

## SCHEDULES

### SCHEDULE 8

Section 76

#### STATUS OF AIRPORT OPERATORS AS STATUTORY UNDERTAKERS ETC

#### PART 1

#### GREAT BRITAIN

#### *Airports Act 1986 (c. 31)*

- 1 The Airports Act 1986 is amended as follows.
- 2 For section 57 (scope of Part 5: status of certain airport operators as statutory undertakers etc) substitute—

#### **“57A Scope of Part 5**

- (1) In this Part “relevant airport operator” means the airport operator in the case of an airport to which this Part applies.
- (2) This Part applies to any airport in respect of which a certificate has been granted under this section (and has not been withdrawn).
- (3) The CAA must grant a certificate under this section in respect of an airport if, but only if—
  - (a) the airport operator applies for a certificate (and has not withdrawn the application),
  - (b) the airport operator pays the charge (if any) specified in a scheme or regulations made under section 11 of the 1982 Act, and
  - (c) the CAA considers that, at the time, the airport is an eligible airport.
- (4) An airport is an eligible airport if—
  - (a) 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, and
  - (b) the airport is not excluded by virtue of subsection (5).
- (5) The excluded airports are—
  - (a) an airport owned by a principal council or jointly owned by two or more principal councils;
  - (b) an airport owned by an Integrated Transport Authority in England or jointly owned by such an Authority and one or more principal councils;

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- (c) an airport owned by a metropolitan county passenger transport authority in Scotland or jointly owned by such an authority and one or more principal councils.
  - (6) The appropriate Minister may withdraw a certificate granted under this section in respect of an airport if the appropriate Minister 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 subsection (4)(a).
  - (7) Before withdrawing a certificate in respect of an airport, the appropriate Minister must consult—
    - (a) the CAA, and
    - (b) the airport operator.
  - (8) The withdrawal of a certificate does not affect any rights or liabilities accruing by virtue of this Part before it is withdrawn.
  - (9) In this section—
    - “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 or local authority but excluding—
      - (a) capital receipts, and
      - (b) loans made by any person;
    - “the appropriate Minister” means—
      - (a) in relation to an airport in England or Wales, the Secretary of State, and
      - (b) in relation to an airport in Scotland, the Scottish Ministers;
    - “financial year” means a period of 12 months ending with 31 March;
    - “local authority” and “principal council” have the same meaning as in Part 2.
  - (10) 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 section, references in this section 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.
  - (11) The Secretary of State may by order substitute a greater sum for the sum specified in subsection (4)(a).
  - (12) An order under subsection (11) does not affect the validity of a certificate granted under this section before the order comes into force.”
- 3
- (1) Section 79 (orders and regulations) is amended as follows.
  - (2) In subsection (2), at the end insert “, unless it is an instrument described in subsection (4A)”.
  - (3) After subsection (4) insert—

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“(4A) A statutory instrument that contains (whether alone or with other provision) an order under section 57A(11) 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 instrument has been laid before, and approved by a resolution of, each House of Parliament.”

*Consequential repeal*

4 In Schedule 4 to the Local Transport Act 2008, omit paragraph 54(3).

*Power to make provision in relation to operators of airport areas*

5 (1) The Secretary of State may by regulations make provision about the operation of section 57A of the Airports Act 1986 in cases in which two or more persons are operators of different areas that form part of the same airport.

(2) Regulations under this paragraph may modify—

- (a) section 57A of the Airports Act 1986, and
- (b) any provision of an Act (including the Airports Act 1986), or of an instrument made under an Act, which refers to or otherwise operates by reference to a relevant airport operator or an airport to which Part 5 of the Airports Act 1986 applies.

(3) In this paragraph—

“Act” includes an Act or Measure of the National Assembly for Wales and an Act of the Scottish Parliament;

“airport” has the same meaning as in the Airports Act 1986;

“modify” includes amend, repeal or revoke;

“operator”, in relation to an area that forms part of an airport, means the person who is the operator of the area for the purposes of this Part of this Act;

“relevant airport operator” has the same meaning as in Part 5 of the Airports Act 1986.

## PART 2

### NORTHERN IRELAND

*Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))*

6 The Airports (Northern Ireland) Order 1994 is amended as follows.

7 In Article 2(2) (interpretation), for the definition of “regulated airport” substitute—  
““regulated airport” has the meaning given in Article 2A;”.

8 In Part 2 (powers in relation to land exercisable in connection with airports), before Article 3 insert—

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*“Regulated airports*

- 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—
- (a) the airport operator applies for a certificate (and has not withdrawn the application),
  - (b) the airport operator pays the charge (if any) specified in a scheme or regulations made under section 11 of the 1982 Act, and
  - (c) 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—
- (a) the CAA, and
  - (b) 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—
- (a) capital receipts, and
  - (b) loans made by any person;
- “financial year” means a period of 12 months ending with 31 March;
- “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

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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.”

9 (1) Article 70 (regulations and orders) is amended as follows.

(2) In paragraph (2), after “Schedule 7” insert “and orders described in paragraph (2A)”.

(3) After paragraph (2) insert—

“(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.”

10 The amendments in paragraphs 7 to 9 are without prejudice to the power to make further orders amending or revoking the provisions inserted.

*Power to make provision in relation to operators of airport areas*

11 (1) The Secretary of State may by regulations make provision about the operation of Article 2A of the Airports (Northern Ireland) Order 1994 in cases in which two or more persons are operators of different areas that form part of the same airport.

(2) Regulations under this paragraph may modify—

(a) Article 2A of the Airports (Northern Ireland) Order 1994, and

(b) any provision of Northern Ireland legislation (including the Airports (Northern Ireland) Order 1994), or of an instrument made under Northern Ireland legislation, which refers to or otherwise operates by reference to a regulated airport or an airport operator of such an airport.

(3) In this paragraph—

“airport” and “airport operator” have the same meaning as in the Airports (Northern Ireland) Order 1994;

“modify” includes amend, repeal or revoke;

“operator”, in relation to an area that forms part of an airport, means the person who is the operator of the area for the purposes of this Part of this Act;

“regulated airport” has the same meaning as in the Airports (Northern Ireland) Order 1994.