



Aviation and Maritime Security Act 1990

1990 CHAPTER 31

PART I

AVIATION SECURITY

Powers of Secretary of State and authorised persons

2 Extension of power to require promotion of searches

After section 13 of the Aviation Security Act 1982 there is inserted—

“13A Power to require other persons to promote searches

- (1) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing to any person (other than the manager of an aerodrome) who—
- (a) occupies any land forming part of an aerodrome in the United Kingdom, or
 - (b) is permitted to have access to a restricted zone of such an aerodrome for the purposes of the activities of a business carried on by him,
- requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by constables or by other persons of a description specified in the direction.
- (2) The searches to which this section applies are—
- (a) in relation to a person falling within subsection (1)(a) above, searches—
 - (i) of the land which he occupies within the aerodrome, and
 - (ii) of persons or property which may at any time be on that land; and
 - (b) in relation to a person falling within subsection (1)(b) above, searches—

Status: This is the original version (as it was originally enacted).

- (i) of any land which he occupies outside the aerodrome for the purposes of his business, and
 - (ii) of persons or property which may at any time be on that land.
- (3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (4) Where a person is convicted of an offence under subsection (3) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.”

3 Extension of Secretary of State’s powers under section 14 of Aviation Security Act 1982

- (1) In section 14 of the Aviation Security Act 1982, for subsections (1) and (2) there is substituted—
- “(1) Subsection (1A) below applies to any person who—
- (a) is the operator of one or more aircraft registered or operating in the United Kingdom,
 - (b) is the manager of an aerodrome in the United Kingdom,
 - (c) occupies any land forming part of an aerodrome in the United Kingdom, or
 - (d) is permitted to have access to a restricted zone of such an aerodrome for the purposes of the activities of a business carried on by him.
- (1A) Subject to the following provisions of this section, the Secretary of State may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part of this Act applies as are specified in the direction—
- (a) in the case of a direction given to a person as the operator of any aircraft, in respect of all the aircraft registered or operating in the United Kingdom of which (at the time when the direction is given or at any subsequent time) he is the operator, or in respect of any such aircraft, or any class of such aircraft, specified in the direction;
 - (b) in the case of a direction given to a person as the manager of an aerodrome, in respect of that aerodrome;
 - (c) in the case of a direction given to a person as a person occupying any land forming part of an aerodrome, in respect of any such land as is specified in the direction; and
 - (d) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(d) above, in respect of such activities carried on by that person in that zone as are specified in the direction.

- (2) Without prejudice to the generality of subsection (1A) above, the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—
- (a) where the direction is given to a person as the operator of aircraft, of guarding the aircraft against acts of violence;
 - (b) where the direction is given to a person as the manager of an aerodrome, of guarding the aerodrome, or persons or property (including aircraft) in any part of the aerodrome, against acts of violence;
 - (c) where the direction is given to a person as falling within subsection (1) (c) above, of guarding against acts of violence any aircraft in the aerodrome which is for the time being under his control; or
 - (d) where the direction is given to a person as falling within subsection (1) (d) above, of guarding—
 - (i) any land outside the aerodrome occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and
 - (ii) any aircraft which is for the time being under his control, for purposes to which this Part of this Act applies.”

(2) Subsection (4) of that section is omitted.

(3) In subsection (6) of that section—

- (a) for the words from “such an operator”, in the first place where those words occur, to “subsection (1) above”, there is substituted “a person to whom subsection (1A) above applies”, and
- (b) for the words “an operator or manager”, in the second place where they occur, there is substituted “a person”.

4 Enforcement notices in respect of directions under Part II of Aviation Security Act 1982

In the Aviation Security Act 1982 after section 18 there is inserted—

“18A Enforcement notices

- (1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under section 12, 13, 13A or 14 of this Act, the authorised person may serve on that person a notice (in this Part of this Act referred to as an “enforcement notice”)—
- (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
 - (b) specifying, subject to section 18B of this Act, the measures that ought to be taken in order to comply with those requirements.
- (2) For the purposes of this section a requirement of a direction given by the Secretary of State under section 12, 13, 13A or 14 of this Act is a “general requirement” if the provision imposing the requirement—

- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
 - (b) is framed in general terms applicable to all the persons to whom those directions are given.
- (3) Before serving any enforcement notice which relates to a direction given under section 12(2) of this Act, the authorised person shall inform the Civil Aviation Authority of the measures proposed to be specified in the notice, and shall take account of any advice given to him by that Authority with respect to those proposals.

18B Contents of enforcement notice

- (1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Secretary of State under the provision under which the direction was given.
- (2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.
- (3) Subject to subsection (4) below, an enforcement notice which relates to a direction given under section 12 of this Act must require the person to whom the direction was given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) or (2) of that section, as the case requires, until the specified measures have been taken.
- (4) In serving an enforcement notice which relates to a direction under section 12(2) of this Act, the authorised person shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.
- (5) An enforcement notice which relates to a direction given under section 13, 13A or 14 of this Act must either—
- (a) require the person to whom the direction was given to take the specified measures within a specified period which—
 - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
 - (ii) in any other case, must not be less than seven days beginning with that date; or
 - (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.
- (6) Subject to section 18E(2) of this Act, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

18C Offences relating to enforcement notices

- (1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (2) Where a person is convicted of an offence under subsection (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (3) Any person who intentionally interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

18D Objections to enforcement notices

- (1) The person on whom an enforcement notice is served may serve on the Secretary of State a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.
- (2) Any notice of objection under subsection (1) above must be served—
 - (a) where the enforcement notice specifies measures falling within section 18B(5)(a)(i) of this Act, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
 - (b) in any other case, before the end of the period of seven days beginning with that date.
- (3) The grounds of objection to an enforcement notice are—
 - (a) that the general requirements of the direction which are specified in the notice for the purposes of section 18A(1)(a) of this Act have been complied with,
 - (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
 - (c) that any requirement of the notice—
 - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) above and should be dispensed with, or
 - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1) above.

- (4) Where the person on whom an enforcement notice is served serves a notice under subsection (1) above objecting to the enforcement notice, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—
 - (a) confirming the enforcement notice as originally served, or
 - (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
 - (c) cancelling the enforcement notice.
- (5) An enforcement notice to which an objection has been made under subsection (1) above—
 - (a) if it contains such a requirement as is mentioned in section 18B(3) or (5)(b) of this Act, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under subsection (4) above, and
 - (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under subsection (4) above.

18E Enforcement notices: supplementary

- (1) An enforcement notice served on any person—
 - (a) may be revoked by a notice served on him by an authorised person, and
 - (b) may be varied by a further enforcement notice.
- (2) Sections 15 and 16 of this Act apply to an enforcement notice as they apply to the direction to which the notice relates.
- (3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land in compliance with an enforcement notice.
- (4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 12(9), 13(4), 13A(3) or 14(7) of this Act, to have failed to comply with the direction by reason of the matters specified in the notice.
- (5) Subsection (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.
- (6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.
- (7) In this section “direction” means a direction under section 12, 13, 13A or 14 of this Act.”