



# Civil Aviation Act 2012

## 2012 CHAPTER 19

### PART 2

#### OTHER AVIATION MATTERS

##### *Aviation security*

#### **78 Aviation security directions etc**

- (1) Part 2 of the Aviation Security Act 1982 (protection of civil aviation against acts of violence and other unlawful interference) is amended as follows.
- (2) After section 14 insert—

##### **“14A Review by CAA**

- (1) The CAA must keep under review the directions under sections 12 to 14 for the time being in force.
  - (2) The CAA must, when it considers it appropriate, make recommendations to the Secretary of State about those directions and about the giving of further directions under those sections.
  - (3) The CAA must make the recommendations in the form specified by the Secretary of State.”
- (3) After section 16 insert—

##### **“16A Directions requiring national security vetting**

- (1) This section applies where a direction under any of sections 12 to 14 makes provision requiring an individual who carries on, or wishes to carry on, an activity specified or described in the direction to be subject to national security vetting by the CAA.

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- (2) The CAA must make arrangements for carrying out that vetting, including—
    - (a) arrangements for renewing and withdrawing clearance, and
    - (b) arrangements for appeals.
  - (3) The Secretary of State may give directions to the CAA in connection with the arrangements, including directions as to—
    - (a) steps to be included in the vetting process,
    - (b) time limits for completing such steps, and
    - (c) the period for which clearance is to remain valid.
  - (4) The CAA must comply with a direction given to it under this section.
  - (5) This section does not affect any other power relating to national security vetting.”
- (4) After section 23 insert—

**“23A Functions of CAA under this Part**

- (1) The CAA must carry out the functions conferred on it by or under this Part of this Act with a view to achieving the purposes to which this Part of this Act applies.
- (2) If the CAA considers that there is a conflict between its duty under subsection (1) and its duty under section 4 of the Civil Aviation Act 1982 (CAA’s general objectives) it must—
  - (a) consult the Secretary of State, and
  - (b) resolve the conflict in the manner directed by the Secretary of State, and doing so is to be treated for all purposes as compliance with subsection (1) of this section and section 4 of that Act.”
- (5) In section 24A(1) (interpretation)—
  - (a) for the definition of “authorised person” substitute—
    - ““authorised person” means a person authorised in writing by the Secretary of State or the CAA for the purposes of this Part of this Act,”
    - and
  - (b) after that definition insert—
    - ““the CAA” means the Civil Aviation Authority.”.
- (6) Schedule 11 (aviation security directions etc: minor and consequential amendments) has effect.

**79 Approved providers of aviation security services**

- (1) Section 20A of the Aviation Security Act 1982 (aviation security services: approved providers) is amended as follows.
- (2) In subsection (2), for “provide for the Secretary of State to maintain a list of persons who are approved by him” substitute “provide for the CAA to maintain a list of persons who are approved by it”.
- (3) In subsection (3)—
  - (a) before paragraph (a) insert—

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- “(za) provide for approval to be given, and persons to be listed, in respect of the provision of the aviation security service generally or only at a particular location;”,
  - (b) in paragraphs (a) and (b) for “that service” substitute “the provision of that service generally or at the relevant location”,
  - (c) after paragraph (d) insert—
    - “(da) make provision about factors to be taken into account when deciding whether to grant an application;”,
  - (d) after paragraph (e) insert—
    - “(ea) make provision for employees of persons who are listed in respect of the provision of an aviation security service generally or at a particular location to be treated as listed in respect of the provision of that service generally or at that location (as appropriate) in specified circumstances;”,
  - (e) in paragraph (f), after “are listed” insert “, or employees of such persons,”,
  - (f) after that paragraph insert—
    - “(fa) make provision about other conditions with which persons who apply to be listed or who are listed, or employees of such persons, must comply;”,
  - (g) in paragraph (g) omit “which shall include provision for appeal”, and
  - (h) in paragraph (i) after “functions” insert “on the CAA,”.
- (4) After subsection (3) insert—
  - “(3A) The regulations must—
    - (a) include provision for appeals against the refusal of applications for inclusion in a list,
    - (b) include provision for appeals against removal from a list, and
    - (c) if they make provision described in subsection (3)(f) or (fa), include provision for appeals against the conditions.”
- (5) After subsection (5) insert—
  - “(5A) In subsection (5) “listed person”, in relation to an aviation security service, means a person who is listed in respect of the provision of that service generally or at the relevant location.”

