



# Civil Aviation Act 2006

## 2006 CHAPTER 34

An Act to make further provision about civil aviation, including provision about the funding of the Air Travel Trust; and for connected purposes. [8th November 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

VALID FROM 08/11/2006

VALID FROM 01/03/2007

### *Noise, vibration and emissions*

#### **1 Aerodrome charges: noise and emissions**

For section 38 of the Civil Aviation Act 1982 (c. 16) substitute—

##### **“38 Aerodrome charges: noise and emissions**

- (1) Without prejudice to any power of any aerodrome authority to enter into an agreement on such terms as it thinks fit, an aerodrome authority may, for the purposes mentioned in subsection (2) below, fix its charges in respect of an aircraft or a class of aircraft by reference (among other things) to—
- (a) any fact or matter relevant to the amount of noise caused by the aircraft or the extent or nature of any inconvenience resulting from such noise;
  - (b) any fact or matter relevant to the amount or nature of emissions produced by the aircraft or the extent or nature of any atmospheric pollution resulting from such emissions;

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- (c) any fact or matter relevant to the effect of the aircraft on the level of noise or atmospheric pollution at any place in or in the vicinity of the aerodrome;
  - (d) any failure by the operator of the aircraft to secure that any noise or emissions requirements applying to the aircraft are complied with.
- (2) The purposes mentioned in this subsection are—
- (a) in relation to paragraph (a) of subsection (1) above, encouraging the use of quieter aircraft and reducing inconvenience from aircraft noise;
  - (b) in relation to paragraph (b) of that subsection, encouraging the use of aircraft which produce lower emissions of any substance which contributes to atmospheric pollution;
  - (c) in relation to paragraph (c) of that subsection, controlling the level of noise or atmospheric pollution in or in the vicinity of the aerodrome so far as attributable to aircraft taking off or landing at the aerodrome;
  - (d) in relation to paragraph (d) of that subsection, promoting compliance with noise or emissions requirements.

In paragraph (b) above “substance” includes a substance in solid or liquid form or in the form of a gas or vapour.

- (3) In subsections (1)(d) and (2)(d) above “noise or emissions requirements” means requirements imposed in relation to aircraft taking off or landing at the aerodrome, which are either—
- (a) requirements imposed under section 78 below for the purpose of limiting, or mitigating the effect of, noise caused by such aircraft, or
  - (b) requirements imposed by the aerodrome authority (otherwise than under that section) for the purpose of limiting, or mitigating the effect of, noise caused by, or emissions produced by, such aircraft.
- (4) The Secretary of State may by order direct specified aerodrome authorities to fix their charges in exercise of any power conferred by subsection (1) above; and any such order may contain directions as to the manner in which those charges are to be so fixed.
- (5) In determining whether, and if so how, to exercise his power under subsection (4) above in relation to an aerodrome authority, the Secretary of State shall have regard (among other things) to the interests of persons who live in the area in which the aerodrome is situated.
- (6) This section has effect subject to any provision relating to the use of, or charges for the use of, aerodromes which is made by or under any other enactment.
- (7) In this section—
- “aerodrome authority” means a person owning or managing an aerodrome licensed under an Air Navigation Order; and

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“charges”, in relation to an aerodrome authority, means the charges the authority makes for the use of an aerodrome so licensed which is owned or managed by the authority.”

## **2 Regulation by Secretary of State of noise and vibration from aircraft**

(1) Section 78 of the Civil Aviation Act 1982 (c. 16) (regulation by Secretary of State of noise and vibration from aircraft) is amended as follows.

(2) After subsection (6) insert—

“(6A) Directions under subsection (6) above may be given for the purpose of avoiding, limiting, or mitigating the effect of, such noise and vibration either—

- (a) generally, or
- (b) in any particular area or areas.”

(3) In subsection (9)—

- (a) in paragraph (i) for the words from “not exceeding” to “; and” substitute “not exceeding level 5 on the standard scale; and ”, and
- (b) in paragraph (ii) for “to be fined accordingly” substitute “ on summary conviction to a fine not exceeding 10% of level 5 on the standard scale ”.

## **3 Power for aerodromes to establish penalty schemes**

After section 78 of the Civil Aviation Act 1982 (c. 16) insert—

### **“78A Penalty schemes**

(1) The person for the time being managing an aerodrome (referred to in this section and section 78B below as the “relevant manager”) may establish and maintain a penalty scheme.

(2) In this section and section 78B below “penalty scheme” means a scheme which requires a penalty to be paid if any requirement imposed under section 78(1) above in relation to an aircraft taking off or landing at the aerodrome is not complied with.

(3) Any such penalty shall be—

- (a) of an amount specified in the scheme, and
- (b) paid to the relevant manager by the operator of the aircraft in question.

(4) The penalty scheme shall afford the operator of the aircraft an opportunity to make representations to the relevant manager with respect to the matter either before or after the penalty is imposed.

