in providing air transport services on international routes; and in performing those functions the CAA shall also have regard—
  - (a) to any advice received from the Secretary of State with respect to the likely outcome of negotiations with the government of any other country or territory for the purpose of securing any right required for the operation by a British airline of any air transport services outside the United Kingdom; and
  - (b) to the need to secure the most effective use of airports within the United Kingdom.
- (2) In considering whether to grant any air transport licence, it shall be the duty of the CAA to have regard to the effect on existing air transport services provided by British airlines of authorising any new services the applicant proposes to provide under the licence, and in any case where those existing services are similar (in terms of route) to the proposed new services or where two or more applicants have applied for licences under which each proposes to provide similar services, the CAA shall have regard in particular to any benefits which may arise from enabling two or more airlines to provide the services in question.



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- (3) Subject to section 4 above and to subsections (1) and (2) above, it shall be the duty of the CAA in performing its air transport licensing functions to have regard to the need to minimise so far as reasonably practicable—
- (a) any adverse effects on the environment, and
  - (b) any disturbance to the public,
- from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.
- (4) In addition to the duties with respect to particular matters imposed on the CAA by the preceding provisions of this section, it shall be the duty of the CAA to perform its air transport licensing functions in the manner which it considers is best calculated to impose on the civil air transport industry of the United Kingdom and on the services it provides for users of air transport services the minimum restrictions consistent with the performance by the CAA of its duties under sections 4, 65 and 66 above and the preceding provisions of this section.
- (5) In this section—
- (a) references to the air transport licensing functions of the CAA are references to its functions under sections 64 to 66 above and any functions conferred on it by regulations made under subsection (1) of section 67 above; and
  - (b) “British airline” has the same meaning as in section 4(1) above.

## **69 Periodical publication of CAA’s policies.**

- (1) It shall be the duty of the CAA to publish from time to time a statement of the policies it intends to adopt in performing its functions under sections 64 to 68 above.
- (2) If the Secretary of State considers it appropriate to do so, he may by notice in writing require the CAA to publish a statement of the policy it intends to adopt with respect to any particular matter in performing the functions mentioned in subsection (1) above (or any of them); and it shall be the duty of the CAA to publish any statement required by a notice under this subsection within six months of the date of the notice.
- (3) Before publishing any statement under this section the CAA shall consult such persons as appear to it to be representative respectively—
- (a) of the civil air transport industry of the United Kingdom; and
  - (b) of users of air transport services.
- (4) The manner of publication of any statement under this section shall be as the CAA may determine.

## **69A Regulation of carriage by air by route licences.**

- (1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless—
- (a) the operator of the aircraft holds a licence granted to him by the CAA in pursuance of section 65 as applied by subsection (6) below (in this Act referred to as a “route licence”) authorising him to operate aircraft on such flights as the flight in question; and
  - (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.

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- (2) Subsection (1) above applies to any flights to which section 64(1) above applies (apart from the exceptions) where the aircraft is used by a Community air carrier, except that it does not apply to—
- (a) a flight of a description specified for the purposes of paragraph (a) of section 64(2) as applied by subsection (6) below;
  - (b) a particular flight or series of flights specified for the purposes of paragraph (b) of section 64(2) as so applied;
  - (c) a flight by an aircraft of which the CAA is the operator; and
  - (d) flights by aircraft in exercise of traffic rights permitted by virtue of the Community access Regulation.
- (3) No route licence shall be granted by the CAA so as to permit the exercise of those traffic rights access to which is denied to the aircraft operator concerned by virtue of exceptions contained in articles 3 to 6 of the Community access Regulation.
- (4) The CAA shall refuse to grant a route licence in pursuance of an application under section 65 as applied by subsection (6) below if it is not satisfied that the applicant possesses a valid operating licence.
- (5) Where a person holds—
- (a) an operating licence granted by an authority in any [<sup>F131</sup>EEA State], and
  - (b) a route licence,
- and his operating licence is revoked or suspended by that authority (and that revocation or suspension takes effect), the route licence shall, as from the date when the revocation or suspension takes effect, cease to be in force or, in the case of suspension, not be effective during the period of suspension of the operating licence.
- (6) Subject to subsections (3) to (5) above, sections 64(2)(a), (b) and (c), (3) to (8) and 65 to 69 above shall apply in relation to route licences (and route licensing functions) as they apply in relation to air transport licences (and air transport licensing functions) subject to the modifications specified in subsection (7) below.
- (7) Those modifications are—
- (a) the omission of section 65(2) and the substitution, for the reference to that subsection in subsection (4), of a reference to subsection (4) above;
  - (b) the omission of section 66(3) to the end of paragraph (b);
  - (c) the omission in sections 64(6) and 65(3) of the references to the law of a relevant overseas territory <sup>F132</sup> . . . ;
  - (d) the substitution, in section 68(5), for the reference to sections 64 to 67, of a reference to this section and those sections as applied by subsection (6) above; and
  - (e) the substitution, in section 69(1), for the reference to sections 64 to 68, of a reference to this section and those sections as so applied.
- (8) In this section—
- “the Community access Regulation” means Council Regulation 2408/92 on access for Community air carriers to intra-Community air routes [<sup>F133</sup>(as that Regulation has effect in accordance with [<sup>F134</sup>the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 7/94 of 21 March 1994])];
- “Community air carrier” has the same meaning as in the Community access Regulation;

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“operating licence” means an operating licence granted in any [<sup>F135</sup>EEA State] in accordance with [<sup>F136</sup>the Community licensing Regulation].

#### Textual Amendments

- F131** Words in s. 69A(5)(a) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(2)  
**F132** Words in s. 69A(7)(c) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II  
**F133** Words in s. 69A(8) inserted (1.1.1994) by S.I. 1993/3039, reg. 3(b)(i)  
**F134** Words in s. 69A(8) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(3)  
**F135** Words in s. 69A(8) substituted (1.7.1994) by S.I. 1994/1732, reg. 3(4)  
**F136** Words in s. 69A(8) substituted (1.1.1994) by S.I. 1993/3039, reg. 3(b)(ii)

#### 70 [<sup>F126</sup> Modification of CAA’s duties with respect to British airlines in relation to certain air transport services.]

In the application of sections 4(1) and 68(1) and (2) above in relation to the performance by the CAA of its functions under sections 64 to 68 [<sup>F137</sup>(but not as applied by section 69A(6))] above with respect to authorising the operation of aircraft on flights—

(a) between the United Kingdom and any relevant overseas territory other than the Channel Islands or the Isle of Man, <sup>F138</sup> . . .

<sup>F138</sup>(b) . . . . .

the CAA shall treat any undertaking appearing to the CAA to have its principal place of business in that territory <sup>F139</sup> . . . as a British airline if it would fall to be so treated but for the situation of its principal place of business.

#### Textual Amendments

- F137** Words in s. 70 inserted (1.1.1993) by S.I. 1992/2992, reg. 23, Sch. 2 para. 5.  
**F138** S. 70(b) and the word “or” preceding it repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II  
**F139** Words in s. 70 repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. II

#### 71 Regulation of provision of accommodation in aircraft.

(1) Provision may be made by regulations made by the Secretary of State for securing that a person does not in the United Kingdom—

- (a) make available, as a principal or an agent, accommodation for the carriage of persons or cargo on flights in any part of the world, or  
 (b) hold himself out as a person who, either as a principal or an agent or without disclosing his capacity, may make such accommodation available,

unless he is the operator of the relevant aircraft or holds and complies with the terms of a licence issued in pursuance of the regulations or is exempted by or under the regulations from the need to hold such a licence.

(2) Regulations made by the Secretary of State for the purposes of subsection (1) above may contain such provisions as the Secretary of State, after consultation with the CAA, considers appropriate for those purposes and may, without prejudice to the generality of the preceding provisions of this subsection, include provision—

- (a) as to the circumstances in which licences shall or shall not be issued in pursuance of the regulations;

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- (b) as to the terms of licences, which may include terms as to the minimum charges which are to be made and the goods, services and other benefits which are or are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licences in question relate;
- (c) for the variation, suspension and revocation of licences;
- (d) for appeals against refusals, variations, suspensions or revocations of licences to lie to a prescribed body or person (which may be a court, a Minister of the Crown, a body or person constituted or appointed by or under the regulations or such other body or person as the Secretary of State thinks fit) and for applying the provisions of any enactment, with or without modifications, in relation to such appeals;
- (e) for imposing penalties for contraventions of the regulations not exceeding in the case of each contravention a fine of the statutory maximum on summary conviction and a fine and imprisonment for a term not exceeding two years on conviction on indictment;
- (f) for repealing, either wholly or in relation to prescribed cases, so much of subsection (5) of section 64 of this Act as begins with the word “and” at the end of paragraph (a) and in subsection (6) of that section the words from “and for the purpose” onwards.

