



# Finance Act 1994

## 1994 CHAPTER 9

### PART I

#### CUSTOMS AND EXCISE

#### CHAPTER IV

#### AIR PASSENGER DUTY

##### *Persons liable for the duty*

### **33 Registration of aircraft operators.**

- (1) The Commissioners shall under this section keep a register of aircraft operators.
- (2) The operator of a chargeable aircraft becomes liable to be registered under this section if the aircraft is used for the carriage of any chargeable passengers.

[<sup>F1</sup>(2A) If the Commissioners decide to keep a register under section 33A below, an operator of a chargeable aircraft does not become liable to be registered under this section just because the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.]

- (3) A person who has become liable to be registered under this section ceases to be so liable if the Commissioners are satisfied at any time—
  - (a) that he no longer operates any chargeable aircraft, or
  - (b) that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers [<sup>F2</sup>or, if the Commissioners have decided to keep a register under section 33A below, that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers apart from the carriage of chargeable passengers to which section 30A above applies] .
- (4) A person who is not registered [<sup>F3</sup>under this section] and has not given notice under this subsection shall, if he becomes liable to be registered [<sup>F3</sup>under this section] at any

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time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.

(5) Notice under subsection (4) above shall be in such form, be given in such manner and contain such information as the Commissioners may direct.

<sup>F4</sup>(6) .....

(7) Regulations may make provision as to the information to be included in, and the correction of, the register kept under this section [<sup>F5</sup>or section 33A below] .

(8) In particular, the regulations may provide—

- (a) for the inclusion in the register of persons who have not given notice under this section but appear to the Commissioners to be liable to be registered,
- (b) for persons who are liable to be registered—
  - (i) not to be included in, or
  - (ii) to be removed from,
 the register in prescribed circumstances,
- (c) for the removal from the register of persons who have ceased to be so liable, and
- (d) for the time from which an entry in the register is to be effective (which may be earlier than the time when the entry is first made in the register).

#### Textual Amendments

- F1** S. 33(2A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 23 para. 10\(2\)](#)
- F2** Words in s. 33(3)(b) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 23 para. 10\(3\)](#)
- F3** Words in s. 33(4) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 23 para. 10\(4\)](#)
- F4** S. 33(6) omitted (1.4.2010) (with effect in accordance with art. 3 of the commencing S.I.) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 123(2), [Sch. 41 para. 25\(e\)\(i\)](#); S.I. 2009/511, art. 2 (with art. 4)
- F5** Words in s. 33(7) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 23 para. 10\(5\)](#)

#### <sup>F6</sup>33A Registration of Northern Ireland long haul aircraft operators

- (1) The Commissioners may under this section keep a register of aircraft operators.
- (2) If the Commissioners decide to keep a register under this section, the operator of a chargeable aircraft becomes liable to be registered under this section if the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.
- (3) A person who has become liable to be registered under this section ceases to be so liable if the Commissioners are satisfied at any time—
  - (a) that he no longer operates any chargeable aircraft, or
  - (b) that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers to which section 30A above applies.
- (4) A person who is not registered under this section and has not given notice under this subsection shall, if he becomes liable to be registered under this section at any time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.
- (5) Notice under subsection (4) above shall be in such form, be given in such manner and contain such information as the Commissioners may direct.]

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#### Textual Amendments

**F6** S. 33A inserted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 23 para. 11

### 34 Fiscal representatives.

- (1) An aircraft operator who—
  - (a) is or is liable to be registered, and
  - (b) does not meet the requirements of subsection (3) below,is required to have a fiscal representative.
- (2) In this Chapter “fiscal representative”, in relation to an aircraft operator, means a person who meets those requirements and stands appointed by the operator for the purposes of this section.
- (3) A person meets the requirements of this subsection if—
  - (a) he has any business establishment or other fixed establishment in the United Kingdom, or
  - (b) if he is an individual, he has his usual place of residence in the United Kingdom.
- (4) Where any person is appointed under this section to be the fiscal representative of any aircraft operator (in this section referred to as his “principal”), then, subject to subsection (5) below [<sup>F7</sup>and section 34A], the fiscal representative—
  - (a) shall be entitled to act on his principal’s behalf for any of the purposes of the enactments relating to duty,
  - (b) shall, subject to such provisions as may be made by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of those enactments, and
  - (c) shall be personally liable in respect of any failure of his principal to comply with or discharge any such obligation or liability as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the fiscal representative and his principal.
- (5) A fiscal representative shall not be liable by virtue of subsection (4) above himself to be registered <sup>F8</sup>..., but regulations may—
  - (a) require the names of fiscal representatives to be shown in such manner as may be prescribed against the names of their principals in the register kept under [<sup>F9</sup>section 33 or 33A above] , and
  - (b) make it the duty of a fiscal representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.