(5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the relevant manager to cancel the penalty if he considers it appropriate to do so having considered those representations.

(6) A penalty scheme may—

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- (a) contain such incidental or supplementary provisions as the relevant manager considers appropriate, and
  - (b) be amended or revoked by the relevant manager.
- (7) The amendment or revocation of a penalty scheme shall not affect the validity of anything previously done under the scheme.
- (8) A relevant manager who receives penalties under a penalty scheme shall make payments equal to the amount of those penalties for purposes which appear to him to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.

#### **78B Direction to establish, amend or revoke penalty scheme**

- (1) The Secretary of State may direct a specified relevant manager—
- (a) to establish a penalty scheme, or
  - (b) to amend or revoke a penalty scheme.
- (2) The Secretary of State shall publish any direction given under subsection (1) above in such manner as appears to him to be appropriate.
- (3) A direction under subsection (1) above which requires a relevant manager to establish or amend a penalty scheme may include directions as to the provisions which are to be included in the scheme.
- (4) Before giving a direction under subsection (1) above the Secretary of State shall consult—
- (a) the relevant manager, and
  - (b) any body appearing to him to be representative of operators of aircraft using the aerodrome in question.
- (5) If a relevant manager fails to comply with a direction given to him under subsection (1) above he shall—
- (a) be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
  - (b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and be liable on summary conviction to a fine not exceeding 10% of level 5 on the standard scale.”

#### **4 Power for aerodromes to establish noise control schemes**

After section 38 of the Civil Aviation Act 1982 (c. 16) insert—

##### **“38A Noise control schemes**

- (1) An aerodrome operator may establish and maintain a scheme (referred to in this section and sections 38B and 38C below as a “noise control scheme”) for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.

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- (2) A noise control scheme may—
- (a) require operators of aircraft which are to take off or land at the aerodrome to secure that specified requirements are complied with in relation to the aircraft after they take off, or before they land, at the aerodrome;
  - (b) prohibit aircraft of specified descriptions from taking off or landing at the aerodrome during specified periods;
  - (c) specify the maximum number of occasions on which aircraft of specified descriptions may take off or land at the aerodrome during specified periods;
  - (d) impose other restrictions for limiting the cumulative amount of noise caused by aircraft of specified descriptions taking off or landing at the aerodrome during specified periods.

In this subsection “specified” means specified in the scheme.

- (3) A noise control scheme which contains—
- (a) provision under paragraph (c) of subsection (2) above, or
  - (b) provision under paragraph (d) of that subsection which has the effect of limiting the number of occasions on which aircraft may take off or land at the aerodrome during the periods specified under that paragraph,
- shall make provision for determining the matters mentioned in subsection (4).
- (4) The matters mentioned in this subsection are—
- (a) the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods in question, and
  - (b) as respects each of those persons, the number of occasions (whether determined by reference to a maximum number or otherwise) on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods.
- (5) Before making, amending or revoking any provision in a noise control scheme by virtue of subsection (3) above the aerodrome operator shall consult any body appearing to it to be representative of operators of aircraft using the aerodrome.
- (6) A noise control scheme may make provision as respects any period even if that period is included in, or there is included in that period, any other period as respects which provision relating to the aerodrome is made by the scheme.
- (7) A noise control scheme may—
- (a) provide for circumstances in which the scheme (or any provision of the scheme) is not to apply,
  - (b) contain such incidental or supplementary provisions as the aerodrome operator considers appropriate, and
  - (c) be amended or revoked by the aerodrome operator.

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- (8) A noise control scheme shall not be established in relation to an aerodrome which is designated for the purposes of section 78 of this Act; and on such a designation coming into force in relation to an aerodrome any noise control scheme which has effect in relation to the aerodrome shall cease to have effect.
- (9) The amendment or revocation of a noise control scheme, or its ceasing to have effect by virtue of subsection (8) above, shall not affect the validity of anything previously done under the scheme.
- (10) The powers conferred on an aerodrome operator by this section and sections 38B and 38C below are in addition to, and do not prejudice, any other power of the aerodrome operator to take steps for the purpose of avoiding, limiting or mitigating the effect of noise connected with the taking off or landing of aircraft at the aerodrome.
- (11) In this section and sections 38B and 38C below “aerodrome operator” means a person owning or managing an aerodrome.

