

CIVIL AVIATION ACT 2012

EXPLANATORY NOTES

COMMENTARY

Part 2 – Other Aviation Matters

Aviation security

Section 78: Aviation security directions etc

246. *Section 78* amends Part 2 of the ASA 1982 by inserting a number of new sections which confer various aviation security functions on the CAA. Section 78 also gives effect to Schedule 11 (aviation security directions etc: minor and consequential amendments).
247. *Subsection (2)* inserts new section 14A (review by CAA). The new section places a duty on the CAA to review aviation security directions that are currently in force and to make recommendations to the Secretary of State about those directions and about the giving of further directions. The Secretary of State may specify the form of the recommendations. Aviation security directions will continue to be given by the Secretary of State. The CAA's role will be, for example, to prepare draft directions for the Secretary of State to consider and to prepare guidance on directions.
248. *Subsection (3)* inserts new section 16A (directions requiring national security vetting). Aviation security directions specify certain aviation security activities that can only be carried out by individuals who have been vetted. This new section places a duty on the CAA to make arrangements for carrying out that vetting, including arrangements for renewing and withdrawing clearance and arrangements for appeals. This new section enables the Secretary of State to give directions to the CAA in connection with the vetting arrangements, which the CAA must comply with. Subsection (5) of new section 16A confirms that this provision does not remove or limit any other power under which national security vetting is carried out.
249. *Subsection (4)* of section 78 inserts new section 23A (functions of CAA under this Part). New section 23A(1) places a duty on the CAA to carry out the functions conferred on it by or under Part 2 of the ASA 1982 with a view to achieving the purposes to which that Part applies. Part 2 of the ASA 1982 is broadly concerned with the protection of civil aviation against acts of violence: see section 10 of that Act. New section 23A(2) requires the CAA to consult the Secretary of State if it considers there to be a conflict between its duty under new section 23A(1) and its duty under section 4 of the CAA 1982, which, amongst other things, includes securing a high standard of safety. The CAA must resolve the conflict in the manner directed by the Secretary of State and, in so doing, is to be treated as being in compliance with new section 23A(1) and section 4 of the CAA 1982.
250. *Subsection (5)* of section 78 amends the definition of “authorised person” in section 24A(1) (interpretation of Part 2) of the ASA 1982 so that it can mean a person authorised in writing by the Secretary of State or the CAA. Authorised persons have the power to inspect aircraft and aerodromes and other connected powers as set out in

Part 2 of the ASA 1982. This will mean that such persons will be able to be appointed by the CAA, as well as the Secretary of State.

251. *Subsection (6)* gives effect to Schedule 11.

Schedule 11: Aviation security directions etc: minor and consequential amendments

252. **Schedule 11** contains amendments to Part 1 of the CAA 1982 and Part 2 of the ASA 1982.
253. **Paragraph 2** amends section 11 of the CAA 1982 (charges by CAA) by inserting a new subsection (8) which provides that references in section 11 to functions of the CAA include functions conferred by or under Part 2 of the ASA 1982 on authorised persons (as defined in that Part) to the extent that the functions are carried out by persons authorised by the CAA. This enables the CAA to charge for the cost of authorised persons authorised by the CAA.
254. **Paragraph 3** amends section 20 of the CAA 1982 (supplementary provisions with respect to functions of the CAA) by inserting a new subsection (5) which provides that references in section 20 to functions of the CAA include functions conferred by or under Part 2 of the ASA 1982 on authorised persons (as defined in that Part) to the extent that the functions are carried out by persons authorised by the CAA. This enables the CAA to have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of the functions of authorised persons authorised by the CAA.
255. **Paragraph 6** amends section 11 of the ASA 1982 (power to require information) to provide that the Secretary of State and the CAA are a “relevant authority” for the purposes of section 11. These amendments enable the CAA, in addition to the Secretary of State, to require information be provided in connection with the exercise of its functions conferred by or under Part 2 of the ASA 1982.
256. **Paragraph 8** amends section 11A of the ASA 1982 (designation of security restricted area) by inserting new subsection (4A) which requires the Secretary of State to consult the CAA before approving an application without modifications to designate a security restricted area. It also adds the CAA to the list of persons whom the Secretary of State must consult before approving an application with modifications and to whom the Secretary of State is required to give notice of any designation under section 11A.
257. **Paragraph 12** inserts new section 17A (copies of directions etc for CAA) into the ASA 1982. New section 17A requires the Secretary of State to give the CAA a copy of each aviation security direction, each direction varying or revoking such a direction and each notification given by the Secretary of State, in relation to directions and notifications given on or after the coming into force of this paragraph.
258. **Paragraph 13** deletes subsection (3) of section 18A (enforcement notices) of the ASA 1982 and inserts new subsections (4) and (5). These new subsections require, respectively, that where a person authorised by the Secretary of State serves an enforcement notice the Secretary of State must give a copy of the notice to the CAA, and where a person authorised by the CAA serves an enforcement notice the CAA must give the Secretary of State a copy.
259. **Paragraph 14** amends section 18D of the ASA 1982 (objections to enforcement notices). Paragraph 14(2) inserts new subsection (3A). New subsection (3A) requires that, where an objection to an enforcement notice has been received, the Secretary of State must give a copy of the objection to the authorised person who served the enforcement notice and the CAA, consider the objection and allow the objector and the authorised person an opportunity to make written or oral representations to the Secretary of State or a person appointed by the Secretary of State. It also requires the Secretary of State to give a decision notice (defined by section 18D(4), as amended by paragraph 14(3)) to

