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## STATUTORY INSTRUMENTS

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# 1994 No. 426 (N.I. 1)

## The Airports (Northern Ireland) Order 1994 <sup>F1</sup>

- - - - - 24th February 1994

**F1** functions transf. by SR 1999/481

### PART I **N.I.** INTRODUCTORY

#### Title and commencement **N.I.**

1.—(1) This Order may be cited as the Airports (Northern Ireland) Order 1994.

(2) Subject to paragraph (3) and to Article 56(3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) The following provisions shall come into operation on such day or days as the Department may by order appoint<sup>F2</sup>, namely—

- (a) Part IV;
- (b) Schedule 6;
- (c) paragraphs 2, 4, 5, 7, 8, 10 to 12 and 14 of Schedule 9, and Article 71(2) so far as relating thereto.

**F2** fully exercised by SR 1995/294

#### Interpretation **N.I.**

2.—(1) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954<sup>F3</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the 1982 Act” means the Civil Aviation Act 1982<sup>F4</sup>;

“airport” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and services and facilities for use in connection with the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or

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set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“airport operator” means the person for the time being having the management of an airport, or, in relation to a particular airport, the management of that airport;

“the CAA” means the Civil Aviation Authority;

<sup>F5</sup> .....

“the Department” means the Department of the Environment;

“licensed airport” means an airport licensed under an Order in Council under section 60 of the 1982 Act (Air Navigation Orders);

“modifications” includes additions, omissions and amendments;

“operator”, in relation to an aircraft, means the person for the time being having the management of the aircraft;

[<sup>F6</sup> “ regulated airport ” has the meaning given in Article 2A; ]

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>F7</sup>;

[<sup>F8</sup> “ subsidiary ” has the same meaning as in the Companies Acts (see section 1159 of the Companies Act 2006). ]

(3) For the purposes of this Order, a hovercraft within the meaning of the Hovercraft Act 1968<sup>F9</sup> is not an aircraft.

[<sup>F10</sup>(3A) Subject to paragraph (3D), a reference in this Order to an aircraft includes a reference to a medium-range rocket.

(3B) In paragraph (3A) “rocket” means a projectile of mainly cylindrical or similar shape that can be propelled from or above the earth by combustion of its fuel (or fuel and oxidant).

(3C) For the purposes of paragraph (3A) a rocket is a “medium-range” rocket if—

- (a) the total impulse of its motor or combination of motors exceeds 160 Newton-seconds, but
- (b) it is not capable of operating above the stratosphere.

(3D) The Department may by order—

- (a) provide that paragraph (3A) does not apply to any specified provisions of this Order;
- (b) provide for any provision of this Order, as it has effect by virtue of paragraph (3A), to apply with specified modifications.]

(4) For the purposes of this Order, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**F3** 1954 c.33 (NI)  
**F4** 1982 c.16  
**F5** Art. 2(2): definition of "the Companies Order" omitted (1.10.2009) by virtue of [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 149\(2\)\(a\)](#) (with art. 10)  
**F6** Words in art. 2(2) substituted (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), [Sch. 8 para. 7](#) (with [Sch. 8 paras. 10, 12, 17](#)); [S.I. 2013/589](#), art. 2(1)-(3)  
**F7** 1954 c.33 (NI)

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- F8** Art. 2(2): definition of "subsidiary" substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 149\(2\)\(b\)](#) (with art. 10)
- F9** 1968 c.59
- F10** Art. 2(3A)-(3D) inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), [Sch. 12 para. 17](#); S.I. 2021/817, reg. 2, [Sch. para. 116](#) (with reg. 3)

## PART II **N.I.**

### POWERS IN RELATION TO LAND EXERCISABLE IN CONNECTION WITH AIRPORTS

#### *[<sup>F11</sup>Regulated airports*

- F11** Art. 2A and cross-heading inserted (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), [Sch. 8 para. 8](#) (with [Sch. 8 paras. 10, 12, 15, 17](#)); S.I. 2013/589, art. 2(1)-(3)

**2A.—(1)** In this Order “ regulated airport ” means an airport in respect of which a certificate has been granted under this Article (and has not been withdrawn).

- (2) The CAA must grant a certificate under this Article in respect of an airport if, but only if—
- the airport operator applies for a certificate (and has not withdrawn the application),
  - the airport operator pays the charge (if any) specified in a scheme or regulations made under section 11 of the 1982 Act, and
  - the CAA considers that, at the time, the airport is an eligible airport.

(3) An airport is an eligible airport if the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in at least two of the last three financial years ending before the application for the certificate is made.

(4) The Department may withdraw a certificate granted under this Article in respect of an airport if it considers that, at the time, the annual turnover of the business carried on at the airport by the airport operator in each of the last two financial years did not exceed the sum for the time being specified in paragraph (3).

- (5) Before withdrawing a certificate in respect of an airport, the Department must consult—
- the CAA, and
  - the airport operator.

(6) The withdrawal of a certificate does not affect any rights or liabilities accruing by virtue of this Part or Article 25 or 26 before it is withdrawn.

(7) In this Article—

“ annual turnover ”, in relation to the business carried on at an airport by the airport operator, means the aggregate of all sums received in the course of the business during a financial year, as stated or otherwise shown in the accounts of the business, including grants from any public body but excluding—

- capital receipts, and
- loans made by any person;

“ financial year ” means a period of 12 months ending with 31 March;

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“ public body ” means a body established by or under a statutory provision.

(8) Where the person who is for the time being the airport operator in relation to an airport has not had its management for the whole or any part of a period relevant for the purposes of this Article, references in this Article to the business carried on at the airport by the airport operator include a reference to the business carried on there by any other person who was the airport operator in relation to the airport for the whole or any part of that period.

(9) The Department may, by order made with the consent of the Department of Finance and Personnel, substitute a greater sum for the sum specified in paragraph (3).

(10) An order under paragraph (9) does not affect the validity of a certificate granted under this Article before the order comes into force.]

**Modifications etc. (not altering text)**

**C1** Art. 2A power to modify conferred (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), [Sch. 8 para. 11](#) (with [Sch. 10 paras. 12, 17](#)); [S.I. 2013/589](#), [art. 2\(1\)-\(3\)](#)

*Compulsory acquisition*

**Power to acquire land compulsorily** **N.I.**

3.—(1) This Article applies to any regulated airport, other than a regulated airport managed by a district council under Article 17.

(2) The airport operator of an airport to which this Article applies may for any purpose connected with the safe and efficient performance of his functions as such acquire land compulsorily.

(3) The power of an airport operator to acquire land compulsorily under this Article may be exercised for the purpose of providing or improving any road which is to be provided or improved in pursuance of an order under Article 10 or for any other purpose for which land is required in connection with such an order.

(4) The power of an airport operator to acquire land compulsorily under this Article includes power to acquire, by the creation of a new right, an easement or other right over land.

(5) Where an airport operator proposes to acquire land compulsorily under this Article, the operator may apply to the Department for an order ( “a vesting order”) vesting that land in the operator and the Department shall have power to make a vesting order.

(6) Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F12</sup> shall apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the airport operator;
- (b) for any reference to the Department concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “funds of the airport operator (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by the airport operator”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “such person as may be designated for the purposes of this Schedule by the airport operator”.

(7) The power to make a vesting order under this Article in respect of land—

- (a) which is the property of any public body which has power under any statutory provision to acquire land compulsorily; or
- (b) which is declared by or under any statutory provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

(8) In paragraph (7) “public body” means a body established by or under any statutory provision.

F12 1972 c.9 (NI)

#### **Power of entry in connection with compulsory acquisition of land** N.I.

4.—(1) Where an airport operator proposes to make an application to the Department for a vesting order under Article 3 in respect of any land, a person authorised in writing by the operator may, at any reasonable time, enter the land in order to make a survey for the purpose of determining whether the application should be made.

(2) A person authorised to enter any land under this Article shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(3) Any person who intentionally obstructs a person acting in the exercise of a power conferred by this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Disposal of compulsorily acquired land** N.I.

5.—(1) This Article applies to the disposal of any land—

- (a) which was acquired compulsorily by the airport operator of any airport to which Article 3 applies or any predecessor in title of his under Article 3 or any other statutory provision; and
- (b) which, at the time of the disposal, forms part of an airport or is attached to an airport and administered with it as a single unit or has, at any time since the date of its acquisition, formed part of an airport or been so attached and administered.

(2) An airport operator shall not dispose of any land to which this Article applies, or any estate in such land, within the period of 25 years beginning with the date of its acquisition as mentioned in paragraph (1), unless—

- (a) the disposal is for the purposes of the provision of any of the services and facilities associated with the operation of an airport; or
- (b) the disposal is of a leasehold interest in the land for a term of less than 7 years; or
- (c) the Department consents to the disposal.

(3) Any consent of the Department under this Article may be given subject to such conditions as it thinks fit.

#### **Protection of land from compulsory acquisition** N.I.

6. Where—

- (a) an application for a vesting order is made by a person with power to acquire land compulsorily (other than an airport operator) in respect of land which includes land

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belonging to the airport operator of an airport to which Article 3 applies and used for any purpose connected with the performance of his functions as such; and

- (b) that airport operator has made a representation to the Department concerned before the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F13</sup>,

the Department concerned shall not make the vesting order unless the Department has certified—

- (i) that the land can be purchased and not replaced without serious detriment to the performance of those functions; or
- (ii) that, if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the airport operator without serious detriment to the performance of those functions.

**F13** 1972 c.9 (NI)

*Other powers*

**Power to obtain rights over land** **N.I.**

7.—(1) This Article applies to—

- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; <sup>F14</sup> . . .
- (c) <sup>F14</sup> . . . . .

(2) The Department may make an order under this Article if, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport or to secure the provision of any services required in relation to the airport.

(3) An order under this Article may provide for the creation in favour of the airport operator of easements over land or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to install and maintain structures and apparatus on, under, over or across any land.

(4) Any such order may contain such provisions as appear to the Department to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to enter any land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

(5) Subject to paragraph (6), a person authorised to enter any land by an order under this Article shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(6) Nothing in paragraph (5) shall restrict the right of an airport operator to enter any land in a case of an emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.

(7) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of an order under this Article.

(8) Schedule 1 shall have effect with respect to an order under this Article.

(9) An order under this Article shall be included among the matters which are required to be registered in the Statutory Charges Register.

(10) Any person who, at any time when an order under this Article is in force in respect of an airport, intentionally and without the consent of the airport operator interferes with—

- (a) any works carried out on any land in pursuance of the order; or
- (b) anything installed on, under, over or across any land in pursuance of the order,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

(11) Any person who intentionally obstructs a person in the exercise of any power of entry conferred by an order under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**F14** Art. 7(1)(c) and preceding word omitted (10.11.2011) by virtue of [Airport Charges Regulations 2011](#) (S.I. 2011/2491), reg. 29(2), [Sch. 2 para. 5\(2\)](#)

## Power to exercise control over land **N.I.**

**8.—**(1) This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport, the Department may by order declare that any area of land specified in the order shall be subject to control by directions given in accordance with the provisions of this Article.