### **38B Noise control schemes: supplementary**

- (1) This section applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The requirements so imposed shall have effect in relation to such an aircraft only—
  - (a) while it is within such area as may be specified in relation to the aerodrome by order made by the Secretary of State, or
  - (b) if no area has been so specified, while it is within the area represented by a circle with a radius of 40 kilometres from the centre of the longest runway at the aerodrome.
- (3) An area may be specified for the purposes of subsection (2)(a) above by description, by reference to a map or in any other way.
- (4) No point in the area so specified may be more than 60 kilometres in a straight line from the centre of the longest runway at the aerodrome.
- (5) Before making an order under this section the Secretary of State shall consult—
  - (a) the CAA,
  - (b) the aerodrome operator,
  - (c) any body appearing to the Secretary of State to be representative of operators of aircraft using the aerodrome,
  - (d) the local authorities in whose areas the aerodrome (or any part of it) is situated,
  - (e) other local authorities whose areas are in the neighbourhood of the aerodrome, and
  - (f) any other body appearing to the Secretary of State to be representative of persons concerned with the locality in which the aerodrome is situated.

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### 38C Breaches of noise control schemes

- (1) This section also applies where a noise control scheme imposes requirements under section 38A(2)(a) above in relation to aircraft taking off or landing at an aerodrome.
- (2) The scheme may provide for the aerodrome operator to require the payment of a penalty if any such requirement is not complied with in relation to an aircraft taking off or landing at the aerodrome.
- (3) Any such penalty shall be—
  - (a) of an amount specified in the scheme, and
  - (b) paid to the aerodrome operator by the operator of the aircraft in question.
- (4) The scheme shall afford the operator of the aircraft an opportunity to make representations to the aerodrome operator with respect to the matter either before or after the penalty is imposed.
- (5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the aerodrome operator to cancel the penalty if it considers it appropriate to do so having considered those representations.
- (6) An aerodrome operator which receives penalties under a noise control scheme shall make payments equal to the amount of those penalties for purposes which appear to it to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.”

VALID FROM 01/03/2007

#### *Public airport companies*

### **5 Public airport companies: power of Secretary of State to specify additional activities**

- (1) The Airports Act 1986 (c. 31) is amended as follows.
- (2) In section 17 (control over constitution and activities of public airport companies) at the end add—
  - “(6) In subsection (4)—
    - (a) paragraph (a) does not apply in relation to any activity which is a permitted activity in relation to the company by virtue of regulations under section 17A, and
    - (b) paragraph (b) does not apply in relation to any activity which is a permitted activity in relation to the subsidiary by virtue of any such regulations.”
- (3) After section 17 insert—



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### **“17A Additional activities of public airport companies**

- (1) The Secretary of State may by regulations provide for any activity specified in the regulations to be a “permitted activity” in relation to—
  - (a) a public airport company, or
  - (b) a subsidiary of a public airport company,for the purposes of section 17(6).
- (2) Any activity so specified must be an activity which appears to the Secretary of State to be incidental to, or connected with, carrying on the business of operating an airport as a commercial undertaking.
- (3) Regulations under this section may provide for an activity to be a permitted activity only if—
  - (a) it is carried on in such countries or territories as are specified in the regulations;
  - (b) any conditions as are so specified are complied with.
- (4) Such conditions may include, in particular, conditions requiring agreements relating to the provision of services in the carrying on of the activity to include provision for the payment of proper commercial charges in respect of those services.
- (5) Regulations under this section may be made so as to apply to—
  - (a) public airport companies or subsidiaries of such companies generally;
  - (b) public airport companies of a particular description or subsidiaries of any such companies;
  - (c) a particular public airport company;
  - (d) subsidiaries, or a particular subsidiary, of a particular public airport company;and may make different provision for different cases.
- (6) For the purposes of this section—
  - (a) “activity” includes one that involves participating in, or making financial contributions towards, an activity carried on by, or jointly with, other persons; and
  - (b) “airport” is not limited to one operated by a public airport company.
- (7) This section applies only in relation to—
  - (a) public airport companies which are subsidiaries of controlling authorities in England or Wales, or
  - (b) subsidiaries of such companies.”



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## *Policing*

### **6 Policing of airports**

Schedule 1 makes provision about the policing of aerodromes designated by the Secretary of State for the purposes of Part 3 of the Aviation Security Act 1982 (c. 36).

VALID FROM 01/03/2007

## *Appeals in respect of route licences*

### **7 Removal of appeal to Secretary of State in respect of route licences**

(1) Section 69A of the Civil Aviation Act 1982 (c. 16) (regulation of carriage by air by route licences) is amended as follows.

(2) In subsection (7), after paragraph (c) insert—

“(ca) the following modifications relating to appeals—

- (i) the substitution in section 65(6), for paragraphs (a) to (c), of the words “ until the specified date (see section 69A(7A) below) ”,
- (ii) the substitution in section 66(5), for the words from “before the expiration” onwards, of the words “ before the specified date (see section 69A(7B) below) ”, and
- (iii) the omission of section 66(6)(a) and section 67(5);”.

(3) After subsection (7) insert—

“(7A) For the purposes of section 65(6) as applied by subsection (6) above, “the specified date” means—

- (a) such date as is specified by the CAA for those purposes when giving its decision on the application in question, or
- (b) such later date as the CAA may specify for those purposes in accordance with subsection (7C) below.

