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Transport Act 2000

2000 CHAPTER 38

PART I

AIR TRAFFIC

CHAPTER I

AIR TRAFFIC SERVICES

General duties

1 Secretary of State's general duty.

- (1) The Secretary of State must exercise his functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The Secretary of State must exercise his functions under this Chapter in the manner he thinks best calculated—
 - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
 - (b) to promote efficiency and economy on the part of licence holders;
 - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Secretary of State thinks it appropriate) by promoting competition in the provision of air traffic services.

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- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Secretary of State must apply them in the manner he thinks is reasonable having regard to them as a whole.
- (6) The Secretary of State must exercise his functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.
- (7) This section does not apply to the exercise of the Secretary of State's functions under section 38.

Commencement Information

- II** S. 1 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

2 CAA's general duty.

- (1) The CAA must exercise its functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The CAA must exercise its functions under this Chapter in the manner it thinks best calculated—
 - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
 - (b) to promote efficiency and economy on the part of licence holders;
 - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;
 - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);
 - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.
- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (6) The CAA must exercise its functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.
- (7) Section 4 of the ^{MI}Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its functions under this Chapter.

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Commencement Information

- I2** S. 2 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

- M1** 1982 c. 16.

Restrictions

VALID FROM 01/05/2001

3 Restrictions on providing services.

- (1) A person commits an offence if he provides air traffic services in respect of a managed area.
- (2) But subsection (1) is subject to subsections (3) to (5).
- (3) Subsection (1) does not apply if the person—
 - (a) is authorised by an exemption to provide the services, or
 - (b) acts as an employee or agent of a person who is authorised by an exemption to provide the services.
- (4) Subsection (1) does not apply if the person—
 - (a) holds a licence authorising him to provide the services, or
 - (b) acts as an employee or agent of a person who is authorised by a licence to provide the services.
- (5) Subsection (1) does not apply if the services are provided by the CAA in pursuance of directions under section 66(1).
- (6) For the purposes of this section—
 - (a) air traffic services are to be treated as provided at the place from which they are provided;
 - (b) air traffic services may be provided in respect of a managed area whether or not the aircraft concerned is in that area when they are provided.
- (7) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (8) No proceedings may be started in England and Wales or Northern Ireland for an offence under this section except by or on behalf of—
 - (a) the Secretary of State, or
 - (b) the CAA acting with his consent.

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4 Exemptions.

- (1) The Secretary of State may by order grant an exemption authorising the provision of air traffic services in respect of a managed area.
- (2) An exemption—
 - (a) may be granted to a particular person or to persons of a specified description or to all persons;
 - (b) may be granted in respect of air traffic services of one or more specified descriptions;
 - (c) may be granted in respect of air traffic services provided in specified circumstances;
 - (d) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area);
 - (e) may be granted subject to such conditions as may be specified.
- (3) An exemption granted to persons of a specified description must be published in such manner as the Secretary of State thinks appropriate for bringing it to the attention of persons of that description.
- (4) An exemption continues in force for the period specified in or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.

Commencement Information

- I3** S. 4 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

5 Licences: general.

- (1) A licence may be granted to a company authorising it to provide air traffic services in respect of a managed area.
- (2) A licence—
 - (a) may be granted in respect of air traffic services of one or more specified descriptions;
 - (b) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area).
- (3) A licence is not valid unless it is in writing.
- (4) A licence is not valid unless it is granted to a company which is—
 - (a) limited by shares and formed and registered under the ^{M2}Companies Act 1985 or the ^{M3}Companies (Northern Ireland) Order 1986, or
 - (b) an existing company within the meaning given by section 735(1) of the ^{M4}Companies Act 1985 or Article 3 of the ^{M5}Companies (Northern Ireland) Order 1986.
- (5) A licence continues in force for the period specified in it or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.
- (6) A licence may not be transferred.

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Commencement Information

- I4** S. 5 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

- M2** 1985 c. 6.
M3 S.I. 1986/1032 (N.I. 6).
M4 1985 c. 6.
M5 S.I. 1986/1032 (N.I. 6).

6 Licences: grant.

- (1) A licence may be granted by—
 - (a) the Secretary of State after consulting the CAA,
 - (b) the CAA with the consent of the Secretary of State, or
 - (c) the CAA in accordance with a general authority given by the Secretary of State.
- (2) A general authority may be given on condition that the CAA complies with specified requirements (whether as to consulting the Secretary of State or obtaining his consent before granting a licence, as to the provisions to be included in a licence, or otherwise).
- (3) An application for a licence—
 - (a) must be made in the prescribed manner;
 - (b) must contain or be accompanied by prescribed information;
 - (c) must be accompanied by the application fee (if any);
 - (d) must, if the licence authority requires, be published by the applicant in the prescribed manner and within a period notified to it by the licence authority.
- (4) On an application the licence authority may grant or refuse the licence.
- (5) Before granting or refusing a licence the licence authority must—
 - (a) publish a notice in such manner as the authority thinks appropriate for bringing it to the attention of persons likely to be affected by the grant or refusal,
 - (b) serve a copy of the notice on the applicant, and
 - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (6) The notice must—
 - (a) state either that the licence authority proposes to grant the licence or that it proposes to refuse it and (in either case) the reasons for so proposing, and
 - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed grant or refusal.
- (7) As soon as practicable after granting a licence the grantor must send a copy—
 - (a) to the CAA, if the grantor is the Secretary of State;
 - (b) to the Secretary of State, if the grantor is the CAA.

