



# Civil Aviation Act 1949

1949 CHAPTER 67 12 13 and 14 Geo 6

## PART II

### REGULATION OF CIVIL AVIATION

#### *General*

#### **8 Power to give effect to Chicago Convention and regulate air navigation**

- (1) Whereas on the seventh day of December, nineteen hundred and forty-four at the International Civil Aviation Conference held at Chicago, there was signed on behalf of the Government of the United Kingdom a Convention on International Civil Aviation (hereinafter referred to as " the Chicago Convention " ) :

And whereas a copy of the final Act of the said Conference including (amongst other things) the text of the Chicago Convention was, on the fourth day of April, nineteen hundred and forty-five, presented to Parliament by command of His Majesty:

And whereas it is expedient to provide for giving effect to the Chicago Convention and to make further provision for the regulation of air navigation:

Now, therefore, His Majesty may by Order in Council make such provision as appears to Him to be requisite or expedient—

- (a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or
  - (b) generally for regulating air navigation.
- (2) His Majesty may by Order in Council make provision—
- (a) as to the registration of aircraft in the United Kingdom ;
  - (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except

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upon compliance with such conditions as to maintenance or repair as may be specified in the Order;

- (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes ;
- (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft;
- (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the United Kingdom may fly, and as to the conditions under which aircraft may fly from one part of the United Kingdom to another;
- (f) as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the Order;
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;
- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation ;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (k) for regulating the use of the civil air ensign and any other ensign established by His Majesty in Council for purposes connected with air navigation;
- (l) for prohibiting aircraft from flying over such areas in the United Kingdom as may be specified in the Order ;
- (m) for applying, adapting or modifying the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connection with air navigation, subject to such conditions as appear to His Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into the United Kingdom without payment of duty;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;

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- (o) for regulating the charges that may be made for the use of aerodromes licensed under the Order and for services provided at such aerodromes;
  - (p) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any other matters in respect of which it appears to His Majesty in Council to be expedient for the purpose of the Order to charge fees ;
  - (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons.
- (3) An Order in Council under this section may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the United Kingdom but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.
- (4) An Order in Council under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of six months, and, in the case of any provision having effect by virtue of paragraph (1) of subsection (2) of this section, may also for that purpose provide for the taking of such steps (including firing on aircraft) as may be specified in the Order.
- (5) There shall be paid out of moneys provided by Parliament—
- (a) any sums payable by His Majesty's Government in the United Kingdom by way of contribution to the expenses of the International Civil Aviation Organisation under the Chicago Convention ;
  - (b) such expenses of any delegate, representative or nominee of His Majesty's Government in the United Kingdom appointed for any purposes connected with the Chicago Convention as may be approved by the Treasury ;
  - (c) any expenses incurred by His Majesty's Government in the United Kingdom for the purposes of Chapter XV of the Chicago Convention (which relates to the provision of airports and other air navigation facilities); and
  - (d) any other expenses incurred by a Government Department by reason of this section.
- (6) There shall be paid into the Exchequer—
- (a) all sums received by His Majesty's Government in the United Kingdom by way of repayment of expenses incurred for the purposes of the said Chapter XV ; and
  - (b) all sums received by way of fees paid under an Order in Council under this section other than fees which, under an order made under section seven of this Act are paid to any of the bodies to which functions of the Minister are delegated under that section.
- (7) Part VI of this Act applies to this section.

## **9 Control of aviation in time of war or emergency**

- (1) In time Of war, whether actual or imminent, or of great national emergency, the Secretary of State may by order regulate or prohibit, either absolutely or subject to

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such conditions as may be contained in the order and notwithstanding the provisions of this Act or any Order in Council or regulations made thereunder, the navigation of all or any descriptions of aircraft over the United Kingdom or any portion thereof; and may by order provide for taking possession of and using for the purposes of His Majesty's naval, military or air forces any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school, or any class or description thereof.

- (2) An order under this section may make, for the purposes of the order, such provision as an Order in Council under section eight of this Act may by virtue of subsection (4) of that section make for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (Z) of subsection (2) of that section.
- (3) Any person who suffers direct injury or loss, owing, to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary of State, the amount thereof to be fixed, in default of agreement, by the Lands Tribunal; and the principles of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, with the necessary modifications, apply where possession is taken of any land :

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the United Kingdom or any part thereof.

- (4) The power to make an order under this section shall be exercisable by statutory instrument.
- (5) Any expenses incurred by a Secretary of State in the exercise of his powers under this section shall be paid out of moneys provided by Parliament.
- (6) Part VI of this Act applies to this section.

## **10 Investigation of accidents**

- (1) The Minister may make regulations providing for the investigation of any accident arising out of or in the course of air navigation, and either occurring in or over the United Kingdom or occurring elsewhere to British aircraft registered in the United Kingdom:

Provided that regulations not relating only to civil aviation shall be made by the Secretary of State and the Minister acting jointly.

