Civil Aviation Act 1982

1982 CHAPTER 16

PART III

REGULATION OF CIVIL AVIATION

Trespass by aircraft and aircraft nuisance, noise, etc.

76 Liability of aircraft in respect of trespass, nuisance and surface damage.

(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of any Air Navigation Order and of any orders under section 62 above have been duly complied with [F1]....

(2) Subject to subsection (3) below, where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.

(3) Where material loss or damage is caused as aforesaid in circumstances in which—

(a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2) above, and

(b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(4) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the

employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

Textual Amendments

F1 Words in s. 76(1) omitted (19.2.2013) by virtue of Civil Aviation Act 2012 (c. 19), **ss. 106(3)**, 110(3)(e) (with Sch. 10 paras. 12, 17)

Modifications etc. (not altering text)

C1 S. 76(1)-(3) extended (Anguilla) (with modifications) (8.5.2019) by The Civil Aviation Act 1982 (Anguilla) Order 2019 (S.I. 2019/756), arts. 1, 2, **Sch.**

C2 S. 76(4) extended (with modifications) (Overseas Territories) (10.10.2001) by S.I. 2001/3367, art. 2, Schs. 1, **2**

77 Nuisance caused by aircraft on aerodromes.

(1) An Air Navigation Order may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) below shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Air Navigation Order, as long as the provisions of any such Order are duly complied with.

Modifications etc. (not altering text)

C3 S. 77 extended (Anguilla) (with modifications) (8.5.2019) by The Civil Aviation Act 1982 (Anguilla) Order 2019 (S.I. 2019/756), arts. 1, 2, **Sch.**

C4 S. 77(2) applied (16.5.1995) by S.I. 1995/1038, **art. 97**

C5 S. 77(2) applied (20.8.2005) by The Air Navigation Order 2005 (S.I. 2005/1970), **art. 131(2)** (with art. 168)

C6 S. 77(2) applied (1.1.2010) by The Air Navigation Order 2009 (S.I. 2009/3015), arts. 1(1), **215(2)**

78 Regulation of noise and vibration from aircraft.

(1) The Secretary of State may by a notice published in the prescribed manner provide that it shall be the duty of the person who is the operator of an aircraft which is to take off or land at a designated aerodrome to secure that, after the aircraft takes off or, as the case may be, before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Secretary of State to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.

(2) If it appears to the Secretary of State that any requirement specified in relation to a designated aerodrome in a notice published in pursuance of subsection (1) above has not been complied with as respects any aircraft he may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any

representations then made by that person, give to the person managing the aerodrome a direction requiring him to secure that, until the Secretary of State revokes the direction, facilities for using the aerodrome are withheld to the extent specified in the direction from aircraft of which the person aforesaid is the operator and from his servants; and it shall be the duty of the person for the time being managing the aerodrome to comply with the direction.

(3) If the Secretary of State considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with the taking-off or landing of aircraft at a designated aerodrome, to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome during certain periods, he may by a notice published in the prescribed manner do all or any of the following, that is to say—

(a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified;

(b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified;

(c) determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) above and, as respects each of those persons, the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods;

and subject to subsection (4) below and paragraphs (e) and (f) of subsection (5) below it shall be the duty of the person for the time being managing the aerodrome to secure that the prohibitions or restrictions relating to the aerodrome which are imposed by the notice are complied with.

(4) Without prejudice to subsection (5)(f) below, a particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) above in respect of that aerodrome if—

(a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the Secretary of State in a notice published in the prescribed manner; and

(b) the person for the time being managing the aerodrome or a person authorised by him for the purpose, determines that that occasion or series of occasions should be so disregarded,

but it shall be the duty of the first-mentioned person to notify the Secretary of State in writing, within one week from its occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this subsection applies.

(5) The following supplementary provisions shall have effect for the purposes of subsection (3) above, that is to say—

(a) it shall be the duty of the Secretary of State, before he makes a determination in respect of an aerodrome in pursuance of paragraph (c) of that subsection, to consult any body appearing to him to be representative of operators of aircraft using the aerodrome;

(b) a notice uinder that subsection may make, in relation to a designated aerodrome, provision as respects any period notwithstanding that the period is included in or that there is included in the period, any other period as respects

which provision relating to the aerodrome is made by the notice or by another notice under that subsection;

(c) if it appears to the Secretary of State that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then, without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome, any person authorised by the Secretary of State for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;

(d) if it appears to a person authorised for the purpose by the person for the time being managing the relevant aerodrome that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then without prejudice to paragraph (c) above, or the powers mentioned therein, the first-mentioned person, or a person authorised by him for the purpose, may detain the aircraft for such period as the first-mentioned person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;

(e) nothing in that subsection requires a person managing an aerodrome to prevent an aircraft from landing at the aerodrome; and

(f) the Secretary of State may, by a notice given in the prescribed manner to the person managing an aerodrome to which a notice under that subsection relates, determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded for the purposes of the notice under that subsection.