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- (8) The following requirements do not apply in relation to licences which need to be granted before the coming into force of section 3—
- (a) the requirement to consult imposed by subsection (1)(a);
 - (b) the requirements imposed by subsection (3);
 - (c) the requirements imposed by subsections (5) and (6).
- (9) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).
- (10) The application fee is—
- (a) the prescribed fee, if the licence authority is the Secretary of State;
 - (b) the charge determined under a scheme or regulations made under section 11 of the ^{M6}Civil Aviation Act 1982, if the licence authority is the CAA.
- (11) “Prescribed” means prescribed by regulations made by the Secretary of State.

Commencement Information

I5 S. 6 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M6 1982 c. 16.

7 Licences: provisions.

- (1) A licence may include such provisions as the licence authority thinks are necessary or expedient; and a provision need not relate to services authorised by the licence.
- (2) In particular, provision of the following kinds may be included—
- (a) provision requiring the licence holder to enter into an agreement for a purpose specified in the licence and provision for determining the terms of the agreement;
 - (b) provision requiring the licence holder to comply with any requirements imposed at any time (by directions or otherwise) by a person with respect to any matter specified, or of a description specified, in the licence;
 - (c) provision requiring the licence holder, except in so far as a person consents to its doing or not doing them, not to do or to do such things as may be specified, or of a description specified, in the licence;
 - (d) provision requiring the licence holder to refer to a person for approval or determination such matters as may be specified, or of a description specified, in the licence.
- (3) A reference in subsection (2) to a person is to—
- (a) a person specified, or of a description specified, in the licence for the purpose concerned, or
 - (b) if the licence so provides, a person nominated for the purpose concerned by a person falling within paragraph (a);
- and any of those persons may be the licence authority or some other person.

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- (4) A licence may include provisions requiring a payment on its grant or payments during its currency (or both)—
 - (a) of an amount or amounts specified in the licence or determined by or under it;
 - (b) to a person or persons specified in the licence or determined by or under it.
- (5) A provision relating to the modification of a licence is to have effect in addition to the provisions of this Chapter regarding modification.
- (6) Such provisions as the licence authority thinks fit may be expressed as conditions.
- (7) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).

Commencement Information

- I6** S. 7 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

8 Duties of licence holders.

- (1) While a licence is in force its holder—
 - (a) must secure that a safe system for the provision of authorised air traffic services in respect of a licensed area is provided, developed and maintained;
 - (b) must take all reasonable steps to secure that the system is also efficient and co-ordinated;
 - (c) must take all reasonable steps to secure that the demand for authorised air traffic services in respect of a licensed area is met;
 - (d) must have regard, in providing, developing and maintaining the system, to the demands which are likely to be placed on it in the future.
- (2) A licensed area is an area in respect of which the licence authorises its holder to provide air traffic services.
- (3) Authorised services are services of the description specified in the licence as the description of services which the holder of the licence is authorised to provide.
- (4) For the purposes of subsection (1)(a) a system for the provision of services is safe if (and only if) in providing the services the person who provides them complies with such requirements as are imposed by Air Navigation Orders with regard to their provision.
- (5) An Air Navigation Order is an Order in Council under section 60 of the ^{M7}Civil Aviation Act 1982.

Commencement Information

- I7** S. 8 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

- M7** 1982 c. 16.

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9 Power to exclude services from effect of section 8.

- (1) If a notice given by the CAA to a licence holder so provides, such air traffic services as are specified in the notice are to be treated as not being authorised services for the purposes of section 8 in its application to that holder.
- (2) A notice under subsection (1) may specify the air traffic services by reference to part of a licensed area.
- (3) A notice under this section may be modified or revoked by a further notice given by the CAA to the holder concerned.

Commencement Information

- 18** S. 9 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

10 Breach of duties or conditions.

- (1) No action is to lie in respect of a failure by a licence holder to perform—
 - (a) a duty imposed by section 8;
 - (b) a condition of a licence.
- (2) But subsection (1) does not affect—
 - (a) a right of action in respect of an act or omission which takes place in the course of the provision of air traffic services;
 - (b) the power to make an order under section 20, a duty to comply with the order and a power to bring proceedings in respect of the duty.

Commencement Information

- 19** S. 10 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Modification of licences

11 Modification by agreement.

- (1) The CAA may modify the conditions of a licence if its holder consents to the modifications.
- (2) Before making modifications under this section the CAA must—
 - (a) publish a notice in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by the making of the modifications,
 - (b) serve a copy of the notice on the licence holder,
 - (c) send a copy of the notice to the Secretary of State, and
 - (d) consider any representations made in accordance with the notice.
- (3) The notice must—

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- (a) state that the CAA proposes to make the modifications and state their effect and the reasons for so proposing, and
 - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.
- (4) If within the period stated under subsection (3)(b) the Secretary of State gives a direction to the CAA requiring it not to make the modifications the CAA must comply with the direction.
- (5) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.