- (2) Regulations under this section may contain provisions—
  - (a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the order;
  - (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of section three of the Notice of Accidents Act, 1894;
  - (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;
  - (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under this Part of this Act or any

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Order in Council or order made under this Part of this Act, where it appears on an investigation that the licence ought to be cancelled, suspended, endorsed or surrendered, and requiring the production of any such licence for the purpose of being so dealt with:

Provided that nothing in this section shall limit the powers of any authority under sections five hundred and thirty to five hundred and thirty-seven of the Merchant Shipping Act, 1894, or any enactment amending those sections.

- (3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.
- (4) Any expenses incurred by a Secretary of State or the Minister in the exercise of his powers under this section, including the expenses of any investigation under this section, shall be paid out of moneys provided by Parliament.
- (5) Part VI of this Act applies to this section.

## **11 Dangerous flying**

- (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both.

In this section the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

- (2) The provisions of this section shall be in addition to and not in derogation of the powers conferred on His Majesty in Council by section eight of this Act.
- (3) Part VI of this Act applies to this section.

### *Air Transport*

## **12 Air Transport Advisory Council**

- (1) His Majesty may by Order in Council provide for the constitution of an Air Transport Advisory Council consisting of a chairman, who shall be appointed by the Lord Chancellor and who shall be a barrister, advocate or solicitor of not less than seven years' standing, and such number of members appointed by the Minister (not being less than two nor more than four) as may be determined in accordance with the Order.

Of the members of the Council appointed by the Minister, at least one shall be a person of experience in the operation of air transport services, and at least one shall be a person of experience in the operation of other transport services.

No member of any of the Airways Corporations, and no person employed by any of the Airways Corporations, shall be qualified to be a member of the Council.

- (2) It shall be the duty of the Air Transport Advisory Council to consider any representation from any person with respect to the adequacy of the facilities provided

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by any of the Airways Corporations, or with respect to the charges for any such facilities:

Provided that the Council shall not be required by this subsection to consider any such representation if, in their opinion, it is frivolous or vexatious or if, in their opinion, the matters to which the representation relates have been already sufficiently considered by the Council, or if, in their opinion, it is inexpedient that they should consider the representation on the ground that the matters to which it relates are for the time being regulated by any international agreement to which His Majesty's government in the United Kingdom is a party.

- (3) It shall be the duty of the Air Transport Advisory Council to consider any question which may be referred to the Council by the Minister, being:—
  - (a) a question relating to facilities for transport by air in any part of the world, or relating to the charges for such facilities; or
  - (b) a question which in the opinion of the Minister requires consideration with a view to the improvement of air transport services.
- (4) When the Council have considered any such representation or question as aforesaid, they shall report to the Minister upon their conclusions, and shall make such recommendations to the Minister in connection with those conclusions as they think expedient.
- (5) The Council may with the approval of the Minister appoint such assessors as they think expedient for the purpose of securing that they are properly advised with respect to matters affecting the interests of persons who use air transport services, or of any class of such persons, and the interests of technical, professional, industrial and commercial bodies (including those of organised labour) directly concerned with the provision of air transport services.
- (6) Any Order made under this section may contain such incidental and consequential provisions, including provisions for the payment of remuneration to members of the Council out of moneys provided by Parliament, provisions for the payment out of such moneys of expenses incurred in connection with the appointment of assessors by the Council, and provisions for determining the procedure of the Council, as His Majesty thinks expedient.

The procedure of the Council shall be such as to secure that no member of the Council shall sit to consider any representation or question which it is the duty of the Council to consider, if, in respect of the matters to which the representation or question relates, he has any special interest such as may tend to interfere with his impartial consideration of the representation or question.

- (7) The Council shall be furnished by the Minister with such accommodation as appears to him to be requisite for the proper discharge of their functions, and with such clerks, officers and staff as appear to him, with the concurrence of the Treasury as to numbers, to be requisite for that purpose, and the Minister shall pay to the clerks, officers and staff of the Council such remuneration as he may with the approval of the Treasury determine.
- (8) The Minister shall provide the Council with such information and other assistance as he thinks expedient for the purpose of assisting the Council to discharge their functions; and each of the Airways Corporations shall keep the Council informed of all services which are provided by them or which they intend to provide, and of the charges which the Corporation make or propose to make for any such services.

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- (9) The Council shall make an annual report to the Minister of their proceedings, and the Minister shall lay the report before each House of Parliament together with a statement of any action which has been taken by him in consequence of any recommendations submitted to him by the Council during the period to which the report relates.
- (10) A draft of any Order proposed to be made under this section shall be laid before Parliament.

