



# Airports Act 1986

## 1986 CHAPTER 31

### PART II

#### TRANSFER OF AIRPORT UNDERTAKINGS OF LOCAL AUTHORITIES

##### *Transfer of airport undertakings of local authorities*

### **13 Transfer of airport undertakings of local authorities to companies owned by such authorities.**

- (1) The Secretary of State may give to any principal council who control (whether alone or jointly with one or more other principal councils) an airport to which this section applies in accordance with section 14, a direction requiring the council to form a company for the purpose of carrying on—
  - (a) the business of operating the airport as a commercial undertaking; and
  - (b) any activities which appear to the council to be incidental to or connected with carrying on that business.
- (2) The company shall be a company limited by shares and registered under [F1the Companies Act 2006], and shall be formed by the council before such date as the Secretary of State may specify in his direction under subsection (1).
- (3) In the case of an airport which is jointly controlled by two or more principal councils the Secretary of State may give a direction under subsection (1) to such one of those councils as he thinks fit; but in any such case the council to whom the direction is given must consult the other principal council or councils before forming a company in accordance with the direction.
- (4) The Secretary of State may revoke a direction given by him under subsection (1) at any time before a company has been formed in accordance with the direction.
- (5) References in subsection (1) to carrying on the business of operating an airport as a commercial undertaking include references to carrying on any activities which, at the time when the direction in question is given, are carried on at the airport or on airport land—

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- (a) by the principal council, or (as the case may be) any of the principal councils, who control the airport,
- (b) by any subsidiary by whom the airport is owned as mentioned in section 12(3),
- (c) by any person managing the airport under the terms of any lease or other arrangement made by or on behalf of the principal council or councils who control it or by any such subsidiary, or
- (d) by any person who has been granted a right to carry on activities there by any council, subsidiary or person falling within any of the preceding paragraphs,

with the exception of any activities which the Secretary of State has, before the date referred to in subsection (2), agreed with the principal council or councils who control the airport should not be carried on by the company to be formed in pursuance of the direction.

- (6) In subsection (5) “airport land”, in relation to an airport, means land which is attached to the airport and was on 1st April 1986 administered with the airport as a single unit.
- (7) This section and section 15 (together with section 12(3) and (4)) shall apply to [F2a metropolitan county passenger transport authority][F2an Integrated Transport Authority for an integrated transport area in England] as they apply to a principal council.

#### Textual Amendments

- F1** Words in s. 13(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 68(2)** (with art. 10)
- F2** Words in s. 13(7) substituted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), **Sch. 4 para. 54(2)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

## 14 Airports to which s. 13 applies.

- (1) Section 13 applies to an airport if the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before the relevant date.
- (2) In subsection (1)—
  - “Annual turnover”, in relation to the business carried on at an airport by the airport operator, means the aggregate, as stated or otherwise shown in the accounts of the business, of all sums received in the course of the business during a financial year, including grants from any public or local authority but excluding—
    - (a) capital receipts; and
    - (b) loans made by any person;
 “financial year” means a period of twelve months ending with 31st March; and
    - “the relevant date”, in relation to an airport, means the date of any direction given by the Secretary of State in respect of the airport under section 13(1).
- (3) The Secretary of State may by order substitute for the sum for the time being specified in subsection (1) such greater sum as may be specified in the order.

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- (4) An order under subsection (3) shall not affect the validity of any direction in force under section 13(1) immediately before the coming into operation of the order.

## 15 Transfer schemes.

- (1) Where a principal council have formed a company in pursuance of section 13, the council shall, before such date as the Secretary of State may specify in a direction given to the council, submit to the Secretary of State a scheme providing for the transfer to the company of any property, rights or liabilities of the council, or of any subsidiary of theirs, which it appears to the council to be appropriate to transfer to that company.
- (2) In preparing a scheme in pursuance of subsection (1) a council shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the scheme (and in particular any advice as to the description of property, rights and liabilities which it is in his view appropriate to transfer to the company).
- (3) A scheme under subsection (1) shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve a scheme either without modifications or with such modifications as he thinks fit after consulting the council who submitted the scheme.
- (4) If it appears to the Secretary of State that a scheme submitted under subsection (1) does not accord with any advice given by him as mentioned in subsection (2), he may do one or other of the following things, as he thinks fit, namely—
- (a) approve the scheme under subsection (3) with modifications, or
  - (b) after consulting the council who submitted the scheme, substitute for it a scheme of his own, to come into force on such date as may be specified in the scheme.
- (5) In the case of a scheme relating to an airport which is jointly controlled by two or more principal councils (“the relevant authorities”) the authority required to submit the scheme under subsection (1) must consult the other relevant authority or authorities before submitting the scheme under that subsection; and the Secretary of State shall not approve the scheme (whether with or without modifications), or substitute a scheme of his own, unless—
- (a) he has given that other authority or (as the case may be) those other authorities an opportunity of making, within such time as he may allow for the purpose, written representations with respect to the scheme; and
  - (b) he has considered any such representations made to him within that time.
- (6) In relation to a scheme relating to any such airport, subsection (1) shall be read as if—
- (a) the reference to any property, rights or liabilities of the council submitting the scheme were a reference to any property, rights or liabilities vested in, or in any person on behalf of, the relevant authorities; and
  - (b) the reference to any subsidiary of the council submitting the scheme were a reference to any subsidiary of the relevant authorities.
- (7) On the coming into force of a scheme under this section the property, rights and liabilities affected by the scheme shall, subject to section 75(3), be transferred and vest in accordance with the scheme.

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- (8) The Secretary of State may, if he thinks fit, give a council a direction specifying a date under subsection (1) above at the same time as he gives the council a direction under section 13(1); and the Secretary of State may revoke any direction given by him under subsection (1) above at any time before any property, rights or liabilities vest in any company by virtue of this section.
- (9) Section 13(7) applies for the purposes of this section.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act saved (6.5.1999) by [1998 c. 46 s. 30 Sch. 5 Pt. 2 s. E4\(f\)](#)
- Act textual by [S.I. 2001/2237 art. 2](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12(1) (defn. of "principal council") para. (aa) added (prosp.) by [1994 c. 19 s. 66\(6\)Sch. 16 para. 77](#)
- s. 12(1) (defns. "local authority""principal council") para. (b) amended (S) by [1994 c. 39 Sch. 13 para. 147](#)
- s. 12(1) (defn. of "principal council") para. (a) repealed in part (prosp.) by [1994 c. 19 s. 66\(6\)\(8\)Sch. 16 para. 77Sch. 18](#)