

SCHEDULES

SCHEDULE 1

Section 6

POLICING OF AIRPORTS

Amendments of Part 3 of 1982 Act

- 1 Part 3 of the Aviation Security Act 1982 (c. 36) (“the 1982 Act”) (policing of airports) has effect subject to the following amendments.
- 2 After section 25 insert—

“25A Consultation about policing of designated airports

- (1) Before a police services agreement is entered into under section 25B of this Act in relation to an aerodrome which is a designated airport—
 - (a) the manager of the aerodrome, and
 - (b) the chief officer of police for the relevant police area, acting jointly, must carry out the consultation required by this section.
- (2) The consultation required by this section is consultation carried out with all of the persons within subsection (3) below with a view to establishing—
 - (a) what measures are required to be taken in relation to the aerodrome for security or policing purposes in order to comply with or take account of—
 - (i) any directions given under sections 12, 13, 13A and 14 of this Act,
 - (ii) any national threat assessment or relevant information, and
 - (iii) any guidance issued by the Secretary of State which relates to the policing of the aerodrome,
 - (b) what other measures should be taken in relation to the aerodrome for policing purposes,
 - (c) the extent to which measures within paragraph (a) or (b) above are being taken by persons within subsection (3) below or the manager of the aerodrome, and
 - (d) in the light of the above, the level of policing which should be provided for the aerodrome in accordance with section 26(2A) of this Act.
- (3) The persons within this subsection are—
 - (a) any person (other than the manager of the aerodrome) who is required to take any measures in relation to the aerodrome pursuant to a direction given under section 12, 13, 13A or 14 of this Act,
 - (b) the Commissioners for Her Majesty’s Revenue and Customs (in relation to measures taken by officers of Revenue and Customs), and

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- (c) the Secretary of State (in relation to measures taken by immigration officers).
- (4) The Secretary of State may by order provide that subsection (3) above is to apply in relation to a particular aerodrome with any modifications specified in the order.
- (5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument and—
 - (a) any order containing a statement that it is made with the consent of the manager of the aerodrome and the chief officer of police for the relevant police area shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) any order not containing such a statement shall be laid before Parliament in draft and shall not be made unless the draft is approved by resolution of each House of Parliament.
- (6) In this section—
 - “national threat assessment” means any assessment of a threat to the aviation industry issued by the Secretary of State;
 - “policing purposes”, in relation to an aerodrome, means the purposes of the preservation of the peace, or the prevention of crime, at the aerodrome;
 - “relevant information”, in relation to an aerodrome, means any information (other than a national threat assessment) which is made available by—
 - (a) the manager of the aerodrome,
 - (b) any person (other than the manager of the aerodrome) who is required to take any measures in relation to the aerodrome pursuant to a direction given under section 12, 13, 13A or 14 of this Act,
 - (c) the chief officer of the police force for the relevant police area,
 - (d) the Commissioners for Her Majesty’s Revenue and Customs, or
 - (e) the Secretary of State,
 and which relates to a threat to security at the aerodrome or is relevant to the preservation of the peace, or the prevention of crime, at the aerodrome.

25B Police services agreements

- (1) This section applies where an aerodrome is a designated airport.
- (2) At any time after the period of 12 months beginning with the operative date there must be a police services agreement in force in relation to the aerodrome.
- (3) In this Part a “police services agreement” means an agreement between the relevant persons which specifies—
 - (a) the level of policing to be provided for the aerodrome in accordance with section 26(2A) of this Act during the period for which the agreement is in force,

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- (b) the payments to be made by the manager of the aerodrome in connection with that policing, or the manner in which such payments are to be assessed, and
 - (c) any accommodation and facilities to be provided by the manager in connection with that policing.
 - (4) In determining the terms of a police services agreement, the relevant persons shall have regard (in particular) to—
 - (a) the matters established on the consultation carried out under section 25A of this Act in contemplation of the agreement, and
 - (b) the extent (if any) to which the costs incurred by the police authority in connection with the policing provided for the aerodrome are (or are likely to be) defrayed by payments made in respect of that policing by any person other than the manager of the aerodrome.
 - (5) A police services agreement shall be in force—
 - (a) for a period of twelve months, or
 - (b) if a longer period is specified in the agreement, for the period so specified.
 - (6) A police services agreement shall contain provision for the agreement to be varied if there is a material change in circumstances relating to the policing provided for the aerodrome.
 - (7) A police services agreement shall cease to be in force if the aerodrome to which it relates ceases to be a designated airport.
 - (8) The manager of an aerodrome which is a designated airport shall supply the Secretary of State with a copy of any police services agreement which is in force in relation to the aerodrome if the Secretary of State requests a copy.
 - (9) In this section “the operative date”—
 - (a) in the case of an aerodrome which was a designated airport on the date of the passing of the Civil Aviation Act 2006 and has remained so designated since that date, means that date, and
 - (b) in any other case, means the date as from which the aerodrome became a designated airport.
 - (10) In this Part “the relevant persons”, in relation to an aerodrome, means—
 - (a) the manager of the aerodrome,
 - (b) the police authority for the relevant police area, and
 - (c) the chief officer of police for that area.”
- 3 (1) Section 26 (exercise of police functions at designated airports) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The chief officer of police for the relevant police area shall, in making arrangements for the policing of an aerodrome which is a designated airport, secure that the level of policing provided under the arrangements takes account of—
- (a) any measures required to be taken pursuant to directions given under section 12, 13, 13A or 14 of this Act; and