Commencement Information

I10 S. 11 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

12 References to Competition Commission.

- (1) The CAA may make to the Competition Commission a reference requiring the Commission to investigate and report on—
 - (a) whether any matters which are specified in the reference and which relate to the provision of air traffic services by or on behalf of a licence holder operate against the public interest or may be expected to do so;
 - (b) if so, whether the effects adverse to the public interest which the matters have or may be expected to have could be remedied or prevented by modifying the conditions of the licence.
- (2) The CAA may at any time by notice given to the Commission vary a reference by adding to the matters specified in it or by excluding from it one or more of those matters; and on receiving a notice the Commission must give effect to the variation.
- (3) To help the Commission in its investigation the CAA may specify in the reference or a variation of it—
 - (a) any effects adverse to the public interest which in its opinion the matters specified in the reference or variation have or may be expected to have;
 - (b) any modifications of the conditions of the licence by which in its opinion those effects could be remedied or prevented.
- (4) As soon as practicable after making a reference or variation the CAA must—
 - (a) serve a copy of the reference or variation on the licence holder;
 - (b) publish particulars of the reference or variation in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it;
 - (c) send a copy of the reference or variation to the Secretary of State.
- (5) If before the end of the period of 28 days starting with the day on which the Secretary of State receives the copy he gives a direction to the Commission requiring it not to proceed with the reference or not to give effect to the variation, the Commission must comply with the direction.
- (6) To help the Commission in its investigation the CAA must give to the Commission—

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- (a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;
 - (b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;
 - (c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.
- (7) In carrying out the investigation concerned the Commission must take account of any information given under subsection (6).
- (8) In deciding under this section whether a matter operates, or may be expected to operate, against the public interest the Commission must have regard to the matters as respects which duties are imposed on the Secretary of State and the CAA by sections 1 and 2.
- (9) The provisions listed in subsection (10) apply to references under this section as if—
- (a) the functions of the Commission in relation to those references were functions under Parts IV, V, VI and VIII of the 1973 Act;
 - (b) the expression “merger reference” included a reference under this section;
 - (c) in section 70 of the 1973 Act references to the Secretary of State were to the CAA and the reference to three months were to six months.
- (10) The provisions are—
- (a) sections 70, 85 and 93B of the 1973 Act (time limit for report; witnesses and documents; and false or misleading information);
 - (b) section 24 of the ^{M8}Competition Act 1980 (modification of provisions about Commission’s general functions);
 - (c) Part II of Schedule 7 to the ^{M9}Competition Act 1998 (Commission’s general functions).
- (11) The 1973 Act is the ^{M10}Fair Trading Act 1973.

Commencement Information

I11 S. 12 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M8 1980 c. 21.

M9 1998 c. 41.

M10 1973 c. 41.

VALID FROM 20/06/2003

^{F1}12A References under section 12: time limits

- (1) Every reference under section 12 shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.

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- (2) A report of the Competition Commission on a reference under section 12 shall not have effect (and no action shall be taken in relation to it under section 14) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the CAA under subsection (3).
- (3) The CAA may, if it has received representations on the subject from the Competition Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.
- (4) No more than one extension is possible under subsection (3) in relation to the same reference.
- (5) The CAA shall, in the case of an extension made by it under subsection (3)—
 - (a) publish that extension in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
 - (b) send a copy of what has been published by it under paragraph (a) to the licence holder and the Secretary of State.]

Textual Amendments

F1 Ss. 12A, 12B inserted (*prosp.*) by 2002 c. 40, ss. 278, 279, **Sch. 25 para. 44(3)**

VALID FROM 20/06/2003

[^{F2}12B References under section 12: application of Enterprise Act 2002

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3), for the purposes of references under section 12 as they apply for the purposes of references under that Part—
 - (a) section 109 (attendance of witnesses and production of documents etc.);
 - (b) section 110 (enforcement of powers under section 109: general);
 - (c) section 111 (penalties);
 - (d) section 112 (penalties: main procedural requirements);
 - (e) section 113 (payments and interest by instalments);
 - (f) section 114 (appeals in relation to penalties);
 - (g) section 115 (recovery of penalties); and
 - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1), have effect as if—
 - (a) subsection (2) were omitted; and
 - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1), have effect as if—
 - (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;

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- (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
 - (c) the words “by this Part” were omitted.
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with references under section 12 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words “the OFT,” and “or the Secretary of State” were omitted.
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) or (4), have effect in relation to those sections as applied by virtue of those subsections.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.]

Textual Amendments

F2 Ss. 12A, 12B inserted (*prosp.*) by 2002 c. 40, ss. 278, 279, **Sch. 25 para. 44(3)**

13 Reports on references.

- (1) In making a report on a reference under section 12 the Competition Commission—
- (a) must include definite conclusions on the questions contained in the reference and such an account of its reasons for the conclusions as in its opinion facilitates a proper understanding of the questions and of the conclusions;
 - (b) if it concludes that any of the matters specified in the reference operate against the public interest or may be expected to do so, must specify the effects adverse to the public interest which the matters have or may be expected to have;
 - (c) if it concludes that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the licence, must specify modifications by which the effects could be remedied or prevented.
- (2) Section 82 of the ^{M11}Fair Trading Act 1973 (general provisions as to reports) applies to reports of the Commission on references under section 12 as it applies to reports of the Commission under that Act.
- (3) A report of the Commission on a reference under section 12 must be made to the CAA.
- (4) The CAA—
- (a) must on receiving such a report send a copy to the licence holder and a copy to the Secretary of State;
 - (b) must, after the end of the specified period, publish the report in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it.
- (5) But if the Secretary of State thinks that the publication of any matter would be against the public interest or any person’s commercial interests, he may before the end of the

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specified period give a direction to the CAA requiring it to exclude the matter from every copy of the report to be published as mentioned above.