the person who made the objection and to give a copy of the decision notice to the authorised person who served the enforcement notice and the CAA.

260. **Paragraph 15** amends section 20B of the ASA 1982 (detention directions). Paragraph 15(2) inserts new subsections (2A) and (2B). These subsections require, respectively, that where a person authorised by the Secretary of State gives a detention direction the Secretary of State must give the CAA a copy and where a person authorised by the CAA gives a detention direction, the CAA must give the Secretary of State a copy. Paragraph 15(3)(a) inserts new paragraph (za) into subsection (5) which requires the Secretary of State to give a copy of an objection to a detention direction to the authorised person who gave the direction and the CAA. Paragraph 15(3)(d) adds new paragraph (e) to subsection (5) of section 20B which requires the Secretary of State to give a copy of the notice of the Secretary of State's decision to the authorised person who gave the direction and the CAA.
261. **Paragraph 16** amends subsection (7) of section 21 (application of provisions to air navigation installations) by inserting references to new sections 14A, 16A and 17A of the ASA 1982 to ensure that references to directions in these sections are construed as including references to directions that may be given in respect of air navigation installations.
262. **Paragraph 17** amends subsections (1) and (2) of section 21G (duty to report certain occurrences). The amendments provide that regulations made under that section may require reports of certain occurrences to be made to the Secretary of State or the CAA. They also add the CAA to the list of persons to be consulted by the Secretary of State before making regulations requiring persons to report certain occurrences.
263. Part 3 of the RESA 2008" (civil sanctions) allows for civil sanctions to be applied to the offences in Part 2 of the ASA 1982. Paragraph 18 provides that offences under section 11 of the ASA 1982 (power to require information) as amended by this Schedule are to be treated as if they had been in force immediately before the day on which the RESA 2008" was passed, and are therefore to be capable of being dealt with by way of civil sanctions as provided for by Part 3 of that Act.

Section 79: Approved providers of aviation security services

264. **Section 79** makes a number of amendments to section 20A of the ASA 1982 (aviation security services: approved providers). Section 20A confers a power enabling the Secretary of State to make regulations about approved providers of aviation security services. *Subsection (2)* of section 79 amends section 20A(2) so as to enable the regulations made under that section to provide for the CAA, rather than the Secretary of State, to maintain a list of persons who are approved by it for the provision of a particular aviation security service.
265. *Subsection (3)* of section 79 amends section 20A(3) so as to enable regulations made under section 20A to provide for approval to be given, and persons to be listed in respect of the provision of a service, either generally or only at a particular location; to make provision about factors to be taken into account when deciding whether to grant an application; to make provision for employees of listed persons to be treated as listed in respect of the provision of that service generally or at that location (as appropriate) in specified circumstances; and other conditions applying to a listing.
266. *Subsection (4)* inserts new subsection (3A) into section 20A, which provides that regulations must include provision for appeals against the refusal of applications for inclusion in a list and against removal from a list, and, where appropriate, for appeals against conditions.
267. *Subsection (5)* inserts new subsection (5A), which defines "listed person", in relation to an aviation security service, as meaning a person who is listed in respect of the provision of that service generally or at the relevant location.