(6) The Secretary of State may give to the person managing a designated aerodrome such directions as the Secretary of State considers appropriate for the purpose of avoiding, limiting, or mitigating the effect of, noise and vibration connected with the taking-off or landing of aircraft at the aerodrome; and it shall be the duty of the person for the time being managing the aerodrome to comply with the directions.

[[F2](6A) Directions under subsection (6) above may be given for the purpose of avoiding, limiting, or mitigating the effect of, such noise and vibration either—

(a) generally, or

(b) in any particular area or areas.**]**

(7) The duties imposed by subsections (1) to (3) and (6) above in relation to aerodromes in Scotland shall be enforceable by order of the Court of Session on an application by or on behalf of the Secretary of State under section 91 of the [M1]Court of Session Act 1868.

(8) The Secretary of State may, after consultation with the person managing a designated aerodrome, by order require him at his own expense—

(a) to provide in an area and within a period specified in the order, and to maintain and operate in accordance with any instructions so specified, such equipment for measuring noise in the vicinity of the aerodrome as is so specified; and

(b) to make to the Secretary of State such reports as are so specified with respect to the noise measured by the equipment and to permit any person authorised by the Secretary of State for the purpose to inspect the equipment on demand at any time;

and it shall be the duty of the person for the time being managing the aerodrome to comply with the requirements of the order.

(9) If a person fails to perform any duty imposed on him by subsection (8) above the Secretary of State may, after affording him an opportunity of making representations to the Secretary of State with respect to the matter and after considering any representations then made by him—

(a) take such steps as the Secretary of State considers appropriate for remedying the failure, which may include steps to secure the provision, maintenance and operation of equipment by the Secretary of State or the CAA; and

(b) recover in any court of competent jurisdiction from the person aforesaid any expense attributable to the taking of those steps which is incurred by the Secretary of State from time to time;

and if a person fails to perform any duty imposed on him by virtue of paragraph (b) of subsection (8) above, then without prejudice to the preceding provisions of this subsection he shall—

(i) be guilty of an offence and liable on summary conviction to a fine **[**[F3]not exceeding level 5 on the standard scale; and**]**

(ii) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and liable **[**[F4]on summary conviction to a fine not exceeding **[**[F5]10% of level 5 on the standard scale**][**[F5]10% of the greater of £5,000 or level 4 on the standard scale**]]** .

(10) Paragraph (b) of subsection (9) above is without prejudice to the Secretary of State's power apart from that paragraph to recover the expenses mentioned therein.

(11) The Secretary of State may, after consultation with any local authority appearing to him to be concerned, by order repeal any provision of a local Act which he considers is unnecessary having regard to the provisions of this section and of section 79 below.

(12) Any notice published in pursuance of subsection (1), (3) or (4) above may contain such incidental or supplementary provisions as the Secretary of State considers appropriate for the purposes of that subsection and may be varied or revoked by a subsequent notice published in pursuance of that subsection.

Textual Amendments

F2 S. 78(6A) inserted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 2(2)**, 14; S.I. 2007/598, **art. 2**, Sch. 1

F3 Words in s. 78(9)(i) substituted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 2(3)(a)**, 14; S.I. 2007/598, **art. 2**, Sch. 1

F4 Words in s. 78(9)(ii) substituted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 2(3)(b)**, 14; S.I. 2007/598, **art. 2**, Sch. 1

F5 Words in s. 78(9)(ii) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 2(2)** (with reg. 5(1))

Modifications etc. (not altering text)

C7 S. 78: Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

C8 S. 78(9) applied with modifications by Airports Act 1986 (c. 31, SIF 9), **s. 68(3)**

C9 S. 78(10) applied with modifications by Airports Act 1986 (c. 31, SIF 9), **s. 68(3)**

Marginal Citations

M1 1868 c. 100.

[F6 78A Penalty schemes

(1) The person for the time being managing an aerodrome (referred to in this section and section 78B below as the "relevant manager") may establish and maintain a penalty scheme.

(2) In this section and section 78B below "penalty scheme" means a scheme which requires a penalty to be paid if any requirement imposed under section 78(1) above in relation to an aircraft taking off or landing at the aerodrome is not complied with.

(3) Any such penalty shall be—
- (a) of an amount specified in the scheme, and
- (b) paid to the relevant manager by the operator of the aircraft in question.

(4) The penalty scheme shall afford the operator of the aircraft an opportunity to make representations to the relevant manager with respect to the matter either before or after the penalty is imposed.

(5) If the scheme affords an opportunity to make representations after the penalty is imposed, it shall provide for the relevant manager to cancel the penalty if he considers it appropriate to do so having considered those representations.

(6) A penalty scheme may—
- (a) contain such incidental or supplementary provisions as the relevant manager considers appropriate, and
- (b) be amended or revoked by the relevant manager.

(7) The amendment or revocation of a penalty scheme shall not affect the validity of anything previously done under the scheme.

(8) A relevant manager who receives penalties under a penalty scheme shall make payments equal to the amount of those penalties for purposes which appear to him to be likely to be of benefit to persons who live in the area in which the aerodrome is situated.