## **80 Advice and assistance in connection with aviation security**

After section 21G of the Aviation Security Act 1982 insert—

*“Advice and assistance*

### **21H Provision of advice and assistance to Secretary of State**

- (1) The CAA must provide such advice and assistance to the Secretary of State as the Secretary of State requires in connection with matters relevant to the purposes to which this Part of this Act applies.
- (2) A requirement under subsection (1) may be expressed so as to operate as a continuing requirement on the CAA.

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- (3) Nothing in this section affects the generality of section 16 of the Civil Aviation Act 1982 (provision by CAA of assistance etc for Secretary of State and others).

### **21I Provision of advice and assistance to other persons**

- (1) The CAA must provide such advice and assistance to the persons listed in subsection (3) as it considers appropriate having regard to the purposes to which this Part of this Act applies.
- (2) The CAA may, in particular, provide advice and assistance to such persons in connection with measures that they are required to take by directions under sections 12 to 14.
- (3) Those persons are—
- (a) managers of aerodromes in the United Kingdom,
  - (b) authorities responsible for air navigation installations in the United Kingdom,
  - (c) operators of aircraft registered or operating in the United Kingdom,
  - (d) persons occupying land forming part of an aerodrome or air navigation installation in the United Kingdom,
  - (e) persons permitted to have access to a security restricted area of such an aerodrome or air navigation installation for the purposes of carrying on a business, and
  - (f) any other persons carrying on activities at or in connection with such an aerodrome or air navigation installation, or considering doing so, who are of a description notified to the CAA by the Secretary of State for the purposes of this section.
- (4) The Secretary of State may provide such advice and assistance to the persons listed in subsection (3) as the Secretary of State considers appropriate having regard to—
- (a) the purposes to which this Part of this Act applies, and
  - (b) any advice and assistance provided to those persons by the CAA.”

## **81 Power to modify functions of CAA etc relating to aviation security**

After section 21I of the Aviation Security Act 1982 (inserted by section 80) insert—

### **“21J Power to modify functions of CAA etc relating to aviation security**

- (1) The Secretary of State may by regulations modify—
- (a) the functions of the CAA relating to the purposes to which this Part of this Act applies, and
  - (b) the functions under this Part of this Act of persons authorised in writing by the CAA for the purposes of this Part.
- (2) Regulations under this section may, in particular—
- (a) confer powers, or impose duties, on the CAA or persons mentioned in subsection (1)(b),
  - (b) remove or restrict powers or duties of the CAA or such persons,

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- (c) require the CAA to comply with directions given by the Secretary of State when carrying out a function conferred by the regulations,
  - (d) make different provision for different cases,
  - (e) amend or repeal an enactment (whenever passed), including a provision of this Part of this Act, and amend or revoke a provision of an instrument made under an enactment (whenever made), and
  - (f) include consequential, supplementary, incidental, transitional, transitory and saving provision.
- (3) The Secretary of State must consult the CAA before making regulations under this section.
- (4) The regulations must be made by statutory instrument.
- (5) A statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

## **82 Transfer schemes**

- (1) The Secretary of State may make one or more schemes for the transfer to the Civil Aviation Authority (“the CAA”) of—
- (a) rights, powers, duties and liabilities of the Crown in connection with individuals employed in the civil service of the Crown, and
  - (b) other property, rights and liabilities of the Crown.
- (2) A scheme may transfer only such property, rights, powers, duties and liabilities as the Secretary of State considers appropriate having regard to—
- (a) the functions conferred on the CAA by or under Part 2 of the Aviation Security Act 1982 (as amended by sections 78 to 81 and Schedule 11), and
  - (b) the functions of persons authorised by the CAA for the purposes of that Part (as so amended).
- (3) Before making a scheme under this section the Secretary of State must consult the CAA.
- (4) Schedule 12 (aviation security: further provision about transfer schemes) has effect.

### *Provision of information about aviation*

## **83 Information for benefit of users of air transport services**

- (1) The CAA must publish, or arrange for the publication of, such information and advice as it considers appropriate for the purpose of assisting users of air transport services to compare—
- (a) air transport services provided to or from a civil airport;
  - (b) services and facilities provided at a civil airport in the United Kingdom;
  - (c) services and facilities provided elsewhere in the United Kingdom and used, or likely to be used, in connection with the use of air transport services provided to or from a civil airport.