Section 80: Advice and assistance in connection with aviation security

268. **Section 80** inserts new sections 21H (provision of advice and assistance to Secretary of State) and 21I (provision of advice and assistance to other persons). Subsection (1) of new section 21H places a duty on the CAA to provide such advice and assistance to the Secretary of State as the Secretary of State requires in connection with matters relevant to the purposes of Part 2 of the ASA 1982 (the protection of civil aviation against acts of violence). Subsection (2) of new section 21H provides that a requirement to provide such advice and assistance may be a continuing requirement on the CAA. Subsection (3) makes clear that nothing in new section 21H affects the general provision made by section 16 of the CAA 1982.
269. New section 21I places a duty on the CAA to provide such advice and assistance to the persons listed in subsection (3) of that section (for example, managers of UK aerodromes and operators of aircraft registered or operating in the UK) as the CAA considers appropriate having regard to the purposes to which Part 2 of the ASA 1982 applies. Subsection (4) of new section 21I ensures that the Secretary of State retains the power to provide advice and assistance to the persons listed in subsection (3) of the new section, having regard to the purposes to which Part 2 of the ASA 1982 applies and any advice and assistance provided to those persons by the CAA.

Section 81: Power to modify functions of CAA etc relating to aviation security

270. **Section 81** inserts new section 21J into the ASA 1982 (power to modify functions of CAA etc relating to aviation security). The new section enables the Secretary of State to modify, by regulations, the aviation security functions of the CAA and the functions of authorised persons who are authorised by the CAA. This new section provides that before making any such regulations, the Secretary of State must consult the CAA.

Section 82: Transfer schemes

271. **Section 82** enables the Secretary of State to make one or more schemes to transfer to the CAA rights, powers, duties and liabilities of the Crown in connection with individuals employed in the civil service of the Crown and other property, rights and liabilities of the Crown.
272. It provides that a scheme may transfer only such property, rights, powers, duties and liabilities as the Secretary of State considers appropriate having regard to the functions conferred on the CAA by or under Part 2 of the ASA 1982, as amended by this Act, and the functions of persons authorised by the CAA for the purposes of Part 2 of the ASA 1982, as amended by this Act.
273. *Subsection (3)* requires the Secretary of State to consult the CAA before making a transfer scheme.
274. *Subsection (4)* gives effect to Schedule 12 which makes further provision about transfer schemes, made under section 82.

Schedule 12: Aviation security: further provision about transfer schemes

275. **Paragraph 1** provides that a transfer scheme may make provision for the transfer of property, rights and liabilities that would not otherwise be capable of transfer.
276. It provides that a transfer scheme may create rights or impose liabilities over property transferred by the scheme, create new rights and liabilities as between the Crown and the CAA and apportion property, rights and liabilities between the Crown and the CAA.
277. Sub-paragraph (3) allows a transfer scheme to include consequential, incidental, supplementary, transitional, transitory and saving provision.

