

## SCHEDULES

### SCHEDULE 23

Section 190

#### AIR PASSENGER DUTY

##### PART 1

###### NORTHERN IRELAND LONG HAUL RATES OF DUTY FROM 1 NOVEMBER 2011 TO 31 MARCH 2012

- 1 In section 30 of FA 1994 (air passenger duty: rates of duty) after subsection (4A) insert—
- “(4B) Subsection (4C) applies if—
- (a) the passenger’s journey is a relevant Northern Ireland journey, and
  - (b) apart from subsection (4C), subsection (2) would not apply to the journey.
- (4C) The applicable rate in subsection (2) applies to the journey instead of the applicable rate in subsection (3), (4) or (4A) (as the case may be).
- (4D) A passenger’s journey is a “relevant Northern Ireland journey”—
- (a) in the case of a journey which has only one flight, if the flight begins in Northern Ireland, and
  - (b) in any other case, if the first flight of the journey—
    - (i) begins in Northern Ireland, and
    - (ii) is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.”
- 2 In article 3 of the Air Passenger Duty (Connected Flights) Order 1994 ([S.I. 1994/1821](#)) for “section 30(6), or section 31(3),” substitute “Chapter 4 of Part 1”.
- 3 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 November 2011 but before 1 April 2012.

##### PART 2

###### RATES OF DUTY FROM 1 APRIL 2012

- 4 (1) Section 30 of FA 1994 (air passenger duty: rates of duty) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) for “£12” substitute “£13”, and
  - (b) in paragraph (b) for “£24” substitute “£26”.

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- (3) In subsection (3)—
- (a) in paragraph (a) for “£60” substitute “£65”, and
  - (b) in paragraph (b) for “£120” substitute “£130”.
- (4) In subsection (4)—
- (a) in paragraph (a) for “£75” substitute “£81”, and
  - (b) in paragraph (b) for “£150” substitute “£162”.
- (5) In subsection (4A)—
- (a) in paragraph (a) for “£85” substitute “£92”, and
  - (b) in paragraph (b) for “£170” substitute “£184”.
- (6) After subsection (4A) insert—
- “(4B) Subsection (4C) applies if—
- (a) the passenger’s journey is a relevant Northern Ireland journey, and
  - (b) apart from subsection (4C), subsection (2) would not apply to the journey.
- (4C) The applicable rate in subsection (2) applies to the journey instead of the applicable rate in subsection (3), (4) or (4A) (as the case may be).
- (4D) A passenger’s journey is a “relevant Northern Ireland journey”—
- (a) in the case of a journey which has only one flight, if the flight begins in Northern Ireland, and
  - (b) in any other case, if the first flight of the journey—
    - (i) begins in Northern Ireland, and
    - (ii) is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.”
- 5 In article 3 of the Air Passenger Duty (Connected Flights) Order 1994 ([S.I. 1994/1821](#)) for “section 30(6), or section 31(3),” substitute “Chapter 4 of Part 1”.
- 6 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 April 2012.

### PART 3

#### DEVOLUTION OF NORTHERN IRELAND LONG HAUL RATES OF DUTY

- 7 Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.
- 8 (1) Section 30 (rates of duty) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (1) does not apply to the carriage of a chargeable passenger to which section 30A below (Northern Ireland long haul rates of duty) applies.”
- (3) Omit subsections (4B) to (4D) (as inserted by paragraph 4(6) above).

- (4) The amendments made by this paragraph have effect in relation to the carriage of passengers beginning on or after the relevant day as defined in section 30A of FA 1994 (as inserted by paragraph 9 below).

9 After section 30 insert—

**“30A Northern Ireland long haul rates of duty**

- (1) This section applies to the carriage of a chargeable passenger if—
- (a) the carriage begins on or after the relevant day,
  - (b) the only flight, or the first flight, of the passenger’s journey begins at a place in Northern Ireland,
  - (c) the passenger’s journey does not end at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A, and
  - (d) if the passenger’s journey has more than one flight, the first flight is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.
- (2) Air passenger duty is chargeable on the carriage of the chargeable passenger at the rate determined as follows.
- (3) If the passenger’s journey ends at a place in a territory specified in Part 2 of Schedule 5A—
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
  - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (4) If the passenger’s journey ends at a place in a territory specified in Part 3 of Schedule 5A—
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
  - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (5) If the passenger’s journey ends at any other place—
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
  - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (6) The rate of £0 may be set for the purposes of any paragraph.
- (7) The same rate may be set for the purposes of two or more paragraphs.
- (8) Subsections (5) to (7) and (10) to (12) of section 30 apply for the purposes of this section as they apply for the purposes of that section.