VALID FROM 01/03/2007

#### **[<sup>F140</sup>71A Contributions by licence holders to Air Travel Trust**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring persons applying for licences by virtue of section 71 above to make contributions to the Air Travel Trust in relation to the periods for which their licences are to be issued.
- (2) The regulations may, in particular, make provision—
  - (a) prescribing the factors by reference to which such contributions are to be calculated by the CAA (other than the rate by reference to which they are to be so calculated);
  - (b) authorising the CAA, with the approval of the Secretary of State and after complying with prescribed consultation requirements, to set in respect of different descriptions of persons the rates by reference to which such contributions are to be calculated and the dates from which those rates are to have effect;
  - (c) requiring contributions to be paid, or undertakings as to payment of contributions to be given, in advance of licences being issued;
  - (d) requiring licence holders to pay additional amounts by way of contributions where the applicable contribution rate increases during the term of their licences;
  - (e) requiring additional amounts to be paid by way of contributions, or undertakings as to the payment of such amounts to be given, in advance of licences being varied;
  - (f) for the CAA, in accordance with the regulations, to reimburse to persons, or credit persons with, amounts paid by them by way of contributions (and

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- for the CAA to exercise in that connection such discretion as is conferred by the regulations);
- (g) for contributions that are not paid in accordance with the regulations or any undertaking as to payment to bear interest at the rate specified in the regulations, and for such contributions and interest to be recoverable as debts due to the Air Travel Trust;
  - (h) for the CAA to act as the agent of the trustees of the Air Travel Trust in collecting and recovering contributions, and for the reimbursement of costs incurred by the CAA in so acting;
  - (i) for the CAA, after complying with prescribed consultation requirements, to suspend, either generally or in relation to any description of persons, the requirement to make contributions in respect of a period;
  - (j) for the CAA to exempt persons, or descriptions of persons, from the requirement to make contributions on such conditions as the CAA, after consulting the Secretary of State, thinks fit;
  - (k) for requiring the CAA to publish prescribed matters in the prescribed manner;
  - (l) for creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as is prescribed.
- (3) Regulations under section 71 above may authorise the CAA—
- (a) to refuse to issue a licence to a person,
  - (b) to refuse to vary a licence held by a person, or
  - (c) to vary, suspend or revoke a licence held by a person,
- where that person has failed to comply with a prescribed requirement of regulations under this section or has breached an undertaking given as mentioned in subsection (2)(c) or (e) above.
- (4) Section 4 above does not apply in relation to any functions conferred on the CAA by regulations under this section.
- (5) In this section and section 71B below the “Air Travel Trust” means the trust established by that name by a deed dated 5th January 2004 and made between the Secretary of State for Transport and the persons described as the Original Trustees.

#### Textual Amendments

**F140** Ss. 71A, 71B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), **ss. 10, 14**; [S.I. 2007/598](#), **art. 2**, [Sch. 1](#)

VALID FROM 01/03/2007

#### **71B Procedure relating to regulations under section 71A**

- (1) Before making any regulations under section 71A above, the Secretary of State must consult the CAA and the trustees of the Air Travel Trust.
- (2) Before responding to the consultation, the CAA must consult the following persons so far as it considers it reasonably practicable to do so—

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- (a) persons who hold licences by virtue of section 71 above, and
- (b) any other person or body appearing to it to have an interest in the matter.]

**Textual Amendments**

**F140** Ss. 71A, 71B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), [ss. 10, 14](#); [S.I. 2007/598](#), [art. 2](#), [Sch. 1](#)

*Air navigation services*

**F141**72 .....

**Textual Amendments**

**F141** S. 72 repealed (1.4.2001) by [2000 c. 38](#), [ss. 97, 274](#), [Sch. 8 Pt. II para. 3](#), [Sch. 31 Pt. I\(1\)](#) (with [s. 106](#)); [S.I. 2001/869](#), [art. 2](#)

**F142**73 .....

**Textual Amendments**

**F142** S. 73 repealed (1.4.2001) by [2000 c. 38](#), [ss. 97, 274](#), [Sch. 8 Pt. III para. 4](#), [Sch. 31 Pt. I\(2\)](#) (with [s. 106](#)); [S.I. 2001/869](#), [art. 2](#)

**F143**74 .....

**Textual Amendments**

**F143** S. 74 repealed (1.4.2001) by [2000 c. 38](#), [ss. 97, 274](#), [Sch. 8 Pt. III para. 4](#), [Sch. 31 Pt. I\(2\)](#) (with [s. 106](#)); [S.I. 2001/869](#), [art. 2](#)

**[<sup>F144</sup>74A Enforcement of foreign judgments etc. in respect of route charges.**

- (1) Subject to the following provisions of this section, where a relevant <sup>M40</sup>authority in a Contracting State has made a determination as to whether or not any sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or by some other person, that determination shall, in the United Kingdom, be enforceable or, as the case may be, recognised in accordance with the following provisions of this section, but not otherwise.
- (2) For the purposes of the enforcement in any part of the United Kingdom of any determination which is enforceable by Eurocontrol under this section, the provisions of sections 2, 3(1) and 5(2) and (3) of the Foreign Judgments (Reciprocal Enforcement) Act <sup>M41</sup>1933 (registration of judgments, rules of court and powers of court on application to set aside registration) shall apply, with the necessary

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modifications, in relation to the determination as they apply in relation to a judgment to which Part I of that Act applies; and accordingly, for the purposes of this section, in subsection (2) of section 5 of that Act—

- (a) the reference to subsection (1) of that section shall have effect as a reference to subsection (7) below; and
  - (b) the reference to an appeal shall include a reference to an application for review of a determination.
- (3) On an application for the purpose made by any person against whom a determination registered by virtue of subsection (2) above may be enforced, the registration shall (subject to subsection (7) below) be set aside if the court to which the application to register is made is satisfied—
- (a) that the determination is not a determination to which this section applies;
  - (b) that the determination was registered in contravention of any provision applied by subsection (2) above; or
  - (c) that, by virtue of any of the following provisions of this section, the determination is not to be enforced in the part of the United Kingdom in which it is sought to enforce it.
- (4) Subject to subsection (7) below, a determination in respect of any sum by a relevant authority in a Contracting State shall not under this section be enforced or recognised in a part of the United Kingdom if—
- (a) that Contracting State is not the country, or one of the countries, in which, under subsection (5) below, proceedings in respect of that sum should have been brought; or
  - (b) the determination is not final; or
  - (c) the determination is manifestly contrary to public policy in the part of the United Kingdom in which it is sought to enforce the determination or, as the case may be, in which recognition of the determination is sought; or
  - (d) the person against whom the proceedings resulting in the determination were brought did not (notwithstanding that process may have been duly served on him in the Contracting State in which those proceedings were brought) receive notice of the proceedings in sufficient time to enable him to defend them or, as the case may require, to apply for the proceedings to be reviewed; or
  - (e) proceedings relating to the same sum have been brought previously, and are pending, in any part of the United Kingdom; or
  - (f) the determination is incompatible with the judgment of any court in any part of the United Kingdom; or
  - (g) the determination—
    - (i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in the part of the United Kingdom in which it is sought to enforce the determination, or as the case may be, in which recognition of the determination is sought), and
    - (ii) was different from the determination which would have been made if those corresponding rules had been applied.



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- (5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum—
- (a) in the Contracting State (if any) in which that person’s residence or, as the case may be, his registered office is situated;
  - (b) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business;
  - (c) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting State, in any Contracting State in which he has assets;
  - (d) if that person’s residence or, as the case may be, his registered office is not situated in a Contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.
- (6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say—
- (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal;
  - (b) the time within which an appeal must be brought, or an application for review must be made, has expired;
  - (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn; or
  - (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.
- (7) If, on an application to set aside the registration by virtue of subsection (2) above of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either—
- (a) set aside the registration; or
  - (b) adjourn the application to set aside the registration until such time as the determination has become final,

but nothing in this section shall require that court to take either of these courses where there is no other ground for setting aside the registration and the court is not satisfied that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.

- (8) In this section—

“Contracting State” means a country designated in an Order in Council which has been laid before Parliament as a party to the Multilateral Agreement relating to Route Charges signed at Brussels on 12th February 1981 at the Diplomatic Conference on the Protocol amending the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation of 13th December 1960;

“relevant authority”, in relation to a Contracting State, means—

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- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person;
  - (b) any administrative authority which, under that law, has jurisdiction to make, or is otherwise authorised to make, determinations in respect of such questions, being determinations which in that State are subject to appeal to, or review by, a court or tribunal;
  - (c) any court or tribunal which, under that law, has jurisdiction to determine any appeal from, or carry out any review of, a determination made in respect of any such question by another relevant authority.
- (9) This section shall not affect the enforceability or recognition of any determination made before the coming into force of section 1 of the Civil Aviation (Eurocontrol) Act 1983.]

#### Textual Amendments

**F144** S. 74A inserted by [Civil Aviation \(Eurocontrol\) Act 1983 \(c. 11, SIF 9\)](#), s. 1

#### Marginal Citations

**M40** [1982 c.16\(9\)](#).

**M41** [1933 c.13\(45:3\)](#).

### *Investigation of accidents*

#### **75 Investigation of accidents.**

- (1) Without prejudice to section 60 above, the Secretary of State may by regulations under this section make such provision as appears to him to be requisite or expedient—
- (a) for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over the United Kingdom or occurring elsewhere to aircraft registered in the United Kingdom; and
  - (b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as “the Annex”).

[<sup>F145</sup>(1A) The power to make regulations under this section includes power to make provision—

- (a) for the purpose of implementing the Community obligations of the United Kingdom under Council Directive [94/56/EC](#) of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents;
  - (b) for the purpose of dealing with matters arising out of or related to any such obligation.]
- (2) Without prejudice to the generality of subsection (1)(b) above, the provision there authorised includes provision with respect to any of the following matters, that is to say—

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- (a) the definition of “accident” for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex;
  - (b) the participation of any persons authorised for the purpose in accordance with the regulations in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other state; and
  - (c) the investigation of any incident other than one to which subsection (1)(a) above applies for the purpose of securing any information, articles or other material which it is the duty of the United Kingdom in accordance with any requirements of the Annex to furnish to any other state.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may contain provisions—
- (a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) above in such manner and by such persons as may be specified in the regulations;
  - (b) applying any of the provisions of section 3 of the <sup>M42</sup>Notice of Accidents Act 1894 (with or without modifications) for the purposes of any investigations held in accordance with the regulations or any inquiries undertaken in accordance with the regulations with a view to determining whether any such investigation should be held;
  - (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft;
  - (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under an Air Navigation Order or an order under section 62 above where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered and requiring the production of any such licence or certificate for the purpose of being so dealt with.
- (4) Without prejudice to subsection (2)(a) above, in this section “accident” shall be construed as including any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened.
- (5) If any person contravenes or fails to comply with any regulations under this section he shall be liable on summary conviction to a fine not exceeding [<sup>F146</sup>level 5 on the standard scale] or to imprisonment for a term not exceeding three months.
- (6) Nothing in this section shall limit the powers of any authority under sections [<sup>F147</sup>245 to 247 and sections 252 to 254 of the Merchant Shipping Act 1995].