### **13 Licensing of air transport and commercial flying**

- (1) His Majesty may by Order in Council make provision—
- (a) for securing that aircraft shall not be used in the United Kingdom by any person—
    - (i) for plying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or
    - (ii) for such flying undertaken for the purpose of any trade or business as may be so specified,except under the authority of, and in accordance with, a licence granted to the said person by the licensing authority specified in the Order;
  - (b) as to the circumstances in which a licence under the Order may or shall be granted, refused, revoked or suspended, and in particular as to the matters to which the licensing authority specified in the Order is to have regard in deciding whether to grant or refuse such a licence;
  - (c) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the Order;
  - (d) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;
  - (e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the Order;
  - (f) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the grant of any licence under the Order;
- and such an Order may make different provision as respects different classes of aircraft and different classes of licences.
- (2) An Order in Council under this section may, for the purpose of securing compliance with the Order, provide for the imposition of penalties not exceeding, in the case of a first offence against the Order, a fine of twenty pounds or, in the case of a second or subsequent such offence, a fine of fifty pounds or imprisonment for a term of three months.
- (3) The Minister shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this section, and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft.
- (4) The Minister may pay out of moneys provided by Parliament—

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- (a) to the members of any licensing authority which may be constituted by an Order in Council under this section such remuneration (if any) as the Minister, with the approval of the Treasury, may determine; and
- (b) the amounts necessary to defray such expenses of the said licensing authority as the Minister and the Treasury may approve.

The amount of any fee received under such an Order in Council by any such licensing authority shall be paid by that authority to the Minister, and, when received by him, shall be paid into the Exchequer.

- (5) Part VI of this Act applies to this section so, however, that an Order in Council under this section shall not be laid before Parliament nor be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **14 Information as to air transport undertakings and use of customs aerodromes**

- (1) His Majesty may by Order in Council make provision—
  - (a) for requiring any person—
    - (i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or
    - (ii) who is the holder of a licence in respect of a customs aerodrome, to furnish to such authorities as may be specified in the Order such information relating to the use of aircraft for the purpose of his said business and to the persons employed in connection with that use, or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the Order;
  - (b) for requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the Order as relate to him;
  - (c) for prescribing the times at which, and the form and manner in which, any information required under the Order is to be furnished:

Provided that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside the United Kingdom, or relating to persons exclusively employed outside the United Kingdom, unless the person carrying on the business is either a British subject resident in the United Kingdom or a citizen of the Republic, of Ireland resident in the United Kingdom or a body corporate incorporated under the law of some part of the United Kingdom.

- (2) An Order in Council under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the Order such penalties (not exceeding a fine of twenty pounds and a further fine of five pounds for every day on which the contravention or non-compliance continues after conviction therefor) as may be specified in the Order.
- (3) No information with respect to any particular undertaking which has been obtained by virtue of an Order in Council under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with



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the execution of such an Order, and if any person discloses any such information in contravention of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of an Order in Council made under this section, or for the purpose of any report of any such proceedings, but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any court or arbitrator to disclose, that information (whether as a witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

- (4) In this section the expression "customs aerodrome" means an aerodrome for the time being appointed in pursuance of an Order in Council in force under section eight of this Act as a place of landing and departure of aircraft for the purposes of the enactments relating to customs.
- (5) Part VI of this Act applies to this section.

## **15 Terms and conditions of employment of persons employed by air transport undertakings**

- (1) The provisions of this section shall have effect for the purpose of securing that the terms and conditions of employment of persons employed by any independent undertaking constituted for the purpose of providing air transport services or of carrying out other forms of aerial work shall, except in so far as those terms and conditions—
  - (a) are regulated by or under any enactment other than this section; or
  - (b) are in accordance with an agreement for the time being in force between the undertaking and organisations representative of the persons employed; or
  - (c) are in accordance with any decision for the time being in force of a joint industrial council representing the undertaking "and organisations representative of the persons employed;

comply with the following requirement, that is to say, that they shall not be less favourable than the terms and conditions observed by the Airways Corporations in the case of persons engaged in comparable work, or, where the Airways Corporations do not observe the same terms and conditions for persons engaged in comparable work, are not less favourable than the terms and conditions observed for such persons by at least one of those Corporations.

- (2) If any dispute arises as to whether the terms and conditions of any person's employment ought to comply with the requirement aforesaid, or as to what terms and conditions ought to be observed for the purpose of complying therewith, the dispute shall, if not otherwise disposed of, be referred by the Minister to the Industrial Court for settlement.
- (3) Where any award has been made by the Industrial Court upon a dispute referred to that Court under this section, then, as from the date of the award or from such other date as the Court may direct, and subject to any subsequent variation or revocation of the award, it shall be an implied term of the contract between the employer and workers to

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whom the award applies that the terms and conditions of employment to be observed under the contract shall be in accordance with the award, except in so far as they are regulated by or under any enactment other than this section or are in accordance with any such agreement or decision as is mentioned in subsection (1) of this section.

No direction given by the Court for the purposes of the foregoing provisions of this subsection shall have the effect of making any award retrospective to a date earlier than the date on which the dispute to which the award relates first arose.

- (4) In this section the expression " independent undertaking " means any undertaking other than the Airways Corporations.