(3) Where an order under this Article is in force in relation to any area of land, the Department may, in pursuance of any general or special authority given by the order, give directions—

- (a) for prohibiting the erection within the area, except with the consent of the Department given either generally or subject to conditions, of any buildings or structures or of buildings or structures of such descriptions as may be specified in the directions;
- (b) for requiring the total or partial demolition of any building or structure within the area;
- (c) for restricting the height of trees on any land within the area, or for requiring any tree on any such land to be cut down or reduced in height;
- (d) for extinguishing any private right of way over land within the area;
- (e) for restricting the installation of cables, mains, sewers, pipes, wires or other apparatus on, under, over or across any land within the area;
- (f) for extinguishing, at the expiration of such period as may be determined by the directions, any subsisting right of installing or maintaining any such apparatus on, under, over or across any land within the area;
- (g) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.

(4) An order under this Article may contain such provisions as appear to the Department to be necessary or expedient for the purposes of the order, including, in particular—

- (a) provisions for appeal by any person aggrieved by a decision of the Department to refuse its consent under paragraph (3)(a) or to grant its consent subject to conditions;
- (b) provisions for empowering any person authorised in that behalf by the Department to remove, pull down, cut down, or alter so as to bring into conformity with the requirements of any directions given under the order, any building, structure, tree or apparatus which contravenes those requirements.



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(5) Schedule 1 shall have effect with respect to an order under this Article.

(6) Schedule 2 shall have effect with respect to any direction given under an order made under this Article.

(7) An order under this Article shall be included among the matters which are required to be registered in the Statutory Charges Register.

### **Power to indicate presence of obstructions near airports** **N.I.**

**9.**—(1) This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied, with respect to any building, structure or erection in the vicinity of the airport, that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, the Department may by order authorise the airport operator—

(a) to execute, install, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and

(b) so far as may be necessary for exercising any of the powers conferred by the order to enter and pass over (with or without vehicles) any such land as may be specified in the order.

(3) Subject to paragraph (4), a person authorised to enter any land by an order under this Article shall not demand to do so as of right unless—

(a) 14 days notice of the intended entry has been given to the occupier; and

(b) if required to do so, he has produced evidence of his authority.

(4) Nothing in paragraph (3) shall restrict the right of an airport operator to enter any land in a case of an emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works or apparatus.

(5) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed to, any land in pursuance of an order under this Article.

(6) Schedule 1 shall have effect with respect to an order under this Article.

(7) Subject to paragraph (8), any person who, at any time when an order under this Article is in force in respect of an airport, intentionally and without the consent of the airport operator, interferes with any works or things executed, placed on or affixed on, under or over any land in pursuance of the order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

(8) Nothing in paragraph (7) applies to the doing of any work for the purpose of repairing, altering, demolishing or removing a building, structure or erection where—

(a) notice of the doing of that work is given as soon as may be to the airport operator; and

(b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this Article in force in relation thereto is not interrupted.

(9) Any person who intentionally obstructs a person in the exercise of any of the powers conferred by an order under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Power to stop up and divert roads** **N.I.**

**10.**—(1) This Article applies to—



- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; <sup>F15</sup> . . .
- (c) <sup>F15</sup> . . . . .

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that it is reasonably necessary to do so in order to secure the safe and efficient operation of the airport, the Department may by order stop up or divert any road.

(3) An order under this Article may provide for all or any of the following matters, that is to say—

- (a) the provision or improvement of any road so far as the Department thinks such provision or improvement necessary or desirable in consequence of the stopping up or diversion of a road under the order;
- (b) for directing that any road to be provided or improved in consequence of the stopping up or diversion of a trunk road under the order shall itself be a trunk road for all or any of the purposes of the statutory provisions relating to trunk roads;
- (c) for the retention or removal of any cables, mains, sewers, pipes, wires or other apparatus placed under, in, on, over, along or across any road stopped up or diverted under the order, and for the extinguishment, modification or preservation of any rights as to the use or maintenance of that apparatus;
- (d) if any road is to be provided or improved under the order, for authorising or requiring the provision of any such apparatus as is mentioned in sub-paragraph (c) under, in, on, over, along or across that road, in lieu of any apparatus removed from a road in pursuance of the order, and for conferring rights as to the use or maintenance of apparatus so provided;
- (e) for requiring the Department, the airport operator or any other specified authority or person—
  - (i) to carry out any work provided for by the order; or
  - (ii) to pay, or to make contributions in respect of, the cost of doing any such work or any increased expenditure to be incurred which is attributable to the doing of any such work.

(4) Schedule 1 shall have effect with respect to an order under this Article.

(5) The powers of the Department under this Article shall include power to make an order to stop up or divert any road which is temporarily stopped up or diverted under any other statutory provision, and the provisions of this Article shall not prejudice any power conferred on the Department by any other statutory provision to stop up or divert a road.

(6) In this Article “road” has the meaning assigned to it by Article 2(2) of the Roads (Northern Ireland) Order 1993<sup>F16</sup>.

**F15** Art. 10(1)(c) and preceding word omitted (10.11.2011) by virtue of [Airport Charges Regulations 2011 \(S.I. 2011/2491\)](#), reg. 29(2), [Sch. 2 para. 5\(3\)](#)

**F16** 1993 NI 15

## Power to control traffic in interests of safety of aircraft **N.I.**

**11.—**(1) This Article applies to any licensed airport.

(2) Where, on representations made to it by the airport operator of an airport to which this Article applies, the Department is satisfied that in the interests of the safety of aircraft using the airport the traffic on a road should be regulated or restricted, the Department may by order—

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- (a) provide for the regulation, whether by means of signals, barriers or otherwise, of traffic on that road; or
- (b) restrict the use of that road by vehicles of such classes or descriptions as may be specified in the order.

(3) An order under this Article may provide that a constable appointed under Article 19 shall have the like powers, privileges and duties in relation to the road specified in the order as he has in relation to the airport for which he was appointed.

(4) Schedule 1 shall have effect with respect to an order under this Article.

(5) Any person who contravenes, or uses a vehicle or causes or permits a vehicle to be used in contravention of, an order made under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) In this Article “road” has the meaning assigned to it by Article 2(2) of the Road Traffic (Northern Ireland) Order 1981<sup>F17</sup>.

**F17** 1981 NI 1

### Supplementary

#### Provisions as to [<sup>F18</sup>electronic communications apparatus] **N.I.**

**12.**—(1) [<sup>F19</sup>Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (undertaker's works) shall apply for the purposes—

- (a) of any work in pursuance of an order or direction under Article 7 or 8;
- (b) of anything done with respect to a road in pursuance of an order under Article 10 to which paragraph (2) applies,

to the person doing that work or, as the case may be, the Department; and, in the case of any such order as is mentioned in sub-paragraph (b), any person having an estate in land over which the road passes shall be entitled to require the alteration of the [<sup>F18</sup> electronic communications apparatus] in question.

(2) This paragraph applies to an order under Article 10 where the order provides—

- (a) for the stopping up or diversion of the road; or
- (b) unless the road is a trunk road [<sup>F20</sup>or special road], for the improvement of the road,

and immediately before the order comes into operation any [<sup>F18</sup>electronic communications apparatus] is kept installed for the purposes of [<sup>F18</sup> an electronic communications code network] under, in, on, over, along or across the road.

(3) Subject to the preceding provisions of this Article, the operator of [<sup>F18</sup> an electronic communications code network] shall, in a case falling within paragraph (2)(a), have the same rights in respect of any apparatus kept installed for the purposes of [<sup>F18</sup> that network] as if the order had not come into operation.

[<sup>F20</sup>(3A) [<sup>F21</sup>Part 10] of [<sup>F18</sup>the electronic communications code] shall not apply by virtue of paragraph (2)(b) in relation to the alteration of any [<sup>F18</sup> electronic communications apparatus] where the alteration is for the purpose of major work works, major bridge works or major transport works within the meaning of the Street Works (Northern Ireland) Order 1995.]

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(4) [F22Paragraph 68] of [F18 the electronic communications code] (offence) shall be deemed to be omitted for the purposes of the application by this Article of [F23Part 10 of the code] to the Department.

(5) Paragraph [F24108(2)] of [F18 the electronic communications code] (alteration of apparatus to include moving, removal or replacement or apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of the code.

(6) [F25Part 6 of the electronic communications code (rights to require removal of apparatus)] shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any [F18 electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.

F26(7) .....

<b>F18</b>	2003 c. 21
<b>F19</b>	Words in art. 12(1) substituted (28.12.2017) by <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(2)</a> ; S.I. 2017/1286, reg. 2(d)
<b>F20</b>	1995 NI 19
<b>F21</b>	Words in art. 12(3A) substituted (28.12.2017) by <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(3)</a> ; S.I. 2017/1286, reg. 2(d)
<b>F22</b>	Words in art. 12(4) substituted (28.12.2017) by <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(4)(a)</a> ; S.I. 2017/1286, reg. 2(d)
<b>F23</b>	Words in art. 12(4) substituted (28.12.2017) by <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(4)(b)</a> ; S.I. 2017/1286, reg. 2(d)
<b>F24</b>	Word in art. 12(5) substituted (28.12.2017 immediately after Digital Economy Act 2017 (c. 30), Sch. 3 comes into force) by <a href="#">The Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Primary Legislation) Regulations 2017 (S.I. 2017/1285), reg. 1(1), Sch. 1 para. 30(2)</a>
<b>F25</b>	Words in art. 12(6) substituted (28.12.2017) by <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(6)</a> ; S.I. 2017/1286, reg. 2(d)
<b>F26</b>	Art. 12(7) repealed (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by <a href="#">The Communications Act 2003 c. 21, Sch. 19(2)</a> ; S.I. 2003/1990; S.I. 2003/3142; and art. 12(7) omitted (28.12.2017) in so far as it is still in force by virtue of <a href="#">Digital Economy Act 2017 (c. 30), s. 118(6), Sch. 3 para. 35(7)</a> ; S.I. 2017/1286, reg. 2(d)

### Compensation payable by airport operators **N.I.**

13. Schedule 3 shall have effect in relation to the payment by airport operators of compensation to persons affected by the operation of certain provisions of this Part.

### Compensation in respect of planning decisions relating to safety of airports **N.I.**

14.—(1) This Article applies to any licensed airport.

(2) The Department shall be entitled to recover from the airport operator of an airport to which this Article applies a sum equal to any compensation which the Department has become liable to pay, if—

- (a) it has become so liable under Part II or III of the Land Development Values (Compensation) Act (Northern Ireland) 1965<sup>F27</sup> or under [F28Part 6 of the Planning Act (Northern Ireland) 2011]; and
- (b) the liability is attributable to a planning decision which would not have been taken, or to an order which would not have been made, but for the need—

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- (i) to secure the safe and efficient operation of the airport; or
- (ii) to prevent persons, buildings, structures or erections from being struck by aircraft using the airport; or
- (iii) to secure the safe and efficient operation of apparatus owned by the airport operator and provided for the purpose of assisting air traffic control or as an aid to air navigation.