#### Textual Amendments

**F145** S. 75(1A) inserted (1.3.1996) by S.I. 1996/76, reg. 2

**F146** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) S.I. 1984/703 (N.I. 3), art. 5

**F147** Words in s. 75(6) substituted (1.1.1996) by 1995 c. 21, s. 314(2), Sch. 13 para. 64(a) (with s. 312(1))

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

**C34** S. 75 excluded (16.5.1995) by S.I. 1995/1038, art. 106(2)(b)

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S. 75 extended (with modifications) (Overseas Territories) (16.5.2001) by S.I. 2001/1452, art. 4, Schs. 1, 2 (with art. 5)

**C35** S. 75 amended by S.I. 1989/2062, reg. 2(2)

#### Marginal Citations

**M42** 1894 c. 28.

### *Trespass by aircraft and aircraft nuisance, noise, etc.*

#### **76 Liability of aircraft in respect of trespass, nuisance and surface damage.**

- (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of any Air Navigation Order and of any orders under section 62 above have been duly complied with and there has been no breach of section 81 below.
- (2) Subject to subsection (3) below, where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.
- (3) Where material loss or damage is caused as aforesaid in circumstances in which—
  - (a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2) above, and
  - (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,
 the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.
- (4) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

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

**C36** S. 76(4) extended (with modifications) (Overseas Territories) (10.10.2001) by S.I. 2001/3367, art. 2, Schs. 1, 2

#### **77 Nuisance caused by aircraft on aerodromes.**

- (1) An Air Navigation Order may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that

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subsection (2) below shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

- (2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Air Navigation Order, as long as the provisions of any such Order are duly complied with.

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

**C37** S. 77(2) applied (16.5.1995) by S.I. 1995/1038, art. 97

**C38** S. 77(2) applied (20.8.2005) by The Air Navigation Order 2005 (S.I. 2005/1970), art. 131(2) (with art. 168)

**78 Regulation of noise and vibration from aircraft.**

- (1) The Secretary of State may by a notice published in the prescribed manner provide that it shall be the duty of the person who is the operator of an aircraft which is to take off or land at a designated aerodrome to secure that, after the aircraft takes off or, as the case may be, before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Secretary of State to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.
- (2) If it appears to the Secretary of State that any requirement specified in relation to a designated aerodrome in a notice published in pursuance of subsection (1) above has not been complied with as respects any aircraft he may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any representations then made by that person, give to the person managing the aerodrome a direction requiring him to secure that, until the Secretary of State revokes the direction, facilities for using the aerodrome are withheld to the extent specified in the direction from aircraft of which the person aforesaid is the operator and from his servants; and it shall be the duty of the person for the time being managing the aerodrome to comply with the direction.
- (3) If the Secretary of State considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with the taking-off or landing of aircraft at a designated aerodrome, to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome during certain periods, he may by a notice published in the prescribed manner do all or any of the following, that is to say—
- (a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified;
  - (b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified;
  - (c) determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) above and, as respects each of those persons,

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the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods; and subject to subsection (4) below and paragraphs (e) and (f) of subsection (5) below it shall be the duty of the person for the time being managing the aerodrome to secure that the prohibitions or restrictions relating to the aerodrome which are imposed by the notice are complied with.

- (4) Without prejudice to subsection (5)(f) below, a particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) above in respect of that aerodrome if—
- (a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the Secretary of State in a notice published in the prescribed manner; and
  - (b) the person for the time being managing the aerodrome or a person authorised by him for the purpose, determines that that occasion or series of occasions should be so disregarded,

but it shall be the duty of the first-mentioned person to notify the Secretary of State in writing, within one week from its occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this subsection applies.

- (5) The following supplementary provisions shall have effect for the purposes of subsection (3) above, that is to say—
- (a) it shall be the duty of the Secretary of State, before he makes a determination in respect of an aerodrome in pursuance of paragraph (c) of that subsection, to consult any body appearing to him to be representative of operators of aircraft using the aerodrome;
  - (b) a notice under that subsection may make, in relation to a designated aerodrome, provision as respects any period notwithstanding that the period is included in or that there is included in the period, any other period as respects which provision relating to the aerodrome is made by the notice or by another notice under that subsection;
  - (c) if it appears to the Secretary of State that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then, without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome, any person authorised by the Secretary of State for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;
  - (d) if it appears to a person authorised for the purpose by the person for the time being managing the relevant aerodrome that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then without prejudice to paragraph (c) above, or the powers mentioned therein, the first-mentioned person, or a person authorised by him for the purpose, may detain the aircraft for such period as the first-mentioned person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;
  - (e) nothing in that subsection requires a person managing an aerodrome to prevent an aircraft from landing at the aerodrome; and
  - (f) the Secretary of State may, by a notice given in the prescribed manner to the person managing an aerodrome to which a notice under that subsection relates,

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determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded for the purposes of the notice under that subsection.

- (6) The Secretary of State may give to the person managing a designated aerodrome such directions as the Secretary of State considers appropriate for the purpose of avoiding, limiting, or mitigating the effect of, noise and vibration connected with the taking-off or landing of aircraft at the aerodrome; and it shall be the duty of the person for the time being managing the aerodrome to comply with the directions.
- (7) The duties imposed by subsections (1) to (3) and (6) above in relation to aerodromes in Scotland shall be enforceable by order of the Court of Session on an application by or on behalf of the Secretary of State under section 91 of the <sup>M43</sup>Court of Session Act 1868.
- (8) The Secretary of State may, after consultation with the person managing a designated aerodrome, by order require him at his own expense—
- (a) to provide in an area and within a period specified in the order, and to maintain and operate in accordance with any instructions so specified, such equipment for measuring noise in the vicinity of the aerodrome as is so specified; and
  - (b) to make to the Secretary of State such reports as are so specified with respect to the noise measured by the equipment and to permit any person authorised by the Secretary of State for the purpose to inspect the equipment on demand at any time;
- and it shall be the duty of the person for the time being managing the aerodrome to comply with the requirements of the order.
- (9) If a person fails to perform any duty imposed on him by subsection (8) above the Secretary of State may, after affording him an opportunity of making representations to the Secretary of State with respect to the matter and after considering any representations then made by him—
- (a) take such steps as the Secretary of State considers appropriate for remedying the failure, which may include steps to secure the provision, maintenance and operation of equipment by the Secretary of State or the CAA; and
  - (b) recover in any court of competent jurisdiction from the person aforesaid any expense attributable to the taking of those steps which is incurred by the Secretary of State from time to time;
- and if a person fails to perform any duty imposed on him by virtue of paragraph (b) of subsection (8) above, then without prejudice to the preceding provisions of this subsection he shall—
- (i) be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F148</sup>level 3 on the standard scale]; and
  - (ii) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and liable to be fined accordingly.
- (10) Paragraph (b) of subsection (9) above is without prejudice to the Secretary of State's power apart from that paragraph to recover the expenses mentioned therein.
- (11) The Secretary of State may, after consultation with any local authority appearing to him to be concerned, by order repeal any provision of a local Act which he considers is unnecessary having regard to the provisions of this section and of section 79 below.



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- (12) Any notice published in pursuance of subsection (1), (3) or (4) above may contain such incidental or supplementary provisions as the Secretary of State considers appropriate for the purposes of that subsection and may be varied or revoked by a subsequent notice published in pursuance of that subsection.

#### Textual Amendments

**F148** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5, 6**

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

**C39** S. 78: Functions transferred (S.) (1.7.1999) by [S.I. 1999/1750, art. 2, Sch. 1](#)  
**C40** S. 78(9) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), **s. 68(3)**  
**C41** S. 78(10) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), **s. 68(3)**

#### Marginal Citations

**M43** 1868 c. 100.

VALID FROM 01/03/2007

#### <sup>F149</sup>78A Penalty schemes

- (1) The person for the time being managing an aerodrome (referred to in this section and section 78B below as the “relevant manager”) may establish and maintain a penalty scheme.
- (2) In this section and section 78B below “penalty scheme” means a scheme which requires a penalty to be paid if any requirement imposed under section 78(1) above in relation to an aircraft taking off or landing at the aerodrome is not complied with.
- (3) Any such penalty shall be—
  - (a) of an amount specified in the scheme, and
  - (b) paid to the relevant manager by the operator of the aircraft in question.
- (4) The penalty scheme shall afford the operator of the aircraft an opportunity to make representations to the relevant manager with respect to the matter either before or after the penalty is imposed.
- (5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the relevant manager to cancel the penalty if he considers it appropriate to do so having considered those representations.
- (6) A penalty scheme may—
  - (a) contain such incidental or supplementary provisions as the relevant manager considers appropriate, and
  - (b) be amended or revoked by the relevant manager.
- (7) The amendment or revocation of a penalty scheme shall not affect the validity of anything previously done under the scheme.

