



# Civil Aviation Act 1949

1949 CHAPTER 67 12 13 and 14 Geo 6

## PART II

### REGULATION OF CIVIL AVIATION

#### *Air Transport*

#### **12 Air Transport Advisory Council**

- (1) His Majesty may by Order in Council provide for the constitution of an Air Transport Advisory Council consisting of a chairman, who shall be appointed by the Lord Chancellor and who shall be a barrister, advocate or solicitor of not less than seven years' standing, and such number of members appointed by the Minister (not being less than two nor more than four) as may be determined in accordance with the Order.

Of the members of the Council appointed by the Minister, at least one shall be a person of experience in the operation of air transport services, and at least one shall be a person of experience in the operation of other transport services.

No member of any of the Airways Corporations, and no person employed by any of the Airways Corporations, shall be qualified to be a member of the Council.

- (2) It shall be the duty of the Air Transport Advisory Council to consider any representation from any person with respect to the adequacy of the facilities provided by any of the Airways Corporations, or with respect to the charges for any such facilities:

Provided that the Council shall not be required by this subsection to consider any such representation if, in their opinion, it is frivolous or vexatious or if, in their opinion, the matters to which the representation relates have been already sufficiently considered by the Council, or if, in their opinion, it is inexpedient that they should consider the representation on the ground that the matters to which it relates are for the time being regulated by any international agreement to which His Majesty's government in the United Kingdom is a party.

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- (3) It shall be the duty of the Air Transport Advisory Council to consider any question which may be referred to the Council by the Minister, being:—
- (a) a question relating to facilities for transport by air in any part of the world, or relating to the charges for such facilities; or
  - (b) a question which in the opinion of the Minister requires consideration with a view to the improvement of air transport services.
- (4) When the Council have considered any such representation or question as aforesaid, they shall report to the Minister upon their conclusions, and shall make such recommendations to the Minister in connection with those conclusions as they think expedient.
- (5) The Council may with the approval of the Minister appoint such assessors as they think expedient for the purpose of securing that they are properly advised with respect to matters affecting the interests of persons who use air transport services, or of any class of such persons, and the- interests of technical, professional, industrial and commercial bodies (including those of organised labour) directly concerned with the provision of air transport services.
- (6) Any Order made under this section may contain such incidental and consequential provisions, including provisions for the payment of remuneration to members of the Council out of moneys provided by Parliament, provisions for the payment out of such moneys of expenses incurred in connection with the appointment of assessors by the Council, and provisions for determining the procedure of the Council, as His Majesty thinks expedient.
- The procedure of the Council shall be such as to secure that no member of the Council shall sit to consider any representation or question which it is the duty of the Council to consider, if, in respect of the matters to which the representation or question relates, he has any special interest such as may tend to interfere with his impartial consideration of the representation or question.
- (7) The Council shall be furnished by the Minister with such accommodation as appears to him to be requisite for the proper discharge of their functions, and with such clerks, officers and staff as appear to him, with the concurrence of the Treasury as to numbers, to be requisite for that purpose, and the Minister shall pay to the clerks, officers and staff of the Council such remuneration as he may with the approval of the Treasury determine.
- (8) The Minister shall provide the Council with such information and other assistance as he thinks expedient for the purpose of assisting the Council to discharge their functions; and each of the Airways Corporations shall keep the Council informed of all services which are provided by them or which they intend to provide, and of the charges which the Corporation make or propose to make for any such services.
- (9) The Council shall make an annual report to the Minister of their proceedings, and the Minister shall lay the report before each House of Parliament together with a statement of any action which has been taken by him in consequence of any recommendations submitted to him by the Council during the period to which the report relates.
- (10) A draft of any Order proposed to be made under this section shall be laid before Parliament.

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### 13 Licensing of air transport and commercial flying

- (1) His Majesty may by Order in Council make provision—
- (a) for securing that aircraft shall not be used in the United Kingdom by any person—
    - (i) for plying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or
    - (ii) for such flying undertaken for the purpose of any trade or business as may be so specified,except under the authority of, and in accordance with, a licence granted to the said person by the licensing authority specified in the Order;
  - (b) as to the circumstances in which a licence under the Order may or shall be granted, refused, revoked or suspended, and in particular as to the matters to which the licensing authority specified in the Order is to have regard in deciding whether to grant or refuse such a licence;
  - (c) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the Order;
  - (d) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;
  - (e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the Order;
  - (f) for prescribing, subject to the consent of the Treasury, the fees to be paid in respect of the grant of any licence under the Order;
- and such an Order may make different provision as respects different classes of aircraft and different classes of licences.
- (2) An Order in Council under this section may, for the purpose of securing compliance with the Order, provide for the imposition of penalties not exceeding, in the case of a first offence against the Order, a fine of twenty pounds or, in the case of a second or subsequent such offence, a fine of fifty pounds or imprisonment for a term of three months.
- (3) The Minister shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this section, and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft.
- (4) The Minister may pay out of moneys provided by Parliament—
- (a) to the members of any licensing authority which may be constituted by an Order in Council under this section such remuneration (if any) as the Minister, with the approval of the Treasury, may determine; and
  - (b) the amounts necessary to defray such expenses of the said licensing authority as the Minister and the Treasury may approve.

