



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART III

#### REGULATION OF CIVIL AVIATION

##### *Air navigation services*

#### **72 Duty of CAA to provide air navigation services.**

- (1) It shall be the duty of the CAA to provide air navigation services—
  - (a) in the United Kingdom, and
  - (b) for any area outside the United Kingdom for which the United Kingdom has, in pursuance of international arrangements, undertaken to provide air navigation services,to the extent to which it appears to the CAA that such services are necessary and are not being provided by it (either alone or jointly with another person) or by some other person.
- (2) It shall be the duty of the CAA to join with the Secretary of State, in such manner as may be specified in directions given to the CAA by the Secretary of State—
  - (a) in providing such air navigation services in respect of such areas (whether in the United Kingdom or elsewhere) as may be specified in the directions; and
  - (b) in defraying the cost of providing the services so specified; and
  - (c) without prejudice to the generality of paragraph (b) above, in discharging any liability to a third party which is incurred by the CAA and the Secretary of State or either of them in providing the services so specified.
- (3) Without prejudice to any right of action in respect of an act or omission which takes place in the course of providing air navigation services in pursuance of this section, no action shall lie in respect of a failure by the CAA to perform the duty imposed on it by subsection (1) or (2) above.

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### 73 Charges for air navigation services etc.

(1) The Secretary of State may make regulations—

- (a) for requiring the payment to him or the CAA or Euro-control of charges, of such amounts and in such currencies as may be prescribed, in respect of air navigation services which, either in pursuance of international arrangements or otherwise, are provided for aircraft by him, the CAA, Eurocontrol or any other person or by any persons jointly;
- (b) for requiring the payment to any international organisation other than Eurocontrol or to any government outside the United Kingdom of charges of such amounts as may be prescribed in respect of air navigation services provided for aircraft, being services provided by that international organisation or government, as the case may be, in pursuance of an agreement to which the United Kingdom is a party.

[<sup>F1</sup>(1A) Regulations under subsection (1)(a) above may—

- (a) prescribe any charges to which the regulations apply in units of account defined by reference to more than one currency; and
- (b) make provision for any charges prescribed in such units to be paid and recovered either in such units or in their equivalent, as determined in accordance with the regulations, in such currencies as may be prescribed.]

(2) The Secretary of State may make regulations—

- (a) providing for the payment of an annual charge of such amount as may be prescribed to the CAA in respect of any aircraft for which there is in force at the time the charge becomes payable a certificate of airworthiness; and
- (b) requiring the CAA to refund so much of any such payment made in respect of an aircraft by any person as is equal to the amount which that person becomes liable (whether by virtue of regulations under this section or otherwise) to pay to Eurocontrol in respect of so much of any flight made by that aircraft as is made over the United Kingdom during the period of twelve months commencing with the date on which the payment to the CAA became due.

(3) The liability for any charges payable by virtue of regulations under subsection (1) above may be imposed upon the operators or owners of aircraft for which the air navigation services in question are available (whether or not they are actually used or could be used with the equipment installed in the aircraft) or upon those operators and owners or upon the managers of aerodromes used by such aircraft, or partly upon those operators or owners or operators and owners and partly upon those managers.

(4) Regulations under subsection (1) above may provide for charges payable by virtue of the regulations to be so payable elsewhere than in the United Kingdom and to be recoverable in the United Kingdom wherever they are payable (without prejudice to their recovery elsewhere); and liability for any charges payable by virtue of regulations under that subsection may be imposed upon the operator [<sup>F2</sup>or owner] of any aircraft whether or not it is registered in the United Kingdom, whether or not it is in or over the United Kingdom at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in the United Kingdom.

