



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

### CHAPTER V

#### COMPETITION

#### 85 Interpretation of Chapter V.

- (1) For the purposes of this Chapter—
  - [<sup>F1</sup>(a) the 2002 Act is the Enterprise Act 2002;]
  - (b) the 1998 Act is the <sup>M1</sup>Competition Act 1998;
  - [<sup>F2</sup>(c) the OFT is the Office of Fair Trading.]
- (2) For the purposes of this Chapter these expressions have the meanings given by section 40—
  - (a) aerodrome;
  - (b) licence;
  - (c) licence holder.
- (3) If an expression is used in this Chapter and also in <sup>F3</sup>... the 1998 Act it has the same meaning in this Chapter as it has in the [<sup>F4</sup>1998 Act].

#### Textual Amendments

- F1** S. 85(1)(a) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 23\(2\)](#); S.I. 2003/1397, [art. 2\(1\)](#), [Sch.](#)
- F2** S. 85(1)(c) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 44\(6\)](#); S.I. 2003/766, [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by S.I. 2007/1846, [reg. 3\(2\)](#), [Sch.](#))

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- F3** Words in s. 85(3) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(a), Sch. 26; S.I. 2003/1397, art. 2(1), Sch.
- F4** Words in s. 85(3) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(b); S.I. 2003/1397, art. 2(1), Sch.

#### Commencement Information

- I1** S. 85 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** 1998 c. 41.

## 86 Functions exercisable by CAA and Director.

- (1) The functions to which subsections (2) and (3) apply shall be concurrent functions of the CAA and [<sup>F5</sup>the OFT].
- [<sup>F6</sup>(2) This subsection applies to the OFT's functions under Part 4 of the 2002 Act (other than sections 166 and 171) so far as they relate to the supply of air traffic services.]
- (3) This subsection applies to [<sup>F7</sup>the OFT's] functions under the provisions of Part I of the 1998 Act (other than sections 38(1) to (6) and 51) so far as they relate to—
- (a) agreements, decisions or concerted practices which are of the kind mentioned in section 2(1) of the 1998 Act and which relate to the supply of air traffic services, or
  - (b) conduct which is of the kind mentioned in section 18(1) of the 1998 Act and which relates to the supply of air traffic services.
- (4) References to [<sup>F8</sup>the OFT] in—
- (a) [<sup>F9</sup>Part 4 of the 2002 Act (except for sections 166 and 171 but including provisions of that Act applied by that Part)], and
  - (b) Part I of the 1998 Act (except in sections 38(1) to (6), 51, 52(6) and (8) and 54),
- must be read as including references to the CAA.
- (5) But subsection (4) applies—
- (a) only so far as it is consequential on subsections (1) to (3) above, and
  - (b) only if the context does not otherwise require.
- (6) If a question arises as to whether subsections (1) to (3) above apply to a particular case the question must be referred to and determined by the Secretary of State.
- (7) No objection may be taken to anything done by or in relation to the CAA—
- (a) [<sup>F10</sup>Part 4 of the 2002 Act], or
  - (b) under Part I of the 1998 Act (except under section 38(1) to (6) or 51),
- on the ground that it should have been done by or in relation to [<sup>F11</sup>the OFT].

#### Textual Amendments

- F5** Words in s. 86(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(7)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

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- F6** S. 86(2) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 24(2); S.I. 2003/1397, art. 2(1), Sch.
- F7** Words in s. 86(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(7)(b); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** Words in s. 86(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(7)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F9** Words in s. 86(4)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 24(3); S.I. 2003/1397, art. 2(1), Sch.
- F10** Words in s. 86(7)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 24(4); S.I. 2003/1397, art. 2(1), Sch.
- F11** Words in s. 86(7) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(7)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

#### Commencement Information

- I2** S. 86 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)

## 87 CAA's [F122002] Act functions.

- (1) For the purposes of this section the CAA's [F122002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are functions of the CAA.
- (2) The CAA must exercise its [F122002] Act functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (3) to (6).
- (3) The CAA must exercise its [F122002] Act functions in the manner it thinks best calculated—
  - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
  - (b) to promote efficiency and economy on the part of suppliers of air traffic services;
  - (c) to secure that suppliers of air traffic services who are licence holders will not find it unduly difficult to finance activities authorised by their licences;
  - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);
  - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.
- (4) The only interests to be considered under subsection (3)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (5) The reference in subsection (3)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.
- (6) If in a particular case there is a conflict in the application of the provisions of subsections (3) to (5), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.

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- (7) The CAA must exercise its [F122002] Act functions so as to impose on suppliers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.
- (8) Section 4 of the <sup>M2</sup>Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its [F122002] Act functions.

#### Textual Amendments

**F12** Word in s. 87 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 25**; S.I. 2003/1397, art. 2(1), Sch.

#### Commencement Information

**I3** S. 87 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

**M2** 1982 c. 16.

### 88 CAA's 1998 Act functions.

- (1) For the purposes of this section the CAA's 1998 Act functions are the functions mentioned in subsection (3) of section 86 which, by virtue of that section, are functions of the CAA.
- (2) In exercising its 1998 Act functions the CAA may (in particular) have regard to any matter which satisfies the following condition.
- (3) The condition is that the matter is one to which, by virtue of section 87, the CAA must have regard in exercising its [F132002] Act functions (within the meaning of that section).

#### Textual Amendments

**F13** Word in s. 88(3) substituted (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 37**

#### Commencement Information

**I4** S. 88 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**)

### 89 Carrying out functions.

- (1) For the purposes of this section the [F142002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are concurrent functions of the CAA and [F15the OFT].
- (2) Before [F15the OFT] or the CAA first carries out the [F142002] Act functions in relation to a matter [F16it] must consult the other.
- (3) If [F15the OFT] or the CAA has carried out the [F142002] Act functions in relation to a matter the other must not carry out the [F142002] Act functions in relation to the matter.

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- (4) If in carrying out the [F142002] Act functions the CAA makes a reference to the Competition Commission, to help the Commission in its investigation on the reference the CAA must give to it—
- (a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;
  - (b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;
  - (c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.
- (5) In carrying out the investigation concerned the Commission must take account of any information given under subsection (4).

#### Textual Amendments

- F14** Word in s. 89 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 26; S.I. 2003/1397, art. 2(1), Sch.
- F15** Words in s. 89 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(8)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F16** Word in s. 89(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(8)(b); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

#### Commencement Information

- I5** S. 89 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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