(3) Where a sum equal to any compensation is paid to the Department by an airport operator under paragraph (2), the Department shall pay to that operator any amount received by the Department in respect of the compensation under section 24 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (which relates to the recovery of compensation on subsequent development).

(4) In paragraph (2) “planning decision” means a decision made on an application under [<sup>F29</sup>Part 3 of the Planning Act (Northern Ireland) 2011].

**F27** 1965 c.23 (NI)

**F28** Words in art. 14(2)(a) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 69\(a\)](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

**F29** Words in art. 14(4) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 69\(b\)](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

### Concurrent proceedings **N.I.**

15.—(1) Where an airport operator—

- (a) applies to the Department for a vesting order under Article 3; or
- (b) makes representations to the Department under Article 7(2),

the proceedings which—

- (i) are required under this Part to be taken in connection with the making of a vesting order or (as the case may be) an order under Article 7; and
- (ii) if applicable, are required by [<sup>F30</sup>sections 40 to 42 of the Planning Act (Northern Ireland) 2011] to be taken for the purpose of planning permission,

may, where the Department so directs, be taken concurrently, so far as is practicable.

(2) Where—

- (a) a public local inquiry is to be held under this Part in connection with any matter; and
- (b) in the case of some other matter required or authorised (whether by this Part or by any other statutory provision) to be the subject of a public local inquiry, it appears to the Department that the matters are so far cognate that they should be considered together,

the Department may direct that the two inquiries be held concurrently or combined as one inquiry.

**F30** Words in art. 15(1)(b)(ii) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 70](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

## **Application to Crown land** **N.I.**

16.—(1) Subject to paragraphs (2) and (3), the provisions of this Part shall have effect in relation to Crown land as they have effect in relation to land which is not Crown land.

(2) The powers conferred by Article 3(2) shall not be exercisable in relation to Crown land, to the extent of the estate therein held by or on behalf of the Crown.

(3) The powers conferred by or under Article 3(2), 7, 8 or 9 shall not, except with the consent of the appropriate authority, be exercisable in relation to Crown land.

(4) In this Article any reference to the Crown includes a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

(5) In this Article—

“the appropriate authority”, in relation to any land, means—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of any other land belonging to Her Majesty in right of the Crown, the government department having the management of that land;
- (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that government department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Department of Finance and Personnel or, as the case may be, the Treasury, whose decision shall be final;

“Crown estate” means an estate—

- (a) belonging to Her Majesty in right of the Crown; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown land” means land in which there is a Crown estate;

“government department” means a department of the Government of the United Kingdom or a Northern Ireland department.

## **PART III** **N.I.**

### **MANAGEMENT OF AIRPORTS**

#### **Power of district councils to provide and maintain airports** **N.I.**

17.—(1) A district council may, with the consent of the Department and subject to such conditions as the Department may impose, establish and maintain airports, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.

(2) A district council may, for the purpose of exercising any of the powers conferred on the council by paragraph (1), acquire land by agreement or compulsorily.

(3) The power of a district council to acquire land under paragraph (2) may be exercised—

- (a) for the purpose of securing that land adjacent to the site of an airport which the council has established, or is about to establish, is not used in such manner as to cause interference with, or danger or damage to, aircraft using the airport;

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(b) for the purpose of providing or improving any road which is to be provided or improved in pursuance of an order under Article 10 or for any other purpose for which land is required in connection with such an order.

(4) The power of a district council to acquire land compulsorily under paragraph (2) includes power to acquire, by the creation of a new right, an easement or other right over land.

(5) The powers conferred by paragraph (2) shall not be exercisable in relation to Crown land, to the extent of the estate therein held by or on behalf of the Crown; and paragraphs (4) and (5) of Article 16 apply for the purposes of this paragraph as they apply for the purposes of that Article.

(6) If the Department is satisfied, with respect to any airport provided by a district council under this Article, that it is necessary or expedient that the council should be empowered to carry on in connection with the airport any particular business, being a business which appears to the Department to be ancillary to the carrying on of an airport but which the council would not otherwise have power to carry on, the Department may authorise that council, subject to such conditions, if any, as the Department may think fit, to carry on that business in connection with the airport.

(7) In this Article “provide” and “maintain” have the meanings assigned to them by section 147 of the Local Government Act (Northern Ireland) 1972<sup>F31</sup>.

**F31** 1972 c.9 (NI)

## Airport byelaws **N.I.**

**18.**—(1) This Article applies to—

- (a) any airport managed by a district council under Article 17; and
- (b) any other airport designated for the purposes of this Article by an order made by the Department.

(2) The airport operator of an airport to which this Article applies may make byelaws for regulating the use and operation of the airport and the conduct of persons while within the airport.

(3) Any such byelaws may, in particular, include byelaws—

- (a) for securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;
- (b) for controlling the operation of aircraft within, or directly above, the airport for the purpose of limiting or mitigating the effect of noise, vibration and atmospheric pollution caused by aircraft using the airport;
- (c) for preventing obstruction within the airport;
- (d) for regulating vehicular traffic anywhere within the airport, except on roads within the airport to which the Road Traffic (Northern Ireland) Order 1981<sup>F32</sup> applies, and in particular (with that exception) for imposing speed limits on vehicles within the airport and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the byelaws;
- (e) for prohibiting waiting by vehicles plying for hire except at standings appointed by such person as may be specified in the byelaws;
- (f) for prohibiting or restricting access to any part of the airport;
- (g) for preserving order within the airport and preventing damage to property within it;
- (h) for regulating or restricting advertising within the airport;

- (i) for requiring any person, if so requested by a constable or airport official, to leave the airport or any particular part of it, or to state his name and address and the purpose of his being within the airport;
- (j) for securing the safe custody and redelivery of any property which, while not in proper custody, is found within the airport or in an aircraft within the airport, and in particular—
  - (i) for requiring charges to be paid in respect of any such property before it is redelivered; and
  - (ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the byelaws;
- (k) for defining the area which is to be taken as constituting the airport for the purposes of the byelaws.

(4) In sub-paragraph (i) of paragraph (3) “airport official” means a person authorised by the airport operator; and any such official shall not exercise any power under a byelaw made by virtue of that sub-paragraph without producing written evidence of his authority if required to do so.

(5) Part VI of the Local Government Act (Northern Ireland) 1972<sup>F33</sup> shall have effect in relation to byelaws made by a district council under this Article.

(6) Schedule 4 shall have effect in relation to byelaws made by any other airport operator under this Article.

**F32** 1981 NI 1  
**F33** 1972 c.9 (NI)

### Appointment of constables for an airport **N.I.**

**19.**—(1) An airport operator authorised in that behalf by the [<sup>F34</sup>Department of Justice] may appoint any person employed by the operator to be a constable on the airport managed by that operator.

(2) An authorisation under this Article may be granted subject to such conditions as the [<sup>F35</sup>appropriate authority] thinks fit.

[<sup>F36</sup>(2A) In this Article “appropriate authority” means—

- (a) in relation to conditions which affect an excepted or reserved matter otherwise than incidentally, the Secretary of State; and
- (b) otherwise, the Department of Justice;

and for the purposes of this paragraph, “excepted matter” and “reserved matter” have the same meanings as in the Northern Ireland Act 1998.

(2B) An authorisation under this Article shall not be granted until the Secretary of State has given notice in writing to the Department of Justice—

- (a) specifying the conditions of the kind referred to in paragraph (2A)(a) to which the authorisation, if granted, is to be subject; or
- (b) declaring that the authorisation, if granted, is not to be subject to any such conditions.]

(3) Every person appointed under paragraph (1) shall on his appointment make a declaration before a justice of the peace to execute the office of a constable on the airport for which he was appointed, and, when he has made the declaration, he shall on that airport have the powers and privileges and be liable to the duties and responsibilities of a constable.



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(4) Constables appointed under this Article shall be under the exclusive control of the airport operator by whom they are appointed and that operator may suspend or terminate the appointment of any such constable.

(5) For the purposes of—

<sup>F37</sup>(a) the Employment Rights (Northern Ireland) Order 1996; and]

(b) the Industrial Relations (Northern Ireland) Order 1992<sup>F38</sup>,

the holding of the office of constable under this Article on any airport shall be treated as work under a contract of employment with the airport operator; and, accordingly, for those purposes, service in such office shall not be treated as police service within the meaning of those Orders.

**F34** Words in art. 19(1) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(2) (with arts. 24-28)

**F35** Words in art. 19(2) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(3) (with arts. 24-28)

**F36** Art. 19(2A)(2B) inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(4) (with arts. 24-28)

**F37** 1996 NI 16

**F38** 1992 NI 5

### Facilities for consultation at airports **N.I.**

**20.**—(1) This Article applies to any airport which is designated for the purposes of this Article by an order made by the Department.

(2) The operator of an airport to which this Article applies shall provide for—

- (a) users of the airport;
- (b) the General Consumer Council for Northern Ireland;
- (c) the district council in whose district the airport or any part thereof is situated or whose district is in the locality of the airport; and
- (d) any other organisation representing the interests of persons concerned with the locality in which the airport is situated,

adequate facilities for consultation with respect to any matter concerning the management or administration of the airport which affects their interests.

### Control of noise at airports **N.I.**

**21.** An airport operator shall take such measures as the Department may direct for limiting noise and vibration or mitigating their effect and, in particular, for restricting the use of the airport to aircraft and persons complying with such requirements as may be specified in the directions.

### Grants towards cost of soundproofing buildings **N.I.**

**22.**—(1) If it appears to the Department that buildings near an airport require further protection from noise and vibration attributable to use of the airport than can be given by measures taken or to be taken in pursuance of Article 21, the Department may by order make a scheme requiring the airport operator to make grants towards the cost of insulating those buildings or parts of those buildings against noise.

(2) A scheme under this Article may apply only to buildings of such a class or classes as may be specified in the scheme.

(3) A scheme under this Article shall specify the area or areas in which buildings must be situated for the grants to be payable, and the persons to whom, the expenditure in respect of which and the rate at which the grants are to be paid, and may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme.

(4) A scheme under this Article may require the airport operator, in any case where an application for a grant is refused, to give the applicant at his request a written statement of the reasons for the refusal.

(5) Before making a scheme under this Article in relation to an airport, the Department shall consult the airport operator.

### **Power of airport operators to detain and sell aircraft for unpaid airport charges N.I.**

**23.**—(1) This Article applies to any airport designated for the purposes of this Article by an order made by the Department.

(2) Where default is made in the payment of airport charges incurred in respect of any aircraft at an airport to which this Article applies, the airport operator may, subject to the provisions of this Article—

(a) detain, pending payment, either—

(i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins); or

(ii) any other aircraft of which the person in default is the operator at the time when the detention begins; and

(b) if the charges are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.

