



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

#### CHAPTER I

#### AIR TRAFFIC SERVICES

#### *Administration orders etc.*

### **26 Protection of licence companies etc.**

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

*Status: Point in time view as at 01/04/2001.*

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(b) references to the 1986 Act are to the <sup>M1</sup>Insolvency Act 1986.

**Commencement Information**

**I1** S. 26 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**Marginal Citations**

**M1** 1986 c. 45.

**27 Duty to make order.**

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

**Commencement Information**

**I2** S. 27 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**28 Power to make order.**

- (1) The court may make an air traffic administration order in relation to a licence company if—
  - (a) an application by petition is made by the Secretary of State or by the CAA with his consent, and
  - (b) the court is satisfied that one or more of the following four conditions is satisfied.
- (2) The first condition is that the company is or is likely to be unable to pay its debts.
- (3) The second condition is that—
  - (a) the Secretary of State certifies that but for section 27 it would be appropriate for him to petition for the company's winding up under section 124A of the 1986 Act (petition following inspectors' report etc), and
  - (b) but for section 27 it would be just and equitable (as mentioned in section 124A) for the company to be wound up.

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- (4) The third condition is that—
- (a) there has been or is or is likely to be a contravention by the company of a section 8 duty,
  - (b) no notice has been served under section 22(10) or (11) in relation to the contravention or apprehended contravention, and
  - (c) the contravention or apprehended contravention is serious enough to make it inappropriate for the company to continue to hold the licence concerned.
- (5) The fourth condition is that—
- (a) a final or provisional order has been made or confirmed in relation to a section 8 duty or a licence condition,
  - (b) the order is not the subject of proceedings under section 23, and
  - (c) there has been or is or is likely to be such a contravention of the order by the company as to make it inappropriate for it to continue to hold the licence concerned.
- (6) For the purposes of subsection (2) a company is unable to pay its debts if it is deemed to be unable to do so under section 123 of the 1986 Act.
- (7) A reference in subsection (4) or (5) to a section 8 duty or to a licence condition or to a final or provisional order is to be construed in accordance with section 20.
- (8) A reference to the court is to the court which (but for section 27) would have jurisdiction to wind up the company.

#### Commencement Information

- I3** S. 28 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 29 Air traffic administration orders.

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

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(5) In subsection (1) “business” and “property” have the same meanings as in the 1986 Act.

(6) The reference in subsection (1) to the court is to the court making the order.

#### Commencement Information

**I4** S. 29 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 30 Petitions and orders: supplementary.

(1) A petition under section 28 above cannot be withdrawn except with the court’s leave.

(2) Section 9(4) and (5) of the 1986 Act (court’s powers) apply on the hearing of a petition under section 28 above as they apply on the hearing of a petition for an administration order.

(3) Section 10(1), (2), (4) and (5) of the 1986 Act (effect of petition) apply in the case of a petition under section 28 above as if—

- (a) the reference in subsection (1) to an administration order were to an air traffic administration order;
- (b) the reference in subsection (1)(c) to proceedings included a reference to proceedings under or for the purposes of section 20 above;
- (c) in subsection (1)(c) after “its property” there were inserted “, and no right of re-entry or forfeiture may be enforced against the company in respect of any land,”;
- (d) subsection (2)(b) and (c) were omitted.

(4) Schedules 1 and 2 contain provisions relating to air traffic administration orders.

(5) The power given by section 411 of the 1986 Act to make rules applies for the purpose of giving effect to the air traffic administration order provisions as it applies for the purpose of giving effect to Parts I to VII of that Act, but taking references to those Parts as references to those provisions.

(6) The air traffic administration order provisions are sections 27 to 29, this section and Schedules 1 and 2.

(7) The reference in subsection (1) to the court is to the court to which the application by petition is made.

#### Commencement Information

**I5** S. 30 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

### 31 Government financial help.

(1) If an air traffic administration order is in force in relation to a company the Secretary of State may—

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- (a) make grants or loans to the company of such sums as he thinks appropriate to facilitate the achievement of the order's purposes;
  - (b) agree to indemnify the air traffic administrator in respect of liabilities incurred and loss or damage sustained by him in connection with carrying out his functions under the order.
- (2) The Secretary of State may guarantee, in such manner and on such terms as he thinks fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed from any person by a company in relation to which an air traffic administration order is in force when the guarantee is given.
- (3) The terms on which a grant is made under this section may require all or part of it to be repaid to the Secretary of State if there is a contravention of the other terms on which it is made.
- (4) A loan made under this section must be repaid to the Secretary of State at such times and by such methods, and interest must be paid to him at such rates and times, as may be specified in directions given by him from time to time.
- (5) Subsections (3) and (4) do not prejudice any provision applied in relation to the company by Schedule 1.
- (6) A grant, loan, agreement to indemnify, guarantee or direction under this section requires the Treasury's consent.
- (7) The air traffic administrator is the person appointed by the court to achieve the purposes of the air traffic administration order.

#### Commencement Information

- I6** S. 31 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

## 32 Guarantees under section 31.

- (1) This section applies to a guarantee given under section 31.
- (2) Immediately after a guarantee is given the Secretary of State must lay a statement of it before each House of Parliament.
- (3) If a sum is paid out for fulfilling a guarantee, as soon as possible after the end of each relevant financial year the Secretary of State must lay a statement relating to the sum before each House of Parliament.
- (4) If any sums are paid out for fulfilling a guarantee the borrowing company must make to the Secretary of State at such times and in such manner as may be specified in directions given by him from time to time—
  - (a) payments of such amounts as he may specify in such directions in or towards repayment of the sums paid out, and
  - (b) payments of interest at such rate as he may specify in such directions on what is outstanding in respect of sums paid out.

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- (5) Subsection (4) does not prejudice any provision applied in relation to the borrowing company by Schedule 1.
- (6) A direction under this section requires the Treasury's consent.
- (7) Relevant financial years are financial years starting with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and interest on it is finally discharged.
- (8) The borrowing company is the company which borrowed the sums in respect of which the guarantee was given.

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**Commencement Information**

- I7** S. 32 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

**33 Northern Ireland.**

Schedule 3 contains provisions relating to Northern Ireland.

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**Commencement Information**

- I8** S. 33 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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