



Air Departure Tax (Scotland) Act 2017

2017 asp 2

PART 2

KEY CONCEPTS

Chargeable aircraft and exemptions

8 Meaning of chargeable aircraft

- (1) An aircraft is a chargeable aircraft in relation to a flight if it has the characteristics specified in subsection (2), unless the aircraft is a non-chargeable aircraft under section 9 or 10 or regulations made under section 15.
- (2) The characteristics are that the aircraft—
 - (a) is a fixed-wing aircraft designed or adapted to carry persons in addition to the flight crew,
 - (b) has a maximum take-off weight of 5.7 tonnes or more, and
 - (c) is fuelled by kerosene.

9 Aircraft used under public service obligation

- (1) An aircraft is a non-chargeable aircraft in relation to a flight if the flight is operated under a public service obligation.
- (2) In this section, “public service obligation” means an obligation imposed by a Member State of the European Union in accordance with Article 16 of Regulation [\(EC\) No 1008/2008](#) of the European Parliament and of the Council of 24 September 2008 (common rules for the operation of air services).

10 Aircraft used for military, emergency, training or research flights

- (1) An aircraft is a non-chargeable aircraft in relation to a flight if the flight is one described—
 - (a) under the heading “Aviation” in the Annex to the Directive identified in subsection (3), and
 - (b) in a paragraph under that heading that is specified in subsection (2).

Status: This is the original version (as it was originally enacted).

- (2) The relevant paragraphs (which list aviation activities excluded from the greenhouse gas emission allowance trading scheme of the European Union) are—
- (a) paragraph (b) (which covers military flights performed by military aircraft and customs and police flights),
 - (b) paragraph (c) (which covers flights related to search and rescue, fire-fighting flights, humanitarian flights and emergency medical service flights),
 - (c) paragraph (f) (which covers training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers or cargo, or both, or for the positioning or ferrying of the aircraft),
 - (d) paragraph (g) (which covers flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing or certifying aircraft or equipment whether airborne or ground-based).
- (3) The Directive referred to in subsection (1) is Directive [2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 as interpreted in accordance with paragraphs 2.2 to 2.5 of the Annex to Commission Decision [2009/450/EC](#) of 8 June 2009.