(7B) For the purposes of section 66(5) as applied by subsection (6) above, “the specified date” means—

- (a) such date as is specified by the CAA for those purposes when giving its decision to revoke, vary or suspend the licence in question, or
- (b) such later date as the CAA may specify for those purposes in accordance with subsection (7C) below.

(7C) Where the CAA has specified a date as mentioned in subsection (7A)(a) or (7B)(a) above, it may (on one or more occasions) specify a later date for the purposes mentioned in that subsection if the holder of the licence in question—

- (a) makes an application to the CAA for it to specify such a date, and
- (b) does so before the date that is currently specified for those purposes.”

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- (4) In regulation 27(1) of the Civil Aviation Authority Regulations 1991 (S.I. 1991/1672) (appeals to the Secretary of State), omit “ or a route licence ”.
- (5) The amendments made by this section do not affect any appeal of which notice is served in accordance with regulation 27 of the Civil Aviation Authority Regulations 1991 before the coming into force of this section.

VALID FROM 01/03/2007

### *Health*

#### **8 Functions with respect to health**

- (1) The Civil Aviation Act 1982 (c. 16) is amended as follows.
- (2) After section 1(1) (functions of Secretary of State) insert—
  - “(1A) The Secretary of State shall also be charged with the general duty of organising, carrying out and encouraging measures for safeguarding the health of persons on board aircraft.”
- (3) In section 3(c) (functions of CAA) after “airworthiness,” insert “ the health of persons on board aircraft, ”.
- (4) In section 16 (provision by CAA of assistance for Secretary of State and others)—
  - (a) after subsection (1) insert—
    - “(1A) A requirement imposed under subsection (1) to provide advice and assistance in connection with any function may be expressed so as to operate as a continuing requirement on the CAA to provide advice and assistance in connection with that function.”; and
  - (b) after subsection (4) insert—
    - “(4A) Subsections (3) and (4) above do not apply in relation to advice or assistance given in connection with the Secretary of State's function under section 1(1A) above.”
- (5) In section 60 (power to make air navigation orders) after subsection (3)(h) insert—
  - “(ha) for safeguarding the health of persons on board aircraft;”.

PROSPECTIVE

### *Documentary evidence*

#### **9 Documentary evidence: updating of references**

- (1) Section 96 of the Civil Aviation Act 1982 (c. 16) (use of records and documentary evidence) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute—

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“(b) a document printed by or on behalf of the CAA and purporting to be one of the elements of the United Kingdom's Integrated Aeronautical Information Package.”.

VALID FROM 01/03/2007

*Air Travel Trust*

**10 Funding of Air Travel Trust by contributions paid by air travel organisers**

After section 71 of the Civil Aviation Act 1982 insert—

**“71A Contributions by licence holders to Air Travel Trust**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring persons applying for licences by virtue of section 71 above to make contributions to the Air Travel Trust in relation to the periods for which their licences are to be issued.
- (2) The regulations may, in particular, make provision—
  - (a) prescribing the factors by reference to which such contributions are to be calculated by the CAA (other than the rate by reference to which they are to be so calculated);
  - (b) authorising the CAA, with the approval of the Secretary of State and after complying with prescribed consultation requirements, to set in respect of different descriptions of persons the rates by reference to which such contributions are to be calculated and the dates from which those rates are to have effect;
  - (c) requiring contributions to be paid, or undertakings as to payment of contributions to be given, in advance of licences being issued;
  - (d) requiring licence holders to pay additional amounts by way of contributions where the applicable contribution rate increases during the term of their licences;
  - (e) requiring additional amounts to be paid by way of contributions, or undertakings as to the payment of such amounts to be given, in advance of licences being varied;
  - (f) for the CAA, in accordance with the regulations, to reimburse to persons, or credit persons with, amounts paid by them by way of contributions (and for the CAA to exercise in that connection such discretion as is conferred by the regulations);
  - (g) for contributions that are not paid in accordance with the regulations or any undertaking as to payment to bear interest at the rate specified in the regulations, and for such contributions and interest to be recoverable as debts due to the Air Travel Trust;
  - (h) for the CAA to act as the agent of the trustees of the Air Travel Trust in collecting and recovering contributions, and for the reimbursement of costs incurred by the CAA in so acting;
  - (i) for the CAA, after complying with prescribed consultation requirements, to suspend, either generally or in relation to any

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description of persons, the requirement to make contributions in respect of a period;

- (j) for the CAA to exempt persons, or descriptions of persons, from the requirement to make contributions on such conditions as the CAA, after consulting the Secretary of State, thinks fit;
  - (k) for requiring the CAA to publish prescribed matters in the prescribed manner;
  - (l) for creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as is prescribed.
- (3) Regulations under section 71 above may authorise the CAA—
- (a) to refuse to issue a licence to a person,
  - (b) to refuse to vary a licence held by a person, or
  - (c) to vary, suspend or revoke a licence held by a person,
- where that person has failed to comply with a prescribed requirement of regulations under this section or has breached an undertaking given as mentioned in subsection (2)(c) or (e) above.
- (4) Section 4 above does not apply in relation to any functions conferred on the CAA by regulations under this section.
- (5) In this section and section 71B below the “Air Travel Trust” means the trust established by that name by a deed dated 5th January 2004 and made between the Secretary of State for Transport and the persons described as the Original Trustees.