- (6) The specified period is the period of 14 days starting with the day after the Secretary of State receives the copy under subsection (4).

Commencement Information

I12 S. 13 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M11 1973 c. 41.

14 Modification following report.

- (1) This section applies if a report of the Competition Commission on a reference under section 12—
- includes conclusions to the effect that any of the matters specified in the reference operate against the public interest or may be expected to do so,
 - specifies effects adverse to the public interest which the matters have or may be expected to have,
 - includes conclusions to the effect that the effects could be remedied or prevented by modifications of the conditions of the licence, and
 - specifies modifications by which the effects could be remedied or prevented.
- (2) The CAA must suggest such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the report.
- (3) Before suggesting modifications the CAA must—
- have regard to the modifications specified in the report,
 - publish a notice in such manner as the CAA thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,
 - serve a copy of the notice on the licence holder, and
 - consider any representations made in accordance with the notice (and not withdrawn).
- (4) The notice must—
- state that the CAA proposes to suggest the modifications and state their effect and the reasons for so proposing, and
 - state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposals.
- (5) If the CAA suggests modifications under this section it must—
- give notice to the Commission setting out the modifications it suggests and the reasons for its suggestions, and
 - send to the Commission copies of any representations made in accordance with the notice published under subsection (3) (and not withdrawn).

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Commencement Information

I13 S. 14 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

15 Commission's power to give direction.

- (1) This section applies if the Competition Commission is given notice under section 14.
- (2) Within the permitted period the Commission may give a direction to the CAA—
 - (a) not to make the modifications set out in the notice, or
 - (b) not to make such of those modifications as are specified in the direction.
- (3) But the Commission may give a direction only if it thinks the modifications set out in the notice are not the modifications which are needed to remedy or prevent the adverse effects specified in the Commission's report on the reference under section 12.
- (4) If the Commission gives a direction it must—
 - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the direction, and
 - (b) serve a copy of the notice on the licence holder.
- (5) The notice must set out—
 - (a) the modifications set out in the notice given under section 14,
 - (b) the direction, and
 - (c) the reasons for giving the direction.
- (6) If the permitted period expires without a direction being given under subsection (2) the CAA must make the modifications set out in the notice given under section 14.
- (7) If within the permitted period a direction is given under subsection (2)(b) the CAA must make the modifications which are—
 - (a) set out in the notice given under section 14, and
 - (b) not specified in the direction.
- (8) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.
- (9) The permitted period is the period of four weeks starting with the day the Commission is given notice under section 14.
- (10) But if within that period—
 - (a) the Commission applies to the Secretary of State to extend it to six weeks, and
 - (b) he directs that it is to be so extended,
 the permitted period is the period of six weeks starting with the day the Commission is given notice under section 14.

Commencement Information

I14 S. 15 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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16 Position where Commission gives direction.

- (1) This section applies if the Competition Commission gives a direction under section 15(2).
- (2) If the direction is given under section 15(2)(a) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the Commission's report on the reference under section 12.
- (3) If the direction is given under section 15(2)(b) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent such of the adverse effects as—
 - (a) are specified in the Commission's report on the reference under section 12, and
 - (b) would not be remedied or prevented by the modifications set out in the notice under section 14 and not specified under section 15(2)(b).
- (4) Before making modifications under this section the Commission must—
 - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,
 - (b) serve a copy of the notice on the licence holder and a copy on the CAA, and
 - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (5) The notice must—
 - (a) state that the Commission proposes to make the modifications and state their effect and the reasons for so proposing, and
 - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.
- (6) As soon as practicable after making modifications under this section the Commission must—
 - (a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the modifications, and
 - (b) serve a copy of the notice on the licence holder, a copy on the Secretary of State and a copy on the CAA.
- (7) The notice under subsection (6) must—
 - (a) state that the modifications have been made,
 - (b) set them out, and
 - (c) set out the reasons for making them.

Commencement Information

I15 S. 16 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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17 Commission’s duty as to modifications under section 16.

- (1) The Competition Commission must exercise its functions under section 16(2) and (3) so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).
- (2) The Commission must exercise its functions under section 16(2) and (3) in the manner it thinks best calculated—
 - (a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;
 - (b) to promote efficiency and economy on the part of licence holders;
 - (c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;
 - (d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification) and notified to the Commission by the CAA;
 - (e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section and notified to the Commission by the CAA.
- (3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Commission thinks it appropriate) by promoting competition in the provision of air traffic services.
- (5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Commission must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (6) The Commission must exercise its functions under section 16(2) and (3) so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.

