



# Finance Act 1994

## 1994 CHAPTER 9

### PART I

#### CUSTOMS AND EXCISE

#### CHAPTER IV

#### AIR PASSENGER DUTY

##### *The duty*

#### **28 Air passenger duty.**

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

*Status: Point in time view as at 01/11/2006.*

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## 29 Chargeable aircraft.

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

## 30 The rate of duty.

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

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

[<sup>F9</sup>(4) In a case not falling within subsection (2) above—

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

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

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

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

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

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

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

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

[<sup>F11</sup>(9A) In this section “qualifying territory” means each of the following territories—

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Bulgaria	Latvia	Slovak Republic
[ <sup>F12</sup> Croatia]	Lithuania	Slovenia
Cyprus	Malta	Switzerland
Czech Republic	Poland	Turkey.
Estonia	Hungary	Romania

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

[<sup>F13</sup>(10) In this section “standard class travel”, in relation to carriage on an aircraft, means—

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

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### Textual Amendments

- F1** Words in s. 30(1) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(2)
- F2** S. 30(2) substituted (*retrospectively*) by 1995 c. 4, s. 15(1)(2)
- F3** Words in s. 30(2) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(3)(a)
- F4** Word in s. 30(2) repealed (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), ss. {121(2)}, 141, {Sch. 40 Pt. 4(1)}
- F5** S. 30(2)(c) and word inserted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(2)
- F6** Words in s. 30(2) added (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(3)(b)
- F7** Words in s. 30(3) substituted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(3)
- F8** S. 30(3A) inserted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(4)
- F9** S. 30(4) substituted (28.7.2000 with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(5)
- F10** S. 30(9) inserted (*retrospectively*) by 1995 c. 4, s. 15(1)(3)
- F11** S. 30(9A)(9B) inserted (with application as mentioned in s. 121(5) of the amending Act) by Finance Act 2002 (c. 23), s. 121(4)
- F12** Word in s. 30(9A) inserted (1.11.2006) by The Air Passenger Duty (Rate) (Qualifying Territories) Order 2006 (S.I. 2006/2693), arts. 1(2), 2
- F13** S. 30(10) added (with application as mentioned in s. 18(8) of the amending Act) by 2000 c. 17, s. 18(6)

### 31 Passengers: exceptions.

<sup>F14</sup>(1) . . . . .

<sup>F14</sup>(2) . . . . .

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

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

(4) A child who—

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

is not a chargeable passenger.

[<sup>F15</sup>(4A) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket)—

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

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- [<sup>F16</sup>(4B) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket) the flight is to depart from an airport which is in a region of the United Kingdom designated by order.
- (4C) An order may be made for the purposes of subsection (4B) above in respect of any region which has a population density of not more than 12.5 persons per square kilometre.
- (4D) In subsections (4B) and (4C) above, references to a region are references to an area which is determined by the Treasury to constitute a region for the purposes of those subsections.]
- (5) A passenger not carried for reward is not a chargeable passenger if he is carried—
- (a) in pursuance of any requirement imposed under any enactment, or
  - (b) for the purpose only of inspecting matters relating to the aircraft or the flight crew.

<sup>F14</sup>(6) .....

#### Textual Amendments

**F14** S. 31(1)(2)(6) repealed (28.7.2000 with application as mentioned in s. 19(6) of the repealing Act) by 2000 c. 17, ss. 19(2)(4), 156, Sch. 40 Pt. I(4)

**F15** S. 31(4A) inserted (29.4.1996) by 1996 c. 8, s. 13(1)

**F16** S. 31(4B)-(4D) inserted (28.7.2000 with application as mentioned in s. 19(6) of the amending Act) by 2000 c. 17, s. 19(3)

## 32 Change of circumstances after ticket issued etc.

- (1) [<sup>F17</sup>Subsections (2) and (3) below apply] in the case of a person whose agreement for carriage is evidenced by a ticket.
- (2) Where—
- (a) at the time the ticket is issued or, if it is altered, at the time it is last altered, he would not (assuming there is no change of circumstances) be a chargeable passenger in relation to any flight in the course of his journey, and
  - (b) by reason only of a change of circumstances not attributable to any act or default of his, he arrives at or departs from an airport in the course of that journey on a flight the prescribed particulars of which were not shown on his ticket at that time,
- he shall not by reason of the change of circumstances be treated as a chargeable passenger in relation to that flight.
- (3) Where—
- (a) at the time the ticket is issued or, if it is altered, at the time it is last altered, he would (assuming there is no change of circumstances) be a chargeable passenger in relation to one or more flights (“the proposed chargeable flights”) in the course of his journey,
  - (b) by reason only of a change of circumstances not attributable to any act or default of his, he arrives at or departs from an airport in the course of that journey on a flight the prescribed particulars of which were not shown on his ticket at that time, and

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- (c) but for this subsection he would by reason of the change be a chargeable passenger in relation to a number of flights exceeding the number of the proposed chargeable flights,

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

[<sup>F18</sup>(4) Where—

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

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

#### Textual Amendments

**F17** Words in s. 32(1) substituted (29.4.1996) by 1996 c. 8, s. 13(2)(a)

**F18** S. 32(4) added (29.4.1996) by 1996 c. 8, s. 13(2)(b)

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