(5) Regulations under subsection (2) above may—

- (a) impose liability for any charges payable by virtue of the regulations upon the operators or owners of the aircraft in respect of which the charge is payable; and

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- (b) impose that liability whether or not the aircraft is registered in the United Kingdom and whether or not it is in the United Kingdom during the year in respect of which the charge is payable.
- (6) The charges to be prescribed under this section shall—
- (a) in the case of charges payable to the Secretary of State or the CAA, be at such rates or of such amounts as the Secretary of State may, with the consent of the Treasury, determine;
  - (b) in the case of charges payable to Eurocontrol, be at such rates as the Secretary of State may determine in pursuance of tariffs which are either—
    - (i) approved under any international agreement to which the United Kingdom is a party; or
    - (ii) in the opinion of the Secretary of State likely to be approved before or within one month after the date when the regulations come into force, under any international agreement to which the United Kingdom is likely to be party before or within one month after that date;
  - (c) in the case of charges payable to an international organisation other than Eurocontrol or to a government outside the United Kingdom, be at such rates as the Secretary of State may determine in pursuance of tariffs which are either—
    - (i) approved under the relevant international agreement with the United Kingdom; or
    - (ii) in the opinion of the Secretary of State likely to be approved under that agreement before or within one month after the date when the regulations come into force;
- and the regulations may prescribe different charges in respect of aircraft of different classes or descriptions or in respect of aircraft used in different circumstances, may provide for the payment, with any charges or separately, of interest on the charges in respect of any period during which the charges were due but unpaid and may dispense with charges in such cases as may be prescribed by or determined under the regulations.
- (7) For the purpose of facilitating the assessment and collection of charges payable by virtue of regulations under this section, the regulations may make provision for requiring operators of aircraft or managers of aerodromes—
- (a) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as may be prescribed, and to preserve those records for such period as may be prescribed;
  - (b) to produce for inspection at such times as may be prescribed and—
    - (i) in the case of charges payable by virtue of regulations made under subsection (1)(a) or (2) above, by such officers of the Secretary of State or of the CAA or of Eurocontrol as may be prescribed, and
    - (ii) in the case of charges payable by virtue of regulations made under subsection (1)(b) above, by such officers of the international organisation or government, as the case may be, to whom the charges are payable or of the Secretary of State or of the CAA as may be prescribed,any records which are required by the regulations or an Air Navigation Order to be preserved by those operators or managers;
  - (c) to furnish such particulars of any such records as may be prescribed—

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- (i) in the case of charges payable by virtue of regulations made under subsection (1)(a) or (2) above, to the Secretary of State or to the CAA or to Eurocontrol; and
  - (ii) in the case of charges payable by virtue of regulations made under subsection (1)(b) above, to the international organisation or government, as the case may be, to whom the charges are payable or to the Secretary of State or the CAA.
- (8) The requirements mentioned in subsection (7) above may be imposed upon the operator of any aircraft whether or not it is registered in the United Kingdom, whether or not it is in or over the United Kingdom at the time when the services to which the charges relate are provided and whether or not those services are provided from a place in the United Kingdom.
- (9) Regulations under this section may contain provision for regulating the disposal by the CAA of sums received by it by virtue of the regulations.
- (10) In this section—
- “manager”, in relation to an aerodrome, means a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 above;
  - “record” includes, in addition to a record in writing—
    - (a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;
    - (b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and
    - (c) any photograph;
- and any reference to a copy of a record includes in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with such a still reproduction.

#### Textual Amendments

**F1** S. 73(1A) inserted by [Civil Aviation \(Air Navigation\) Charges Act 1989 \(c. 9, SIF 9\), s. 1](#)

**F2** Words inserted (*retrospectively*) by [Civil Aviation \(Eurocontrol\) Act 1983 \(c. 11, SIF 9\), s. 3\(2\)](#)

#### 74 Provisions supplementary to s. 73.

- (1) Any person who, without reasonable cause, fails to comply with any requirement of regulations made by virtue of subsection (7) of section 73 above shall be liable on summary conviction to a fine not exceeding [<sup>F3</sup>level 3 on the standard scale].
- (2) Any person who, being in possession of information furnished to or obtained by him in pursuance of regulations under the said subsection (7), discloses that information otherwise than—
  - (a) with the consent of the person by whom it was furnished or from whom it was obtained, or
  - (b) for the purposes of the regulations, or