Commencement Information

I16 S. 17 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to the transitional provision and saving in Sch. 2 Pt. II)

18 Sections 15 and 16: general.

- (1) The provisions listed in subsection (2) apply in relation to the exercise by the Commission of its functions under section 15 or 16 as if—
 - (a) references in section 82(1) and (2) of the 1973 Act to a report of the Commission under that Act were references to a notice under section 15(4) or 16(4) or (6) above;
 - (b) references in section 85 of the 1973 Act to an investigation on a reference made to the Commission under that Act were references to an investigation by the Commission for the purposes of exercising its functions under section 15 or 16 above;

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- (c) the reference in section 93B of the 1973 Act to the Commission's functions under Part IV, V, VI or VIII of that Act were a reference to its functions under section 15 or 16 above.
- (2) The provisions are—
- (a) sections 82(1) and (2) of the 1973 Act (exclusion of certain matters and absolute privilege);
 - (b) section 85 of the 1973 Act (witnesses and documents);
 - (c) section 93B of the 1973 Act (false or misleading information);
 - (d) section 24 of the ^{M12}Competition Act 1980 (modification of provisions about Commission's general functions);
 - (e) Part II of Schedule 7 to the ^{M13}Competition Act 1998 (Commission's general functions).
- (3) The 1973 Act is the ^{M14}Fair Trading Act 1973.

Commencement Information

I17 S. 18 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

Marginal Citations

M12 1980 c. 21.

M13 1998 c. 41.

M14 1973 c. 41.

19 Modification by order under other enactments.

- (1) This section applies if—
- (a) the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the 1973 Act, and
 - (b) the first or second requirement (set out below) is satisfied.
- (2) The first requirement is that—
- (a) the circumstances are as mentioned in section 56(1) of the 1973 Act (order on report on monopoly reference), and
 - (b) the monopoly situation exists in relation to the provision of air traffic services.
- (3) The second requirement is that the circumstances are as mentioned in section 73(1) of the 1973 Act (order on report on merger reference) and—
- (a) at least one of the two or more enterprises which ceased to be distinct enterprises was engaged in the provision of air traffic services, or
 - (b) at least one of the two or more enterprises which would cease to be distinct enterprises (in the application of section 73(1) by virtue of section 75(4)(e)) is engaged in the provision of air traffic services.
- (4) The order mentioned in subsection (1) may also provide for the modification of the conditions of a licence to such extent as the Secretary of State thinks necessary or expedient to give effect to or take account of any provision made by the order.
- (5) As soon as practicable after making modifications under this section the Secretary of State must send a copy of them to the licence holder and a copy to the CAA.

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- (6) Expressions used in this section and the 1973 Act have the same meanings in this section as in that Act.
- (7) The 1973 Act is the ^{M15}Fair Trading Act 1973.

Commencement Information

I18 S. 19 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M15 1973 c. 41.

Enforcement

20 Orders for securing compliance.

- (1) If the CAA is satisfied that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition it must make a final order containing provision it thinks is needed to secure compliance with the duty or condition.
- (2) If the CAA is not so satisfied but it appears to it that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition and that a provisional order is needed, it must make a provisional order containing provision it thinks is needed to secure compliance with the duty or condition.
- (3) In deciding whether a provisional order is needed the CAA must have regard in particular to—
- (a) the extent to which any person is likely to sustain loss or damage as a result of anything likely to be done or omitted in contravention of the section 8 duty or licence condition unless a provisional order is made, and
 - (b) the fact that the only remedy for a contravention of a section 8 duty or licence condition is under this section and section 24 (unless there is an act or omission which takes place in the course of the provision of air traffic services).
- (4) A final or provisional order must require the licence holder to do or not to do specified things or things of a specified description.
- (5) A final or provisional order—
- (a) takes effect at a time determined by or under the order;
 - (b) must secure that that time is the earliest practicable time;
 - (c) may be revoked at any time by the CAA.
- (6) A final order continues to have effect until such time (if any) as the CAA revokes it.
- (7) A provisional order ceases to have effect at the termination time, and that is the earlier of—
- (a) the end of the period (not exceeding three months) which is determined by or under the order and which starts when it takes effect;
 - (b) such time (if any) as the CAA revokes it.

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- (8) But if the CAA confirms a provisional order under subsection (9) before the termination time it continues to have effect until such time (if any) as the CAA revokes it.
- (9) The CAA must confirm a provisional order (with or without modifications) if—
 - (a) it is satisfied that the licence holder is contravening or is likely to contravene a section 8 duty or a licence condition, and
 - (b) it thinks its confirmation (with any modifications) is needed to secure compliance with the duty or condition.
- (10) In relation to a licence holder—
 - (a) a section 8 duty is a duty imposed on the holder by section 8;
 - (b) a licence condition is a condition of the licence concerned.
- (11) In sections 21 to 25 any reference to a section 8 duty or to a licence condition or to a final or provisional order must be construed in accordance with this section.
- (12) This section has effect subject to section 21.

Commencement Information

119 S. 20 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

21 Exceptions.

- (1) The CAA must not make a final order or make or confirm a provisional order if it is satisfied that—
 - (a) the duty imposed on it by section 2 precludes it from doing so, or
 - (b) the most appropriate way of proceeding is under the ^{M16}Competition Act 1998.
- (2) If the CAA is satisfied that any of the conditions in subsection (3) applies it must not make a final order or make or confirm a provisional order unless it believes that it is appropriate to do so.
- (3) The conditions are that—
 - (a) the licence holder has agreed to take and is taking all the steps the CAA thinks appropriate to secure or facilitate compliance with the duty or condition concerned;
 - (b) the contraventions or apprehended contraventions are trivial;
 - (c) the contraventions or apprehended contraventions will not adversely affect the interests of the persons referred to in subsection (4);
 - (d) the Secretary of State has made an application under section 28 for an air traffic administration order in relation to the licence holder.
- (4) The persons are operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them.
- (5) These interests are the only ones to be considered under subsection (3)(c)—
 - (a) interests regarding safety;
 - (b) interests regarding the range, availability, continuity, cost and quality of air traffic services.