(3) An airport operator shall not detain, or continue to detain, an aircraft under this Article by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein—

(a) disputes that the charges, or any of them, are due or, if the aircraft is detained under paragraph (2)(a)(i), that the charges in question were incurred in respect of that aircraft; and

(b) gives to the airport operator, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(4) An airport operator shall not sell an aircraft under this Article without the leave of the High Court; and the High Court shall not give leave except on proof that a sum is due to the airport operator for airport charges, that default has been made in the payment thereof and that the aircraft which the airport operator seeks leave to sell is liable to sale under this Article by reason of the default.

(5) An airport operator proposing to apply for leave to sell an aircraft under this Article shall take such steps as the Department may by regulations prescribe—

(a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the High Court thereon; and

(b) for affording to any such person an opportunity of becoming a party to the proceedings on the application;

and, if leave is given, the airport operator shall secure that the aircraft is sold for the best price that can reasonably be obtained.

(6) Failure to comply with any requirement of paragraph (5) in respect of any sale, while actionable as against the airport operator concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.

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(7) The proceeds of any sale under this Article shall be applied as follows, and in the following order, that is to say—

- (a) in payment of any sum payable in respect of the aircraft under any statutory provision;
- (b) in payment of the expenses incurred by the airport operator in detaining, keeping and selling the aircraft, including his expenses in connection with the application to the High Court;
- (c) in payment of the airport charges which the High Court has found to be due;

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

(8) The power of detention and sale conferred by this Article in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in paragraphs (3) to (7) include, except where the context otherwise requires, references to any such equipment and stores.

(9) The power of detention conferred by this Article in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this Article, be transferred by the airport operator to the purchaser.

(10) The power conferred by this Article to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the airport on which those charges were incurred or on any other airport owned or managed by the airport operator concerned.

(11) In this Article—

“airport charges” means charges payable to an airport operator for the use of, or for services provided at, an airport, but does not include charges payable by virtue of regulations under section 73 of the 1982 Act;

“aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or air-worthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(12) Nothing in this Article shall prejudice any right of an airport operator to recover any charges, or any part thereof, by action.

**Financial assistance for airport operators** **N.I.**

24.—(1) The Department with the approval of the Department of Finance and Personnel may make grants or loans to any airport operator to enable that operator to defray capital expenditure which has been or may be incurred by the operator with the approval of the Department.

(2) Any loan made by the Department under paragraph (1) shall be repaid to it at such times and by such methods, and interest thereon shall be paid to the Department at such rates and at such times, as the Department with the approval of the Department of Finance and Personnel may from time to time determine.

**Status of certain airport operators as statutory undertakers** **N.I.**

25.—(1) This Article applies to—

- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; <sup>F39</sup> . . .
- (c) <sup>F39</sup> . . . . .

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(2) Schedule 5 shall have effect with respect to the application of the statutory provisions mentioned in that Schedule (which relate to statutory undertakers) to the airport operators of airports to which this Article applies.

**F39** Art. 25(1)(c) and preceding word omitted (10.11.2011) by virtue of [Airport Charges Regulations 2011](#) (S.I. 2011/2491), reg. 29(2), [Sch. 2 para. 5\(4\)](#)

### **Power to dispose of land to airport operators** **N.I.**

**26.** Notwithstanding anything in any other statutory provision, a Northern Ireland department may, on such financial and other conditions as that department considers appropriate, dispose of land vested in that department to the operator of a regulated airport for any purpose connected with the performance of his functions as such.

## **F40** PART IV **N.I.**

### ECONOMIC REGULATION OF AIRPORTS

**F40** Pt. IV revoked (6.4.2013) by [Civil Aviation Act 2012](#) (c. 19), [ss. 76\(2\), 110\(1\)](#) (with [s. 77\(1\)-\(3\)](#)), [Sch. 10 paras. 12, 17](#)); S.I. 2013/589, [art. 2\(1\)-\(3\)](#) (with [art. 4](#))

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**29.** .....

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32. ....

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33. ....

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34. ....

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35. ....

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35A .....

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36. ....

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39. ....

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40. ....

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43. ....

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44. ....

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45. ....

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46. ....

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47. ....

**Furnishing of information, etc. to CAA** **N.I.**

48. ....

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49. ....

**PART V** **N.I.**

**TRANSFER OF UNDERTAKING OF  
NORTHERN IRELAND AIRPORTS LIMITED**

*Introductory*

**Interpretation of this Part** **N.I.**

50.—(1) In this Part—

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“debenture” includes debenture stock;

“the Holding Company” means the Northern Ireland Transport Holding Company established under section 47 of the Transport Act (Northern Ireland) 1967<sup>F41</sup>;

“NIAL” means the subsidiary of the Holding Company incorporated under the name of Northern Ireland Airports Limited;

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares” includes stock;

“statutory accounts” means any accounts (including group accounts) prepared by a company for the purpose of any provision of [<sup>F42</sup>the Companies Acts (as defined in section 2 of the Companies Act 2006)];

“the successor company” has the meaning assigned to it by Article 51(1);

“the transfer date” has the meaning assigned to it by Article 54(2);

“transferee”, in relation to any transfer of assets and liabilities effected under Article 54, means the body to which they are so transferred;

“transfer scheme” has the meaning assigned to it by Article 54(1).

(2) Subject to Article 54(5), in this Part any reference to the Crown is a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

(3) A company shall be regarded for the purposes of this Part as wholly owned by the Crown at any time when none of the issued shares in the company is held otherwise than—

- (a) by, or by a nominee of, the Department or the Department of Finance and Personnel; or
- (b) by a company which is itself wholly owned by the Crown.

(4) Any reference in this Part (except Article 52) to assets and liabilities of NIAL—

- (a) is a reference to assets and liabilities to which NIAL is entitled or subject immediately before the transfer date, whether or not capable of being transferred or assigned by NIAL;
- (b) in relation to assets which consist of property of NIAL, is a reference to property whether situated in Northern Ireland or elsewhere; and
- (c) in relation to assets which consist of other rights and to liabilities of NIAL, is a reference to rights to which NIAL is entitled, or (as the case may be) liabilities to which NIAL is subject, whether under the law of Northern Ireland or under the law of any country or territory outside Northern Ireland.

(5) Paragraph (4) applies to airport assets and airport liabilities of the Holding Company as it applies to assets and liabilities of NIAL, but with the substitution for references to NIAL of references to the Holding Company.

(6) In this Part references to “airport assets” and “airport liabilities” of the Holding Company are references, respectively, to the assets and liabilities of the Holding Company which, either wholly or in part, subsist for the purposes of, or in connection with, or are otherwise attributable to, the functions exercisable by the Holding Company immediately before the transfer date by virtue of section 16 of the Aerodromes Act (Northern Ireland) 1971<sup>F43</sup>.

**F41** 1967 c.37 (NI)

**F42** Art. 50(1): words in the definition of "statutory accounts" substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(3)** (with arts. 6, 11, 12)

**F43** 1971 c.16 (NI)



## The successor company **N.I.**

**51.**—(1) The Department may by order nominate as the successor company for the purposes of this Order a company which—

- (a) is a company limited by shares [<sup>F44</sup>(within the meaning of section 3 of the Companies Act 2006)]; and
- (b) is wholly owned by the Crown;

and references in this Order to “the successor company” are references to the company so nominated.

(2) In the Northern Ireland Assembly Disqualification Act 1975<sup>F45</sup>, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted (at the appropriate place in alphabetical order) the following entry—

“Director of the successor company (within the meaning of Part V of the Airports (Northern Ireland) Order 1994), being a director nominated or appointed by a Northern Ireland department or by a person acting on behalf of a Northern Ireland department” .

**F44** Words in art. 51(1)(a) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 149(4)** (with art. 10)

**F45** 1975 c.25

## *Reorganisation of certain assets and liabilities of NIAL and the Holding Company*

## The reorganisation scheme **N.I.**

**52.**—(1) Before such date as the Department may direct, the Holding Company shall make a scheme (referred to in this Article and Article 53 as the “reorganisation scheme”) for—

- (a) the transfer to the Holding Company of the estate of NIAL in specified land;
- (b) the surrender by NIAL of any specified lease; and
- (c) the granting by the Holding Company to NIAL of a lease of specified land on specified terms.

(2) On the specified day—

- (a) the estate of NIAL in any land specified under paragraph (1)(a) shall, by virtue of this paragraph, vest in the Holding Company; and
- (b) any lease specified under paragraph (1)(b) shall be deemed to have been surrendered by NIAL.

(3) It shall be the duty of the Holding Company and of NIAL before the transfer date to enter into a lease of land specified under paragraph (1)(c) on terms so specified.

(4) The reorganisation scheme may make such supplementary, incidental and consequential provisions as the Holding Company considers appropriate.

(5) In this Article “specified” means specified in the reorganisation scheme.

## Functions of the Department in relation to the reorganisation scheme **N.I.**

**53.**—(1) The reorganisation scheme shall not take effect unless it is approved by the Department; and the Department may modify the reorganisation scheme before approving it.

(2) If—

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- (a) the Holding Company fails, before the date specified in the Department's direction under Article 52(1), to submit the reorganisation scheme for the approval of the Department; or
  - (b) the Department decides not to approve the reorganisation scheme that has been submitted to the Department by the Holding Company (either with or without modifications),
- the Department may itself make the reorganisation scheme.

(3) It shall be the duty of the Holding Company and of NIAL to provide the Department with all such information and other assistance as the Department may require for the purposes of or in connection with the exercise of any power conferred on the Department by paragraph (1) or (2).

(4) The Department shall not exercise any power conferred on the Department by paragraph (1) or (2) except after consultation with the Holding Company.

#### *Transfer of certain assets and liabilities of NIAL and the Holding Company*

#### **The transfer scheme** N.I.

54.—(1) Before such date as the Department may direct, the Holding Company shall make a scheme (the “transfer scheme”) for the transfer to the successor company or the Department of—

- (a) specified airport assets and airport liabilities of the Holding Company; and
- (b) specified assets and liabilities of NIAL.

(2) On such day as the Department may by order appoint (the “transfer date”)—

- (a) such specified assets and liabilities as are allocated under the transfer scheme to the successor company shall, by virtue of this paragraph, become assets and liabilities of that company; and
- (b) such specified assets and liabilities as are allocated under that scheme to the Department shall, by virtue of this paragraph, become assets and liabilities of the Department.

(3) The provisions of Schedule 7 shall apply in relation to any transfer effected under paragraph (2); and that paragraph shall have effect subject to the provisions of that Schedule.

(4) The transfer scheme may—

- (a) specify the assets and liabilities to be transferred to a particular body by describing or identifying them in such manner; and
- (b) make such supplementary, incidental and consequential provisions,

as the Holding Company considers appropriate.

(5) The provisions of the transfer scheme shall bind the Crown, including the Crown in right of Her Majesty's Government in the United Kingdom, to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(6) In this Article “specified” means specified in the transfer scheme.

#### **Functions of the Department in relation to the transfer scheme** N.I.

55.—(1) The transfer scheme shall not take effect unless it is approved by the Department; and the Department may modify the transfer scheme before approving it.