278. [Paragraph 2](#) makes provision in relation to rights, powers, duties and liabilities relating to an individual's contract of employment where they are transferred by means of a transfer scheme. It provides that the continuity of the individual's employment is not broken by the transfer of employment under a transfer scheme. The contract of employment will continue as if it had been made between the individual and the CAA, and the individual will not be regarded as having been dismissed by reason of redundancy because of the transfer.
279. [Paragraph 3](#) sets out what happens if an individual objects to the transfer of their employment contract under a transfer scheme before it takes effect. The contract of employment will be terminated immediately before the point at which the transfer would have taken place but the employee is not to be considered to have been dismissed for any purpose. Sub-paragraph (5) preserves an individual's right to terminate their contract of employment where there is a substantial detrimental change in the individual's working conditions, other than the change of employer.
280. [Paragraph 4](#) provides that a transfer scheme may include provision with respect to the individual's eligibility to become a member of a pension scheme by virtue of employment with the CAA. The transfer scheme may include provision with respect to the rights of, or rights or liabilities in respect of, the individual under a pension scheme of which the individual may become a member by virtue of employment with the CAA, or a pension scheme of which the individual is a member by virtue of employment immediately before the transfer.
281. [Paragraph 5](#) modifies the provisions of Schedule 12 as they apply to employment in the civil service of the Crown other than under a contract of employment. Where an individual holds such employment, the individual is deemed to be employed under a contract of employment on the terms of employment in the civil service of the Crown and reference to dismissal in paragraph 3 of the Schedule is deemed to be a reference to termination of employment in the civil service of the Crown.
282. [Paragraph 6](#) provides that a certificate issued by the Secretary of State that any property, rights, powers, duties or liabilities have been transferred to the CAA under a transfer scheme is to be taken as conclusive evidence of that fact. The certificate is evidence that a transfer has taken place.
283. [Paragraph 7](#) ensures that anything done by the Crown before the time of transfer is still valid after transfer.
284. [Paragraph 8](#) ensures that things done by or in relation to the Crown with respect to anything transferred under a transfer scheme are to be treated as though they had been done by or in relation to the CAA or its members or employees, or continued by or in relation to the CAA or its members or employees. Sub-paragraph (2) provides that a transfer scheme may, in particular, make provision about the continuation of legal proceedings and for references to the Crown in documents to be treated as references to the CAA.

Provision of information about aviation

Section 83: Information for benefit of users of air transport services

285. The provisions of section 83 are designed to assist users (passengers and owners of cargo) and potential users of aviation services and facilities to compare service standards and make a more informed choice. The section imposes a duty on the CAA to publish, or arrange for the aviation industry to publish in a form that the CAA considers appropriate, such information and advice as the CAA considers appropriate to assist users of air transport services to compare aviation services and facilities. The duty does not apply to information which the CAA could refuse to disclose in response to a request made under the Freedom of Information Act 2000. The CAA may also publish guidance and advice for the aviation industry to improve service standards. The

CAA must where practicable keep under review the information, guidance and advice published under this section. The CAA may conduct or commission research in support of these functions.

Section 84: Environmental information

286. The provisions of section 84 are designed to raise awareness of the environmental effects of civil aviation in the UK, their impact on human health and safety and measures taken to limit the adverse environmental effects. Environmental effects are wide-ranging and include, for example, noise, vibration, emissions and visual disturbance from aircraft as well as the effects from services and facilities provided at airports (other than military airports). The section imposes a duty on the CAA to publish, or arrange for the aviation industry to publish in a form that the CAA considers appropriate, such environmental information and advice as the CAA considers appropriate. The duty does not apply to information which the CAA could refuse to disclose in response to a request made under the Freedom of Information Act 2000. The CAA may also publish guidance and advice with a view to limiting the adverse environmental impacts of the aviation sector. The CAA must where practicable keep under review the information, guidance and advice published under this section. The CAA may conduct or commission research in support of these functions.

Section 85: Power to obtain information

287. **Section 85** provides that the CAA may by notice in writing require a person to provide information that the CAA reasonably requires in order to exercise its functions under section 83 or 84. As a result of *subsection (6)*, information obtained using this power which relates to the affairs of an individual or to a particular business must not be disclosed unless this is permitted under Schedule 6. For example, Schedule 6 permits disclosure for the purpose of facilitating the carrying out of the CAA's functions under sections 83 and 84 (see paragraph 4(1) to (3) of that Schedule).

Section 86: Enforcement of information notice

288. **Section 86** provides that when a person fails without reasonable excuse to comply with a notice issued under section 85, the CAA may impose a penalty, or enforce the duty to comply in civil proceedings for an injunction, or both. The amount of the penalty as determined by the CAA must be appropriate and proportionate to the offence and may be either a fixed amount of up to £50,000 or a daily amount of up to £5,000 (or both). The Secretary of State may vary the maximum fixed and daily amounts by regulations which must be approved in each House of Parliament.

