

EXPLANATORY MEMORANDUM TO
THE POLICING OF AERODROMES (BELFAST INTERNATIONAL AIRPORT)
ORDER 2012

2012 No. 837

1. 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Policing and Crime Act 2009 amends Part 3 of the Aviation Security Act 1982 to impose requirements on “relevant aerodromes” in relation to police services agreements. The purpose of this Order is to exempt Belfast International Airport from being a “relevant aerodrome” so that the provisions in Part 3 (as amended) in relation to police services agreements will not apply to the Airport. This has the effect of preserving the current policing arrangements at Belfast International Airport.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Section 80 of the Policing and Crime Act 2009 (“the 2009 Act”) provides that Schedule 6 shall have effect, which Schedule contains amendments to Part 3 of the Aviation Security Act 1982 (“the new requirements”).

The Policing and Crime Act 2009 (Commencement No. 4) Order 2010 (SI 2010/507 (C.37)) commenced sections 79 and 80 of the 2009 Act on 29th January 2010 for England, Scotland and Wales, and on 1st April 2010 for Northern Ireland.

An Order exempting Belfast International airport (SI 2010/575) (“the first exemption Order”) was also made so as to come into effect on 1st April 2010, with the purpose of ensuring that the new requirements did not apply to Belfast International Airport (“BIA”).

Because the commencement Order did not bring into force, in respect of Northern Ireland, the amendments to Part 3 (including section 25AA, which contains the power relied on to make the first exemption Order and this Order) before the first exemption Order was made, the Department for Transport (DfT) relied on section 13 of the Interpretation Act 1978 in making the first exemption Order.

Although DfT considered that relying on section 13 was valid, the Committee agreed at its meeting on 14 July 2010 that the attention of both Houses should be drawn to the first exemption Order for being of doubtful vires .

3.2 In the light of the Committee’s view, DfT has prepared this Order which revokes and re-enacts the first exemption Order.

4. Legislative Context

4.1 This Order provides that Belfast International Airport is not a “relevant aerodrome” for the purposes of Part 3 of the Aviation Security Act 1982 and accordingly that the airport:

- (i) does not require a Police Services Agreement (specifying levels of policing and funding for policing by the aerodrome manager); and
- (ii) is not subject to Section 26 of Part 3 of the Aviation Security Act 1982, as amended.

Belfast International Airport will thereby continue to be policed in accordance with the requirements of Article 19 of the Airport (Northern Ireland) Order 1994 which makes provision for the operation of Belfast International Airport's Constabulary as a police force that is under the exclusive control of the airport operator.

4.2 Section 24B in Part 3 of the 1982 Act (powers of constables to stop and search persons, vehicles etc) will continue to apply to Belfast International Airport since this provision applies to all aerodromes and not just to “relevant aerodromes”.

4.3 Parliamentary questions relating to the preservation of the powers and privileges of Belfast International and Belfast City Airports were answered on 6 and 19 January (Official Report, Column 339W and Official Report, Column 236W respectively). Since Belfast City Airport no longer uses a private force to provide a dedicated policing presence, the Exemption Order is only being applied to Belfast International Airport.

5. Territorial Extent and Application

5.1 This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

As this Order is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Belfast International Airport is the only airport in the UK which is policed by a dedicated private police force - the Belfast International Airport Constabulary. The use of a private force at the airport, under the sole control of the airport operator, reflects the historic and specific policing requirements in Northern Ireland resulting from the threat from paramilitary organisations.

7.2 By ensuring that Belfast International Airport is not a “relevant aerodrome” for the purposes of Part 3 of the Aviation Security Act 1982, the powers and privileges that the Constabulary require to effectively police the airport will be preserved. Moreover, since the Police Service of Northern Ireland (PSNI) does not provide any dedicated (on site) policing at the airport given the presence of the private force, the airport operator will not be required to make an agreement with PSNI despite the new security planning framework provided for in Part 7 of the Policing and Crime Act having identified the need for dedicated policing at the airport.

- **Consolidation**

7.2 Not applicable.

8. Consultation outcome

8.1 A full public consultation on the new airport security planning, funding and policing arrangements was conducted from July-October 2008. As part of this, all of the relevant stakeholders with an interest in the policing of Belfast International Airport were invited to take part. The consultation documents can be found at:
<http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/consultations/archive/2008/airportpolicing/>

8.2 The first exemption Order, the provisions of which have been re-enacted in this Order, was drafted after discussion with Belfast International Airport and consultation suggests it fully meets their requirements. This first order was also discussed and agreed with the Northern Ireland Office.

9. Guidance

9.1 Guidance on the new airport security planning framework has been published jointly by the Department for Transport and the Home Office. The guidance has been made available to all airports and police forces impacted by the new provisions, and also to other security stakeholders at airports. No specific guidance is necessary in respect of this Order.

10. Impact

10.1 There is no impact on charities or voluntary bodies.

10.2 The impact on the public sector relates to the involvement of public agencies in the new security planning process.

10.3 An Impact Assessment has not been prepared for this instrument since there are no impacts for Belfast International Airport that have not already been assessed in the final impact assessment on Airport Policing, Funding and Security Planning that was published with the Policing and Crime Bill in December 2008 –
<http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/consultations/archive/2008/airportpolicing/revisedimpactassessmet.pdf>

11. Regulating small business

11.1 The legislation does not apply directly to small business.

12. Monitoring & review

12.1 As with the monitoring and review of the application of the new security planning process as a whole, the situation with regard to Belfast International Airport will be monitored regularly with the assistance of officials in the Northern Ireland Office/Northern Ireland Executive.

13. Contact

David Elbourne at the Department for Transport - tel: 020 7944 6778 or email:
david.elbourne@dft.gsi.gov.uk - can answer any queries regarding the instrument.