#### **71B Procedure relating to regulations under section 71A**

- (1) Before making any regulations under section 71A above, the Secretary of State must consult the CAA and the trustees of the Air Travel Trust.
- (2) Before responding to the consultation, the CAA must consult the following persons so far as it considers it reasonably practicable to do so—
  - (a) persons who hold licences by virtue of section 71 above, and
  - (b) any other person or body appearing to it to have an interest in the matter.”

### **11 Miscellaneous provisions relating to the Air Travel Trust**

- (1) The Secretary of State must lay before Parliament a copy of every report that he receives from the trustees of the Air Travel Trust by virtue of the terms of the trust deed.
- (2) No court may, by virtue of any enactment whenever passed or made, vary the terms of the deed establishing the Air Travel Trust unless the variation is sought by, or with the consent of, the Secretary of State.
- (3) In this section the “Air Travel Trust” means the trust established by that name by a deed dated 5th January 2004 and made between the Secretary of State for Transport and the persons described as the Original Trustees.

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### *Final provisions*

VALID FROM 01/03/2007

#### **12 Scotland**

- (1) In Schedule 1 to the Scotland Act 1998 (Transfer of Functions to Scottish Ministers) Order 1999 (S.I. 1999/1750), in the entry relating to the Civil Aviation Act 1982 (c. 16), for “38(2), 42(1), 50(2), 78,” substitute “ 38(4) and (5), 38B(2)(a) and (5), 42(1), 50(2), 78, 78B(1), (2) and (4), ”.
- (2) Subsection (1) does not affect the power to make further Orders varying or omitting those references.

VALID FROM 01/03/2007

#### **13 Consequential amendments**

Schedule 2 contains consequential amendments.

#### **14 Short title, commencement and extent**

- (1) This Act may be cited as the Civil Aviation Act 2006.
- (2) Section 6, this section and Schedule 1 come into force on the day on which this Act is passed.
- (3) Otherwise, this Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (4) Different days may be appointed for different purposes or different areas.
- (5) An order under subsection (3) may make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (6) Subject to subsections (7) and (8), this Act extends to the whole of the United Kingdom.
- (7) Section 4, and paragraphs 2 and 5 of Schedule 2, extend to England and Wales and Scotland.
- (8) Section 5 extends to England and Wales only.
- (9) The power conferred by section 108(1) of the Civil Aviation Act 1982 to extend provisions of that Act to a place outside the United Kingdom includes power so to extend any provision of that Act (other than section 88) as amended or inserted by this Act.

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## SCHEDULES

### SCHEDULE 1

Section 6

#### POLICING OF AIRPORTS

##### *Amendments of Part 3 of 1982 Act*

VALID FROM 08/11/2006

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| 1 | Part 3 of the Aviation Security Act 1982 (c. 36) (“the 1982 Act”) (policing of airports) has effect subject to the following amendments. |
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VALID FROM 08/11/2006

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| 2 | <p>After section 25 insert—</p> <p><b>“25A Consultation about policing of designated airports</b></p> <p>(1) Before a police services agreement is entered into under section 25B of this Act in relation to an aerodrome which is a designated airport—</p> <ul style="list-style-type: none"> <li>(a) the manager of the aerodrome, and</li> <li>(b) the chief officer of police for the relevant police area,</li> </ul> <p>acting jointly, must carry out the consultation required by this section.</p> <p>(2) The consultation required by this section is consultation carried out with all of the persons within subsection (3) below with a view to establishing—</p> <ul style="list-style-type: none"> <li>(a) what measures are required to be taken in relation to the aerodrome for security or policing purposes in order to comply with or take account of— <ul style="list-style-type: none"> <li>(i) any directions given under sections 12, 13, 13A and 14 of this Act,</li> <li>(ii) any national threat assessment or relevant information, and</li> <li>(iii) any guidance issued by the Secretary of State which relates to the policing of the aerodrome,</li> </ul> </li> <li>(b) what other measures should be taken in relation to the aerodrome for policing purposes,</li> <li>(c) the extent to which measures within paragraph (a) or (b) above are being taken by persons within subsection (3) below or the manager of the aerodrome, and</li> </ul> |
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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 2006. (See end of Document for details)*