Textual Amendments

F6 Ss. 78A, 78B inserted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 3**, 14; S.I. 2007/598, **art. 2**, Sch. 1

78B Direction to establish, amend or revoke penalty scheme

(1) The Secretary of State may direct a specified relevant manager—
- (a) to establish a penalty scheme, or
- (b) to amend or revoke a penalty scheme.

(2) The Secretary of State shall publish any direction given under subsection (1) above in such manner as appears to him to be appropriate.

(3) A direction under subsection (1) above which requires a relevant manager to establish or amend a penalty scheme may include directions as to the provisions which are to be included in the scheme.

(4) Before giving a direction under subsection (1) above the Secretary of State shall consult—

(a) the relevant manager, and

(b) any body appearing to him to be representative of operators of aircraft using the aerodrome in question.

(5) If a relevant manager fails to comply with a direction given to him under subsection (1) above he shall—

(a) be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, and

(b) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and be liable on summary conviction to a fine not exceeding **[**[F7]10% of level 5 on the standard scale**][**[F7]10% of the greater of £5,000 or level 4 on the standard scale**].]**

Textual Amendments

F6 Ss. 78A, 78B inserted (1.3.2007) by Civil Aviation Act 2006 (c. 34), **ss. 3**, 14; S.I. 2007/598, **art. 2**, Sch. 1

F7 Words in s. 78B(5)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 2(3)** (with reg. 5(1))

79 Grants towards cost of sound-proofing buildings.

(1) If it appears to the Secretary of State that buildings near a designated aerodrome require protection from noise and vibration attributable to the use of the aerodrome, he may by statutory instrument make a scheme requiring the person for the time being managing the aerodrome (hereafter in this section referred to as "the relevant manager") to make grants towards the cost of insulating such buildings or parts of such buildings against noise; but a scheme under this section need apply only to such classes of buildings as the Secretary of State thinks fit.

(2) A scheme under this section shall specify the area or areas in which buildings must be situated for the grants to be payable, and the persons to whom, the expenditure in respect of which and the rate at which the grants are to be paid, and may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme.

(3) A scheme under this section may require the relevant manager, in any case where an application for a grant is refused, to give the applicant at his request a written statement of the relevant manager's reasons for the refusal.

(4) A scheme under this section may authorise or require local authorities to act as agents of the relevant manager in dealing with applications for and payments of grants and may provide for the making by the relevant manager of payments to local authorities in respect of anything done by them as such agents.

(5) A scheme under this section may make different provision with respect to different areas or different circumstances.

(6) Before making a scheme under this section relating to an aerodrome the Secretary of State shall consult the relevant manager.

(7) In this section "local authorities" in relation to England [F8]. . . does not include the council of a county.

(8) A statutory instrument containing a scheme under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F8 Words in s. 79(7) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 66(1), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

Modifications etc. (not altering text)

C10 S. 79(1): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

80 Designation of aerodromes for purposes of ss. 78 and 79.

In sections 78 and 79 above "designated aerodrome" means any aerodrome in Great Britain which is designated for the purposes of the section in which the expression is used by an order made by the Secretary of State; and the Secretary of State may designate an aerodrome for the purposes of either or both of those sections.

Modifications etc. (not altering text)

C11 S. 80: Functions transferred (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**

[F9]81 Dangerous flying.

. . . . . .

Textual Amendments

F9 S. 81 repealed (19.2.2013) by Civil Aviation Act 2012 (c. 19), **ss. 106(1)**, 110(3)(e) (with Sch. 10 paras. 12, 17)

82 Prohibition of aerial advertising and propaganda.

(1) Save in such circumstances as may be prescribed, no aircraft while in the air over any part of the United Kingdom shall be used, whether wholly or partly for emitting or displaying any advertisement or other communication in such a way that the advertisement or communication is audible or visible from the ground.

(2) Any person who uses an aircraft, or knowingly causes or permits an aircraft to be used, in contravention of subsection (1) above shall be guilty of an offence and liable on summary conviction—

(a) in the case of a first conviction of an offence under this section, to a fine not exceeding **[**[F10]£100 level 4 on the standard scale**]**;

(b) in any other case, to a fine not exceeding **[**[F10]£200 level 4 on the standard scale**]** or to imprisonment for a term not exceeding three months or to both;

but (without prejudice to section 105(3) below) a previous conviction of an offence under section 7 of the [M2]Civil Aviation (Licensing) Act 1960 shall be treated as a conviction of an offence under this section for the purposes of determining whether a conviction of an offence under this section is a first such conviction.

Textual Amendments

F10 Words substituted (S.)for "£100"and "£200"by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289E–289G**

Modifications etc. (not altering text)

C12 S. 82(2): Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.) and (N.I.) S.I. 1984/703 (N.I. 3), **arts. 5** (substitution of references to levels on the standard scale) 6 (increase of fines) and 9 (in relation to liability on first and subsequent convictions) apply

Marginal Citations

M2 1960 c. 38.

Status:
Point in time view as at 08/05/2019.

Changes to legislation:
There are currently no known outstanding effects for the Civil Aviation Act 1982, Cross Heading: Trespass by aircraft and aircraft nuisance, noise, etc..