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Commencement Information

I20 S. 21 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), **Sch. 2 Pt. I** (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

Marginal Citations

M16 [1998 c. 41](#).

22 Procedural requirements.

- (1) Before making a final order or confirming a provisional order the CAA must—
 - (a) publish a notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them,
 - (b) serve on the licence holder a copy of the notice and a copy of the order proposed (or proposed to be confirmed), and
 - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (2) The notice must—
 - (a) state that the CAA proposes to make or confirm the order and state its effect,
 - (b) state the section 8 duty or licence condition with which the order is intended to secure compliance, the acts or omissions which the CAA thinks constitute (or would constitute) contraventions of the duty or condition, and any other facts which it thinks justify the making or confirmation of the order, and
 - (c) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed order or confirmation.
- (3) The CAA must not make a final order with modifications, or confirm a provisional order with modifications, unless—
 - (a) the licence holder consents to the modifications, or
 - (b) subsection (4) is complied with.
- (4) This subsection is complied with if the CAA—
 - (a) serves on the licence holder a notice of the proposal to make or confirm the order with modifications,
 - (b) states in the notice the period (not less than seven days starting with the date of the service of the notice) within which representations may be made regarding the proposed modifications, and
 - (c) considers any representations made in accordance with the notice (and not withdrawn).
- (5) But if the modifications are trivial the CAA must be treated as complying with subsection (4) if it serves on the licence holder a notice of the proposal to make or confirm the order with modifications.
- (6) As soon as practicable after making a final order or making or confirming a provisional order the CAA must—
 - (a) serve a copy of the order on the licence holder and a copy on the Secretary of State, and

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- (b) publish the order in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by it.
- (7) Before revoking a final order or a provisional order which has been confirmed the CAA must—
- (a) publish a notice in such manner as it thinks appropriate for bringing the revocation to the attention of persons likely to be affected by it,
 - (b) serve a copy of the notice on the licence holder, and
 - (c) consider any representations made in accordance with the notice (and not withdrawn).
- (8) The notice must—
- (a) state that the CAA proposes to revoke the order and state its effect, and
 - (b) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed revocation.
- (9) If after acting under subsection (7) the CAA decides not to revoke the order it must—
- (a) publish a notice of its decision in such manner as it thinks appropriate for bringing the decision to the attention of persons likely to be affected by it, and
 - (b) serve a copy of the notice on the licence holder.
- (10) If the CAA is satisfied as mentioned in section 21(1) it must—
- (a) serve a notice that it is so satisfied on the licence holder, and
 - (b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (11) If the CAA is satisfied as mentioned in section 21(2) and it does not believe it is appropriate to make a final order or make or confirm a provisional order, it must—
- (a) serve a notice to that effect on the licence holder, and
 - (b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

Commencement Information

I21 S. 22 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

23 Validity of orders.

- (1) This section applies if a licence holder to which a final or provisional order relates is aggrieved by the order and wants to question its validity on the ground that—
- (a) its making or confirmation was not within the powers conferred by sections 20 and 21, or
 - (b) any of the requirements of section 22(1) to (6) have not been complied with.
- (2) The licence holder may apply to the court.

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- (3) If a copy of the order as made or confirmed was served on the licence holder the application to the court must be made within the period of 42 days starting with the day the copy was served on it.
- (4) On an application under this section the court may quash the order or any provision of it if satisfied that—
 - (a) the making or confirmation of the order was not within the powers conferred by sections 20 and 21, or
 - (b) the interests of the licence holder have been substantially prejudiced by a failure to comply with the requirements of section 22(1) to (6).
- (5) Except as provided by this section, the validity of a final or provisional order may not be questioned in any legal proceedings.
- (6) A reference to the court is to—
 - (a) the High Court in relation to England and Wales or Northern Ireland;
 - (b) the Court of Session in relation to Scotland.

Commencement Information

I22 S. 23 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

24 Effect of orders.

- (1) The licence holder to which a final or provisional order relates has a duty to comply with it.
- (2) The duty is owed to any person who may be affected by a contravention of the order.
- (3) A breach of the duty which causes such a person to sustain loss or damage is actionable by him.
- (4) In proceedings brought against a licence holder under subsection (3) it is a defence for it to prove that it took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (5) Compliance with a final or provisional order is also enforceable by civil proceedings brought by the CAA for an injunction or for interdict or for any other appropriate relief or remedy.
- (6) Subsection (5) does not prejudice a right a person may have by virtue of subsection (3) to bring civil proceedings for contravention or apprehended contravention of a final or provisional order.

Commencement Information

I23 S. 24 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

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25 Power to obtain information.

