
STATUTORY INSTRUMENTS

1994 No. 1738

CUSTOMS AND EXCISE

The Air Passenger Duty Regulations 1994

<i>Made</i>	- - - -	<i>1st July 1994</i>
<i>Laid before the House of Commons</i>	- - - -	<i>1st July 1994</i>
<i>Coming into force</i>	- -	<i>1st August 1994</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 31(3) and (6), 32(2) and (3), 33(4), (7) and (8), 34(5), 35(1) and (2), 38(1) and (2), 42 and 43(1) of the Finance Act 1994(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Air Passenger Duty Regulations 1994 and shall come into force on 1st August 1994.

Interpretation

2.—(1) In these Regulations—
“accounting period” means either—

- (a) a period ending on the last day of each month; or
- (b) such other period as, in any particular case, the Commissioners allow;

“the Act” means the Finance Act 1994;

“business day” means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1882(2);

(1) 1994 c. 9; section 43(1) defines “prescribed” as meaning prescribed by regulations; *see also* the definition of “passenger”; section 43(4) applies the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c. 2).

(2) 1882 c. 61 (45 & 46 Vict); section 92 was amended by the Banking and Financial Dealings Act 1971 (c. 80), sections 3 and 4.

“operator” means the operator of an aircraft;

“the register” means the register of operators which the Commissioners are required to keep by virtue of section 33(1) of the Act.

(2) Any notice given to the Commissioners pursuant to these Regulations must be given at the place at which notice pursuant to section 33(4) of the Act must be given.

PART II

REGISTRATION

Time for giving notice of liability to register

3. Where an operator is required to give notice under section 33(4) of the Act, he shall do so no later than the seventh day following that on which he became liable to be registered.

Registration of operators

4.—(1) The register shall contain the information set out in Schedule 1.

(2) Where an operator is included in the register, that entry shall be effective from the first day of the month in which he became liable to be registered.

(3) Where—

- (a) an operator has not given notice of his liability to be registered, but
- (b) it appears to the Commissioners that he is liable to be registered,

they shall include him in the register.

(4) Where an operator is included in the register the Commissioners shall furnish him with a certificate of registration.

(5) A certificate of registration shall contain the information included in the entry in the register relating to the operator to whom it is furnished (“relevant information”).

(6) A registered operator shall give notice of any change in any relevant information within thirty days of the change by returning his certificate of registration to the Commissioners with the change recorded on it.

(7) Where, in accordance with paragraph (6) above, a certificate of registration is returned to them, the Commissioners shall—

- (a) correct the register, and
- (b) furnish the registered operator with a new certificate of registration.

Removal from the register

5.—(1) Subject to paragraph (2) below, where—

- (a) a registered operator gives the Commissioners notice in writing that he has ceased to operate chargeable aircraft; or
- (b) a registered operator—
 - (i) has not within the preceding six months operated chargeable aircraft, and
 - (ii) it appears to the Commissioners that he will not within the next twelve months operate chargeable aircraft,

he shall be removed from the register.

(2) A registered operator shall not be removed from the register if he owes any duty to the Commissioners.

PART III

FISCAL REPRESENTATIVES

Appointment

6.—(1) An operator who is required to have a fiscal representative shall appoint such a representative—

- (a) within seven days of the day on which he is required by section 34(1) of the Act to have a fiscal representative; or
- (b) where—
 - (i) a fiscal representative (“his representative”) ceases to act for him, and
 - (ii) he continues to be required by section 34(1) of the Act to have a fiscal representative, within seven days of the day on which his representative ceased to act for him.

(2) A fiscal representative shall give to the Commissioners written notice of his appointment, within seven days of his being appointed.

(3) A notice given in accordance with paragraph (2) above shall contain the information set out in Schedule 2.

Ceasing to act as a fiscal representative

7.—(1) Where a person ceases to act as a fiscal representative for an operator he shall, within seven days, give written notice of that fact to the Commissioners.