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- (9) “The relevant day” means the day appointed as such by an order.
- (10) Section 42(4) and (5) does not apply to an order under subsection (9).
- (11) None of the following applies to any matter in respect of which this section authorises provision to be made by an Act of the Northern Ireland Assembly—
- (a) any paragraph of Schedule 2 or 3 to the Northern Ireland Act 1998 (excepted and reserved matters);
  - (b) section 63 of that Act (financial acts of the Assembly).
- (12) A Bill containing provision authorised by this section may not be passed by the Northern Ireland Assembly except in pursuance of a recommendation which—
- (a) is made by the Minister of Finance and Personnel, and
  - (b) is signified to the Assembly by the Minister or on the Minister’s behalf.
- (13) A Bill containing provision authorised by this section may not be passed by the Northern Ireland Assembly without cross-community support (as defined in section 4(5) of the Northern Ireland Act 1998).
- (14) “Passed”, in relation to a Bill, means passed at the final stage (at which the Bill can be passed or rejected but not amended).
- (15) Duty paid to the Commissioners in respect of the carriage of chargeable passengers to which this section applies must be paid by the Commissioners into the Consolidated Fund of Northern Ireland.”
- 10 (1) Section 33 (registration of aircraft operators) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) If the Commissioners decide to keep a register under section 33A below, an operator of a chargeable aircraft does not become liable to be registered under this section just because the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.”
- (3) In subsection (3)(b) after “passengers” insert “or, if the Commissioners have decided to keep a register under section 33A below, that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers apart from the carriage of chargeable passengers to which section 30A above applies”.
- (4) In subsection (4) after “registered” (in both places) insert “under this section”.
- (5) In subsection (7) after “section” insert “or section 33A below”.
- 11 After section 33 insert—

**“33A Registration of Northern Ireland long haul aircraft operators**

- (1) The Commissioners may under this section keep a register of aircraft operators.
- (2) If the Commissioners decide to keep a register under this section, the operator of a chargeable aircraft becomes liable to be registered under this

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section if the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.

(3) A person who has become liable to be registered under this section ceases to be so liable if the Commissioners are satisfied at any time—

- (a) that he no longer operates any chargeable aircraft, or
- (b) that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers to which section 30A above applies.

(4) A person who is not registered under this section and has not given notice under this subsection shall, if he becomes liable to be registered under this section at any time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.

(5) Notice under subsection (4) above shall be in such form, be given in such manner and contain such information as the Commissioners may direct.”

12 In section 34 (fiscal representatives) in subsection (5)—

- (a) omit “under section 33 above”, and
- (b) in paragraph (a) for “that section” substitute “section 33 or 33A above”.

13 After section 41 insert—

**“41A Northern Ireland long haul rates of duty: disclosure of information**

(1) An officer of Revenue and Customs may disclose to the Secretary of State, the Treasury or the Department of Finance and Personnel in Northern Ireland any information for purposes connected with the setting of rates of duty under section 30A above, including (in particular) to enable the setting of rates under that section to be taken into account for the purposes of section 58 of the Northern Ireland Act 1998 (payments by Secretary of State into Consolidated Fund of Northern Ireland).

(2) Information disclosed under subsection (1) above may not be further disclosed without the consent of the Commissioners (which may be general or specific).

(3) In section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) references to section 18(1) of that Act are to be read as including a reference to subsection (2) above.”

14 In section 44 of CRCA 2005 (payment into Consolidated Fund) after subsection (2) (c) insert—

- “(ca) sums required by section 30A(15) of the Finance Act 1994 (air passenger duty: Northern Ireland long haul rates of duty) to be paid into the Consolidated Fund of Northern Ireland,”.

15 In column 2 of the Table in paragraph 1 of Schedule 41 to FA 2008 (penalties for failure to notify), in the entry relating to air passenger duty, after “33(4)” insert “or 33A(4)”.