(2) If—

- (a) the Holding Company fails, before the date specified in the Department's direction under Article 54(1), to submit the transfer scheme for the approval of the Department; or
- (b) the Department decides not to approve the transfer scheme that has been submitted to the Department by the Holding Company (either with or without modifications),

the Department may itself make the transfer scheme.

(3) It shall be the duty of the Holding Company and of NIAL to provide the Department with all such information and other assistance as the Department may require for the purposes of or in connection with the exercise of any power conferred on the Department by paragraph (1) or (2).

(4) The Department shall not exercise any power conferred on the Department by paragraph (1) or (2) except after consultation with the Holding Company.

### **Powers of Department and the Holding Company after transfer** **N.I.**

**56.**—(1) The Department shall have power to hold, manage and dispose of any assets transferred to it under Article 54 and to discharge any liabilities so transferred.

(2) The power of the Department under paragraph (1) to dispose of any assets transferred to it under Article 54 includes power to dispose of those assets to a body corporate formed by the Department for the purpose of exercising on behalf of the Department its functions under paragraph (1).

(3) The repeal by this Order of section 16 of the Aerodromes Act (Northern Ireland) 1971<sup>F46</sup> shall come into operation on the transfer date, but, notwithstanding that repeal, the Holding Company shall on and after that date have power—

- (a) to hold, manage and dispose of any airport assets of the Holding Company which are not transferred under Article 54 and to discharge any airport liabilities of the Holding Company which are not so transferred; and
- (b) to acquire, hold, manage and dispose of any assets of NIAL which are not transferred under Article 54 and to discharge any liabilities of NIAL which are not so transferred.

**F46** 1971 c.15 (NI)

### *Ownership of the successor company*

### **Initial Government holding in the successor company** **N.I.**

**57.**—(1) As a consequence of the vesting in the successor company of any assets and liabilities under Article 54, the company shall issue such securities of the company as the Department may direct to the Department or the Department of Finance and Personnel.

(2) The Department shall not give a direction under paragraph (1) at a time when the successor company has ceased to be wholly owned by the Crown.

(3) Securities required to be issued under this Article shall be issued at such time or times and on such terms as the Department may direct.

(4) Shares in the successor company which are issued under this Article—

- (a) shall be of such nominal value as the Department may direct; and
- (b) shall be issued as fully paid and treated for the purposes of [F47 the Companies Acts (as defined in section 2(1) of the Companies Act 2006)] as if they had been paid up by virtue of the payment to the company of their nominal value in cash.

(5) The Department shall not dispose of any securities issued under this Article without the consent of the Department of Finance and Personnel.

<sup>F48</sup>(6) For the purposes of [F49 the Companies Acts (as defined in section 2 of the Companies Act 2006)], [F50 the Company Directors Disqualification (Northern Ireland) Order 2002] and the Insolvency (Northern Ireland) Order 1989<sup>F51</sup> the Crown is not to be treated as a shadow director of the

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successor company by reason that the company is wholly owned by the Crown or that the directors of that company are accustomed to act in accordance with the Crown's directions or instructions.

- F47** Words in art. 57(4)(b) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 149(5)** (with art. 10)
- F48** By Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(4)** (with arts. 6, 11, 12) it is provided that in art. 57(6) for "the Companies Order" substitute (6.4.2008) "the Companies Acts (as defined in section 2 of the Companies Act 2006)"
- F49** Words in art. 57(6) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), arts. 1(3)(a), 10(1), **Sch. 4 para. 86** (with saving in art. 12)
- F50** 2002 NI 4
- F51** 1989 NI 19

### Government investment in securities of the successor company **N.I.**

**58.**—(1) The Department or the Department of Finance and Personnel may at any time acquire—

- (a) securities of the successor company; or
- (b) rights to subscribe for any such securities.

(2) The Department shall not dispose of any securities or rights acquired under this Article without the consent of the Department of Finance and Personnel.

### Exercise of functions through nominees **N.I.**

**59.**—(1) The Department or the Department of Finance and Personnel may, for the purposes of Article 57, 58 or 65, appoint any person to act as the nominee, or one of the nominees, of the Department or the Department of Finance and Personnel; and—

- (a) securities of the successor company may be issued under Article 57 or 65 to any nominee of the Department or the Department of Finance and Personnel appointed for the purposes of that Article; and
- (b) any such nominee appointed for the purposes of Article 58 may acquire securities or rights under that Article,

in accordance with directions given by the Department or by the Department of Finance and Personnel.

(2) Any person holding any securities or rights as a nominee of the Department or the Department of Finance and Personnel under paragraph (1) shall hold and deal with them (or any of them) on such terms and in such manner as the Department or the Department of Finance and Personnel may direct.

### *Finances of the successor company*

### Statutory reserves **N.I.**

**60.**—(1) If the Department so directs at any time before the successor company ceases to be wholly owned by the Crown, such sum as may be specified in the direction shall be carried by the successor company to a reserve ("the statutory reserve").

- (2) The sum specified under paragraph (1) shall not exceed the aggregate of—
- (a) the accumulated realised profits of NIAL; and

(b) any accumulated realised profits arising (after compliance with any direction under Article 65(2)) by virtue of the extinguishment of liabilities of the successor company by an order under Article 65(1).

(3) The statutory reserve may only be applied by the successor company in paying up unissued shares of the company to be allotted to members of the company as fully paid bonus shares.

(4) Notwithstanding paragraph (3), the statutory reserve shall not count as an undistributable reserve of the successor company for the purposes of [<sup>F52</sup>section 831(4)(d) of the Companies Act 2006]; but for the purpose of determining under [<sup>F53</sup>that section] whether the successor company may make a distribution at any time any amount for the time being standing to the credit of the statutory reserve shall be treated for the purposes of [<sup>F54</sup>section 831(4)(c) of that Act] as if it were unrealised profits of the company.

- F52** Words in art. 60(4) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(5)(a)** (with arts. 6, 11, 12)
- F53** Words in art. 60(4) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(5)(b)** (with arts. 6, 11, 12)
- F54** Words in art. 60(4) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(5)(c)** (with arts. 6, 11, 12)

## Statutory accounts **N.I.**

**61.**—(1) The following provisions of this Article shall have effect for the purposes of any statutory accounts of the successor company.

(2) The vesting in the successor company under Article 54 of assets and liabilities of NIAL shall be taken to have been effected immediately after the end of the last complete financial year of NIAL to end on or before the transfer date and to have been a vesting of such of the assets and liabilities to which NIAL was entitled or subject immediately before the end of the year as are determined by or under the transfer scheme.

(3) The value of any asset and the amount of any liability which is taken under paragraph (2) to have been vested in the successor company shall be taken to have been the value or amount assigned to the asset or liability for the purposes of the corresponding statement of accounts prepared by NIAL in respect of the last complete financial year of NIAL to end on or before the transfer date.

(4) The amount to be included in respect of any item shall be determined as if anything done by NIAL (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

(5) Without prejudice to the generality of the preceding provisions, the amount to be included in any reserves of the successor company as representing the company's accumulated realised profits shall be determined as if any profits realised and retained by NIAL had been realised and retained by the successor company.

(6) Paragraphs (2) to (5) apply in relation to airport assets and airport liabilities of the Holding Company as they apply in relation to assets and liabilities of NIAL but with the substitution for references to NIAL of references to the Holding Company.

(7) In this Article “financial year” has the meaning assigned to it by [<sup>F55</sup>section 390 of the Companies Act 2006].

- F55** Words in art. 61(7) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), **Sch. 1 para. 197(6)** (with arts. 6, 11, 12)

### **Temporary restrictions on borrowings, etc. N.I.**

**62.**—(1) If articles of association of the successor company confer on the Department powers exercisable with the consent of the Department of Finance and Personnel for, or in connection with, restricting the sums of money which may be borrowed or raised by the group during any period, those powers shall be exercisable in the public interest notwithstanding any rule of law or any statutory provision.

(2) For the purposes of this Article an alteration of the articles of association of the successor company shall be disregarded if the alteration—

- (a) has the effect of conferring or extending any such power as is mentioned in paragraph (1); and
- (b) is made at a time when that company has ceased to be wholly owned by the Crown.

(3) In this Article “the group” means the successor company and all of its subsidiaries taken together.

### **Government lending to the successor company N.I.**

**63.**—(1) Subject to Article 66, the Department may make loans of such amounts and on such terms and conditions, including terms and conditions as to security, as the Department thinks fit to the successor company at any time before it ceases to be wholly owned by the Crown.

(2) Subject to Article 65, any loans which the Department makes under this Article shall be repaid to the Department at such times and by such methods, and interest thereon shall be paid to the Department at such rates and at such times, as the Department may direct.

(3) Expenditure incurred or to be incurred by the Department in making loans under this Article shall be defrayed by means of sums charged on and issued out of the Consolidated Fund.

### **Government guarantees for loans made to the successor company N.I.**

**64.**—(1) Subject to Article 66, the Department may guarantee, in such manner and on such terms as the Department may think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which are borrowed from a person other than the Department by the successor company at any time before it ceases to be wholly owned by the Crown.

(2) Immediately after a guarantee is given under this Article, the Department shall lay a statement of the guarantee before the Assembly; and immediately after any sum is issued for fulfilling a guarantee so given, the Department shall so lay a statement relating to that sum.

(3) Any sums required by the Department for fulfilling a guarantee under this Article shall be charged on and issued out of the Consolidated Fund.

(4) The Department of Finance and Personnel may borrow money for the purpose of providing for issues out of the Consolidated Fund under paragraph (3).

(5) If any sums are issued in fulfilment of a guarantee given under this Article the successor company shall make to the Department, at such times and in such manner as the Department may direct,—

- (a) payments of such amounts as the Department may direct in or towards repayment of the sums so issued; and
- (b) payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Department may direct.



### **Conversion or discharge of certain loans or advances, etc. N.I.**

**65.**—(1) The Department may by order extinguish all or any of the liabilities of the successor company in respect of the principal of such relevant loans as may be specified in the order.

(2) Where the Department has made an order under paragraph (1) and the Department considers it appropriate to do so, the Department may give a direction under this paragraph to the successor company; and the successor company shall, as a consequence of the making of the order, issue such securities as may be specified or described in the direction to the Department or to the Department of Finance and Personnel.

(3) For the purposes of the statutory accounts of the successor company, the value at the time of its issue of any such security shall be taken—

- (a) in the case of a share, to have been equal to its nominal value; and
- (b) in the case of a debenture, to have been equal to the principal sum payable under the debenture,

and such nominal value or principal sum shall be taken in those accounts to be accumulated realised profits.

(4) The Department shall not—

- (a) make an order under paragraph (1) extinguishing the liability of the successor company; or
- (b) give a direction under paragraph (2) for the issue of securities,

at a time when the successor company has ceased to be wholly owned by the Crown.

(5) Except as may be agreed between the Department and the successor company, where that company is directed under this Article to issue debentures—

- (a) the aggregate of the principal sums payable under the debentures to which the direction relates shall be equal to the aggregate of the sums the liability to repay which is extinguished by the order; and
- (b) the terms as to the payment of the principal sums payable on the debentures to which the direction relates, and as to the payment of interest thereon, shall be the same as the corresponding terms of the loans specified in the order.