- (2) A person shall be treated as having ceased to act as a fiscal representative if—
- (a) he gives notice in accordance with paragraph (1) above;
 - (b) his principal gives the Commissioners notice that his appointment is terminated;
 - (c) he is imprisoned in pursuance of the order of any court whether in the United Kingdom or elsewhere;
 - (d) he becomes bankrupt or insolvent whether in the United Kingdom or elsewhere; or
 - (e) he ceases to meet the requirements of section 34(3) of the Act.

Inclusion of particulars in register of operators

8. Where the Commissioners receive notice that a person has been appointed as the fiscal representative of an operator they shall include his name in the entry in the register relating to that operator.

PART IV

RETURNS AND PAYMENT

Returns

9.—(1) Subject to paragraph (2) below, every operator who is liable to be registered and every registered operator shall, not later than the twenty-second day following the end of each accounting period, furnish to the Commissioners a return on the form set out in Schedule 3.

(2) Where the last day for furnishing a return would (if determined in accordance with paragraph (1) above) fall on a day which is not a business day the return shall be furnished not later than the last business day before that day.

(3) Returns shall be furnished to the Commissioners at such place as, in accordance with section 38(1)(b) of the Act, they have specified.

Payment

10.—(1) Subject to paragraph (2) below, every operator shall pay the duty which becomes due from him in any accounting period—

(a) in the case of a registered operator who has made arrangements with the Commissioners for duty to be paid by means of direct debit or credit transfer, not later than the twenty-ninth day following the end of that accounting period; or

(b) in any other case, not later than the twenty-second day following the end of that accounting period.

(2) Where the last day for making payment would (if determined in accordance with paragraph (1) above) fall on a day which is not a business day the payment shall be made not later than the last business day before that day.

(3) Where payment is not made by means of direct debit or credit transfer, it shall be made to the Commissioners at such place as, in accordance with section 38(1)(b) of the Act, they have specified.

PART V

FLIGHTS AND PASSENGERS

Particulars of flights

11.—(1) For the purposes of section 31(3) of the Act the following particulars of a second or subsequent flight are prescribed—

(a) the airport from which the passenger intends to depart;

(b) the date and time of his intended departure; and

(c) the airport at which he intends to arrive.

(2) For the purposes of section 32(2)(b) and (3)(b) of the Act the following particulars of a flight are prescribed—

(a) the airport from which the passenger intends to depart;

(b) the date and time of his intended departure; and

(c) the airport at which he intends to arrive.

Passengers

12.—(1) For the purposes of paragraph (a)(iii) of the definition of “passenger” in section 43(1) of the Act the following requirements are prescribed—

- (a) the employee is—
 - (i) engaged in relevant duties, or
 - (ii) performing on board services,at the time he is carried.
- (b) the employee will within the seventy–two hours next following the end of his flight—
 - (i) act as a member of a flight crew,
 - (ii) act as a cabin attendant,
 - (iii) be engaged in relevant duties, or
 - (iv) perform on board services,on, or in respect of, any aircraft; or
- (c) the employee is returning to his base and has within the seventy–two hours immediately preceding the beginning of his flight—
 - (i) acted as a member of a flight crew,
 - (ii) acted as a cabin attendant,
 - (iii) been engaged in relevant duties, or
 - (iv) performed on board services,on, or in respect of, any aircraft.

(2) In this regulation—

“base” means the place from which the employee ordinarily operates or at which he is ordinarily stationed;

“on board services” means escorting a passenger or goods;

“relevant duties” means—

- (a) repair, maintenance, safety or security work; or
- (b) ensuring the hygienic preparation and handling of food and drink.

Outward journey of an Isle of Man return passenger

13.—(1) Subject to paragraph (2) below, section 31(1) of the Act shall have effect as if the reference in paragraph (a) thereof to a person who is a chargeable passenger in relation to a flight on his outward journey included a person whose outward journey began at an airport in the Isle of Man.