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- (2) The CAA may publish guidance and advice with a view to improving the standard of such services and facilities for users of air transport services.
- (3) The CAA must take such steps as it considers practicable to keep under review information, guidance and other advice that is published under this section by the CAA or by other persons.
- (4) Subsection (1) does not require the CAA to disclose, or arrange for the disclosure of, information if the CAA could refuse to disclose the information in response to a request made under the Freedom of Information Act 2000.
- (5) For the purposes of carrying out its functions under this section, the CAA may carry out, commission or provide financial or other support for research.
- (6) Information and advice published under subsection (1) by persons other than the CAA must be published in such form and manner as the CAA considers appropriate.
- (7) In this section—
  - “air transport service” means a service for the carriage by air of passengers or cargo to or from an airport in the United Kingdom;
  - “airport” has the same meaning as in Part 1 of this Act (see sections 66 and 67);
  - “civil airport” means an airport other than a military airport;
  - “user”, in relation to an air transport service, means a person who—
    - (a) is a passenger carried by the service, or
    - (b) has a right in property carried by the service.
- (8) In this section references to users of air transport services include potential users of such services.

## **84 Environmental information**

- (1) The CAA must publish, or arrange for the publication of, such information and advice as it considers appropriate relating to—
  - (a) the environmental effects of civil aviation in the United Kingdom,
  - (b) how human health and safety is, or may be, affected by such effects, and
  - (c) measures taken, or proposed to be taken, with a view to reducing, controlling or mitigating the adverse environmental effects of civil aviation in the United Kingdom.
- (2) The CAA may publish guidance and advice with a view to reducing, controlling or mitigating the adverse environmental effects of civil aviation in the United Kingdom.
- (3) The CAA must take such steps as it considers practicable to keep under review information, guidance and other advice that is published under this section by the CAA or by other persons.
- (4) Subsection (1) does not require the CAA to disclose, or arrange for the disclosure of, information if it could refuse to disclose the information in response to a request made under the Freedom of Information Act 2000.
- (5) For the purposes of carrying out its functions under this section, the CAA may carry out, commission or provide financial or other support for research.

- (6) Information and advice published under subsection (1) by persons other than the CAA must be published in such form and manner as the CAA considers appropriate.
- (7) In this section—
- “civil aviation” means civil airports, associated facilities and aircraft using such airports;
  - “airport” has the same meaning as in Part 1 of this Act (see sections 66 and 67);
  - “associated facilities”, in relation to an airport, means facilities used, or intended to be used, in connection with the airport;
  - “civil airport” means an airport other than a military airport.
- (8) In this section references to the environmental effects of civil aviation include—
- (a) substances, energy, noise, vibration or waste, including emissions, discharges and other releases into the environment,
  - (b) visual or other disturbance to the public,
  - (c) effects from works carried out at civil airports or associated facilities or in the construction of such airports or facilities, and
  - (d) effects from services provided at civil airports or associated facilities.

## **85 Power to obtain information**

- (1) The CAA may by notice require a person to provide—
- (a) information, or
  - (b) a document that is in the person’s custody or under the person’s control.
- (2) The CAA may give a notice under this section only in respect of information or documents that it reasonably requires for the purpose of carrying out its functions under section 83 or 84.
- (3) The notice may require the information or document to be provided—
- (a) at a time and place specified in the notice, and
  - (b) in a form and manner specified in the notice.
- (4) The notice may not require a person to provide information or documents that the person could not be compelled to provide in evidence in civil proceedings before the appropriate court.
- (5) “The appropriate court” means—
- (a) in relation to England and Wales and Northern Ireland, the High Court, and
  - (b) in relation to Scotland, the Court of Session.
- (6) Schedule 6 (restrictions on disclosure of information) applies to information and documents provided to the CAA by virtue of this section as it applies to information obtained under or by virtue of Chapter 1 of Part 1.