(6) For the purposes of paragraph (5) any express or implied terms of a loan shall be disregarded in so far as they relate to the early discharge of liabilities to make repayments of principal and payments of interest.

(7) Paragraphs (3) to (5) of Article 57 shall apply for the purposes of this Article as they apply for the purposes of that Article.

(8) In this Article “relevant loan” means—

- (a) any loan made, or deemed to have been made, by the Department or from the Consolidated Fund the liability to repay which vests in the successor company under Article 54;
- (b) any loan made to that company by the Department under Article 63; and
- (c) any sums payable under debentures issued as a consequence of the making of an order under this Article.

### **Financial limits on borrowings, etc. N.I.**

**66.** The aggregate of any amounts outstanding by way of principal in respect of—

- (a) sums issued under Article 64 in fulfilment of guarantees given in respect of loans made to such companies; and
- (b) relevant loans within the meaning of Article 65,



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shall not exceed £10 million.

### *Miscellaneous*

#### **Exercise of certain functions of Department under this Part** **N.I.**

**67.** The Department shall not, except with the consent of the Department of Finance and Personnel, exercise any power under any of the following provisions of this Part, namely—

- (a) Article 51(1);
- (b) Articles 52 to 55;
- (c) Article 57(1) to (4);
- (d) Article 58(1);
- (e) Article 59;
- (f) Article 60(1);
- (g) Article 63(1) and (2);
- (h) Article 64(1);
- (i) Article 65.

## PART VI **N.I.** SUPPLEMENTARY

#### **Directions** **N.I.**

**68.**—(1) It shall be the duty of any person to whom a direction is given under this Order to give effect to that direction.

(2) Any power conferred by this Order to give a direction shall include power to vary or revoke the direction.

(3) Any direction given under this Order shall be in writing.

#### **Stamp duty** **N.I.**

**69.**—(1) Stamp duty shall not be chargeable on—

- (a) any transfer effected by Part V;
- (b) the reorganisation scheme, the transfer scheme or any instrument certified by the Department as having been made in pursuance of either of those schemes.

(2) In paragraph (1) “reorganisation scheme” and “transfer scheme” have the meanings assigned to them by Articles 52(1) and 54(1) respectively.

#### **Regulations and orders** **N.I.**

**70.**—(1) Regulations made by the Department under this Order shall be subject to negative resolution.

(2) Orders made by the Department under this Order (other than orders under Article 1(3), 3, 51(1), 54(2), or paragraph 1 of Schedule 7 [F56 and orders described in paragraph (2A)]) shall be subject to negative resolution.

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[<sup>F57</sup>(2A) An order under Article 2A(9) increasing the specified sum by more than is necessary to reflect changes in the value of money may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.]

(3) Regulations and orders under this Order may contain consequential, incidental, supplementary and transitional provisions.

**F56** Words in art. 70(2) inserted (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), [Sch. 8 para. 9\(2\)](#) (with [Sch. 8 paras. 10, 12, 17](#)); S.I. 2013/589, art. 2(1)-(3)

**F57** Art. 70(2A) inserted (6.4.2013) by [Civil Aviation Act 2012 \(c. 19\)](#), s. 110(1), [Sch. 8 para. 9\(3\)](#) (with [Sch. 8 paras. 10, 12, 17](#)); S.I. 2013/589, art. 2(1)-(3)

### Transitional provisions, amendments and repeals **N.I.**

**71.—(1)** The transitional provisions contained in Schedule 8 shall have effect.

#### *Para. (2)—Amendments*

(3) Without prejudice to section 17(2) of the Interpretation Act (Northern Ireland) 1954<sup>F58</sup>, the Department may by order make such modifications of instruments made under statutory provisions as appear to the Department necessary or expedient in consequence of the provisions of this Order; and in this paragraph “instrument” has the meaning assigned to it by section 1(c) of that Act of 1954.

#### *Para. (4)—Repeals*

**F58** [1954 c.33 \(NI\)](#)

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## SCHEDULES

SCHEDULE 1 **N.I.** Articles 7(8), 8(5), 9(6), 10(4) and 11(4).

### PROVISIONS RELATING TO ORDERS UNDER ARTICLES 7 TO 11

#### Procedure for making of orders

**1.—(1)** Before making the order the Department shall publish in the Belfast Gazette and once at least in each of two successive weeks in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice—

- (a) stating that the Department proposes to make the order;
- (b) specifying the land to which the proposed order relates and stating the general effect of the proposed order;
- (c) specifying a place in that locality where a copy of the draft of the proposed order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of not less than 6 weeks from the date of the last publication of the notice; and
- (d) stating that, within that period, any person may, by notice in writing to the Department, inform it of the grounds on which he objects to the making of the order.

(2) In relation to an order under Article 10 or 11, references in sub-paragraph (1) and in the following provisions of this Schedule to the land to which the order relates shall be construed as references to the road to which the order relates.

**2.** The Department shall, not later than the date on which the notice referred to in paragraph 1 is last published, serve a copy thereof together with a copy of a draft of the order and of any relevant map or plan on—

- (a) the district council in whose district any of the land to which the order relates is situated;
- (b) in the case of an order under Article 7, every person appearing to the Department to be the owner, lessee, or occupier of any land to which the order relates;
- (c) in the case of an order under Article 10, the owner of any cables, mains, sewers, pipes, wires or other apparatus placed under, in, on, over, along or across any road to which the order applies.

**3.—(1)** If, before the expiration of the period referred to in paragraph 1(c), the Department receives an objection from any person on whom a copy of the notice is required to be served under paragraph 2 or from any other person appearing to it to be affected, it may—

- (a) cause a public local inquiry to be held; or
- (b) afford to any person by whom such an objection has been made an opportunity of appearing before and being heard by a person appointed by the Department for the purpose.

(2) For the purposes of this paragraph and paragraph 4 the Department—

- (a) shall disregard any objection which is withdrawn; and
- (b) may disregard any objection if it is satisfied that the objection relates exclusively to matters which can be dealt with in assessing compensation under Schedule 3.

**4.** After considering—

- (a) any objections duly made to the proposed order; and
- (b) in a case where a public local inquiry is held under paragraph 3(1)(a) or a hearing is held under paragraph 3(1)(b), the report of the person who held that inquiry or hearing,

the Department may make the order either without modification or subject to such modifications as it thinks fit.

**5.** Immediately after the order is made, the Department shall publish in at least one newspaper circulating in the locality in which the land to which the order relates is situated a notice—

- (a) stating that the order has been made;
- (b) specifying the land to which the order relates and stating the general effect of the order; and
- (c) specifying a place in that locality where a copy of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours.

**6.** The Department shall serve a copy of the notice referred to in paragraph 5 on every person who has duly objected to the making of the order.

**7.** Any expenses incurred by the Department in exercising, in relation to an order in respect of any airport, its functions under the preceding provisions of this Schedule may be recovered from the airport operator summarily as a civil debt or in any court of competent jurisdiction.

### Challenging validity of order

**8.** If any person aggrieved by the order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Department or that any requirement of this Schedule has not been complied with in relation to the order, he may, within 6 weeks from the time when notice that the order has been made is first published under paragraph 5, make an application to the High Court and on any such application the High Court—

- (a) may by interim order suspend the operation of the order or of any provision contained therein, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the order or any provision contained therein is not within the powers of the Department, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects the applicant.

**9.** Subject to the provisions of paragraph 8, the order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of 6 weeks from the date on which notice of the making of the order is first published under paragraph 5.

## SCHEDULE 2 **N.I.**

Article 8(6).

### PROVISIONS RELATING TO DIRECTIONS UNDER ARTICLE 8

#### Notice of giving of directions

**1.—(1)** Immediately after the Department has given the direction, it shall publish in the Belfast Gazette and in one or more newspapers circulating in the locality in which the land to which the direction relates is situated a notice stating that the direction has been given, and shall also serve notice of the direction—

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- (a) in the case of a direction given for the purpose specified in Article 8(3)(a), on every district council in whose district any of the land to which the direction relates is situated;
  - (b) in the case of a direction given for the purpose specified in Article 8(3)(d), on every person appearing to the Department to be an owner, lessee or occupier of any land to which the right of way is appurtenant, and on every district council in whose district any of that land is situated;
  - (c) in the case of a direction given for any other purpose specified in Article 8(3), on every person appearing to the Department to be an owner, lessee or occupier of the land to which the direction relates and on every district council in whose district any of that land is situated;
  - (d) in the case of a direction restricting the installation of apparatus or extinguishing rights to install or maintain apparatus, on every person appearing to the Department to be a person whose rights to install or maintain apparatus are affected by the direction; and
  - (e) in the case of a direction requiring the removal of any apparatus, on the person appearing to the Department to be entitled to maintain the apparatus required to be removed under the direction.
- (2) Any notice given with respect to any direction for the purpose of complying with the requirements of this paragraph shall state the effect of the direction.

### Challenging validity of direction

2. If any person aggrieved by the direction desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Department or that any requirement of this Schedule has not been complied with in relation to the direction, he may, within 6 weeks from the time when notice that the direction has been given is first published under paragraph 1, make an application to the High Court and on any such application the High Court—

- (a) may by interim order suspend the operation of the direction or of any provision contained therein, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the direction or any provision contained therein is not within the powers of the Department, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects the applicant.

3. Subject to the provisions of paragraph 2, the direction shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of 6 weeks from the date on which notice of the giving of the direction is first published under paragraph 1.

## SCHEDULE 3 **N.I.**

Article 13.

### COMPENSATION PAYABLE BY AIRPORT OPERATORS

#### Compensation where property damaged

1. Where any property is damaged—
  - (a) in the exercise by a person authorised by an airport operator of a power of entry conferred by Article 4 or in the making of any survey for the purpose of which that power is exercised;

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- (b) in the exercise of a power or right conferred by an order made under Article 7 in relation to an airport;
- (c) in the exercise of a power or right conferred, in pursuance of Article 8(4)(b), by an order made under Article 8 in relation to an airport;
- (d) in the exercise of a power or right conferred by an order made under Article 9 in relation to an airport,

the airport operator shall make good that damage or pay such compensation as may be just in respect of that damage.

### Compensation for disturbance

2. Where any person is disturbed in the enjoyment of any property in consequence of—
- (a) the exercise by a person authorised by an airport operator of a power of entry conferred by Article 4 or in the making of any survey for the purpose of which that power is exercised;
  - (b) the exercise of a power or right conferred by an order made under Article 7 in relation to an airport;
  - (c) the exercise of a power or right conferred, in pursuance of Article 8(4)(b), by an order made under Article 8 in relation to an airport;
  - (d) the exercise of a power or right conferred by an order made under Article 9 in relation to an airport,

the airport operator shall pay such compensation as may be just in respect of that disturbance.