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- (8) A relevant manager who receives penalties under a penalty scheme shall make payments equal to the amount of those penalties for purposes which appear to him to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.

#### Textual Amendments

**F149** Ss. 78A, 78B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), [ss. 3, 14](#); [S.I. 2007/598](#), [art. 2](#), [Sch. 1](#)

VALID FROM 01/03/2007

#### **78B Direction to establish, amend or revoke penalty scheme**

- (1) The Secretary of State may direct a specified relevant manager—
- (a) to establish a penalty scheme, or
  - (b) to amend or revoke a penalty scheme.
- (2) The Secretary of State shall publish any direction given under subsection (1) above in such manner as appears to him to be appropriate.
- (3) A direction under subsection (1) above which requires a relevant manager to establish or amend a penalty scheme may include directions as to the provisions which are to be included in the scheme.
- (4) Before giving a direction under subsection (1) above the Secretary of State shall consult—
- (a) the relevant manager, and
  - (b) any body appearing to him to be representative of operators of aircraft using the aerodrome in question.
- (5) If a relevant manager fails to comply with a direction given to him under subsection (1) above he shall—
- (a) be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
  - (b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and be liable on summary conviction to a fine not exceeding 10% of level 5 on the standard scale.]

#### Textual Amendments

**F149** Ss. 78A, 78B inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\)](#), [ss. 3, 14](#); [S.I. 2007/598](#), [art. 2](#), [Sch. 1](#)

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## 79 Grants towards cost of sound-proofing buildings.

- (1) If it appears to the Secretary of State that buildings near a designated aerodrome require protection from noise and vibration attributable to the use of the aerodrome, he may by statutory instrument make a scheme requiring the person for the time being managing the aerodrome (hereafter in this section referred to as “the relevant manager”) to make grants towards the cost of insulating such buildings or parts of such buildings against noise; but a scheme under this section need apply only to such classes of buildings as the Secretary of State thinks fit.
- (2) A scheme under this section shall specify the area or areas in which buildings must be situated for the grants to be payable, and the persons to whom, the expenditure in respect of which and the rate at which the grants are to be paid, and may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme.
- (3) A scheme under this section may require the relevant manager, in any case where an application for a grant is refused, to give the applicant at his request a written statement of the relevant manager’s reasons for the refusal.
- (4) A scheme under this section may authorise or require local authorities to act as agents of the relevant manager in dealing with applications for and payments of grants and may provide for the making by the relevant manager of payments to local authorities in respect of anything done by them as such agents.
- (5) A scheme under this section may make different provision with respect to different areas or different circumstances.
- (6) Before making a scheme under this section relating to an aerodrome the Secretary of State shall consult the relevant manager.
- (7) In this section “local authorities” in relation to England <sup>F150</sup> . . . does not include the council of a county.
- (8) A statutory instrument containing a scheme under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F150** Words in s. 79(7) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 66(1), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

### Modifications etc. (not altering text)

**C42** S. 79(1): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

## 80 Designation of aerodromes for purposes of ss. 78 and 79.

In sections 78 and 79 above “designated aerodrome” means any aerodrome in Great Britain which is designated for the purposes of the section in which the expression is used by an order made by the Secretary of State; and the Secretary of State may designate an aerodrome for the purposes of either or both of those sections.

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

C43 S. 80: Functions transferred (1.7.1999) by S.I. 1999/1750, art. 2, Sch. 1

### 81 Dangerous flying.

- (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding [<sup>F151</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding six months or to both.
- (2) In this section the expression “owner” in relation to an aircraft includes any person whom the aircraft is hired at the time of the offence.
- (3) The provisions of this section shall be in addition to and not in derogation of the powers conferred on Her Majesty in Council by section 60 above.

#### Textual Amendments

F151 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6

### 82 Prohibition of aerial advertising and propaganda.

- (1) Save in such circumstances as may be prescribed, no aircraft while in the air over any part of the United Kingdom shall be used, whether wholly or partly for emitting or displaying any advertisement or other communication in such a way that the advertisement or communication is audible or visible from the ground.
- (2) Any person who uses an aircraft, or knowingly causes or permits an aircraft to be used, in contravention of subsection (1) above shall be guilty of an offence and liable on summary conviction—
  - (a) in the case of a first conviction of an offence under this section, to a fine not exceeding [<sup>F152</sup>£100 level 4 on the standard scale];
  - (b) in any other case, to a fine not exceeding [<sup>F152</sup>£200 level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both;but (without prejudice to section 105(3) below) a previous conviction of an offence under section 7 of the <sup>M44</sup>Civil Aviation (Licensing) Act 1960 shall be treated as a conviction of an offence under this section for the purposes of determining whether a conviction of an offence under this section is a first such conviction.

#### Textual Amendments

F152 Words substituted (S.) for “£100” and “£200” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289E–289G

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

**C44** S. 82(2): Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 35 (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.) and (N.I.) S.I. 1984/703 (N.I. 3), arts. 5 (substitution of references to levels on the standard scale) 6 (increase of fines) and 9 (in relation to liability on first and subsequent convictions) apply

#### Marginal Citations

**M44** 1960 c. 38.

*Records and provision of information, etc.*

### 83 Recording and registration of births and deaths, etc.

- (1) The Secretary of State may by regulations provide for requiring such persons as may be specified in the regulations to keep records and make returns to the CAA—
  - (a) of births and deaths occurring in any part of the world in any aircraft registered in the United Kingdom; and
  - (b) of the death, outside the United Kingdom, of any person who, being a traveller on such an aircraft, is killed on the journey in consequence of an accident;
 and for the keeping by the CAA of a record of any returns made to it in accordance with any such requirement as aforesaid.
- (2) Any person who fails to comply with any such requirement shall be liable on summary conviction to a fine not exceeding [<sup>F153</sup>level 2 on the standard scale].
- (3) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland.
- (4) Where regulations made under subsection (1) above provide for the keeping of records by the CAA in accordance with that subsection they shall also provide for the transmission of certified copies of those records to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.
- (5) The Registrar General to whom any such certified copies are sent shall cause them to be filed and preserved in a book to be kept by him for the purpose, and to be called the Air Register Book of Births and Deaths.
- (6) Regulations made under subsection (1) above shall provide for the rectification of any records kept by the CAA in pursuance of the regulations and for the transmission of certified copies of any corrected entry in the records to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland, or the Registrar General for Northern Ireland, as the case may require.
- (7) The Registrar General to whom a certified copy of any such corrected entry is sent in accordance with the regulations shall cause the corrected entry to be substituted for

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the corresponding entry for the time being made in the Air Register Book of Births and Deaths.

- (8) The enactments relating to the registration of births and deaths in England and Wales, Scotland and Northern Ireland shall have effect as if the Air Register Book of Births and Deaths were a certified copy or duplicate register transmitted to the Registrar General in accordance with those enactments.
- (9) The Secretary of State may by regulations provide—
- (a) for the keeping by the CAA of a record of persons reported to him as missing, being persons with respect to whom there are reasonable grounds for believing that they have died in consequence of an accident to an aircraft registered in the United Kingdom;
  - (b) for the rectification of any such record; and
  - (c) for the transmission of information as to the matters for the time being entered on the record to the Registrar General of Births, Deaths and Marriages in England and Wales, the Registrar General of Births, Deaths and Marriages in Scotland or the Registrar General for Northern Ireland, as the case may require.

#### Textual Amendments

**F153** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\), art. 5](#)

#### 84 Provision by others of information for the CAA and Secretary of State.

- (1) The CAA may, by a notice in writing served in the prescribed manner on a person of any of the following descriptions, that is to say—
- (a) a holder of a licence issued by the CAA under this Act or a licence or certificate issued by the CAA under an Air Navigation Order [<sup>F154</sup>or an operating licence granted by the CAA in accordance with [<sup>F155</sup>the Community licensing Regulation]],
  - (b) a recipient of an approval given by the CAA under an Air Navigation Order,
  - (c) a person who in the United Kingdom has, at any time during the period of two years ending with the date of service of the notice, held himself out as one who may as a principal or otherwise enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in aircraft of which he is not the operator,
  - (d) a person carrying on business in the United Kingdom as a manufacturer of aircraft or engines or other equipment for aircraft or as an insurer of aircraft,
- require him to furnish to the CAA, in such form and at such times as may be specified in the notice, information of such descriptions as may be so specified, being—
- (i) in the case of such a holder or recipient as aforesaid (other than the holder of an aerodrome licence), descriptions of information which relates to his past, present or future activities as the holder or recipient of the licence, certificate or approval in question or his past activities as the holder or recipient of any similar licence, certificate or approval or is of a kind which the CAA considers that it requires for the purpose of reviewing the licence, certificate or approval in question,

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- (ii) in the case of such a person as is mentioned in paragraph (c) of this subsection, descriptions of information which relates to his past, present or future activities in the United Kingdom connected with the making available of accommodation so mentioned,
- (iii) in the case of such a person as is mentioned in paragraph (d) of this subsection or the holder of an aerodrome licence, descriptions of information which relates to his past, present or future activities (including, in the case of the holder of an aerodrome licence, information as to the numbers of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome) and is of a kind which the CAA considers that it requires for the purpose of performing any of its functions.

In this subsection “aerodrome licence” means a licence to operate an aerodrome issued by the CAA under an Air Navigation Order.