- (1) This section applies if it appears to the CAA that a licence holder may have contravened or may be contravening or is likely to contravene a section 8 duty or a licence condition.
- (2) For any purpose connected with such of the CAA's functions under sections 20 and 21 as are exercisable in relation to the matter it may serve on any person a notice which—
 - (a) requires the person to produce any documents which are specified or described in the notice and are in his custody or under his control, and to produce them at a time and place so specified and to a person so specified, or
 - (b) requires the person to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.
- (3) A requirement may be made under subsection (2)(b) only if the person is carrying on a business.
- (4) No person may be required under this section—
 - (a) to produce documents which he could not be compelled to produce in civil proceedings in the court;
 - (b) to supply information which he could not be compelled to supply in such proceedings.
- (5) If a person without reasonable excuse fails to do anything required of him by a notice under subsection (2) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) If a person intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under subsection (2) he is guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (7) If a person makes default in complying with a notice under subsection (2) the court may on the CAA's application make such order as the court thinks fit for requiring the default to be made good.
- (8) An order under subsection (7) may provide that all the costs or expenses of and incidental to the application are to be borne—
 - (a) by the person in default, or
 - (b) if officers of a company or other association are responsible for its default, by those officers.
- (9) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.
- (10) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (11) A reference to the court is to—
 - (a) the High Court in relation to England and Wales or Northern Ireland;
 - (b) the Court of Session in relation to Scotland.

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Commencement Information

I24 S. 25 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Administration orders etc.

26 Protection of licence companies etc.

- (1) No licence company may be wound up voluntarily.
- (2) No application may be made to a court for an administration order under Part II of the 1986 Act in relation to a licence company, and—
 - (a) anything purporting to be such an application is of no effect;
 - (b) no administration order may be made under that Part in relation to a licence company.
- (3) No step may be taken by a person to enforce any security over the property of a licence company unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to take the step.
- (4) No application for the winding up of a licence company may be made by a person other than the Secretary of State unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to make the application.
- (5) In subsection (3) “security” and “property” have the same meanings as in Parts I to VII of the 1986 Act.
- (6) In this section and sections 27 to 30—
 - (a) references to a licence company are to a company which holds a licence;
 - (b) references to the 1986 Act are to the ^{M17}Insolvency Act 1986.

Commencement Information

I25 S. 26 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M17 1986 c. 45.

27 Duty to make order.

- (1) This section applies if an application is made to any court for the winding up of a licence company.
- (2) The Secretary of State and the CAA are entitled to be heard by the court.
- (3) The court must not make a winding up order or appoint a provisional liquidator.
- (4) But if the court is satisfied that it would be appropriate to make a winding up order if the company were not a licence company, it must instead make an air traffic administration order.

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- (5) The Secretary of State and the CAA may propose a person to manage the company's affairs, business and property while an air traffic administration order is in force; and if they do the court must appoint that person.
- (6) A reference to the court is to the court which (but for this section) would have jurisdiction to wind up the company.

Commencement Information

I26 S. 27 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

28 Power to make order.

- (1) The court may make an air traffic administration order in relation to a licence company if—
 - (a) an application by petition is made by the Secretary of State or by the CAA with his consent, and
 - (b) the court is satisfied that one or more of the following four conditions is satisfied.
- (2) The first condition is that the company is or is likely to be unable to pay its debts.
- (3) The second condition is that—
 - (a) the Secretary of State certifies that but for section 27 it would be appropriate for him to petition for the company's winding up under section 124A of the 1986 Act (petition following inspectors' report etc), and
 - (b) but for section 27 it would be just and equitable (as mentioned in section 124A) for the company to be wound up.
- (4) The third condition is that—
 - (a) there has been or is or is likely to be a contravention by the company of a section 8 duty,
 - (b) no notice has been served under section 22(10) or (11) in relation to the contravention or apprehended contravention, and
 - (c) the contravention or apprehended contravention is serious enough to make it inappropriate for the company to continue to hold the licence concerned.
- (5) The fourth condition is that—
 - (a) a final or provisional order has been made or confirmed in relation to a section 8 duty or a licence condition,
 - (b) the order is not the subject of proceedings under section 23, and
 - (c) there has been or is or is likely to be such a contravention of the order by the company as to make it inappropriate for it to continue to hold the licence concerned.
- (6) For the purposes of subsection (2) a company is unable to pay its debts if it is deemed to be unable to do so under section 123 of the 1986 Act.
- (7) A reference in subsection (4) or (5) to a section 8 duty or to a licence condition or to a final or provisional order is to be construed in accordance with section 20.

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- (8) A reference to the court is to the court which (but for section 27) would have jurisdiction to wind up the company.

Commencement Information

I27 S. 28 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

29 Air traffic administration orders.

- (1) An air traffic administration order made under section 27 or 28 is an order directing that in the period while the order is in force the company's affairs, business and property are to be managed by a person appointed by the court—
- (a) for the achievement of the following two purposes, and
 - (b) in a manner which protects the interests of the company's members and creditors.
- (2) The first purpose is—
- (a) the transfer to another company, as a going concern, of so much of the licence company's undertaking as it is necessary to transfer to ensure that its licensed activities may be properly carried out, or
 - (b) the transfer to different companies of different parts of the licence company's undertaking, as going concerns, where the parts together constitute so much of its undertaking as is described in paragraph (a).
- (3) The second purpose is the carrying on, pending the transfer, of the licence company's licensed activities.
- (4) A reference to a licence company's licensed activities is to the activities which the licence concerned authorises the company to carry out.
- (5) In subsection (1) "business" and "property" have the same meanings as in the 1986 Act.
- (6) The reference in subsection (1) to the court is to the court making the order.