### Compensation for diminution in value of land

- 3.—(1) Any person having an estate in land the value of which is diminished in consequence of—
- (a) the coming into operation of an order made under Article 7 in relation to an airport or the exercise of a right or power conferred by such an order;
  - (b) the coming into operation of a direction given under Article 8 in relation to an airport or the exercise of a power or right conferred, in pursuance of paragraph (4)(b) of that Article, by any order made under that Article in relation to an airport;
  - (c) the exercise of a right or power conferred by an order made under Article 9 in relation to an airport,

shall, subject to sub-paragraph (2), be entitled to recover compensation for the diminution from the airport operator.

(2) Sub-paragraph (1)(b) does not apply to the coming into operation of a direction given under Article 8 for the purpose specified in paragraph (3)(a) of that Article if the building or structure in question constitutes development for which planning permission is required under <sup>F59</sup>the Planning Act (Northern Ireland) 2011].

(3) For the purpose of assessing the amount of any compensation payable under this paragraph, the value of land shall be determined in accordance with rules (2) to (4) in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982<sup>F60</sup>.

**F59** Words in Sch. 3 para. 3(2) substituted (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 71](#) (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

**F60** 1982 NI 9

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### Compensation for expenditure incurred

4. An airport operator shall pay compensation in respect of any expenditure reasonably incurred by any person—
- (a) for the purpose of carrying out work which is required to be carried out by a direction given under Article 8 in relation to the airport;
  - (b) in connection with the lawful removal of any apparatus installed in pursuance of an order made under Article 9 in relation to the airport or in connection with so much of any repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order.

### Reduction of compensation

5. The compensation payable to any person by virtue of paragraph 1(c), 2(c) or 3(1)(b) in connection with a direction under Article 8 shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the direction.

### Disputes as to compensation

6.—(1) Where any dispute arises as to whether compensation is payable under this Schedule, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the Lands Tribunal.

(2) Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 shall apply, with appropriate modifications, to any such determination.

## SCHEDULE 4 **N.I.**

Article 18(6).

### AIRPORT BYELAWS MADE BY AIRPORT OPERATOR OTHER THAN A DISTRICT COUNCIL

#### Penalties for contravention of byelaws

1. The byelaws may provide that a person contravening them shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 3 on the standard scale for each offence and, in the case of a continuing offence, to a further fine not exceeding one-tenth of level 3 on the standard scale for each day on which the offence continues after conviction.

#### Making and confirmation of byelaws

2. Where the airport operator is a body corporate, the byelaws shall be made under its common seal.

3. The byelaws shall not have effect until they are confirmed by the Department.

4. At least one month before application for confirmation of the byelaws is made to the Department, notice of the intention to apply for confirmation shall be given by the airport operator in one or more newspapers circulating in the locality in which the airport to which the byelaws relate is situated and such notice shall specify a period of not less than one month during which representations on the byelaws may be made to the Department.

5. For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the airport operator at the airport to which the byelaws relate and shall, at all reasonable hours, be open to public inspection free of charge.



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6. The airport operator shall, on application made by any person before the byelaws are confirmed, furnish him with a copy of the byelaws or of any part of them on payment of such reasonable fee as the airport operator may determine.

7. The Department may confirm with or without modifications, or refuse to confirm, any byelaw submitted to it for confirmation, and may fix the date on which a byelaw confirmed by it is to come into operation; and if no date is so fixed, the byelaw shall come into operation at the end of the period of one month beginning with the day on which it is confirmed.

#### Publication of byelaws

8. A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the airport operator at the airport to which the byelaws relate and shall, at all reasonable hours, be open to public inspection free of charge; and a copy of the byelaws shall on application be furnished to any person on payment of such reasonable fee as the airport operator may determine.

#### Evidence of byelaws

9. The production of a printed copy of a byelaw purporting to be made by an airport operator upon which is endorsed a certificate purporting to be signed by a person authorised for the purpose by the airport operator and stating—

- (a) that the byelaw was made by the airport operator;
- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the Department; and
- (d) the date, if any, fixed by the Department for the coming into operation of the byelaw,

shall be evidence of the facts stated in the certificate, without proof of the handwriting or authorisation of the person by whom it purports to be signed.

### SCHEDULE 5 **N.I.**

Article 25.

#### APPLICATION OF STATUTORY PROVISIONS RELATING TO STATUTORY UNDERTAKERS

##### The Access to the Countryside (Northern Ireland) Order 1983 (NI 8)

1. In Article 2(2) in the definition of “statutory undertakers” at the end add “and the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994) of any airport to which Article 25 of that Order applies”.

##### The Planning (Northern Ireland) Order 1991 (NI 1)

2. In Article 2(2) in the definition of “statutory undertaker” at the end add “or the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994) of any airport to which Article 25 of that Order applies”.

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SCHEDULE 6 **N.I.**

Article 46.

APPLICATION OF PART IV TO ASSOCIATED COMPANIES OF AIRPORT OPERATORS

Preliminary

1. This Schedule has effect for the purpose of authorising or requiring the imposition by the CAA under Part IV of this Order (as it applies in accordance with this Schedule) of the following conditions in relation to an airport, namely—

- (a) conditions under Article 31(1) or 32(1) with respect to the accounts of an associated company of the airport operator; and
- (b) conditions under Article 32(2) or 37(2) in respect of a course of conduct pursued by such a company,

and for related purposes; and in this Schedule any such conditions are referred to as “subsidiary conditions”.

Article 30

2. Article 30(1) and (4) shall apply to any subsidiary conditions for the time being in force in relation to an airport as if—

- (a) references to the airport operator were references to the associated company of the airport operator with respect to whose accounts the conditions were imposed or (as the case may be) that pursued the course of conduct in respect of which the conditions were imposed; and
- (b) references to any such conditions as are mentioned in Article 30(1) were references to any such conditions as are mentioned above.

Article 31

3.—(1) Where an associated company of the airport operator in the case of any airport either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, Article 31(2) shall have effect in relation to the airport with the modifications specified in sub-paragraphs (2) to (4).

(2) After sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) such conditions as the CAA considers appropriate to secure that the accounts of any associated company of the airport operator, being a company which either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, disclose—

- (i) any subsidy furnished (whether by the making of loans on non-commercial terms or otherwise) by any person or authority to the company in connection with its business so far as consisting of the carrying on of operational activities relating to the airport, and the identity of any such person or authority;
- (ii) any subsidy so furnished to that business by the company out of funds attributable to any other activities carried on by it; and
- (iii) the aggregate income and expenditure of the company attributable to any such operational activities (whether carried on by the company or by some other person); and” .

(3) After “the airport operator” where it occurs in sub-paragraph (b) there shall be inserted “or the associated company”.

(4) After “the airport operator” where it last occurs there shall be inserted “or in sub-paragraph (aa) to the accounts of any associated company of the airport operator”.

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(5) Where—

- (a) sub-paragraph (1) above does not apply to an airport at the time when conditions are imposed in relation to the airport under Article 31(1)(a) or (b); but
- (b) at any later time it appears to the CAA that that sub-paragraph then applies to the airport, the CAA shall thereupon impose in relation to the airport such conditions as are mentioned in sub-paragraphs (aa) and (b) of Article 31(2) as modified by this paragraph.

#### Article 32

4. In Article 32—

- (a) in paragraph (1), the reference to Article 31(2) shall be construed as including, in relation to an airport to which sub-paragraph (1) of paragraph 3 above applies, a reference to Article 31(2) as modified by that paragraph;
- (b) in paragraphs (2), (3)(a) and (b) and (6), references to the airport operator shall be construed as including references to an associated company of the airport operator; and
- (c) in relation to such a company—
  - (i) the reference in paragraph (2) to paragraph (3) shall be construed as a reference to paragraph (3)(a) and (b) (as modified by sub-paragraph (b) above); and
  - (ii) the reference in paragraph (6) to paragraph (3)(a), (b) or (c) shall be construed as a reference to paragraph (3)(a) or (b) (as so modified).

#### Article 33

5. In Article 33(2) and (3)—

- (a) references to an airport operator shall be construed as including references to an associated company of an airport operator; and
- (b) in relation to such a company, references to any provision of Article 32 shall be construed as references to that provision as modified by paragraph 4 above.

#### Article 34

6.—(1) Where an associated company of the airport operator in the case of any airport either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, Article 34(2) shall have effect in relation to any reference under Article 34(1) with respect to the airport with the insertion after sub-paragraph (a) of the following sub-paragraph—

- “(aa) whether any associated company of the airport operator has, at any time during the relevant period, pursued—
  - (i) in relation to any operational activities carried on by the company and relating to the airport; or
  - (ii) in relation to the granting of a right by virtue of which any operational activities relating to the airport may be carried on by any other person or persons, a course of conduct which has operated or might be expected to operate against the public interest; and” .

(2) In Article 34(3), as it applies in relation to an associated company of an airport operator in accordance with this Schedule, the reference to the airport operator shall be construed as a reference to the associated company in question.

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## Article 35

7.—(1) In relation to any reference to which paragraph 6(1) above applies, Article 35(1)(a) shall have effect with the insertion at the end of head (ii) of “and any course of conduct which, in its opinion, has been pursued by an associated company of the airport operator in relation to any of the matters specified in paragraph (2)(aa) of that Article and has operated, or might be expected to operate, against the public interest,”.

(2) In Article 35(4) the reference to the airport operator concerned shall—

- (a) in the case of a reference or variation under Article 34 relating only to a course of conduct pursued by an associated company of an airport operator, be construed as a reference to that company; and
- (b) in the case of a reference or variation under that Article relating to courses of conduct pursued by an airport operator and such a company respectively, be construed as a reference to both the airport operator and the company.

## Article 36

8.—(1) In Article 36(3) the reference to an airport operator shall, in the case of a reference under Article 34 relating wholly or in part to a course of conduct pursued by an associated company of an airport operator, be construed as, or as including, a reference to any such company (as the case may require).

(2) In Article 36(6) the reference to the airport operator concerned shall be construed as mentioned in paragraph 7(2) above according to the nature of the reference under Article 34.

## Article 39

9.—(1) In Article 39(1)(a) the reference to the airport operator in relation to an airport shall be construed as including a reference to an associated company of the airport operator.

(2) Article 39(3), (5), (6) and (7) shall have effect in relation to any complaint against an associated company of an airport operator made by virtue of sub-paragraph (1) above as if any reference to an airport operator or to the airport operator concerned were a reference to any such company or to the company against which the complaint is made (as the case may require).

## Article 40

10.—(1) In Article 40(1) and (9) any reference to an airport operator shall be construed as including a reference to an associated company of an airport operator.

(2) Where the permission for the time being in force in respect of an airport is revoked under Article 40(9), (as it applies in accordance with sub-paragraph (1) above) by reason of an associated company's contravention of a compliance order, then (notwithstanding Article 29(4)) a permission shall not again be granted under Part III of this Order in respect of that airport unless it appears to the CAA that, if the CAA were to impose in relation to the airport any condition corresponding to the one whose breach gave rise to the making of the compliance order, that condition would be complied with by the person (whether the airport operator or an associated company of the airport operator) to whose activities any such condition would relate.