- (2) Without prejudice to the generality of subsection (1) above, the information relating to the activities of the holder of an air transport licence [<sup>F156</sup>or operating licence] which the CAA may require him to furnish in pursuance of that subsection includes particulars of any contract or arrangement—
  - (a) to which he is or was at any time a party and, if he is not or was not then an operator of aircraft registered in the United Kingdom or a relevant overseas territory <sup>F157</sup> . . . , to which such an operator is or was then a party; and
  - (b) which constitutes or relates to an agreement or understanding between operators of aircraft or such operators and other persons with respect to any of the following matters, that is to say—
    - (i) the provision of flights or of accommodation in aircraft,
    - (ii) the sharing or transfer of revenue from flights on particular routes,
    - (iii) the sale by a party to the contract or arrangement of tickets for flights in aircraft operated by another party to it,
    - (iv) the making available by a party to the contract or arrangement of staff, equipment or other facilities for use by another party to it.
- (3) Provision may be made by regulations made by the Secretary of State for requiring a person of any description specified in subsection (1) above to furnish the Secretary of State, in such form and at such times as may be prescribed, with information of such descriptions as may be prescribed, being descriptions of information relating to civil aviation which the Secretary of State considers that he requires for the purpose of performing any of his functions or descriptions of information which he considers that he requires in order to facilitate the performance by the CAA of any of its functions.
- (4) If a person required to furnish information by virtue of any of the preceding provisions of this section fails to comply with the requirement or in purported compliance with the requirement knowingly or recklessly furnishes information which is false in a material particular, then—
  - (a) in the case of a failure to comply with the requirement he shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [<sup>F158</sup>level 3 on the standard scale]; and
  - (b) in any other case he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both; and



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- (c) if the requirement was made by virtue of subsection (1) or (2) above, the CAA may, whether or not any proceedings in respect of the requirement have been brought in pursuance of paragraph (a) or (b) of this subsection, revoke any licence or certificate or approval which was issued or given by the CAA and to which the requirement related;

and a person who fails to comply with a requirement imposed on him in pursuance of this section shall be guilty of an offence by virtue of paragraph (a) of this subsection notwithstanding that at any relevant time he is outside the United Kingdom and is neither a United Kingdom national nor a body incorporated under the law of a part of the United Kingdom or of a relevant overseas territory<sup>F157</sup> . . .

#### Textual Amendments

**F154** Words in s. 84(1)(a) inserted (1.1.1993) by S.I. 1992/2992, reg. 23, **Sch. 2 para. 6**.

**F155** Words in s. 84(1)(a) substituted (1.1.1994) by S.I. 1993/3039, **reg. 3(a)**

**F156** Words in s. 84(2) inserted (1.1.1993) by S.I. 1992/2992, reg. 23, **Sch. 2 para. 7**.

**F157** Words in s. 84(2)(a)(4) repealed (8.11.1995) by 1995 c. 44, s. 1, **Sch. 1 Pt. II**

**F158** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6**

## PART IV

### AIRCRAFT

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

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

- (1) It shall be the duty of the CAA to consult the board referred to in subsection (2) below on all matters appearing to the CAA to be of significance as respects the standards of design, construction and maintenance by reference to which certificates of airworthiness for aircraft are to be granted or renewed in pursuance of Air Navigation Orders and to consult the said board as to whether an aircraft of a new type satisfies the standards of design and construction required for the issue of such a certificate for the aircraft; and—
- (a) any question whether a matter is one on which consultations are required by virtue of this subsection shall be decided by the CAA;
- (b) it shall be the duty of the CAA to consider all advice given to it by the said board in pursuance of this section;
- (c) if the CAA decides not to proceed in accordance with any advice given to it by the said board it shall be the duty of the CAA to inform the board in writing of its reasons for the decision and, if the advice was given in consequence of consultations required by virtue of this subsection, to publish particulars of the case forthwith in the prescribed manner.
- (2) There shall continue to be a body of persons, to be known as the Airworthiness Requirements Board (and hereinafter in this section referred to as “the board”), of which the functions shall be—
- (a) to give advice to the CAA on—

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- (i) all matters on which the CAA consults the board in pursuance of subsection (1) above; and
  - (ii) any other matters which appear to the board to relate to the standards mentioned in that subsection and on which the board considers it appropriate to give advice to the CAA;
- (b) to consult such persons as the board considers appropriate for the purposes of giving such advice as aforesaid.
- (3) The board shall consist of not less than twelve nor more than twenty persons appointed by the CAA of whom—
- (a) four shall be appointed on the nomination of any body or persons appearing to the CAA to be representative—
    - (i) as to one of the four, of manufacturers of aircraft,
    - (ii) as to another of them, of operators of aircraft,
    - (iii) as to another of them, of insurers of aircraft,
    - (iv) as to the other of them, of pilots of aircraft;
  - (b) more than half the persons for the time being so appointed shall be representative members (and in this paragraph “representative member” means a person appointed to be a member of the board on the nomination of any body or persons appearing to the CAA to be representative of manufacturers or operators or insurers or pilots of aircraft); and
  - (c) the remainder may include one or more members of the CAA;
- and the CAA shall designate as the chairman of the board a member of it nominated by the board.
- (4) Schedule 11 to this Act shall have effect with respect to the board.

*Rights etc. in relation to aircraft*

**86 Power to provide for the mortgaging of aircraft.**

- (1) Her Majesty may by Order in Council make provision for the mortgaging of aircraft registered in the United Kingdom or capable of being so registered.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular—
- (a) include provisions which correspond (subject to such modifications as appear to Her Majesty in Council to be necessary or expedient) to any of the provisions of the [<sup>F159</sup>Merchant Shipping Act 1995] relating to the mortgaging of ships;
  - (b) make provision as respects the rights and liabilities of mortgagors and mortgagees of such aircraft as are mentioned in subsection (1) above, and as respects the priority inter se of such rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work done to such aircraft and rights under section 88 below or under regulations made by virtue of [<sup>F160</sup>section 83 of the Transport Act 2000 (detention and sale of aircraft)];
  - (c) make provision as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;

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

#### Textual Amendments

**F159** Words in s. 86(2) substituted (1.1.1996) by 1995 c. 21, s. 314(2), **Sch. 13 para. 64(b)** (with s. 312(1))

**F160** Words in s. 86(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 5** (with s. 106);  
**S.I. 2001/869, art. 2**

## 87 Application of law of wreck and salvage to aircraft.

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

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- (b) “Act” shall include any local or special Act and any provisions of the <sup>M45</sup>Harbours, Docks and Piers Clauses Act 1847, as incorporated with any local or special Act, whenever passed.

#### Marginal Citations

M45 1847 c. 27.

### 88 Detention and sale of aircraft for unpaid airport charges.

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

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- (6) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say—
- (a) in payment of any duty (whether of customs or excise) chargeable on imported goods or value added tax which is due in consequence of the aircraft’s having been brought into the United Kingdom;
  - (b) in payment of the expenses incurred by the aerodrome authority in detaining, keeping and selling the aircraft, including their expenses in connection with the application to the court;
  - (c) in payment of the airport charges which the court has found to be due;
  - (d) in payment of any charge in respect of the aircraft which is due by virtue of [F161]section 73 of the Transport Act 2000 (or, if more than one such charge is due, in payment of them in such order as the Secretary of State may specify by order)];
- and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.
- (7) The power of detention and sale conferred by this section in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in subsections (2) to (6) above include, except where the context otherwise requires, references to any such equipment and stores.
- (8) The power of detention conferred by this section in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this section, be transferred by the aerodrome authority to the purchaser.
- (9) The power conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred or on any other aerodrome owned or managed by the aerodrome authority concerned.
- (10) This section applies to any aerodrome owned or managed by any government department . . . F162 or a local authority [F163, other than a district council in Scotland,] and to any other aerodrome designated for the purpose of this section by an order made by the Secretary of State; and in this section—
- “aerodrome authority” in relation to any aerodrome, means the person owning or managing it;
- “airport charges” means charges payable to an aerodrome authority for the use of, or for services provided at, an aerodrome but does not include charges payable by virtue of [F164]section 73 of the Transport Act 2000];
- “aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document;
- “the court” means—
- (a) as respects England and Wales, the High Court; and
  - (b) respects Scotland, the Court of Session.
- (11) The Secretary of State may, after consultation with any local authority which appears to him to be concerned, by order repeal any enactment in a local Act which appears to

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the Secretary of State to be unnecessary having regard to the provisions of this section or to be inconsistent therewith.

- (12) Nothing in this section shall prejudice any right of an aerodrome authority to recover any charges, or any part thereof, by action.

#### Textual Amendments

- F161** Words in s. 88(6)(d) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F162** Words repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**
- F163** Words in s. 88(10) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 126(4), **Sch. 14**; S.I. 1996/323, art. 4(1), **Sch. 2**
- F164** S. 88(10): words in definition of “airport charges” substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**

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

- C45** S. 88(10)(11): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**
- C46** S. 88(10) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 40(3)

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

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

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

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

- (1) Her Majesty may by Order in Council make such provision as appears to Her Majesty in Council to be necessary or expedient for giving effect to the Convention on the International Recognition of Rights in Aircraft which was signed at Geneva on behalf of the United Kingdom on 19th June 1948.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular, make provision—
- (a) for the recognition in the United Kingdom of rights of the kind specified in the Convention in or over aircraft registered in other states party to the Convention, being rights registered or recorded in those states in accordance with the Convention and recognised as valid by the law of the state party to the Convention in which the aircraft in question was registered when the rights were constituted;
  - (b) for subordinating to any such rights as aforesaid, to such extent as may be required under the Convention, any other rights in or over such aircraft as aforesaid, including possessory liens for work done to such aircraft and rights under section 88 above or under regulations made by virtue of <sup>F165</sup>section 83 of the Transport Act 2000 (detention and sale of aircraft)];
  - (c) as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;
  - (d) for prohibiting the sale in execution of any such aircraft as aforesaid without an order of a court, and otherwise for safeguarding in the case of such a sale any such rights as are mentioned on paragraph (a) above;
  - (e) for the recognition in the United Kingdom, in priority to other rights in or over any such aircraft as aforesaid or any aircraft registered in the United Kingdom or a relevant overseas territory, of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other state party to the Convention in which those operations terminated;
  - (f) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) above to cases where a right such as is mentioned in the said paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

**Textual Amendments**

**F165** Words in s. 90(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 7** (with s. 106); S.I. 2001/869, **art. 2**



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*Jurisdiction, etc.*

**91 Jurisdiction in civil matters.**

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

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

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

- (1) Any act or omission taking place on board a British-controlled aircraft [<sup>F166</sup>or (subject to subsection (1A) below) a foreign aircraft] while in flight elsewhere than in or over the United Kingdom which, if taking place in, or in a part of, the United Kingdom, would constitute an offence under the law in force in, or in that part of, the United Kingdom shall constitute that offence; but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside the United Kingdom.