## **86 Enforcement of information notice**

- (1) If a person fails to comply with a notice under section 85 without reasonable excuse, the CAA may do either or both of the following—
- (a) impose a penalty on the person;

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- (b) enforce the duty to comply with the notice in civil proceedings for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988.
- (2) The amount of the penalty must be such amount as the CAA determines to be—
  - (a) appropriate, and
  - (b) proportionate to the failure in respect of which it is imposed.
- (3) A penalty may consist of either or both of the following—
  - (a) a fixed amount;
  - (b) an amount payable in respect of each day in a period specified by the CAA (a “daily amount”).
- (4) A fixed amount must not exceed £50,000.
- (5) A daily amount must not exceed £5,000.
- (6) A specified period during which daily amounts accumulate must be such period as the CAA considers appropriate, subject to subsections (7) and (8).
- (7) The period must begin after the day on which the CAA gives the notice under section 89 stating that it has imposed the penalty.
- (8) The period must end before the day on which the person provides the information or documents specified in the notice under section 85.
- (9) The Secretary of State may by regulations replace the amount for the time being specified in subsection (4) or (5).
- (10) The regulations must be made by statutory instrument.
- (11) A statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

## **87 Penalty for providing false information, destroying documents etc**

- (1) The CAA may impose a penalty on a person if, in relevant circumstances, the person provides information to the CAA that is false or misleading in a material respect and—
  - (a) the person knows that the information is false or misleading, or
  - (b) the person is reckless as to whether the information is false or misleading.
- (2) A person provides information in relevant circumstances if the person does so—
  - (a) in response to a notice under section 85, or
  - (b) knowing that the CAA is likely to use the information for the purpose of carrying out its functions under section 83 or 84.
- (3) The CAA may impose a penalty on a person if the person intentionally alters, suppresses or destroys a document that the person is required to produce by a notice under section 85.
- (4) The amount of a penalty imposed on a person under this section must be such amount as the CAA determines to be—
  - (a) appropriate, and
  - (b) proportionate to the action in respect of which it is imposed.



## **88 Procedure before imposing penalty**

- (1) Before imposing a penalty on a person under section 86 or 87 the CAA must—
  - (a) give the person a notice about the proposed penalty,
  - (b) publish the notice as soon as practicable, and
  - (c) consider any representations made about the proposed penalty in the period specified in the notice (and not withdrawn).
- (2) The notice under subsection (1) must—
  - (a) state that the CAA proposes to impose a penalty,
  - (b) state the proposed amount of the penalty, and
  - (c) give the CAA's reasons for imposing the penalty.
- (3) In the case of a penalty under section 86 calculated entirely or partly by reference to a daily amount, the notice under subsection (1) must specify—
  - (a) the day on which daily amounts would begin to accumulate, and
  - (b) the day on which, or the circumstances in which, they would cease to accumulate.
- (4) The period specified in the notice under subsection (1) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the person.
- (5) Before varying the proposed amount of the penalty, the CAA must—
  - (a) give the person on whom the penalty is to be imposed a notice about the proposed variation,
  - (b) publish the notice as soon as practicable, and
  - (c) consider any representations made about the proposed variation in the period specified in the notice (and not withdrawn).
- (6) In the case of a penalty under section 86 calculated entirely or partly by reference to a daily amount, the reference in subsection (5) to varying the proposed amount of the penalty includes varying—
  - (a) the day on which daily amounts would begin to accumulate, and
  - (b) the day on which, or circumstances in which, they would cease to accumulate.
- (7) The notice under subsection (5) must—
  - (a) specify the proposed variation, and
  - (b) give the CAA's reasons for the proposed variation.
- (8) The period specified in the notice under subsection (5) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the person.
- (9) The CAA may withdraw a notice under subsection (1) or (5) at any time by giving notice to the person on whom it proposed to impose the penalty.
- (10) The CAA must publish a notice under subsection (9) as soon as practicable after it is given.

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## **89 Procedure after imposing penalty**

- (1) As soon as practicable after imposing a penalty on a person under section 86 or 87, the CAA must—
  - (a) give a notice to the person on whom the penalty is imposed, and
  - (b) publish the notice.
- (2) The notice must—
  - (a) state that the CAA has imposed the penalty,
  - (b) state the amount of the penalty,
  - (c) give the CAA's reasons for imposing the penalty, and
  - (d) specify a reasonable period within which the penalty must be paid or reasonable periods within which different portions of the penalty must be paid.
- (3) In the case of a penalty under section 86 calculated entirely or partly by reference to a daily amount, the notice must specify—
  - (a) the day on which daily amounts begin to accumulate, and
  - (b) the day on which, or the circumstances in which, they cease to accumulate.
- (4) As soon as practicable after daily amounts cease to accumulate, the CAA must—
  - (a) give a notice to the person on whom the penalty was imposed confirming the day on which they ceased to accumulate, and
  - (b) publish the notice.