Section 87: Penalty for providing false information, destroying documents etc

289. **Section 87** provides that the CAA may impose a penalty if a person deliberately or recklessly provides false or misleading information in response to a notice under section 85 or knowing that the CAA is likely to use the information to carry out its functions under section 83 or 84. The CAA may also impose a penalty when a person intentionally alters or destroys information required by a notice under section 85. The amount of a penalty imposed under section 87 must be appropriate and proportionate.

Section 88: Procedure before imposing penalty

290. **Section 88** sets out the procedure which the CAA must follow before imposing a penalty under section 86 or 87. The CAA must give the person a notice stating the proposed amount of the penalty, the reasons for imposing it and, in the case of a daily penalty, when it would begin and when, or in what circumstances, it would cease to accumulate. The CAA must consider any representations made about the proposed penalty within the period specified in the notice (which must be at least 21 days beginning with the day on which the notice was given). The same process applies before the CAA can vary

the proposed amount of the penalty or the day on which daily amounts would begin to accumulate or the day on which, or circumstances in which, they would cease to accumulate. The section also provides that the CAA may, by notice, withdraw a notice proposing a penalty. The CAA must publish any notice under section 88 as soon as practicable.

Section 89: Procedure after imposing penalty

291. **Section 89** sets out the procedure which the CAA must follow after imposing a penalty, which includes a requirement to give notice to the person on whom the penalty is imposed and to publish the notice.

Section 90: Appeals and Schedule 13: Appeals against penalties

292. **Section 90** and Schedule 13 provide the grounds on which a person may appeal to the Competition Appeal Tribunal against a penalty imposed under section 86 or 87. A person may appeal against the imposition of the penalty or its amount, duration or payment period. The Competition Appeal Tribunal may confirm or set aside a penalty or give such directions as it considers appropriate to the CAA. A further appeal to the courts may be made on a point of law arising from the decision of the Competition Appeal Tribunal with the permission of the appropriate court or the Competition Appeal Tribunal.

Section 91: Recovering penalties

293. **Section 91** provides for the calculation of interest on unpaid penalty balances and the recovery of unpaid penalties as a debt due to the CAA. Any penalties or debt recovered by the CAA must be paid into the Consolidated Fund.

Section 92: Statement of policy

294. **Section 92** provides that the CAA must prepare and publish a statement of its policy on: the exercise of its functions under sections 83 and 84; imposing penalties under sections 86 and 87; and determining the amount of such penalties. When preparing or revising a statement of policy relating to the carrying out of its functions under sections 83 and 84, the CAA must have regard to the principle that the benefits of carrying out its functions under those sections should outweigh any adverse effects. When imposing a penalty under section 86 or 87, or determining its amount, the CAA must have regard to the last statement of policy published before the act or omission in respect of which the penalty is to be imposed. The CAA must consult those persons it considers appropriate on the preparation or revision of its statement of policy. It must also publish any revisions to its statement of policy.

Regulation of provision of flight accommodation

Section 94: Regulation of provision of flight accommodation

295. **Section 94** amends section 71 of the CAA 1982 to broaden the Secretary of State's powers to regulate the provision of flight accommodation. Section 71 forms the legal basis for the Air Travel Organisers' Licensing (ATOL) scheme.
296. The amended subsection (1) of section 71 enables the Secretary of State to make regulations requiring airlines to hold and act in accordance with a licence when making available flight accommodation, except where they are doing so on a flight-only basis on aircraft which they operate. It also enables the making of regulations requiring licences to be held by businesses acting as an agent for another person in procuring flight accommodation, and by businesses facilitating the making available of flight accommodation by another person in circumstances where prescribed arrangements relating to payment are met. Those arrangements are, by virtue of the new subsection (1D) of section 71, arrangements where the business makes or receives a

payment in relation to the making available of flight accommodation, or facilitates the making or receiving of such a payment by another person. Businesses which operate in that way may not themselves be making available flight accommodation, or procuring it on behalf of a consumer, and so would not otherwise be subject to the ATOL scheme.