- (d) in the light of the above, the level of policing which should be provided for the aerodrome in accordance with section 26(2A) of this Act.
- (3) The persons within this subsection are—
- (a) any person (other than the manager of the aerodrome) who is required to take any measures in relation to the aerodrome pursuant to a direction given under section 12, 13, 13A or 14 of this Act,
  - (b) the Commissioners for Her Majesty's Revenue and Customs (in relation to measures taken by officers of Revenue and Customs), and
  - (c) the Secretary of State (in relation to measures taken by immigration officers).
- (4) The Secretary of State may by order provide that subsection (3) above is to apply in relation to a particular aerodrome with any modifications specified in the order.
- (5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument and—
- (a) any order containing a statement that it is made with the consent of the manager of the aerodrome and the chief officer of police for the relevant police area shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) any order not containing such a statement shall be laid before Parliament in draft and shall not be made unless the draft is approved by resolution of each House of Parliament.
- (6) In this section—
- “national threat assessment” means any assessment of a threat to the aviation industry issued by the Secretary of State;
- “policing purposes”, in relation to an aerodrome, means the purposes of the preservation of the peace, or the prevention of crime, at the aerodrome;
- “relevant information”, in relation to an aerodrome, means any information (other than a national threat assessment) which is made available by—
- (a) the manager of the aerodrome,
  - (b) any person (other than the manager of the aerodrome) who is required to take any measures in relation to the aerodrome pursuant to a direction given under section 12, 13, 13A or 14 of this Act,
  - (c) the chief officer of the police force for the relevant police area,
  - (d) the Commissioners for Her Majesty's Revenue and Customs, or
  - (e) the Secretary of State,
- and which relates to a threat to security at the aerodrome or is relevant to the preservation of the peace, or the prevention of crime, at the aerodrome.



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## **25B Police services agreements**

- (1) This section applies where an aerodrome is a designated airport.
- (2) At any time after the period of 12 months beginning with the operative date there must be a police services agreement in force in relation to the aerodrome.
- (3) In this Part a “police services agreement” means an agreement between the relevant persons which specifies—
  - (a) the level of policing to be provided for the aerodrome in accordance with section 26(2A) of this Act during the period for which the agreement is in force,
  - (b) the payments to be made by the manager of the aerodrome in connection with that policing, or the manner in which such payments are to be assessed, and
  - (c) any accommodation and facilities to be provided by the manager in connection with that policing.
- (4) In determining the terms of a police services agreement, the relevant persons shall have regard (in particular) to—
  - (a) the matters established on the consultation carried out under section 25A of this Act in contemplation of the agreement, and
  - (b) the extent (if any) to which the costs incurred by the police authority in connection with the policing provided for the aerodrome are (or are likely to be) defrayed by payments made in respect of that policing by any person other than the manager of the aerodrome.
- (5) A police services agreement shall be in force—
  - (a) for a period of twelve months, or
  - (b) if a longer period is specified in the agreement, for the period so specified.
- (6) A police services agreement shall contain provision for the agreement to be varied if there is a material change in circumstances relating to the policing provided for the aerodrome.
- (7) A police services agreement shall cease to be in force if the aerodrome to which it relates ceases to be a designated airport.
- (8) The manager of an aerodrome which is a designated airport shall supply the Secretary of State with a copy of any police services agreement which is in force in relation to the aerodrome if the Secretary of State requests a copy.
- (9) In this section “the operative date”—
  - (a) in the case of an aerodrome which was a designated airport on the date of the passing of the Civil Aviation Act 2006 and has remained so designated since that date, means that date, and
  - (b) in any other case, means the date as from which the aerodrome became a designated airport.

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- (10) In this Part “the relevant persons”, in relation to an aerodrome, means—
- (a) the manager of the aerodrome,
  - (b) the police authority for the relevant police area, and
  - (c) the chief officer of police for that area.”

3 (1) Section 26 (exercise of police functions at designated airports) is amended as follows.

(2) After subsection (2) insert—

“(2A) The chief officer of police for the relevant police area shall, in making arrangements for the policing of an aerodrome which is a designated airport, secure that the level of policing provided under the arrangements takes account of—

- (a) any measures required to be taken pursuant to directions given under section 12, 13, 13A or 14 of this Act; and
- (b) any other measures taken in relation to the aerodrome for security or policing purposes by immigration officers or officers of Revenue and Customs or by the manager of the aerodrome.

(2B) In relation to any time when a police services agreement is in force in relation to an aerodrome under section 25B of this Act, the manager of the aerodrome—

- (a) shall make to the police authority for the relevant police area such payments in respect of the policing provided for the aerodrome as fall to be made under the agreement, and
- (b) shall secure that accommodation and facilities are provided in accordance with the agreement for use in connection with that policing.

(2C) In relation to any time when no police services agreement is in force in relation to an aerodrome which is a designated airport, the manager of the aerodrome—

- (a) shall make to the police authority for the relevant police area such payments as are necessary to reimburse the authority in respect of the costs reasonably incurred by it in connection with the policing provided for the aerodrome, and
- (b) shall secure that suitable accommodation and facilities are provided for use in connection with that policing.