## **90 Appeals**

Schedule 13 (appeals against penalties) has effect.

## **91 Recovering penalties**

- (1) Subsections (2) and (3) apply if all or part of a penalty imposed on a person under section 86 or 87 is not paid within the period specified in the notice given in respect of the penalty under section 89.
- (2) The unpaid balance carries interest from time to time at the rate for the time being specified in section 17 of the Judgments Act 1838.
- (3) The CAA may recover from the person as a debt due to the CAA—
  - (a) the unpaid balance, and
  - (b) any interest on the penalty that has not been paid.
- (4) Any sums received by the CAA by way of a penalty under section 86 or 87 or interest under this section must be paid into the Consolidated Fund.

## **92 Statement of policy**

- (1) The CAA must prepare and publish a statement of its policy with respect to—
  - (a) carrying out its functions under sections 83 and 84,
  - (b) imposing penalties under sections 86 and 87, and
  - (c) determining the amount of such penalties.

- (2) The CAA may revise a statement of policy and, if it does so, it must publish the revised statement.
- (3) When preparing or revising a statement of policy with respect to carrying out the functions under sections 83 and 84, the CAA must have regard to the principle that the benefits of carrying out the functions should outweigh any adverse effects.
- (4) When imposing a penalty under section 86 or 87, or determining the amount of such a penalty, the CAA must have regard to the last statement of policy published under this section before the act or omission in respect of which the penalty is to be imposed.
- (5) When preparing or revising a statement of policy, the CAA must consult such persons as it considers appropriate.

### **93 Minor definitions**

In sections 83 to 92 and Schedule 13—

- (a) “the CAA” means the Civil Aviation Authority, and
- (b) references to a notice are to a notice in writing.

#### *Regulation of provision of flight accommodation*

### **94 Regulation of provision of flight accommodation**

(1) Section 71 of the Civil Aviation Act 1982 (regulation of provision of accommodation in aircraft) is amended in accordance with subsections (2) to (4).

(2) For subsection (1) substitute—

“(1) The Secretary of State may by regulations make provision so as to secure—

- (a) that a person does not in the United Kingdom make available flight accommodation, either as principal or agent, unless the person meets the condition in subsection (1A) or (1B);
- (b) that a person does not in the United Kingdom hold himself or herself out as one who may make flight accommodation available, either as principal or agent or without disclosing the person’s capacity, unless the person meets the condition in subsection (1A) or (1B);
- (c) that a person (“A”) acting as an agent for another person (“B”), in the course of a business carried on by A, does not in the United Kingdom procure flight accommodation on behalf of B unless A meets the condition in subsection (1A);
- (d) that a person (“P”) acting in the course of a business carried on by P does not in the United Kingdom facilitate the making available of flight accommodation by another person in circumstances in which one or more prescribed arrangements relating to payment apply, unless P meets the condition in subsection (1A).

(1A) A person meets the condition in this subsection if the person—

- (a) holds and acts in accordance with a licence issued in pursuance of the regulations, or
- (b) is exempt from the need to hold a licence as a result of provision made by or under the regulations.

