

*These notes refer to the Scotland Act 1998 (c.46)  
which received Royal Assent on 19th November 1998*

# SCOTLAND ACT 1998

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## EXPLANATORY NOTES

### SCHEDULES

#### Schedule 5

### Part II: Preliminary paragraphs

### SECTIONS

#### *Section E4: Air Transport*

#### **Executive Devolution**

The following functions have been included in the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 ([S.I. 1999/1750](#)).

<p><a href="#">The Civil Aviation Act 1982 (c.16)</a> sections 38(2), 42(1), 50(2), 78, 79(1), 80 and 88(10) and (11).</p>	<p>Section 38(2) - The function of the Secretary of State to make an order directing specified aerodrome authorities to fix charges for the use of an aerodrome by reference among other things to any fact or matter relevant to aircraft noise or the extent or nature of any inconvenience resulting from such noise; and in such order to give directions as to the manner in which charges are to be fixed.</p> <p>Section 42(1) - The function of the Secretary of State to authorise the Civil Aviation Authority to acquire land compulsorily in Scotland.</p> <p>Section 50(2) - The function of the Secretary of State to give written authorisation to any person to enter upon land to make a relevant survey where section 50 applies.</p> <p>Section 78(1) - The function of the Secretary of State to publish a notice imposing a duty on an aircraft operator to comply with requirements specified in the notice so as to limit or mitigate the effect of noise and vibration connected with the taking off or landing of an aircraft at an aerodrome.</p> <p>Section 78(2) - The function of the Secretary of State to take a view that requirements mentioned in subsection (1) have not been complied with, to afford</p>
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	<p>to the aircraft operator an opportunity of making representations and to consider those representations and thereafter to give the person managing the aerodrome concerned a direction requiring that facilities for using the aerodrome are withheld to a specified extent from the aircraft operator.</p> <p>Section 78(3) - The function of the Secretary of State, by publishing a notice, to prohibit specified aircraft from taking off or landing at an aerodrome, to specify the maximum number of occasions on which specified aircraft may take off or land and to determine the persons who are to be entitled to make the appropriate arrangements for aircraft of which they are the operators.</p> <p>Section 78(4)(a) - The function of the Secretary of State, by notice, to specify the circumstances in which the take off or landing of an aircraft can be disregarded for the purposes of a notice under subsection (3).</p> <p>Section 78(5)(a) - The function of the Secretary of State to comply with the duty to consult before making a determination in respect of an aerodrome in pursuance of subsection (3)(c).</p>
<p><a href="#">The Civil Aviation Act 1982 (c.16)</a> sections 38(2), 42(1), 50(2), 78, 79(1), 80 and 88(10) and (11) (contd.).</p>	<p>Section 78(5)(c) - The function of the Secretary of State to authorise any person to detain an aircraft where it appears to the Secretary of State that it is about to take off in contravention of any prohibition or restriction imposed in pursuance of subsection (3).</p> <p>Section 78(5)(f) - The function of the Secretary of State, by notice to the person managing an aerodrome, to determine that a particular occasion or series of occasions on which aircraft take off or land at an aerodrome are to be disregarded for the purposes of a notice under subsection (3).</p> <p>Section 78(6) - The function of the Secretary of State to give to a person managing a designated aerodrome appropriate directions so as to avoid, limit or mitigate the effect of noise and vibration connected with the take off or landing of an aircraft.</p> <p>Section 78(7) - The function of the Secretary of State to apply for an order of the Court of Session under section 45(b) of the Court of Session Act 1988.</p> <p>Section 78(8) - The function of the Secretary of State to make an order after</p>

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	<p>consultation requiring a person managing a designated aerodrome to provide specified noise measuring equipment, to produce specified reports and to allow inspection of the equipment.</p> <p>Section 78(8) - The function of the Secretary of State also under this subsection of receiving the specified reports and authorising any person to inspect noise measuring equipment.</p> <p>Section 78(9) - The function of the Secretary of State to afford to a person upon whom a duty has been imposed by subsection (8) an opportunity to make representations with respect to any failure to perform that duty, to consider any such representations and thereafter to take appropriate steps to remedy the failure and to recover in court any expenses incurred by the Secretary of State.</p> <p>Section 78(11) - The function of the Secretary of State after consultation to make an order repealing any provision of a local Act which he considers is unnecessary.</p> <p>Section 78(12) - The function of the Secretary of State to consider what incidental or supplementary provisions may be appropriate in respect of any notice published in pursuance of subsections (1), (3) or (4) and the function also of varying or revoking an existing notice.</p>
<p><a href="#">The Civil Aviation Act 1982 (c.16)</a> sections 38(2), 42(1), 50(2), 78, 79(1), 80 and 88(10) and (11) (contd.).</p>	<p>Section 79(1) - The function of the Secretary of State to make a scheme requiring the person managing an aerodrome to make grants towards the insulation against noise of such classes of buildings as the Secretary of State thinks fit.</p> <p>Section 80 - The function of the Secretary of State to designate an aerodrome for the purposes of sections 78 and 79.</p> <p>Section 88(10) - The function of the Secretary of State to make an order designating an airport for the purposes of section 88.</p> <p>Section 88(11) - The function of the Secretary of State after consultation to make an order repealing any enactment in a local Act which appears to him to be unnecessary.</p>
<p><a href="#">The Airports Act 1986 (c.32)</a>, sections 37(5), 65(2) and (6) and 68(1).</p>	<p>Section 37(5) - The function of the Secretary of State after consultation to determine that an airport should cease to</p>

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be subject to economic regulation under Part IV of the Act.

Section 65(2) - The function of the Secretary of State to make an order directing that the road traffic enactments (as defined in subsection (6)) shall have effect in relation to an airport subject to such modifications as appear to him necessary or expedient for the purposes set out in paragraphs (a) and (b).

Section 65(6) - The function of the Secretary of State to make an order designating an airport for the purposes of Section 65.

Section 68(1) - The function of the Secretary of State after consultation to make an order requiring an airport operator to provide maintain and operate equipment for monitoring aircraft movement and to make specified reports and to permit an authorised person to inspect the equipment. In addition, the function of the Secretary of State under paragraph (b) to receive specified reports and to authorise any person to inspect equipment.