297. The amended section 71(2)(b) enables the regulations, in making provision about the terms of licences, to make provision about goods, services and other benefits purchased alongside a flight without such goods, services and other benefits needing to be supplied in connection with the contract for the flight accommodation.
298. New section (3) of section 71 provides a new power for the Secretary of State to make regulations imposing statutory obligations on licence holders and conferring rights of action for contravention of those obligations, as well as imposing criminal sanctions for their breach. Finally, section 94 of the Act also removes elements of the regulation-making power in section 71 of the CAA 1982 that are no longer required.

CAA Membership

Section 95: CAA membership

299. **Section 95** amends section 2 of, and Schedule 1 to, the CAA 1982 so that the Secretary of State is responsible for the appointment of the chair of the CAA and the other non-executive members, and the non-executive members are responsible for the appointment of the chief executive with the approval of the Secretary of State. The chief executive is to appoint the other executive members with the approval of the chair and at least one other non-executive member. This section further provides that the CAA is to consist of between 7 and 16 members, and that the Secretary of State and chief executive must exercise their powers of appointment and approval to secure that, as far as practicable, non-executive members exceed executive members in number.

Section 96: Non-executive members of CAA

300. **Section 96** amends Schedule 1 to the CAA 1982 to reflect the fact that the Secretary of State is only responsible for the appointment or removal of non-executive members. It updates the circumstances in which the Secretary of State may remove a non-executive member from office. It removes the requirement for HM Treasury's consent to levels of remuneration for non-executive members. It also ensures that non-executive members are not entitled to the payment of a CAA pension as they are not employees of the CAA.

Section 97: Executive members of CAA

301. This section inserts provisions into Schedule 1 to the CAA 1982 about the terms and conditions of employment of executive members, which are to be determined:
- in the case of the chief executive, by the non-executive members; and
 - in the case of the executive members, by the chief executive with the approval of the chair and at least one other non-executive member.
302. It also makes amendments to the CAA 1982 so as to draw a distinction between executive members and other employees of the CAA where necessary in that Act.

Section 98: CAA's air navigation functions

303. **Section 98** amends section 66 of the TA 2000 so as to replace the Secretary of State's power to nominate a member to perform certain of the CAA's air navigation functions with a duty for the chief executive of the CAA to consult the Secretary of State before nominating, with the approval of the chair and at least one other non-executive member, another executive member to perform such of the CAA's air navigation functions as the Secretary of State may specify. It also amends section 67 of the TA 2000 to ensure

that the Secretary of State may only nominate a non-executive member to perform the national security functions in section 67.

Section 99: Transitional and saving provision and Schedule 14: CAA membership: transitional and saving provision

304. **Section 99** gives effect to Schedule 14, which makes transitional provision about serving members of the CAA, in particular for determining whether such a member is to be an executive or non-executive member of the CAA for the purposes of section 2 of, and Schedule 1 to, the CAA 1982 as amended by the Act. It also provides for the continuation of their terms and conditions. The CAA will be required to continue to make provision for the payment of pensions to current and former members for whom it is currently making such provision. The existing nomination of a member made under sections 66 and 67 of the TA 2000 will also continue.

Further provision about CAA

Section 100: CAA charges

305. **Section 100** amends section 11 of the CAA 1982, which makes provision about charging schemes and regulations in respect of the performance of functions of the CAA. The amendments to section 11 require the CAA to consult first those affected by a charging scheme and then the Secretary of State. New charging schemes are to come into force no earlier than 14 days after publication of the scheme, instead of no earlier than 60 days after publication (as previously provided by section 11).
306. Section 11(3) of the CAA 1982 provides that the Secretary of State may make regulations to override any charging scheme made by the CAA. Section 100 adds new subsections (3A) and (3B). These subsections require the Secretary of State to consult persons likely to be affected by regulations before making them, unless such consultation is thought unnecessary by the Secretary of State in view of consultation carried out by the CAA.
307. The section also amends sections 16 and 17 of the CAA 1982 so as to provide that the CAA cannot recover from the Secretary of State any expense it incurs in providing assistance or advice under section 16 or in providing information under section 17 in connection with any exercise of the Secretary of State's power to make regulations under section 11(3). The Secretary of State would only need to use that power in the unlikely event of disagreement between the Secretary of State and the CAA on the appropriateness of the charging scheme.