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- (1B) A person meets the condition in this subsection if the person—
- (a) is the operator of the aircraft on which flight accommodation is made available, and
  - (b) in making the flight accommodation available is acting as a flight-only provider.
- (1C) The regulations may make provision for the purposes of subsection (1B) about when the operator of an aircraft acts as a flight-only provider.
- (1D) The arrangements relating to payment that may be prescribed under subsection (1)(d) are any arrangements under which P makes or receives payment, or facilitates the making or receipt of payment by another person, in connection with the making available of the flight accommodation.”
- (3) In subsection (2)—
- (a) in paragraph (b), for the words from “the minimum charges” to the end substitute “goods, services and other benefits which are or are not to be provided by any person in prescribed circumstances;”, and
  - (b) omit paragraph (f).
- (4) After subsection (2) insert—
- “(3) The Secretary of State may by regulations make provision—
- (a) imposing requirements to be complied with by persons holding licences issued in pursuance of regulations under subsection (1), or by prescribed descriptions of such persons, which may include requirements as to goods, services or other benefits which are or are not to be provided by any person in prescribed circumstances;
  - (b) about rights of action in respect of contraventions of requirements imposed by virtue of paragraph (a);
  - (c) imposing criminal penalties for contraventions of such requirements.
- (4) Regulations made by virtue of subsection (3)(c) may not provide for penalties exceeding, in the case of each contravention—
- (a) on summary conviction, a fine of the statutory maximum;
  - (b) on conviction on indictment, a fine and imprisonment for a term not exceeding 2 years.
- (5) In this section “flight accommodation” means accommodation for the carriage of persons on flights in any part of the world.”
- (5) In consequence of the above—
- (a) in sections 71A(1) and (3) and 71B(2)(a) of the Civil Aviation Act 1982 (contributions by licence holders to Air Travel Trust) for “71” substitute “71(1)”;
  - (b) in section 99(4) of that Act (offences) for “71” substitute “71(1) or (3)”.

### *CAA membership*

#### **95 CAA membership**

- (1) In section 2 of the Civil Aviation Act 1982 (constitution of CAA) for subsection (2) substitute—
  - “(2) The CAA is to consist of at least seven but not more than sixteen members.
  - (2A) It is to consist of—
    - (a) a person appointed to chair the CAA (“the chair”) and other non-executive members, and
    - (b) a chief executive and other executive members.
  - (2B) The chair and other non-executive members are to be appointed by the Secretary of State.
  - (2C) The Secretary of State may appoint a deputy chair from among the non-executive members.
  - (2D) The chief executive is to be appointed by the non-executive members with the approval of the Secretary of State.
  - (2E) Other executive members are to be appointed by the chief executive with the approval of—
    - (a) the chair, and
    - (b) at least one other non-executive member.
  - (2F) The Secretary of State and the chief executive must exercise their powers under this section to secure that, so far as practicable, the number of non-executive members exceeds the number of executive members.”
- (2) In paragraph 12 of Schedule 1 to that Act (CAA staff), at the beginning insert “Subject to section 2,”.
- (3) In paragraph 18 of that Schedule (interpretation of additional provisions relating to constitution, etc of CAA), for the words from ““the chairman”” to “the CAA and” substitute “—
  - (a) chair”, “deputy chair”, “member”, “executive member” and “non-executive member” mean respectively the chair, the deputy chair, a member, an executive member and a non-executive member of the CAA, and
  - (b)”.

#### **96 Non-executive members of CAA**

- (1) Schedule 1 to the Civil Aviation Act 1982 (additional provisions relating to constitution, etc of CAA) is amended as follows.
- (2) For the heading immediately before paragraph 1 substitute—

*“Appointment and tenure of non-executive members”.*
- (3) In paragraphs 1 to 4 for “a member”, in each place, substitute “a non-executive member”.

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- (4) In paragraph 1(b) for “each member” substitute “each non-executive member”.
- (5) In paragraphs 2 to 4 for “the chairman or a deputy chairman”, in each place, substitute “the chair or deputy chair”.
- (6) In paragraph 5 for sub-paragraph (1) substitute—
- “(1) The Secretary of State may by notification in writing remove a non-executive member from office if the Secretary of State is satisfied that the member—
- (a) has a financial or other interest that is likely to affect prejudicially the performance of the member’s functions,
- (b) has become bankrupt or made an arrangement with the member’s creditors,
- (c) is a person in respect of whom a debt relief order has been made under Part 7A of the Insolvency Act 1986,
- (d) is failing, or has failed, to perform the functions of a non-executive member, or
- (e) is otherwise unable or unfit to perform those functions.”
- (7) For the heading immediately before paragraph 6 substitute—
- “Remuneration etc of non-executive members”.*
- (8) In paragraph 6—
- (a) for “member” substitute “non-executive member”, and
- (b) omit “with the consent of the Treasury”.
- (9) In paragraph 7—
- (a) omit “with the consent of the Treasury”,
- (b) for “pensions, allowances or gratuities to or in respect of” substitute “allowances to”,
- (c) for “members” substitute “non-executive members”, and
- (d) omit sub-paragraph (2).
- (10) In paragraph 8—
- (a) for “member” substitute “non-executive member”, and
- (b) omit “with the consent of the Treasury” in both places.
- (11) Omit paragraph 13(2) (member’s participation in employee pension scheme).