(2D) Subsection (2C)(a) above does not require the manager to pay any costs incurred by the police authority to the extent that those costs are defrayed by payments made by any other person to the police authority in respect of the policing provided for the aerodrome.

(2E) In this section “policing purposes” has the same meaning as in section 25A of this Act.”

(3) Omit subsection (3).

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### Commencement Information

- II** Sch. 1 para. 3 wholly in force at Royal Assent but to be treated in part as having come into force on 21.11.2005, see s. 14(2), Sch. 1 para. 6(1)-(3)

4 After section 29 insert—

#### “29A References to Secretary of State

- (1) Any of the relevant persons may refer to the Secretary of State a matter to which subsection (2) or (3) below applies.
- (2) This subsection applies to a dispute between the manager of an aerodrome which is (or has been) a designated airport and the police authority, or the chief officer of police, for the relevant police area—
  - (a) about the terms, construction or operation of a police services agreement which is (or has been) in force in relation to the aerodrome, or
  - (b) about the payments to be made, or the accommodation and facilities to be provided, under section 26(2C) of this Act.
- (3) This subsection applies to a failure by the relevant persons to enter into a police services agreement in a case where section 25B(2) of this Act requires such an agreement to be in force.

#### 29B Appointment of independent experts

- (1) This section applies where a matter has been referred to the Secretary of State under section 29A of this Act.
- (2) The Secretary of State shall notify to each of the relevant persons the name of an independent expert who he proposes should deal with the matter.
- (3) The Secretary of State shall appoint that independent expert to deal with the matter if, within the initial appointment period, all the relevant persons agree to the appointment.
- (4) In default of agreement under subsection (3) above—
  - (a) the manager of the aerodrome, and
  - (b) the police authority for the relevant police area and the chief officer of police for that area, acting jointly,
 shall each appoint an independent expert within the period of fourteen days beginning with the date following that on which the initial appointment period ends.
- (5) The two independent experts so appointed shall appoint a third independent expert to act as chairman.
- (6) The three independent experts so appointed shall deal with the matter.
- (7) An appointment under subsection (5) above shall be made within the period of fourteen days beginning with the date on which the second of the two independent experts is appointed (or, if both independent experts are

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appointed on the same date, within the period of fourteen days beginning with that date).

- (8) In this section “the initial appointment period” means the period of fourteen days beginning with the date on which the Secretary of State notifies the relevant parties under subsection (2) above.
- (9) In this section and section 29C of this Act “independent expert”, in relation to a matter referred to the Secretary of State under section 29A of this Act, means a person—
- (a) who is independent of the relevant persons and the Secretary of State,
  - (b) who has no previous connection with the matter in question, and
  - (c) who has relevant legal experience or knowledge or experience which is relevant to the matter in question.

### **29C Removal and replacement etc. of independent experts**

- (1) On the application of any of the relevant persons, the Secretary of State may—
- (a) remove an independent expert on any of the grounds specified in subsection (2) below;
  - (b) appoint an independent expert to replace one who has been removed under paragraph (a) above or who has died or resigned;
  - (c) make any appointment which should have (but has not) been made under section 29B(4) or (5) of this Act.
- (2) The grounds specified in this subsection are—
- (a) that circumstances exist that give rise to justifiable doubts as to the expert's impartiality;
  - (b) that he does not possess the qualifications required by paragraphs (a) to (c) of section 29B(9) of this Act;
  - (c) that he is physically or mentally incapable of dealing with the matter in question or there are justifiable doubts as to his capacity to do so;
  - (d) that he has refused or failed—
    - (i) properly to deal with the matter, or
    - (ii) to use all reasonable despatch in dealing with the matter,and that substantial injustice has been or will be caused to the applicant.
- (3) The independent experts may not continue to deal with the matter while an application to the Secretary of State under subsection (1)(a) above is pending.
- (4) The Secretary of State may not remove an independent expert under subsection (1)(a) above without first giving him the opportunity to make representations.

### **29D Determination of matters referred under section 29A**

- (1) This section applies where section 29B of this Act requires—
- (a) an independent expert, or