[<sup>F167</sup>(1A) Subsection (1) above shall only apply to an act or omission which takes place on board a foreign aircraft where—

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

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

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

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

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

[<sup>F168</sup>(2A) The requirement in subsection (1A)(b) above shall be taken to be met unless, not later than the rules of court may provide, the defence serve on the prosecution a notice—

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

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- (c) requiring the prosecution to prove that it is met.
- (2B) The court, if it thinks fit, may permit the defence to require the prosecution to prove that the requirement is met without the prior service of a notice under subsection (2A) above.
- (2C) In the Crown Court the question whether the requirement is met is to be decided by the judge alone.]
- (3) For the purpose of conferring jurisdiction, any offence under the law in force in, or in a part of, the United Kingdom committed on board an aircraft in flight shall be deemed to have been committed in any place in the United Kingdom (or, as the case may be, in that part thereof) where the offender may for the time being be.
- (4) For the purpose of this section the period during which an aircraft is in flight shall be deemed to include any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends; and any reference in this section to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.
- (5) In this section, except where the context otherwise requires—
- “aircraft” means any aircraft, whether or not a British-controlled aircraft, other than—
- (a) a military aircraft; or
- (b) subject to section 101(1)(b) below, an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of Her Majesty in right of the United Kingdom;
- “the air navigation enactments” means the enactments contained in sections 60 to 62, 72 to 77, 81 to 83, 87 and 97 of this Act;
- “British-controlled aircraft” means an aircraft—
- (a) which is for the time being registered in the United Kingdom; or
- (b) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely—
- (i) that he is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in the United Kingdom; and
- (ii) that he resides or has his principal place of business in the United Kingdom; or
- (c) which, being for the time being registered in some other country, is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the requirements aforesaid;
- [<sup>F169</sup>“foreign aircraft” means any aircraft other than a British-controlled aircraft;]
- “military aircraft” means—
- (a) an aircraft of the naval, military or air forces of any country; or
- (b) any other aircraft in respect of which there is in force a certificate issued in accordance with any Order in Council in force under section 60, 87, 89, 91, 101(1)(a) or 107(2) of this Act that the aircraft is to be treated for the purposes of that Order in Council as a military aircraft;

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

- (6) In subsection (2) above, the words from “but” onwards shall (notwithstanding their enactment in this Act) have effect subject to any question arising as to the validity, in relation to any such provision as is re-enacted in the preceding provisions of that subsection, of the provisions from which the words derive, that is to say, Article 7 of the <sup>M46</sup>Prosecution of Offences (Northern Ireland) Order 1972 and paragraphs 67 and 68 of Part II of Schedule 1 to the <sup>M47</sup>Criminal Justice (Northern Ireland) Order 1980.

#### Textual Amendments

- F166** Words in s. 92(1) inserted (18.7.1996) by 1996 c. 39, s. 1(2)  
**F167** S. 92(1A)(1B) inserted (18.7.1996) by 1996 c. 39, s. 1(3)  
**F168** S. 92(2A)-(2C) inserted (18.7.1996) by 1996 c. 39, s. 1(4)  
**F169** Definition in s. 92(5) inserted (18.7.1996) by 1996 c. 39, s. 1(5)

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

- C47** S. 92(4)(5) extended by Extradition Act 1989 (c. 33, SIF 48), ss. 1, 22(7), Sch. 1 para. 15(3)

#### Marginal Citations

- M46** S.I. 1972/538 (N.I. 1).  
**M47** S.I. 1980/704 (N.I. 6).

93 ..... F170

#### Textual Amendments

- F170** S. 93 repealed by Extradition Act 1989 (c. 33, SIF 48), s. 37, Sch. 2

### *Powers of commander of aircraft*

#### 94 Powers of commander of aircraft.

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

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

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

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

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

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

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

(7) In this section—

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

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

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

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

*Evidence, etc.*

## 95 Provisions as to evidence in connection with aircraft.

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

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

- (a) in the presence of the person charged with the offence; and
  - (b) before a judge or magistrate of a country such as is mentioned in Schedule 3 to the <sup>M48</sup>British Nationality Act 1981 as for the time being in force or which was part of Her Majesty’s dominions at the time the deposition was made or in which Her Majesty had jurisdiction at that time, or before a consular officer of Her Majesty’s Government in the United Kingdom.
- (2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.
- (3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.
- (4) If a complaint is made to such a consular officer as aforesaid that <sup>F171</sup>—
- (a) any offence has been committed on a British-controlled aircraft while in flight elsewhere than in or over the United Kingdom, or
  - (b) there has taken place on board a foreign aircraft an act or omission which constitutes an offence by virtue of section 92(1) above,]
- that officer may inquire into the case upon oath.
- (5) In this section—
- “deposition” includes any affidavit, affirmation or statement made upon oath; and
- “oath” includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing;
- and subsections (4) and (5) of section 92 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (6) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

#### Textual Amendments

**F171** Words in s. 95(4) substituted and s. 95(4)(a)(b) and the preceding dash inserted (18.7.1996) by 1996 c. 39, s. 2(2)

#### Marginal Citations

**M48** 1981 c. 61.

## 96 Use of records and documentary evidence.

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

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

- (i) an Air Navigation Order, or
- (ii) the <sup>M49</sup>Civil Aviation (Licensing) Act 1960,

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

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

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

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

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

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

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

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

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; and
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both.

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

<p><b>Marginal Citations</b> M49 1960 c. 38.</p>
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*Seaplanes*

**97 Seaplanes**

<sup>F172</sup>(1) .....



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- (2) For the purpose of the <sup>M50</sup>Dockyard Ports Regulation Act 1865 seaplanes when on the surface of the water shall be deemed to be vessels.
  - (3) In section 28 of the <sup>M51</sup>Harbours, Docks and Piers Clauses Act 1847 (which relates to the exemption of certain vessels from harbour rates) as incorporated with any statutory provision, the expression “vessel” shall be deemed to include any aircraft on the surface of the water, being an aircraft which is designed to float or manoeuvre on water.
  - (4) Subject to subsection (5) below, any enactment which confers or imposes on a conservancy or harbour authority any power or duty to make byelaws for the regulation of ships or vessels shall be construed as if the power or duty so conferred or imposed included a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, and also a power to include in the byelaws provisions authorising the harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised by the enactment in question to exercise as respects ships or vessels.
  - (5) Byelaws made by virtue of subsection (4) above shall not in any circumstances require, or authorise a harbour master or other officer to require, the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.
  - (6) Where any enactment, whether by virtue of subsection (4) above or not, confers or imposes on a conservancy or harbour authority a power or duty to make byelaws for the regulation of seaplanes when on the surface of the water, or to include in the byelaws such provisions as are mentioned in that subsection, the following provisions shall have effect—
    - (a) in the case where the enactment provides that the byelaws shall not come into force unless they have been confirmed or approved by some government department, byelaws made thereunder in relation to seaplanes shall not be confirmed or approved by that department except after consultation with the Secretary of State;
    - (b) in a case where the enactment in question does not provide as aforesaid, byelaws made thereunder in relation to seaplanes shall not, except in a case where they are required to be allowed or approved by a court or a judge, come into force unless they have been confirmed by the Secretary of State;
    - (c) in a case where the enactment in question provides that the byelaws shall not come into force unless they have been allowed or approved by a court or a judge, the conservancy or harbour authority shall, before making application to that court or judge for the allowance of the byelaws, forward a copy thereof to the Secretary of State, and the court or judge shall, before allowing or approving the byelaws, take into consideration any representations made with respect thereto by or on behalf of the Secretary of State.
- (6) In this section—
- “byelaws” includes rules and regulations;
  - “conservancy authority” and “harbour authority” shall have the [<sup>F173</sup>the same meaning as in the Merchant Shipping Act 1995];
  - “enactment” includes any provisional order for the time being in force (whether or not it has been confirmed by an Act);
  - “seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water;

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

#### Subordinate Legislation Made

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

#### Textual Amendments

**F172** S. 97(1) repealed (1.1.1996) by [1995 c. 21, s. 314\(1\)](#), [Sch. 12](#) (with s. 312(1))

**F173** Words in s. 97(6) substituted (1.1.1996) by [1995 c. 21, s. 314\(2\)](#), [Sch. 13 para. 64\(c\)](#) (with s. 312(1))

#### Marginal Citations

**M50** [1865 c. 125](#).

**M51** [1847 c. 27](#).

### Supplemental

#### 98 Construction of certain provisions of Part IV.

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

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

**C48** S. 98 amended by [Extradition Act 1989 \(c. 33, SIF 48\)](#), [s. 22\(8\)](#)

## PART V

### MISCELLANEOUS AND GENERAL

#### 99 Offences.

- (1) Where an offence to which this subsection applies has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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- (3) Any offence to which this subsection applies shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.
- (4) Subsection (1) above applies to any offence under section 44, 45, 50, 64(5), 67(6), 82, 83 or 84(4) above or under regulations made by virtue of section 7(2)(b) or 71 above.
- (5) Subsection (3) above applies to any offence under any provision made by or under this Act, except, without prejudice to section 92(3) above—
  - (a) .....<sup>F174</sup>
  - (b) an offence under section 44, 45, 50, 83 or 94(6) above;
  - (c) an offence consisting in a contravention of an order made under section 62 above;
  - (d) an offence consisting in a convention of an order made under section 63 above with respect to a British air transport undertaking;
  - (e) an offence consisting in a contravention of an Order in Council under section 86 above.