#### Textual Amendments

**F7** Words in s. 34(4) inserted (31.7.1998) by 1998 c. 36, s. 15(2)

**F8** Words in s. 34(5) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 23 para. 12(a)

**F9** Words in s. 34(5)(a) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 23 para. 12(b)

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**[<sup>F10</sup>34A Administrative representatives.**

- (1) Subject to the following provisions of this section, where—
  - (a) the appointment of any person to be the fiscal representative of an aircraft operator contains a statement that the appointment is made for administrative purposes only,
  - (b) the operator has complied with any obligations for the provision of security imposed, in relation to appointments containing such statements, by any general directions given by the Commissioners, and
  - (c) the operator is not for the time being in contravention of any requirement to provide any security that he is required to provide under section 36 below,
 that appointment shall have effect in accordance with subsection (2) below.
- (2) Where the appointment of any person as a fiscal representative has effect in accordance with this subsection section 34(4)(b) and (c) above shall be taken, in the case of that person—
  - (a) not to impose any requirement on the representative to secure the payment of amounts of duty which are or may become due from his principal, and
  - (b) not to make him personally liable either to pay any such amounts or in respect of any failure by his principal to pay them.
- (3) The security that may be required by general directions given by the Commissioners for the purposes of this section is any such security for the payment of amounts of duty which are or may become due from the person providing the security as may be determined in accordance with the directions.
- (4) The power of the Commissioners under section 36 below to require the provision of security shall not include any power to require a fiscal representative of an aircraft operator whose appointment has effect in accordance with subsection (2) above to provide any security for the payment of amounts of duty which are or may become due from his principal.
- (5) In this section references to an amount of duty include references to any penalty or interest that is recoverable as if it were an amount of duty, but only in so far as the penalty or interest is in respect of a failure by an aircraft operator to pay an amount of duty, or to pay such an amount before a certain time.]

**Textual Amendments**

**F10** S. 34A inserted (31.7.1998) by 1998 c. 36, s. 15(1)

**35 Fiscal representatives: supplementary.**

- (1) Regulations may make provision about—
  - (a) the manner in which a person is to be appointed as a fiscal representative, and
  - (b) the circumstances in which a person is to be treated as having ceased to be a fiscal representative.
- (2) If any aircraft operator who is required to have a fiscal representative fails to appoint such a representative before the prescribed time, his failure shall attract a penalty under section 9 above.

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- (3) Any failure of a fiscal representative to give any notice which he is required to give by regulations under section 34(5)(b) above shall attract a penalty under section 9 above.

### **36 Security for payment of duty.**

- (1) The Commissioners may require—
- (a) any operator of an aircraft who is or is liable to be registered, or
  - (b) any fiscal representative,
- to provide such security, or further security, as they may think appropriate for the payment of any duty which is or may become due from the operator.
- (2) Any failure by a person to provide any security which he is required by the Commissioners to provide under subsection (1) above shall attract a penalty under section 9 above.
- (3) For the purposes of this section, a person shall not be treated as having been required to provide security under subsection (1) above unless the Commissioners have either—
- (a) served notice of the requirement on him, or
  - (b) taken all such other steps as appear to them to be reasonable for bringing the requirement to his attention.

### **37 Handling agents.**

- (1) Where any amount of duty becomes payable at any time by the operator of an aircraft and, within the period of ninety days beginning with that time, that amount, or any other amount which becomes payable by him within the period, is not paid, the Commissioners may give notice under this section to any handling agent of his.
- (2) If any operator of an aircraft who is required to have a fiscal representative fails to appoint such a representative before the prescribed time, the Commissioners may give notice under this section to any handling agent of his.
- (3) In this Chapter “handling agent”, in relation to the operator of an aircraft (“the principal”), means any person (other than an individual) who, under an agreement with the principal, makes arrangements for—
- (a) the allocation of seats to passengers on aircraft operated by the principal, or
  - (b) the supervision of the boarding of such aircraft by passengers.
- (4) A notice under this section—
- (a) may be given on the ground referred to in subsection (1) above only if the Commissioners consider it necessary to do so for the protection of the revenue, and
  - (b) may at any time be withdrawn by the Commissioners.
- (5) A notice under this section shall become effective on the date stated in it or, if later, the time when the notice is received by the handling agent and shall continue to be effective until withdrawn.
- (6) If, where a notice given to a handling agent under this section is effective—
- (a) the allocation of seats to passengers on aircraft operated by his principal, or the supervision of the boarding of such aircraft by passengers, is carried out