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- (b) any other measures taken in relation to the aerodrome for security or policing purposes by immigration officers or officers of Revenue and Customs or by the manager of the aerodrome.
- (2B) In relation to any time when a police services agreement is in force in relation to an aerodrome under section 25B of this Act, the manager of the aerodrome—
- (a) shall make to the police authority for the relevant police area such payments in respect of the policing provided for the aerodrome as fall to be made under the agreement, and
 - (b) shall secure that accommodation and facilities are provided in accordance with the agreement for use in connection with that policing.
- (2C) In relation to any time when no police services agreement is in force in relation to an aerodrome which is a designated airport, the manager of the aerodrome—
- (a) shall make to the police authority for the relevant police area such payments as are necessary to reimburse the authority in respect of the costs reasonably incurred by it in connection with the policing provided for the aerodrome, and
 - (b) shall secure that suitable accommodation and facilities are provided for use in connection with that policing.
- (2D) Subsection (2C)(a) above does not require the manager to pay any costs incurred by the police authority to the extent that those costs are defrayed by payments made by any other person to the police authority in respect of the policing provided for the aerodrome.
- (2E) In this section “policing purposes” has the same meaning as in section 25A of this Act.”
- (3) Omit subsection (3).
- 4 After section 29 insert—

“29A References to Secretary of State

- (1) Any of the relevant persons may refer to the Secretary of State a matter to which subsection (2) or (3) below applies.
- (2) This subsection applies to a dispute between the manager of an aerodrome which is (or has been) a designated airport and the police authority, or the chief officer of police, for the relevant police area—
 - (a) about the terms, construction or operation of a police services agreement which is (or has been) in force in relation to the aerodrome, or
 - (b) about the payments to be made, or the accommodation and facilities to be provided, under section 26(2C) of this Act.
- (3) This subsection applies to a failure by the relevant persons to enter into a police services agreement in a case where section 25B(2) of this Act requires such an agreement to be in force.

29B Appointment of independent experts

- (1) This section applies where a matter has been referred to the Secretary of State under section 29A of this Act.
- (2) The Secretary of State shall notify to each of the relevant persons the name of an independent expert who he proposes should deal with the matter.
- (3) The Secretary of State shall appoint that independent expert to deal with the matter if, within the initial appointment period, all the relevant persons agree to the appointment.
- (4) In default of agreement under subsection (3) above—
 - (a) the manager of the aerodrome, and
 - (b) the police authority for the relevant police area and the chief officer of police for that area, acting jointly,shall each appoint an independent expert within the period of fourteen days beginning with the date following that on which the initial appointment period ends.
- (5) The two independent experts so appointed shall appoint a third independent expert to act as chairman.
- (6) The three independent experts so appointed shall deal with the matter.
- (7) An appointment under subsection (5) above shall be made within the period of fourteen days beginning with the date on which the second of the two independent experts is appointed (or, if both independent experts are appointed on the same date, within the period of fourteen days beginning with that date).
- (8) In this section “the initial appointment period” means the period of fourteen days beginning with the date on which the Secretary of State notifies the relevant parties under subsection (2) above.
- (9) In this section and section 29C of this Act “independent expert”, in relation to a matter referred to the Secretary of State under section 29A of this Act, means a person—
 - (a) who is independent of the relevant persons and the Secretary of State,
 - (b) who has no previous connection with the matter in question, and
 - (c) who has relevant legal experience or knowledge or experience which is relevant to the matter in question.

29C Removal and replacement etc. of independent experts

- (1) On the application of any of the relevant persons, the Secretary of State may—
 - (a) remove an independent expert on any of the grounds specified in subsection (2) below;
 - (b) appoint an independent expert to replace one who has been removed under paragraph (a) above or who has died or resigned;

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- (c) make any appointment which should have (but has not) been made under section 29B(4) or (5) of this Act.
- (2) The grounds specified in this subsection are—
 - (a) that circumstances exist that give rise to justifiable doubts as to the expert’s impartiality;
 - (b) that he does not possess the qualifications required by paragraphs (a) to (c) of section 29B(9) of this Act;
 - (c) that he is physically or mentally incapable of dealing with the matter in question or there are justifiable doubts as to his capacity to do so;
 - (d) that he has refused or failed—
 - (i) properly to deal with the matter, or
 - (ii) to use all reasonable despatch in dealing with the matter,
 and that substantial injustice has been or will be caused to the applicant.
- (3) The independent experts may not continue to deal with the matter while an application to the Secretary of State under subsection (1)(a) above is pending.
- (4) The Secretary of State may not remove an independent expert under subsection (1)(a) above without first giving him the opportunity to make representations.