**Textual Amendments**

**F174** S. 99(5)(a) repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. II

**100 Application of Act to hovercraft.**

The enactments and instruments with respect to which provision may be made by Order in Council in pursuance of section 1(1)(h) of the<sup>M52</sup>Hovercraft Act 1968 (power to apply enactments and instruments in relation to hovercraft etc.) shall include this Act and any instrument made under it.

**Marginal Citations**

**M52** 1968 c. 59.

**101 Power to apply certain provisions to Crown aircraft**

- (1) Her Majesty may by Order in Council—
  - (a) apply to any aircraft belonging to or exclusively employed in the service of Her Majesty, with or without modification, any of the provisions of this Act mentioned in subsection (2) below (being provisions which do not otherwise apply to such aircraft) or any Orders in Council, orders or regulations under those provisions;
  - (b) apply the provisions of sections 92 to 95 above, with or without modifications, to aircraft such as are excluded from the definition of “aircraft” in subsection (5) of the said section 92 by paragraph (b) of the definition.
- (2) The provisions of this Act referred to in subsection (1)(a) above are sections 60 [<sup>F175</sup>and 61, 75] to 77, 81, 87, 89, 91, 96 and 97 and Part III of Schedule 13.

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### Textual Amendments

**F175** Words in s. 101(2) substituted (21.12.2001) by S.I. 2001/4050, art. 2, Sch. Pt. V para. 26(a)

## 102 Powers to make Orders in Council, orders and regulations.

- (1) Any power conferred on the Secretary of State by this Act to make an order or regulations, other than a power conferred by a provision of this Act specified in Part I of Schedule 13 to this Act, shall be exercisable by statutory instrument.
- (2) The powers to make Orders in Council, orders and regulations which are conferred by virtue of the provisions of this Act specified in column 1 of Part II of the said Schedule 13 (being the Orders in Council, orders and regulations a general description of which is given in column 2 of that Part)—
  - (a) are, to the extent specified in column 3 of that Part, conferred subject to subsections (3) and (4) below; and
  - (b) shall, to the extent specified in column 4 of that Part, include the powers conferred by virtue of Part III of that Schedule.
- (3) Where an entry in column 3 of the said Part II specifies that a power to make an Order in Council is subject to the affirmative resolution procedure, the Order shall not be submitted to Her Majesty in Council unless a draft of the Order has been laid before Parliament and approved by a resolution of each House.
- (4) Where an entry in the said column 3 specifies that a power to make an Order in Council, order or regulations is subject to the negative resolution procedure, the Order in Council, order or regulations, as the case may be, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any power to make an order which is conferred by a provision of this Act specified in Part I of Schedule 13, except the power to make a vesting order under section 42(2) above, shall be construed as including a power exercisable in the like manner and subject to the like provisions (if any) to vary or revoke the order.

## 103 Special parliamentary procedure: Scotland.

For the purposes of the application of this Act to Scotland, any inquiry in relation to an order which by virtue of any provision of this Act is subject to special parliamentary procedure, shall, if the Secretary of State so directs, be held by Commissioners under the <sup>M53</sup>Private Legislation Procedure (Scotland) Act 1936, and where any direction has been so given—

- (a) it shall be deemed to have been so given under section 2 as read with section 10 of the <sup>M54</sup>Statutory Orders (Special Procedure) Act 1945; and
- (b) nothing in section 267 of the <sup>M55</sup>Town and Country Planning (Scotland) Act 1972, as applied by virtue of paragraph 4 or paragraph 8 of Schedule 10 to this Act, shall apply to such inquiry.

### Marginal Citations

**M53** 1936 c. 52.

**M54** 1945 c. 18.

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M55 1972 c. 52.

#### 104 Construction of provisions relating to property.

- (1) Except where the context otherwise requires, nothing in this Act applying (in whatever terms) in relation to property (including any aerodrome) which is owned or managed or controlled by the Secretary of State or which he proposes to acquire shall apply in relation to such property unless, as the case may be, he owns, manages, controls or proposes to acquire the property in connection with the exercise of his functions relating to civil aviation.
- (2) Any reference in this Act to the carrying out of works on land shall be construed as including a reference to the making of excavations on the land or to the carrying out of levelling operations on the land; and references to the maintenance of works or to interference with works shall be construed accordingly.

#### 105 General interpretation.

- (1) In this Act, except where the context otherwise requires—

“accounting year”, in relation to the CAA, means the period of twelve months ending with 31st March in any year;

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“Air Navigation Order” means an Order in Council under section 60 above;

“air navigation services” includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and includes the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft;

“air transport licence” has the meaning given by section 64(1)(a) above;

“air transport service” means a service for the carriage by air of passengers or cargo;

F176

“the CAA” means the Civil Aviation Authority;

“cargo” includes mail;

“the Chicago Convention” means the convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago;

[<sup>F177</sup><sup>F178</sup> “the Community licensing Regulation” means Council Regulation 2407/92 on licensing of air carriers <sup>F179</sup> (as that Regulation has effect in accordance with [<sup>F180</sup> the EEA Agreement as amended by the Decision of the EEA Joint Committee No. 7/94 of 21 March 1994]);

“Convention country” means a country in which the Tokyo Convention is for the time being in force; and Her Majesty may by Order in Council certify that any country specified in the Order is for the time being a Convention country and any such Order in Council for the time being in

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force shall be conclusive evidence that the country in question is for the time being a Convention country;

[<sup>F177</sup>“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein;]

“enactment” includes any enactment contained in an Act of the Parliament of Northern Ireland, an Order in Council under section 1(3) of the <sup>M56</sup>Northern Ireland (Temporary Provisions) Act 1972 or a Measure of the Northern Ireland Assembly;

“Eurocontrol” and “the Eurocontrol Convention” have the meanings given by section 24 above;

“flight” means a journey by air beginning when the aircraft in question takes off and ending when it next lands;

“functions” includes powers and duties;

“the initial debt” has the meaning given by section 9(1) above;

“the Land Compensation Act”—

- (a) in relation to England and Wales, means the <sup>M57</sup>Land Compensation Act 1961;
- (b) in relation to Scotland, means the <sup>M58</sup>Land Compensation (Scotland) Act 1963; and
- (c) in relation to Northern Ireland, means, subject to subsection (7) below, the <sup>M59</sup>Acquisition of Land (Assessment of Compensation) Act 1919;

“the Lands Tribunal” shall be construed subject to subsection (5) below;

[<sup>F181</sup>“licence holder” means a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services);]

“local authority”—

- (a) in relation to England <sup>F182</sup>. . . , means a county council, . . . <sup>F183</sup> the council of a district or London borough or the Common Council of the City of London;
- (aa) [<sup>F184</sup>in relation to Wales, means a county council or a county borough council;]
- (b) in relation to Scotland, means a [<sup>F185</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];
- (c) in relation to Northern Ireland, means a district council established under the <sup>M60</sup>Local Government Act (Northern Ireland) 1972;

“loss or damage” includes, in relation to persons, loss of life and personal injury;

“modifications” includes additions, omissions and amendments, and “modify” shall be construed accordingly’;

“operator”, in relation to an aircraft, means the person having the management of the aircraft for the time being or, in relation to a time, at that time;

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“prescribed” means prescribed by regulations made by the Secretary of State;

“relevant overseas territory” means any of the Channel Islands, the Isle of Man, any colony . . . <sup>F186</sup>

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

<sup>F187</sup> . . .

“statutory undertaker” means the CAA, [<sup>F188</sup>a licence holder,]<sup>[<sup>F189</sup>a universal service provider in connection with the provision of a universal postal service], . . . <sup>F190</sup> or any person (including a local authority) authorised by any Act (whether public general or local) or by any order or scheme made under or confirmed by any Act to construct, work or carry on—</sup>

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking;
- (b) any undertaking for the supply of . . . <sup>F191</sup> . . . <sup>F192</sup> . . . <sup>F191</sup> hydraulic power;
- (c) [<sup>F193</sup>any undertaking for the supply of water;]

and “statutory undertaking” shall be construed accordingly;

“subsidiary” shall be construed in accordance with [<sup>F194</sup>section 736 of the Companies Act 1985]; and

“Tokyo Convention” means the Convention on Offences and certain other Acts Committed on board Aircraft, which was signed at Tokyo on 14th September 1963;

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British Dependent Territories citizen [<sup>F195</sup>, a British National (Overseas)] or a British Overseas citizen;
- (c) a person who under the <sup>M61</sup> British Nationality Act 1981 is a British subject; or
- (c) a British protected person (within the meaning of that Act).

[<sup>F196</sup>“universal service provider” has the same meaning as in the Postal Services Act 2000; and references to the provision of a universal postal service shall be construed in accordance with that Act.]