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in pursuance of arrangements made by him under any agreement with his principal, and

(b) any duty payable in respect of those passengers is not paid, the handling agent shall be liable jointly and severally with his principal for the payment of the duty.

### **38 Accounting for and payment of duty.**

(1) Regulations shall require aircraft operators who are registered or liable to be registered—

(a) to keep accounts for the purposes of duty in such form and manner as may be prescribed, and

(b) to make returns in respect of duty—

(i) by reference to such periods as may be prescribed or as may be allowed by the Commissioners, in relation to a particular operator, in accordance with regulations, and

(ii) at such time and in such manner as may be prescribed or specified.

(2) Any person from whom any duty is due shall pay the duty at such time and in such manner as may be prescribed or specified.

[<sup>F11</sup>(2A) Regulations may require a prescribed person to make, at prescribed times during a prescribed period, payments based on an estimate of what the person's liability will be for duty charged in the period.

(2B) The estimate and the amounts of the payments are to be determined in accordance with provision made by the regulations.

(2C) The payments are to be treated as being payments on account of the person's liability for duty charged in the period.

(2D) The regulations must make provision for dealing with cases where this results in an overpayment of duty by providing for amounts—

(a) to be repaid by the Commissioners, or

(b) to be treated as having been paid on account of the person's liability for duty charged in other periods,

or both.]

(3) In this section “specified” means specified in a notice published, and not withdrawn, by the Commissioners.

(4) Any failure by any person to comply with regulations under this section shall, unless he is complying with the corresponding provisions of such a notice, attract a penalty under section 9 above and, in the case of any failure to keep accounts, daily penalties.

#### **Textual Amendments**

**F11** S. 38(2A)-(2D) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), s. 186(1)

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### [<sup>F12</sup>39 Schemes for simplified operation of Chapter

- (1) This section applies if the Commissioners consider that, having regard to difficulties encountered or expected to be encountered by any registered operator in obtaining and recording information about passengers and their journeys, it is appropriate for this Chapter to have effect in relation to the registered operator in accordance with a special accounting scheme.
- (2) The Commissioners may agree with the registered operator that this Chapter is to have effect in relation to the registered operator in accordance with a special accounting scheme agreed between the Commissioners and the registered operator (but subject to subsection (4)).
- (3) A special accounting scheme is a scheme which makes provision for methods of calculating—
  - (a) how many persons are to be regarded for the purposes of this Chapter as chargeable passengers carried by chargeable aircraft operated by a registered operator, and
  - (b) how many of those are to be so regarded as having been so carried on journeys in respect of which duty is chargeable at any particular rate.
- (4) The Commissioners may publish a notice specifying terms and conditions subject to which special accounting schemes are to have effect.
- (5) Where the Commissioners and a registered operator have agreed that this Chapter is to have effect in relation to the registered operator in accordance with a special accounting scheme, this Chapter has effect in relation to the registered operator in accordance with the scheme (and with any notice under subsection (4) which has been published by the Commissioners and not withdrawn) for the period agreed by the Commissioners and the registered operator.
- (6) The Commissioners and the registered operator may at any time agree to vary the special accounting scheme for the future.
- (7) The Commissioners may at any time terminate the operation of the special accounting scheme—
  - (a) on the application of the registered operator, or
  - (b) where they have reasonable grounds for doing so,by giving notice to the registered operator.]

#### Textual Amendments

- F12** S. 39 substituted (21.7.2009) (with effect in accordance with Sch. 5 para. 8(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 5 para. 3](#) (with [Sch. 5 para. 8\(1\)](#))

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

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

- s. 16A(2)(g) inserted by [2023 c. 30 Sch. 13 para. 28](#)
- s. 160(2)-(7) modified by 2010 c. 8 s. 464(6) (as inserted) by [2017 c. 32 Sch. 5 para. 1](#)
- Sch. 5 para. 2(1)(pa) inserted by [S.I. 2022/109 reg. 4](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)