(3) In this Article “compliance order” and “contravention” shall be construed in accordance with Article 40(11).

## Article 41

**11.—**(1) In Article 41 any reference to an airport operator shall be construed as including a reference to an associated company of an airport operator.

- (2) In that Article, as it applies to any such company in accordance with sub-paragraph (1)—
- (a) in paragraph (1), the reference to Article 31(2)(a) shall be construed as a reference to sub-paragraph (aa) of Article 31(2) (as modified by paragraph 3(2) and (4) above);
  - (b) in paragraph (2), the reference to Article 31(2)(b) shall be construed as a reference to that provision as modified by paragraph 3(3) above; and
  - (c) the references to Article 30(1) and Article 32(1) shall be construed as references to those provisions as modified by paragraph 2 and paragraph 4(a) above.

## Article 42

**12.—**(1) Article 42(3) shall apply in relation to any subsidiary conditions as if the reference to Article 31(2) were a reference to that provision as modified by paragraph 3 above.

- (2) Article 42(5) shall apply in relation to any subsidiary conditions as if—
- (a) references to the airport operator concerned were references to the associated company of the airport operator that pursued the course of conduct in respect of which the conditions were imposed; and
  - (b) the reference to Article 32(3)(a), (b) or (c) were a reference to Article 32(3)(a) or (b) (as modified by paragraph 4(b) above).

(3) Article 42(7) shall apply in relation to any subsidiary conditions as if the reference to the airport operator were a reference to the associated company with respect to whose accounts the conditions were imposed or (as the case may be) that pursued the course of conduct in respect of which the conditions were imposed.

## Article 45

**13.** In<sup>F61</sup> Article 45(1A)],<sup>F61</sup> references] to an airport operator shall be construed as including<sup>F61</sup> references] to an associated company of an airport operator engaged in carrying on any operational activities relating to one or more airports.

**F61** 2002 c. 40

## SCHEDULE 7 **N.I.**

Article 54(3).

### TRANSFERS UNDER ARTICLE 54

#### Variation of transfers under the scheme

**1.—**(1) If at any time before the end of the period of 12 months from the transfer date the Department considers it appropriate to do so and either—

- (a) the successor company has consented to the order; or
- (b) that company is for the time being wholly owned by the Crown and has been consulted by the Department,

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the Department may by order provide that the transfer scheme shall for all purposes be deemed to have been made with such modifications as may be specified in the order.

(2) An order under this paragraph may make, with effect from the date on which the transfer scheme was made, any such provision as could have been made by the scheme.

### Right to production of documents of title

2. Where the transferee under a transfer effected under Article 54 ( “transferee A”) is entitled to possession of any document relating in part to the title to, or to the management of, any land or other property transferred to the transferee under some other transfer effected under that Article ( “transferee B”)—

- (a) transferee A shall be deemed to have given to transferee B an acknowledgement in writing of the right of transferee B to production of the document and to delivery of copies thereof; and
- (b) section 9 of the Conveyancing Act 1881<sup>F62</sup> shall have effect accordingly, and on the basis that the acknowledgement did not contain any such expression of contrary intention as is mentioned in that section.

**F62** 1881 c.41

### Proof of title by certificate

3. A certificate issued by the Department that—

- (a) any asset specified in the certificate;
- (b) any such interest in or right over any such asset as may be so specified; or
- (c) any liability so specified,

is by virtue of a transfer under Article 54 for the time being vested in the Department or the successor company shall be conclusive evidence for all purposes of that fact.

### Third parties affected by transfers

4.—(1) If in consequence of any transfers effected under Article 54—

- (a) the rights or liabilities of a third party which were enforceable against or by NIAL or the Holding Company become enforceable as to part against or by one transferee and as to part against or by another transferee; and
- (b) the value of any property or interest of that third party is thereby diminished,

such compensation as may be just shall be paid to that third party by one or both of the transferees.

(2) In sub-paragraph (1) “third party” means a person other than NIAL, the Holding Company or a transferee.

(3) Any dispute as to whether, and if so how much, compensation is payable under sub-paragraph (1), or as to the person to or by whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Department.

SCHEDULE 8 **N.I.**

Article 70(1).

TRANSITIONAL PROVISIONS

Provisions relating to Parts II and III

1.—(1) Until the coming into operation of Article 28, references in Articles 3, 7, 10, 25 and 26 to a regulated airport shall be construed as references to an airport to which this paragraph applies.

(2) This paragraph applies to an airport if the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before the date when this paragraph comes into operation.

(3) Paragraphs (11) and (12) of Article 28 apply for the purposes of this paragraph as they apply for the purposes of that Article.

2. Where, immediately before the coming into operation of Article 18, byelaws are in operation under section 10 of the Aerodromes Act (Northern Ireland) 1971<sup>F63</sup> in relation to any airport, then—

- (a) if the airport is managed by a person other than a district council, the airport shall, as from the coming into operation of Article 18, be deemed to have been designated for the purposes of that Article by an order made by the Department; and
- (b) in any case, those byelaws shall as from the coming into operation of Article 18, have effect as if duly made under that Article.

**F63** 1971 c.15 (NI)

Provisions relating to Part V

3.—(1) Any agreement made, transaction effected or other thing done by, to or in relation to NIAL which—

- (a) was made, effected or done for the purposes of or in relation to any assets or liabilities which vest in a transferee under Article 54; and
- (b) is in force or effective immediately before the transfer date,

shall have effect as from that date as if made, effected or done by, to or in relation to that transferee in all respects as if that transferee were the same person in law as NIAL.

(2) Accordingly, references to NIAL—

- (a) in any agreement, deed, bond or instrument;
- (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
- (c) in any other document whatsoever (other than a statutory provision),

relating to or affecting assets or liabilities which vest in a transferee under Article 54 shall be taken as from the transfer date as references to that transferee.

(3) Where immediately before the transfer date there is in force an agreement, deed, bond or other instrument which—

- (a) confers or imposes on NIAL any rights or liabilities which vest in a transferee under Article 54; and
- (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of NIAL,

it shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference—



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- (i) where the transferee is the Department, to such officer of the Department as the Department may appoint;
- (ii) where the transferee is the successor company, to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of NIAL.

(4) Sub-paragraphs (1) to (3) apply to the Holding Company as they apply to NIAL.

**4.** Where the rights and liabilities of NIAL under any agreement, scheme or arrangement for the payment of pensions, allowances or gratuities to, or in respect of, its employees vest under Article 54 in the successor company, any period of employment with NIAL shall count for the purposes of such agreement, scheme or arrangement (as it has effect by virtue of paragraph 3(1) in relation to employment with the successor company) as a period of employment with the successor company.

**5.—(1)** It shall be the duty of NIAL and the transferee to take, as and when the transferee considers appropriate, all such steps as may be requisite to secure that the vesting in the transferee under Article 54 of any foreign asset or liability is effective under the relevant foreign law.

(2) Until the vesting in the transferee under Article 54 of any foreign asset or liability is effective under the relevant foreign law, it shall be the duty of NIAL to hold that asset for the benefit of, or to discharge that liability on behalf of, the transferee.

(3) Nothing in sub-paragraphs (1) and (2) shall be taken as prejudicing the effect under the law of Northern Ireland of the vesting in the transferee under Article 54 of any foreign asset or liability.

(4) It shall be the duty of the transferee to act on behalf of NIAL (so far as possible) in performing the duty imposed on NIAL by this paragraph.

(5) References in this paragraph to any foreign asset or liability are references to any asset or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(6) Any expenses incurred by NIAL under this paragraph shall be met by the transferee.

(7) Sub-paragraphs (1) to (6) apply to the Holding Company as they apply to NIAL.

**6.** Where by virtue of anything done before the transfer date, any statutory provision amended by Schedule 5 has effect in relation to NIAL, that statutory provision shall have effect in relation to the successor company as if that company were the same person, in law, as NIAL.

**7.—(1)** Without prejudice to the powers conferred by Article 71(3), every provision contained in subordinate legislation which is in operation immediately before the transfer date and then applicable to NIAL in relation to assets or liabilities which vest in a transferee under Article 54 shall have effect as if—

- (a) for references to NIAL there were substituted references to the transferee; and
- (b) for any reference (however worded and whether expressly or by implication) to the undertaking or business, or any part of the undertaking or business, of NIAL there were substituted a reference to the undertaking or business, or the corresponding part of the undertaking or business, of the transferee.

(2) Sub-paragraph (1) applies to the Holding Company as it applies to NIAL.

**8.—(1)** Where a distribution is proposed to be declared during the accounting reference period of the successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, Articles 278 to 284 of the Companies Order (accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—

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(a) references in Article 278 to the company's accounts or to accounts relevant under that Article; and

(b) references in Article 281 to initial accounts,

included references to such accounts as, on the assumptions stated in sub-paragraph (2), would have been prepared under Article 234 of the Companies Order in respect of the relevant year.

(2) The said assumptions are—

(a) that the relevant year had been a financial year of the successor company;

(b) that the vesting effected by Article 54 had been a vesting of such of the assets and liabilities to which NIAL was entitled or subject immediately before the beginning of the relevant year as are determined by the transfer scheme and had been effected immediately after the beginning of that year;

(c) that the value of any asset and the amount of any liabilities of NIAL vested in the successor company under Article 54 had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by NIAL in respect of the financial year immediately preceding the relevant year;

(d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and

(e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.

(3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by NIAL (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

(4) Accordingly (but without prejudice to the generality of the preceding provisions) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by NIAL had been realised and retained by the successor company.

(5) The said accounts shall not be regarded as statutory accounts for the purposes of Article 61.

(6) In this paragraph “the relevant year” means the last complete financial year ending before the transfer date.

9. Expressions used in paragraphs 4 to 8 and in Part V have the same meaning in those paragraphs as in that Part.

## Supplementary

10. The Department may by order make such other transitional provision in relation to the coming into operation of any provision of this Order as it thinks necessary or expedient.

11. The provisions of this Schedule and any order under paragraph 10 shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954<sup>F64</sup>.

**F64** 1954 c.33 (NI)

**Changes to legislation:** *The Airports (Northern Ireland) Order 1994 is up to date with all changes known to be in force on or before 11 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

N.I.

*Schedule 10—Repeals*

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 9 para. 10 revoked by [2012 c. 19 Sch. 9 para. 17](#) (This amendment not applied to [legislation.gov.uk](#). The relevant text is not available.)
- Instrument am. (prosp.) by [1998 c. 41 s.74\(1\)Sch.12 para.20\(1\)](#)
- Instrument rev. in pt. by [1998 c. 41 s.74\(3\)Sch.14 Pt. II](#)
- [art.27 am. \(NI\) by S.I. 1999/506 art.43\(a\)](#)
- [art.49 am. \(NI\) by S.I. 1999/506 art.43\(b\)](#)
- [art.49\(3\)\(r\) added by S.I. 1996/2199 reg.29\(5\)](#)