Section 101: Criminal proceedings

308. **Section 101** amends section 20 of the CAA 1982 (supplementary provisions with respect to the functions of the CAA) to make explicit that the power conferred on the CAA to do anything which facilitates, or is conducive or incidental to, the performance of any of its functions includes the power to institute and carry on criminal proceedings in England and Wales or Northern Ireland. The power to do anything which facilitates, or is conducive or incidental to, the performance of the CAA's functions applies in respect of Scotland but criminal proceedings there are instituted and carried out by Procurators Fiscal.

Section 102: CAA efficiency

309. **Section 102** amends section 21(2) of CAA 1982 so as to require the annual report made by the CAA under section 21(1) to include a statement by the CAA about efficiency in the performance of its functions (an "efficiency statement") and an assessment by the CAA's auditors of that statement.

310. **Section 102** also inserts in section 21 of CAA 1982 new subsections (2A) and (2B). New subsection (2A) provides a power for the Secretary of State to give directions to the CAA about the matters that must be covered in an efficiency statement. New subsection (2B) imposes on the auditors appointed under section 15(2) of CAA 1982 a duty to produce an assessment of the efficiency statement.

Section 103: Civil sanctions

311. **Section 103** amends Part 3 of the RESA 2008” (civil sanctions) to add the CAA to the list of designated regulators in Schedule 5 to that Act. This enables an order to be made so as to give the CAA access to a range of civil sanctions provided for by Part 3 of RESA 2008”, which could be used in relation to the enforcement of breaches of civil aviation law. These sanctions would sit alongside the existing sanctions available to the CAA and would provide it with an alternative to relying on criminal prosecutions. Section 103 also adds particular provisions of the CAA 1982, including section 71 as amended by section 94 of the Act (regulation of provision of flight accommodation), to the list of enactments in Schedule 7 to the 2008 Act. This has the effect of extending an existing power to create criminal offences by subordinate legislation, so as to include the power to confer on the CAA the civil sanctions provided for by Part 3 of the Act.

Section 104: Regulatory burdens

312. This section imposes a duty on the CAA not to impose or maintain unnecessary burdens. The duty applies to all of the CAA’s functions under Chapter 1 of Part 1 of the Act and also applies to the CAA’s regulation of air traffic services under Chapter 1 of Part 1 of the TA 2000.

Section 105: Disclosure of medical information

313. This section amends section 23 of the CAA 1982 by inserting new subsections (4A), (4B) and (7). The amendments allow the CAA to disclose anonymised medical information relating to flight crew and air traffic controllers that the CAA receives in pursuance of a provision of an Air Navigation Order. In addition to the anonymisation safeguard, this section also provides that:
- the disclosure must be for the purposes of medical research approved by a research ethics committee (as defined in new subsection (7));
 - the CAA must consider that the research is likely to improve the understanding of health risks to the types of individual who are required to provide medical information to the CAA under an Air Navigation Order; and
 - the CAA must consider that it would be difficult or expensive to take the steps necessary to enable disclosure in reliance on section 23(1) of all of the information which is to be disclosed. One of the steps which would enable information to be disclosed in reliance on section 23(1) is obtaining the written consent to disclosure of each person to whom the information relates.

Miscellaneous

Section 106: Dangerous flying

314. **Section 106** repeals section 81 of the CAA 1982 which makes dangerous flying of an aircraft an offence. It also has the effect of removing references to the offence elsewhere in that Act. The repeal is made as prosecutions for endangerment are brought by the CAA under the [Air Navigation Order 2009 No. 3015](#) and not under section 81 of the CAA 1982.

*These notes refer to the Civil Aviation Act 2012 (c.19)
which received Royal Assent on 19 December 2012*

Section 107: Offences under Civil Aviation Act 1982

315. **Section 107** contains amendments to section 99 of the CAA 1982. *Subsection (2)* adds to section 99(4) of the CAA 1982 a reference to an offence under an Air Navigation Order, so that such an offence is covered by the provision made by section 99(1) and (2), relating to cases where an offence is committed by a body corporate. *Subsection (3)* removes references in section 99(5) of the CAA 1982 to sections 62 and 63 of that Act, which were repealed by the TA 2000.