(2) Paragraph (1) above only applies in the case of a person—

- (a) whose outward journey in question begins at an airport in the Isle of Man; and
- (b) who, by virtue of an act of Tynwald charging a duty equivalent to air passenger duty, is the equivalent of a chargeable passenger in relation to that outward journey.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

New King's Beam House 22 Upper Ground
London SE1 9PJ
1st July 1994

M. J. Eland
Commissioner of Customs and Excise

SCHEDULE 1

(Regulation 4)

INFORMATION TO BE INCLUDED IN THE REGISTER

- (a) a unique reference number assigned to the operator by the Commissioners;
- (b) the name and (if different) the trading name of the operator;
- (c) the address of the operator's principal, or only place of business (including any postcode)—
 - (i) in the United Kingdom, or
 - (ii) if he does not have any place of business in the United Kingdom, elsewhere;
- (d) if he has one, the operator's telephone number and (if different) his telephone number for facsimile transmissions;
- (e) the date on which the Commissioners received any notice given pursuant to section 33(4) of the Act and the time from which the operator's entry in the register was effective;
- (f) if required by regulation 8, the name and (if different) the trading name of any fiscal representative appointed to act for the operator in accordance with section 34 of the Act.

SCHEDULE 2

(Regulation 6)

INFORMATION TO BE INCLUDED IN A NOTICE OF APPOINTMENT AS A FISCAL REPRESENTATIVE

- (a) the name and (if different) the trading name of the fiscal representative;
- (b) the address of the fiscal representative's principal, or only place of business in the United Kingdom (including his postcode);
- (c) if he has one, the fiscal representative's telephone number and (if different) his telephone number for facsimile transmissions;
- (d) the name and (if different) the trading name of the operator for whom he is acting ("his principal");
- (e) the date on which he was appointed to act for his principal.

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SCHEDULE 3

(Regulation 9)

FORM OF RETURN
SCHEDULE 3 (Regulation 9)
FORM OF RETURN



Air Passenger Duty Return

For Official Use

For the Period to

Trader's Name and Address

APD Registration Number

Period Number

You could be liable to a financial penalty if your completed return and all the APD payable are not received by the due date.

Due Date:

Before you fill in the boxes please read the notes on completion on the back of this form. Do not enter more than one amount in any box.

A Passenger Details

- Total number of passengers flown in the period 1
- Total number of chargeable passengers flown in chargeable aircraft at the lower rate 2 x = 4 £
- Total number of chargeable passengers flown in chargeable aircraft at the higher rate 3 x = 5 £
- Total duty due 6 £

Please tick this box (✓) if you are using a special accounting scheme

B Declaration

(Full name in BLOCK CAPITALS)

declare that the information given above is true and complete. Remittance for the full duty is enclosed/is paid by direct debit/is paid by credit transfer.

Signature:

Date: Status:
(Managing Director, Company Secretary, Financial Director, Fiscal Representative or any other authorised signatory)

*delete as appropriate

WARNING: A false declaration can result in prosecution.

For Official Use

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DOR only For official use

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st August 1994, make provision for the administration and control of air passenger duty, including provision relating to aircraft operators and their fiscal representatives.

In particular:

- Part I includes definitions used in the Regulations.
- Part II regulates the registration of operators, the issue and correction of certificates of registration and removal from the register of operators.
- Part III regulates the appointment and cessation of appointment of fiscal representatives. It also makes provision for the name of the fiscal representative of an operator to be included in the entry in the register relating to that operator.
- Part IV deals with accounting for duty by making returns and with payment of duty.
- Part V makes provision relating to certain flights and passengers including:
 - setting out the particulars of flights to be shown on tickets issued to passengers if they are to be regarded as non-chargeable passengers on connected flights. (The second of two flights of a passenger will not attract duty which would otherwise be chargeable if those two flights are treated as connected by virtue of an Order made in pursuance of section 31(3) of the Finance Act 1994 (c. 9).)
 - setting out the particulars of flights which will not be taken into account for the purpose of deciding liability to duty where circumstances beyond a passenger's control result in the details of his flight or flights differing from those shown on his ticket.
 - setting out the additional requirements airline staff must fulfil if they are not to be treated as passengers for the purpose of liability to duty.
 - providing that, if the Isle of Man charges an air passenger duty on equivalent terms to that in the United Kingdom, a person who is a chargeable passenger on his outward journey from the Isle of Man to the United Kingdom, will not be a chargeable passenger on his return journey.