## **97 Executive members of CAA**

- (1) Schedule 1 to the Civil Aviation Act 1982 (additional provisions relating to constitution, etc of CAA) is amended as follows.
- (2) After paragraph 8 insert—

*“Executive members: terms and conditions*

- 8A (1) The chief executive is to be employed on such terms and conditions as the non-executive members may determine.

- (2) Other executive members are to be employed on such terms and conditions as the chief executive may determine with the approval of the chair and at least one other non-executive member.
  - (3) In sub-paragraphs (1) and (2) references to terms and conditions include terms and conditions as to remuneration and the payment of pensions, allowances or gratuities.
  - (4) The CAA shall make provision for the payment of pensions, allowances and gratuities to or in respect of executive members in accordance with their terms and conditions.”
- (3) In paragraph 12 (staff)—
- (a) after “a reference to” insert “a person who is—
    - (a) an executive member, or
    - (b)”,and
  - (b) at the end insert “(referred to in this Act as a “general employee)””.
- (4) In paragraph 13(1) (payment of pensions, allowances and gratuities) for “its employees” substitute “its general employees”.
- (5) In Schedule 3 to that Act (matters arising out of certain transfers to the CAA), in paragraph 2(1) for “an employee” substitute “a general employee”.

## **98 CAA’s air navigation functions**

- (1) In section 66 of the Transport Act 2000 (CAA’s air navigation functions), for subsection (3) substitute—
- “(3) The chief executive of the CAA must, with the approval of the chair and at least one other non-executive member of the CAA, nominate another executive member of the CAA for the purposes of this section.
  - (3A) A person nominated under subsection (3) must perform on the CAA’s behalf such of its air navigation functions as the Secretary of State may specify.
  - (3B) The chief executive must consult the Secretary of State before nominating a person under subsection (3).”
- (2) In section 67 of that Act (national security nominee), in subsection (1) for “member” substitute “non-executive member”.

## **99 Transitional and saving provision**

Schedule 14 (CAA membership: transitional and saving provision) has effect.

*Further provision about CAA*

## **100 CAA charges**

- (1) Section 11 of the Civil Aviation Act 1982 (schemes and regulations determining CAA’s charges) is amended as follows.

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

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- (2) In subsection (1) omit “, after consultation with the Secretary of State.”
- (3) After that subsection insert—
- “(1A) Before making a scheme under this section, the CAA must—
- (a) consult the persons who, in its opinion, are likely to be affected by the scheme or such of those persons as it thinks fit, and
- (b) after consulting those persons, consult the Secretary of State.”
- (4) In subsection (2) for “sixty days” substitute “14 days”.
- (5) After subsection (3) insert—
- “(3A) Before making regulations under this section, the Secretary of State must consult the persons who, in the Secretary of State’s opinion, are likely to be affected by the regulations or such of those persons as the Secretary of State thinks fit.
- (3B) Subsection (3A) does not apply if the Secretary of State is satisfied that such consultation is unnecessary having regard to consultation carried out by the CAA in accordance with subsection (1A).”
- (6) In section 16 of that Act (provision by CAA of assistance etc for Secretary of State and others), in subsection (4A)—
- (a) after “with” insert “—
- (a)”,
- and
- (b) at the end insert “, or
- (b) the making of regulations under section 11(3).”
- (7) In section 17 of that Act (provision by CAA of information etc for Secretary of State), at the end insert—
- “(4) Subsection (3) above does not apply in relation to information furnished to the Secretary of State in connection with the making of regulations under section 11(3).”

## **101 Criminal proceedings**

In section 20 of the Civil Aviation Act 1982 (supplementary provisions with respect to the functions of CAA), after subsection (1) insert—

- “(1A) The power conferred on the CAA by subsection (1)(a) includes power to institute and carry on criminal proceedings in England and Wales or Northern Ireland.”

## **102 CAA efficiency**

- (1) Section 21 of the Civil Aviation Act 1982 (annual report) is amended as follows.
- (2) In subsection (2), after paragraph (d) insert—
- “(e) shall contain a statement by the CAA about efficiency in the performance of its functions (an “efficiency statement”);
- (f) shall contain the auditors’ assessment mentioned in subsection (2B).”



