

SCHEDULES

SCHEDULE 6

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;

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- (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”.

(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.

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.

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(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 Article 45(3)(b), the reference to an airport operator shall be construed as including a reference to an associated company of an airport operator engaged in carrying on any operational activities relating to one or more airports.