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- (b) three independent experts,  
to deal with a matter referred to the Secretary of State under section 29A of this Act (and in this section the independent expert or experts are referred to as “the tribunal”).
- (2) The tribunal shall determine the procedure to be followed in dealing with the matter.
- (3) In particular, the tribunal—
- (a) where it consists of three independent experts, may take decisions by a majority vote,
  - (b) shall give each of the relevant persons and the Secretary of State an opportunity to make representations about the matter in question,
  - (c) may appoint legal advisers to report to it and the relevant persons,
  - (d) may appoint assessors to assist it on technical matters,
  - (e) may allow any legal adviser or assessor appointed under paragraph (c) or (d) above to attend any meetings of the tribunal held for the purposes of dealing with the matter, and
  - (f) shall give each of the relevant persons and the Secretary of State a reasonable opportunity to comment on any information, opinion or advice offered by any such person.
- (4) In relation to a matter to which section 29A(2) of this Act applies, the tribunal may—
- (a) make a declaration as to how a provision of a police services agreement is to be construed or operate;
  - (b) make a declaration varying the terms of a police services agreement;
  - (c) determine that the manager of the aerodrome is obliged to pay to the police authority for the relevant police area a specified sum, or a sum to be assessed in a specified manner;
  - (d) determine that the manager of the aerodrome is obliged to provide specified accommodation and facilities for use in connection with the policing provided for the aerodrome;
  - (e) make an order about costs.
- (5) In dealing with a matter to which section 29A(3) of this Act applies, the tribunal shall have regard (in particular) to—
- (a) the matters specified in paragraphs (a) to (d) of section 25A(2) of this Act, and
  - (b) the extent (if any) to which the costs incurred by the police authority in connection with the policing provided for the aerodrome are (or are likely to be) defrayed by payments made in respect of that policing by any person other than the manager of the aerodrome.
- (6) In relation to such a matter, the tribunal—
- (a) shall make a declaration as to the terms which are to have effect as between the relevant parties as the terms of a police services agreement;
  - (b) may make an order about costs.
- (7) Where a declaration is made under subsection (6)(a) above, references in this Part to a police services agreement shall have effect, so far as necessary,

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as references to the terms which have effect as the terms of a police services agreement.

- (8) A relevant person may appeal to the High Court against any decision of the tribunal under this section.
- (9) Any declaration, determination or order made under this section may, with the permission of the High Court, be enforced as if it were a judgment of the High Court (and may, in particular, be enforced by the use of powers in relation to contempt of court).
- (10) In the application of this section to Scotland, references in subsections (8) and (9) to the High Court shall be read as references to the Court of Session.
- (11) In this section “costs” means—
- (a) the fees and expenses of the tribunal,
  - (b) the fees and expenses of any legal advisers or assessors appointed by the tribunal, and
  - (c) the legal or other costs of the relevant persons.”

#### Commencement Information

- I2** Sch. 1 para. 4 wholly in force at Royal Assent but to be treated in part as having come into force on 21.11.2005, see s. 14(2), Sch. 1 para. 6(4)

5 In section 31(1) (interpretation) at the appropriate places insert—

““immigration officer” means a person who is an immigration officer within the meaning of the Immigration Act 1971;”,

““police services agreement” has the meaning given by section 25B(3) of this Act (but this is subject to section 29D(7) of this Act);”, and

““the relevant persons” has the meaning given by section 25B(10) of this Act;”.

#### Commencement Information

- I3** Sch. 1 para. 5 wholly in force at Royal Assent but to be treated in part as having come into force on 21.11.2005, see s. 14(2), Sch. 1 para. 6(5)

VALID FROM 08/11/2006

#### *Provisions treated as having come into force on 21st November 2005*

- 6 (1) Paragraph 3(2), so far as relating to section 26(2A), (2C) and (2D) of the 1982 Act, is to be treated as having come into force on 21st November 2005.
- (2) But in relation to the period beginning with 21st November 2005 and ending with the day before that on which this Act is passed—
- (a) section 26(2A)(b) of the 1982 Act is to be treated as having had effect with the substitution of “purposes or for the purposes of the preservation

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of the peace, or the prevention of crime, at the aerodrome” for “ or policing purposes ”, and

- (b) section 26(2C) of the 1982 Act is to be treated as having had effect with the omission of the words from the beginning to “ designated airport, ”.

(3) Paragraph 3(3)—

- (a) is to be treated as having come into force on 21st November 2005, and  
(b) does not affect the operation of section 26(3) of the 1982 Act in relation to policing provided before 21st November 2005.

(4) Paragraph 4, so far as relating—

- (a) to a dispute about the payments to be made under section 26(2C) of the 1982 Act, or  
(b) to a dispute about the accommodation and facilities to be provided under that provision,

is to be treated as having come into force on 21st November 2005.

(5) Paragraph 5, so far as relating to the definition of “immigration officer”, is to be treated as having come into force on 21st November 2005.

(6) In relation to the period beginning with 21st November 2005 and ending with the day before that on which this Act is passed, section 31(1) of the 1982 Act is to be treated as having had effect with the insertion at the appropriate place of—

““the relevant persons”, in relation to an aerodrome, means—

- (a) the manager of the aerodrome,  
(b) the police authority for the relevant police area, and  
(c) the chief officer of police for that area.”

VALID FROM 01/03/2007

SCHEDULE 2

Section 13

CONSEQUENTIAL AMENDMENTS

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**Status:**

Point in time view as at 21/11/2005. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Civil Aviation Act 2006.