(3) After subsection (2) insert—

“(2A) The Secretary of State may from time to time give directions about matters that must be covered in an efficiency statement, including matters relating to the plans or the past or present activities of the CAA.

(2B) The auditors appointed under section 15(2) in respect of an accounting year must produce an assessment of the efficiency statement for that year.”

### **103 Civil sanctions**

(1) Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (civil sanctions) is amended as follows.

(2) In Schedule 5 (designated regulators) at the appropriate place insert—  
“Civil Aviation Authority”.

(3) In Schedule 7 (powers under specified enactments to include power to make provision for civil sanctions) at the appropriate place insert—  
“Civil Aviation Act 1982, sections 7, 61, 71, 71A, 86”.

### **104 Regulatory burdens**

(1) Section 73 of the Regulatory Enforcement and Sanctions Act 2008 (functions to which duty not to impose or maintain unnecessary burdens applies) is amended as follows.

(2) In subsection (1), after paragraph (a) insert—

“(aa) the regulatory functions specified in subsection (2A),”.

(3) After subsection (2) insert—

“(2A) The regulatory functions referred to in subsection (1)(aa) are the regulatory functions exercised by the Civil Aviation Authority under—

(a) Chapter 1 of Part 1 of the Transport Act 2000 (air traffic services);

(b) Chapter 1 of Part 1 of the Civil Aviation Act 2012 (regulation of operators of dominant airports).”

(4) In subsection (3) for “subsection (2)” substitute “subsection (2) or (2A)”.

### **105 Disclosure of medical information**

(1) Section 23 of the Civil Aviation Act 1982 (disclosure of information) is amended as follows.

(2) In subsection (1) for “subsection (4)” substitute “subsections (4) and (4A)”.

(3) After subsection (4) insert—

“(4A) Nothing in subsection (1) above prohibits the disclosure of medical information provided to the CAA in accordance with an Air Navigation Order if—

(a) the disclosure is for the purposes of medical research approved by a research ethics committee,

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

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- (b) the CAA considers that the research is likely to improve understanding of risks to the health of the types of individual who are required by an Air Navigation Order to provide medical information to the CAA,
  - (c) the CAA considers that it would be difficult or expensive to take the steps necessary to enable all of the information to be disclosed in reliance on subsection (1), and
  - (d) the information disclosed is anonymised.
- (4B) For the purposes of subsection (4A)(d), information is anonymised if no individual can be identified—
- (a) from that information, or
  - (b) from that information and any other information which the CAA has reasonable grounds for believing is likely to be in the possession of the person to whom it is disclosed or is likely to come into that person’s possession.”
- (4) After subsection (6) insert—
- “(7) In this section “research ethics committee” means a committee which is—
- (a) established to advise on the ethics of research investigations in human beings, and
  - (b) recognised for that purpose by the Secretary of State, the Welsh Ministers, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland or by a body comprising two or more of those persons.”

### *Miscellaneous*

#### **106 Dangerous flying**

- (1) Section 81 of the Civil Aviation Act 1982 (dangerous flying) is repealed.
- (2) In consequence of subsection (1), that Act is amended in accordance with subsections (3) to (7).
- (3) In section 76 (liability of aircraft in respect of trespass etc), in subsection (1) omit the words “and there has been no breach of section 81 below”.
- (4) In section 92 (application of criminal law to aircraft), in the definition of “the air navigation enactments” in subsection (5), for “81 to” substitute “82,”.
- (5) In section 101 (power to apply certain provisions to Crown aircraft), in subsection (2) omit “81,”.
- (6) In Part 3 of Schedule 13 (subordinate instruments: supplemental powers), in paragraph 4(2) omit “81,”.
- (7) In Schedule 14 (transitional and transitory provisions and savings), in paragraph 7 omit “81,”.

#### **107 Offences under Civil Aviation Act 1982**

- (1) Section 99 of the Civil Aviation Act 1982 (offences) is amended as follows.

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

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- (2) In subsection (4)—
  - (a) for “or under” substitute “, under”, and
  - (b) at the end insert “or under an Air Navigation Order”.
- (3) In subsection (5) omit paragraphs (c) and (d).