[<sup>F197</sup>(1ZA) For the purposes of this Act—

- (a) a licence holder shall not be considered to be a statutory undertaker unless it is carrying out activities authorised by the licence;
- (b) the licence holder’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is its undertaking as licence holder; and references in this Act to a licence holder’s undertaking shall be construed accordingly.]

[<sup>F198</sup>(1A) The undertaking of a universal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.]



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- (2) Except where the context otherwise requires, any reference in this Act to the provisions of an Order in Council shall, if paragraph 3 of Part III of Schedule 13 to this Act (power to authorise making of regulations) applies to the power to make the Order in question, include a reference to the provisions of any regulations made, or directions given, under the Order in Council.
- (3) Without prejudice to any transitional or transitory provision made by this Act or to section 17(2) of the <sup>M62</sup>Interpretation Act 1978 (repeal and re-enactment), any reference in any enactment contained in this Act (including a reference to a provision of that enactment or to any other enactment so contained) to a provision which is a re-enactment of a repealed enactment or to things done or falling to be done under such a provision shall, so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which the repealed enactment had effect, a reference to, or to things done or falling to be done under, that repealed enactment; and where the repealed enactment was itself a re-enactment of an earlier provision the reference shall extend in the same way to that earlier provision, and so on.
- (4) Any reference in this Act to the re-enactment of a provision includes a reference to this re-enactment with modifications.
- (5) In the application of this Act to Scotland and to Northern Ireland references to the Lands Tribunal shall have effect as references respectively to the Lands Tribunal for Scotland and to the Lands Tribunal for Northern Ireland.
- [<sup>F199</sup>(5A) In the application of this Act to Scotland references to a highway shall have effect as references to a road within the meaning of section 151(1) of the Roads (Scotland) Act 1984.]
- (6) Except where the context otherwise requires, any reference in this Act to an Act of Parliament shall include a reference to an Act of the Parliament of Northern Ireland, an Order in Council under section 1(3) of the <sup>M63</sup>Northern Ireland (Temporary Provisions) Act 1972 and a Measure of the Northern Ireland Assembly.
- (7) In the application of this Act to Northern Ireland, references in this Act to provisions of the <sup>M64</sup>Acquisition of Land (Assessment of Compensation) Act 1919 shall, in relation to any matter about which the Parliament of Northern Ireland had power to make laws, have effect as references to the corresponding provisions of the Land Compensation (Northern Ireland) Order 1982.
- (8) ..... <sup>F200</sup>

#### Textual Amendments

- F176** Definition repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), [Sch. 6](#)
- F177** Definitions in s. 105(1) inserted (1.7.1994) by [S.I. 1994/1732](#), [reg. 3\(6\)](#)
- F178** Definition in s. 105(1) inserted (1.1.1994) by [S.I. 1993/3039](#), [reg. 3\(e\)](#)
- F179** OJ No.L240, 24.8.92, p. 1.
- F180** Words in s. 105(1) substituted (1.7.1994) by [S.I. 1994/1732](#), [reg. 3\(5\)](#)
- F181** Definition of “licence holder” in s. 105(1) inserted (1.4.2001) by [2000 c. 38](#), s. 36, [Sch. 4 para. 14](#) (with s. 106); [S.I. 2001/869](#), [art. 2](#)
- F182** Words in s. 105(1) repealed (1.4.1996) by [1994 c. 19](#), s. 66(6)(8), [Sch. 16 para. 66\(2\)](#), [Sch. 18](#) (with ss. [54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 paras. 22\(1\)](#), [23\(2\)](#)); [S.I. 1996/396](#), [art. 4](#), [Sch. 2](#)
- F183** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#) s. 102, [Sch. 17](#)

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- F184** S. 105(1) in the definition of “local authority” sub-paragraph (aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 66(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F185** Words in s. 105(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 126(5)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F186** Words repealed by Aviation and Maritime Security Act 1990 (c. 31, SIF 39:2), s. 53(2), **Sch. 4**
- F187** Definition in s. 105(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV**
- F188** Words in s. 105(1) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 6(a)**
- F189** Words in s. 105(1) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 56(2)(a)** (with art. 4(11))
- F190** Words repealed by Telecommunications Act 1984 (c.12, SIF 96), s. 109, **Sch. 7 pt. I**
- F191** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18**
- F192** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 pt. I**
- F193** Para. (c) repealed (E.W.) by Water Act 1989 (c.15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27**
- F194** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch.2**
- F195** Words inserted by S.I. 1986/948, art.8, **Sch.**
- F196** Words in s. 105(1) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 56(2)(b)** (with art. 4(11))
- F197** S. 105(1ZA) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 6(b)**
- F198** S. 105(1A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 56(3)** (with art. 4(11))
- F199** S. 105(5A) inserted by (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 85(2)**
- F200** s. 105(8) repealed by S.I. 1984/703 (N.I. 3), art. 19(2), **Sch.7**

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

- C49** S. 105(1): references to British Telecommunications in s. 105(1) cease to have effect by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, **Sch. 4 para. 3(1)(m)**, Sch. 5 para. 45

#### Marginal Citations

- M56** 1972 c. 22.  
**M57** 1961 c. 33.  
**M58** 1963 c. 51.  
**M59** 1919 c. 57.  
**M60** 1972 c. 9 (N.I.).  
**M61** 1981 c.61.  
**M62** 1978 c.30.  
**M63** 1972 c.22.  
**M64** 1919 c.57.

## 106 Application of Act to territorial waters.

- (1) Except where the context otherwise requires, in any provision of this Act to which this section applies a reference to a country or territory or to the territorial limits of any country shall be construed as including a reference to the territorial waters of the country or territory, as the case may be; and a reference to a part of the United Kingdom shall be construed as including a reference to so much of the territorial waters of the United Kingdom as are adjacent to that part.
- (2) This section applies to Parts III and IV of this Act, except sections [F201 64 to 71] and 84.

**Status:** Point in time view as at 01/04/2003. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Civil Aviation Act 1982 is up to date with all changes known to be in force on or before 26 June 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) Nothing in this section shall prejudice the construction of any provision of this Act to which this section does not apply.

#### Textual Amendments

**F201** Words in s. 106(2) substituted (21.12.2001) by S.I. 2001/4050, art. 2, Sch. Pt. V para. 26(b)

### 107 Application of Act to Northern Ireland.

- (1) The following provisions of this Act, that is to say, sections 27, 30 to 35, 37, 44(9), 51, 54 and 88, paragraph 12 of Schedule 7 and paragraph 10 of Schedule 9 and Schedule 10 shall not extend to Northern Ireland.
- (2) Her Majesty may by Order in Council direct that any of the provisions of sections 39, 47 and 97 of this Act (except subsection (3) of section 97) and any of the provisions of this Part of this Act so far as it relates to those sections shall, in the application of that provision to Northern Ireland, have effect subject to such adaptations as may be specified in the Order.

### 108 Extension of provisions of Act outside United Kingdom.

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act, other than the provisions of sections [F202 34, 35,] 61(3) to (5), 82, and 88 of this Act, shall extend, with such modifications (if any) as may be specified in the Order to any relevant overseas territory.
- (2) Her Majesty may by Order in Council direct that—
- (a) any provision of this Act, other than a provision of sections 92 to 95; or
  - (b) any provision of any Order in Council or regulations made by virtue of section 60, F203 . . . , 75, 86, 87 or 89 above,
- shall apply in relation to an aircraft registered in any relevant overseas territory as that provision applies to an aircraft registered in the United Kingdom, but with such modifications (if any) as may be specified in the Order.

#### Textual Amendments

**F202** Words substituted by Airports Act 1986 (c. 31, SIF 9), s. 83(1), Sch. 4 para. 8(2)

**F203** Word in s. 108(2)(b) omitted (21.12.2001) by virtue of S.I. 2001/4050, art. 2, Sch. Pt. V para. 26(c)

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

**C50** S. 108 applied by Aviation and Maritime Security Act 1990 (c. 31, SIF 39:2), s. 51(2)

**C51** S. 108(1) extended by Civil Aviation (Eurocontrol) Act 1983 (c. 11, SIF 9), s. 4(3)

**C52** S. 108(1)(2) applied (14.12.2001) by 2001 c. 24, ss. 88(1), 127(2)

**C53** S. 108(1) extended (8.11.2006) by Civil Aviation Act 2006 (c. 34), s. 14(9)

### 109 Transitional provisions, consequential amendments, repeals, etc.

- (1) Schedule 14 to this Act (which contains transitional and transitory provisions and savings) shall have effect; and the provisions of that Schedule are without prejudice to sections 16 and 17 of the M65 Interpretation Act 1978 (which relate to repeals).

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- (2) The enactments specified in Schedule 15 to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.
- (3) Subject to the provisions of the said Schedule 14, the enactments and instruments specified in Schedule 16 to this Act are hereby repealed to the extent specified in the third column of the said Schedule 16.

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

**C54** The text of s. 109(2), Sch. 16 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M65** 1978 c. 30.

**110 Citation and commencement.**

- (1) This Act may be cited as the Civil Aviation Act 1982.
- (2) This Act shall come into force at the expiration of the period of three months beginning with its passing.

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

**C55** S. 110(1) extended (with modifications) (1.4.2007) by [The Civil Aviation \(Isle of Man\) Order 2007 \(S.I. 2007/614\)](#), [art. 2\(c\)](#), Sch.

**Status:**

Point in time view as at 01/04/2003. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

Civil Aviation Act 1982 is up to date with all changes known to be in force on or before 26 June 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.