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## PART 4

### OTHER PROVISION

- 16 Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.
- 17 In section 28 (introduction to air passenger duty) for subsection (3) substitute—
- “(3) Sections 29 and 29A below set out how to determine if an aircraft is a chargeable aircraft for the purposes of this Chapter.”
- 18 (1) Section 29 (chargeable aircraft) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) For the purposes of this Chapter an aircraft is a chargeable aircraft if—
- (a) it is a fixed-wing aircraft designed or adapted to carry persons in addition to the flight crew,
- (b) its authorised take-off weight is not less than 5.7 tonnes, and
- (c) it is fuelled by kerosene (as defined in section 1(8) of the Hydrocarbon Oil Duties Act 1979).”
- (3) In subsection (2) for “ten” (wherever occurring) substitute “5.7”.
- (4) Omit subsection (3).
- 19 After section 29 insert—

#### “29A Chargeable aircraft: exceptions

- (1) This section applies for the purposes of this Chapter.
- (2) An aircraft is not a chargeable aircraft whenever its operation falls within an exemption set out in sub-paragraph (b), (c), (f) or (g) under the category of activity “Aviation” in Annex I to Directive [2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 (as amended by Directive [2008/101/EC](#) of the European Parliament and of the Council of 19 November 2008).
- (3) Those exemptions are to be read in accordance with paragraphs 2.2 to 2.5 of the Annex to Commission Decision [2009/450/EC](#) of 8 June 2009.
- (4) An aircraft is not a chargeable aircraft whenever it is being operated under a public service obligation imposed under Article 16 of Regulation [\(EC\) No 1008/2008](#) of the European Parliament and of the Council of 24 September 2008 (common rules for the operation of air services).”
- 20 In section 30 (rate of duty) before subsection (5) insert—
- “(4E) In relation to the carriage of a chargeable passenger on an aircraft to which subsection (4F) applies—
- (a) if the rate which (apart from this subsection) would apply is the rate in subsection (2)(a) or (b), a rate equal to twice the rate in subsection (2)(b) is to apply instead,
- (b) if the rate which (apart from this subsection) would apply is the rate in subsection (3)(a) or (b), a rate equal to twice the rate in subsection (3)(b) is to apply instead,

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- (c) if the rate which (apart from this subsection) would apply is the rate in subsection (4)(a) or (b), a rate equal to twice the rate in subsection (4)(b) is to apply instead, and
- (d) if the rate which (apart from this subsection) would apply is the rate in subsection (4A)(a) or (b), a rate equal to twice the rate in subsection (4A)(b) is to apply instead.

- (4F) This subsection applies to an aircraft if—
- (a) its authorised take-off weight is not less than 20 tonnes, but
  - (b) it is not authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants).

(4G) In subsection (4F)(a) “take-off weight” is to be read in accordance with section 29(2) but as if “20” were substituted for “5.7” wherever occurring.

- (4H) For the purposes of subsection (4F)(b) an aircraft is authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants) if—
- (a) there is a certificate of airworthiness (as defined in section 29(4)) in force in respect of the aircraft showing that the maximum number of persons who may be seated on the aircraft (excluding members of the flight crew and cabin attendants) is more than 18, or
  - (b) the Commissioners are satisfied that the aircraft is designed or adapted to seat more than 18 persons (excluding members of the flight crew and cabin attendants) or the aircraft belongs to a class or description of aircraft in respect of which the Commissioners are so satisfied.”

21 In section 30A (as inserted by paragraph 9 above) after subsection (5) insert—

- “(5A) In relation to the carriage of a chargeable passenger on an aircraft to which section 30(4F) applies—
- (a) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (3)(a) or (b), the following rate is to apply instead—
    - (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
    - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (3)(b),
  - (b) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (4)(a) or (b), the following rate is to apply instead—
    - (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
    - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (4)(b), and
  - (c) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (5)(a) or (b), the following rate is to apply instead—

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- (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
  - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (5)(b).”
- 22 (1) Section 43 (interpretation) is amended as follows.
  - (2) In subsection (1) for the definition of “passenger” substitute—
    - ““passenger”, in relation to any aircraft, means any person carried on the aircraft other than—
    - (a) a member of the flight crew,
    - (b) a cabin attendant, or
    - (c) a person who is not carried for reward and who satisfies such other requirements as may be prescribed.”
  - (3) After subsection (1) insert—
    - “(1A) The agreements and arrangements covered by the definition of “agreement for carriage” in subsection (1) include informal agreements or arrangements between, for example, members of a family or friends.”
- 23 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 April 2013.