The amount of any fee received under such an Order in Council by any such licensing authority shall be paid by that authority to the Minister, and, when received by him, shall be paid into the Exchequer.

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- (5) Part VI of this Act applies to this section so, however, that an Order in Council under this section shall not be laid before Parliament nor be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **14 Information as to air transport undertakings and use of customs aerodromes**

- (1) His Majesty may by Order in Council make provision—
- (a) for requiring any person—
    - (i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the Order, or
    - (ii) who is the holder of a licence in respect of a customs aerodrome, to furnish to such authorities as may be specified in the Order such information relating to the use of aircraft for the purpose of his said business and to the persons employed in connection with that use, or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the Order;
  - (b) for requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the Order as relate to him;
  - (c) for prescribing the times at which, and the form and manner in which, any information required under the Order is to be furnished:

Provided that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside the United Kingdom, or relating to persons exclusively employed outside the United Kingdom, unless the person carrying on the business is either a British subject resident in the United Kingdom or a citizen of the Republic, of Ireland resident in the United Kingdom or a body corporate incorporated under the law of some part of the United Kingdom.

- (2) An Order in Council under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the Order such penalties (not exceeding a fine of twenty pounds and a further fine of five pounds for every day on which the contravention or non-compliance continues after conviction therefor) as may be specified in the Order.
- (3) No information with respect to any particular undertaking which has been obtained by virtue of an Order in Council under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of such an Order, and if any person discloses any such information in contravention of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of an Order in Council made under this section, or for the purpose of any report of any

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such proceedings, but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any court or arbitrator to disclose, that information (whether as a witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

- (4) In this section the expression "customs aerodrome" means an aerodrome for the time being appointed in pursuance of an Order in Council in force under section eight of this Act as a place of landing and departure of aircraft for the purposes of the enactments relating to customs.
- (5) Part VI of this Act applies to this section.

## **15 Terms and conditions of employment of persons employed by air transport undertakings**

- (1) The provisions of this section shall have effect for the purpose of securing that the terms and conditions of employment of persons employed by any independent undertaking constituted for the purpose of providing air transport services or of carrying out other forms of aerial work shall, except in so far as those terms and conditions—
- (a) are regulated by or under any enactment other than this section; or
  - (b) are in accordance with an agreement for the time being in force between the undertaking and organisations representative of the persons employed; or
  - (c) are in accordance with any decision for the time being in force of a joint industrial council representing the undertaking "and organisations representative of the persons employed;

comply with the following requirement, that is to say, that they shall not be less favourable than the terms and conditions observed by the Airways Corporations in the case of persons engaged in comparable work, or, where the Airways Corporations do not observe the same terms and conditions for persons engaged in comparable work, are not less favourable than the terms and conditions observed for such persons by at least one of those Corporations.

- (2) If any dispute arises as to whether the terms and conditions of any person's employment ought to comply with the requirement aforesaid, or as to what terms and conditions ought to be observed for the purpose of complying therewith, the dispute shall, if not otherwise disposed of, be referred by the Minister to the Industrial Court for settlement.
- (3) Where any award has been made by the Industrial Court upon a dispute referred to that Court under this section, then, as from the date of the award or from such other date as the Court may direct, and subject to any subsequent variation or revocation of the award, it shall be an implied term of the contract between the employer and workers to whom the award applies that the terms and conditions of employment to be observed under the contract shall be in accordance with the award, except in so far as they are regulated by or under any enactment other than this section or are in accordance with any such agreement or decision as is mentioned in subsection (1) of this section.

No direction given by the Court for the purposes of the foregoing provisions of this subsection shall have the effect of making any award retrospective to a date earlier than the date on which the dispute to which the award relates first arose.

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- (4) In this section the expression " independent undertaking " means any undertaking other than the Airways Corporations.