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- (c) for the purposes of any proceedings arising out of section 73 above, of proceedings brought by virtue of paragraph 3 of Schedule 4 to this Act or of any criminal proceedings whether or not arising out of this Act, or
- (d) for the purposes of any public inquiry or Inspector’s investigation held or carried out in pursuance of regulations made under section 75 below, or
- (e) for the purpose of any report of any such proceedings, inquiry or investigation as aforesaid,

shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or to both.

- (3) Any person who, in furnishing in pursuance of such regulations any such particulars as are described in paragraph (c) of the said subsection (7), furnishes any particulars which to his knowledge are false in any material particular, or recklessly furnishes any particulars which are false in any material particular, 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.

- (4) Without prejudice to paragraph 4 of Part III of Schedule 13 to this Act, regulations under section 73 above may make provision—

- (a) in the case of default in the payment of any charge payable by an operator under the regulations, for authorising the detention, pending payment, of the aircraft in respect of which the charge was incurred or of any other aircraft of which the person in default is the operator at the time when the detention begins;
- (b) in the case of default in complying with any requirement imposed by the regulations on the operators of aircraft with respect to the production for inspection, or the furnishing of particulars, of any records, for authorising the detention, pending compliance, of any aircraft of which the person in default is the operator at the time when the detention begins;

and such regulations may make such further provision as appears to the Secretary of State to be necessary or expedient for securing such detention.

- (5) Regulations in pursuance of subsection (4) above may make, in relation to aircraft detained for non-payment of any charge payable by virtue of regulations under section 73 above, provision corresponding to any provision made by or under section 88 below.

- (6) A court in any part of the United Kingdom shall have jurisdiction to hear and determine a claim for charges or interest payable to the Secretary of State or the CAA or Eurocontrol by virtue of regulations under section 73 above, notwithstanding that the person against whom the claim is made is not resident within the jurisdiction of the court.

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

#### Textual Amendments

- F3** 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.) S.I. 1984/703 (N.I. 3), arts. 5, 6

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**[<sup>F4</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>M1</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>M2</sup>1933 (registration of judgments, rules of court and powers of court on application to set aside registration) shall apply, with the necessary modifications, in relation to the determination as they apply in relation to a judgment to which Part I of that Act applies; and accordingly, for the purposes of this section, in subsection (2) of section 5 of that Act—
  - (a) the reference to subsection (1) of that section shall have effect as a reference to subsection (7) below; and
  - (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

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- (g) the determination—
- (i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in the part of the United Kingdom in which it is sought to enforce the determination, or as the case may be, in which recognition of the determination is sought), and
  - (ii) was different from the determination which would have been made if those corresponding rules had been applied.
- (5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum—
- (a) in the Contracting State (if any) in which that person's residence or, as the case may be, his registered office is situated;
  - (b) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business;
  - (c) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting State, in any Contracting State in which he has assets;
  - (d) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.
- (6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say—
- (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal;
  - (b) the time within which an appeal must be brought, or an application for review must be made, has expired;
  - (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn; or
  - (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.
- (7) If, on an application to set aside the registration by virtue of subsection (2) above of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either—
- (a) set aside the registration; or
  - (b) adjourn the application to set aside the registration until such time as the determination has become final,
- but nothing in this section shall require that court to take either of these courses where there is no other ground for setting aside the registration and the court is not satisfied

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that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.

(8) In this section—

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

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

- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by 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.]

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**Textual Amendments**

**F4** S. 74A inserted by [Civil Aviation \(Eurocontrol\) Act 1983 \(c. 11, SIF 9\)](#), s. 1

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**Marginal Citations**

**M1** [1982 c.16\(9\)](#).

**M2** [1933 c.13\(45:3\)](#).



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