29D Determination of matters referred under section 29A

- (1) This section applies where section 29B of this Act requires—
 - (a) an independent expert, or
 - (b) three independent experts,
 to deal with a matter referred to the Secretary of State under section 29A of this Act (and in this section the independent expert or experts are referred to as “the tribunal”).
- (2) The tribunal shall determine the procedure to be followed in dealing with the matter.
- (3) In particular, the tribunal—
 - (a) where it consists of three independent experts, may take decisions by a majority vote,
 - (b) shall give each of the relevant persons and the Secretary of State an opportunity to make representations about the matter in question,
 - (c) may appoint legal advisers to report to it and the relevant persons,
 - (d) may appoint assessors to assist it on technical matters,
 - (e) may allow any legal adviser or assessor appointed under paragraph (c) or (d) above to attend any meetings of the tribunal held for the purposes of dealing with the matter, and
 - (f) shall give each of the relevant persons and the Secretary of State a reasonable opportunity to comment on any information, opinion or advice offered by any such person.
- (4) In relation to a matter to which section 29A(2) of this Act applies, the tribunal may—

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- (a) make a declaration as to how a provision of a police services agreement is to be construed or operate;
 - (b) make a declaration varying the terms of a police services agreement;
 - (c) determine that the manager of the aerodrome is obliged to pay to the police authority for the relevant police area a specified sum, or a sum to be assessed in a specified manner;
 - (d) determine that the manager of the aerodrome is obliged to provide specified accommodation and facilities for use in connection with the policing provided for the aerodrome;
 - (e) make an order about costs.
- (5) In dealing with a matter to which section 29A(3) of this Act applies, the tribunal shall have regard (in particular) to—
- (a) the matters specified in paragraphs (a) to (d) of section 25A(2) of this Act, and
 - (b) the extent (if any) to which the costs incurred by the police authority in connection with the policing provided for the aerodrome are (or are likely to be) defrayed by payments made in respect of that policing by any person other than the manager of the aerodrome.
- (6) In relation to such a matter, the tribunal—
- (a) shall make a declaration as to the terms which are to have effect as between the relevant parties as the terms of a police services agreement;
 - (b) may make an order about costs.
- (7) Where a declaration is made under subsection (6)(a) above, references in this Part to a police services agreement shall have effect, so far as necessary, as references to the terms which have effect as the terms of a police services agreement.
- (8) A relevant person may appeal to the High Court against any decision of the tribunal under this section.
- (9) Any declaration, determination or order made under this section may, with the permission of the High Court, be enforced as if it were a judgment of the High Court (and may, in particular, be enforced by the use of powers in relation to contempt of court).
- (10) In the application of this section to Scotland, references in subsections (8) and (9) to the High Court shall be read as references to the Court of Session.
- (11) In this section “costs” means—
- (a) the fees and expenses of the tribunal,
 - (b) the fees and expenses of any legal advisers or assessors appointed by the tribunal, and
 - (c) the legal or other costs of the relevant persons.”

5 In section 31(1) (interpretation) at the appropriate places insert—

““immigration officer” means a person who is an immigration officer within the meaning of the Immigration Act 1971;”,

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““police services agreement” has the meaning given by section 25B(3) of this Act (but this is subject to section 29D(7) of this Act);”, and

““the relevant persons” has the meaning given by section 25B(10) of this Act;”.

Provisions treated as having come into force on 21st November 2005

- 6 (1) Paragraph 3(2), so far as relating to section 26(2A), (2C) and (2D) of the 1982 Act, is to be treated as having come into force on 21st November 2005.
- (2) But in relation to the period beginning with 21st November 2005 and ending with the day before that on which this Act is passed—
- (a) section 26(2A)(b) of the 1982 Act is to be treated as having had effect with the substitution of “purposes or for the purposes of the preservation of the peace, or the prevention of crime, at the aerodrome” for “or policing purposes”, and
 - (b) section 26(2C) of the 1982 Act is to be treated as having had effect with the omission of the words from the beginning to “designated airport”.
- (3) Paragraph 3(3)—
- (a) is to be treated as having come into force on 21st November 2005, and
 - (b) does not affect the operation of section 26(3) of the 1982 Act in relation to policing provided before 21st November 2005.
- (4) Paragraph 4, so far as relating—
- (a) to a dispute about the payments to be made under section 26(2C) of the 1982 Act, or
 - (b) to a dispute about the accommodation and facilities to be provided under that provision,
- is to be treated as having come into force on 21st November 2005.
- (5) Paragraph 5, so far as relating to the definition of “immigration officer”, is to be treated as having come into force on 21st November 2005.
- (6) In relation to the period beginning with 21st November 2005 and ending with the day before that on which this Act is passed, section 31(1) of the 1982 Act is to be treated as having had effect with the insertion at the appropriate place of—
- ““the relevant persons”, in relation to an aerodrome, means—
- (a) the manager of the aerodrome,
 - (b) the police authority for the relevant police area, and
 - (c) the chief officer of police for that area.”