



# Air Departure Tax (Scotland) Act 2017

## 2017 asp 2

### PART 5 **S**

#### FINAL PROVISIONS

#### 42 Regulations **S**

- (1) Regulations under the following provisions are subject to the affirmative procedure—
  - (a) section 15 (modifying key concepts),
  - (b) section 17 (setting tax bands and tax rate amounts or making other provision concerning the structure of the tax),
  - (c) section 41 (modifying administrative provisions), if the regulations add to, replace or omit any part of the text of an Act,
  - (d) section 43 (dealing with ancillary matters), if the regulations add to, replace or omit any part of the text of an Act.
- (2) Regulations under the following provisions are subject to the negative procedure—
  - (a) section 41 (modifying administrative provisions), unless the regulations add to, replace or omit any part of the text of an Act,
  - (b) section 43 (dealing with ancillary matters), unless the regulations add to, replace or omit any part of the text of an Act,
  - (c) section 44(2) (updating references in this Act to other enactments).
- (3) Any power conferred by this Act on the Scottish Ministers to make regulations includes the power to make—
  - (a) different provision for different cases or descriptions of case or for different purposes, and
  - (b) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.
- (4) Subsection (3) does not apply to regulations made under section 48 (commencement).

#### 43 Ancillary provision **S**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for

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the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

(2) Regulations under this section may modify any enactment (including this Act).

#### 44 Interpretation **S**

(1) In this Act—

“administrative tax representative” means a tax representative that is appointed as described in section 29(2),

“ADT register” means the register kept under section 20,

“airport” means an aerodrome as defined in section 105(1) of the Civil Aviation Act 1982,

“certificate of airworthiness” has the same meaning as in the Air Navigation Order 2016 (S.I. 2016/765),

“connected flights” means flights that are connected in terms of the rules that are set out in schedule 1,

“EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2 May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time,

“EEA State” means—

(a) a member State of the EU, or

(b) any other State that is a party to the EEA agreement,

“exemption” means any provision for—

(a) a passenger carried on an aircraft to be a non-chargeable passenger (see sections 3 to 7 and 15), or

(b) an aircraft to be a non-chargeable aircraft (see sections 9, 10 and 15),

“fiscal tax representative” means a tax representative that is not an administrative tax representative,

“flight crew” includes the pilot, flight navigator, flight engineer and flight radiotelephony operator for a flight, but does not include a cabin attendant,

“kerosene” has the meaning given in section 1(8) of the Hydrocarbon Oil Duties Act 1979,

“non-chargeable aircraft” means an aircraft on which the aircraft operator may carry passengers without incurring tax,

“non-chargeable passenger” means a passenger whom the aircraft operator may carry on an aircraft without incurring tax,

“occasional return” means a tax return made under section 25,

“operator”, in relation to an aircraft, means the person having the management of the aircraft,

“passenger” means a person who—

(a) is carried on a flight, and

(b) is not working during the flight (as defined in section 2(2)),

“quarterly return” means a tax return made under section 24,

“tax” means air departure tax,

“tax representative” means a tax representative appointed under section 28 (which may be a fiscal tax representative or an administrative tax representative),

“ticket” means a document which—

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- (a) is issued to a passenger for one or more flights, and
  - (b) specifies the departure airport, date and time, and the arrival airport, for each flight.
- (2) If an enactment referred to in a definition in this section, or in any other provision of this Act, is repealed and re-enacted (with or without modification)—
- (a) the reference to the enactment must be construed as a reference to the re-enacted enactment unless the Scottish Ministers by regulations provide otherwise, and
  - (b) the Scottish Ministers may by regulations amend the definition so that it refers to the re-enacted enactment.

PROSPECTIVE

**45 Minor and consequential modifications** **S**

Schedule 2 makes minor and consequential modifications to the Revenue Scotland and Tax Powers Act 2014.

**46 Crown application** **S**

Her Majesty in Her private capacity is not a taxable person.

**47 Index of defined expressions** **S**

Schedule 3 contains an index of expressions defined or otherwise explained in this Act.

**48 Commencement** **S**

- (1) This section and sections 42, 43, 44, 46, 47 and 49 come into force on the day after Royal Assent.
- (2) The rest of this Act comes into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

**49 Short title** **S**

The short title of this Act is the Air Departure Tax (Scotland) Act 2017.

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