Commencement Information

I28 S. 29 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

30 Petitions and orders: supplementary.

- (1) A petition under section 28 above cannot be withdrawn except with the court's leave.
- (2) Section 9(4) and (5) of the 1986 Act (court's powers) apply on the hearing of a petition under section 28 above as they apply on the hearing of a petition for an administration order.
- (3) Section 10(1), (2), (4) and (5) of the 1986 Act (effect of petition) apply in the case of a petition under section 28 above as if—

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- (a) the reference in subsection (1) to an administration order were to an air traffic administration order;
 - (b) the reference in subsection (1)(c) to proceedings included a reference to proceedings under or for the purposes of section 20 above;
 - (c) in subsection (1)(c) after “its property” there were inserted “, and no right of re-entry or forfeiture may be enforced against the company in respect of any land,”;
 - (d) subsection (2)(b) and (c) were omitted.
- (4) Schedules 1 and 2 contain provisions relating to air traffic administration orders.
- (5) The power given by section 411 of the 1986 Act to make rules applies for the purpose of giving effect to the air traffic administration order provisions as it applies for the purpose of giving effect to Parts I to VII of that Act, but taking references to those Parts as references to those provisions.
- (6) The air traffic administration order provisions are sections 27 to 29, this section and Schedules 1 and 2.
- (7) The reference in subsection (1) to the court is to the court to which the application by petition is made.

Commencement Information

I29 S. 30 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

31 Government financial help.

- (1) If an air traffic administration order is in force in relation to a company the Secretary of State may—
 - (a) make grants or loans to the company of such sums as he thinks appropriate to facilitate the achievement of the order’s purposes;
 - (b) agree to indemnify the air traffic administrator in respect of liabilities incurred and loss or damage sustained by him in connection with carrying out his functions under the order.
- (2) The Secretary of State may guarantee, in such manner and on such terms as he thinks fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed from any person by a company in relation to which an air traffic administration order is in force when the guarantee is given.
- (3) The terms on which a grant is made under this section may require all or part of it to be repaid to the Secretary of State if there is a contravention of the other terms on which it is made.
- (4) A loan made under this section must be repaid to the Secretary of State at such times and by such methods, and interest must be paid to him at such rates and times, as may be specified in directions given by him from time to time.
- (5) Subsections (3) and (4) do not prejudice any provision applied in relation to the company by Schedule 1.

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- (6) A grant, loan, agreement to indemnify, guarantee or direction under this section requires the Treasury's consent.
- (7) The air traffic administrator is the person appointed by the court to achieve the purposes of the air traffic administration order.

Commencement Information

I30 S. 31 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

32 Guarantees under section 31.

- (1) This section applies to a guarantee given under section 31.
- (2) Immediately after a guarantee is given the Secretary of State must lay a statement of it before each House of Parliament.
- (3) If a sum is paid out for fulfilling a guarantee, as soon as possible after the end of each relevant financial year the Secretary of State must lay a statement relating to the sum before each House of Parliament.
- (4) If any sums are paid out for fulfilling a guarantee the borrowing company must make to the Secretary of State at such times and in such manner as may be specified in directions given by him from time to time—
 - (a) payments of such amounts as he may specify in such directions in or towards repayment of the sums paid out, and
 - (b) payments of interest at such rate as he may specify in such directions on what is outstanding in respect of sums paid out.
- (5) Subsection (4) does not prejudice any provision applied in relation to the borrowing company by Schedule 1.
- (6) A direction under this section requires the Treasury's consent.
- (7) Relevant financial years are financial years starting with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and interest on it is finally discharged.
- (8) The borrowing company is the company which borrowed the sums in respect of which the guarantee was given.

Commencement Information

I31 S. 32 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

33 Northern Ireland.

Schedule 3 contains provisions relating to Northern Ireland.

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Commencement Information

- I32** S. 33 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Miscellaneous

34 Investigations.

- (1) The CAA must investigate an alleged or apprehended contravention of a section 8 duty or of a condition of a licence if the alleged or apprehended contravention is the subject of a representation made to the CAA by or on behalf of a person who appears to it to have an interest in the matter.
- (2) But this does not apply if the representation appears to the CAA to be frivolous or vexatious.
- (3) A section 8 duty is a duty imposed on a licence holder by section 8.

Commencement Information

- I33** S. 34 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

35 Register.

- (1) The CAA must compile and maintain a register for the purposes of this Chapter.
- (2) The register must be kept at such premises and in such form as the CAA decides.
- (3) The CAA must cause these matters to be entered in the register—
 - (a) the provisions of every exemption;
 - (b) the provisions of every licence;
 - (c) every modification of the conditions of a licence;
 - (d) every revocation or surrender of a licence;
 - (e) the provisions of every requirement or determination made or direction, consent or approval given under a licence;
 - (f) the terms of every notice given under section 9;
 - (g) the terms of every final or provisional order made under section 20, every revocation of such an order, and every notice under section 22(10) or (11).
- (4) The duty in subsection (3) does not extend to anything of which the CAA is unaware.
- (5) So far as practicable the CAA must secure the exclusion from the register of any matter relating to the affairs of a person if the CAA thinks its inclusion would or might seriously and prejudicially affect the person's interests.
- (6) If the Secretary of State thinks that entry of anything in the register would be against the public interest or any person's commercial interests, he may give a direction to the CAA requiring the CAA not to enter it.

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- (7) The CAA must secure that the contents of the register are available for inspection by the public during such hours as may be specified in an order made by the Secretary of State.
- (8) If requested by any person to do so the CAA must supply him with a copy (certified to be true) of the register or of an extract from it.
- (9) But subsection (8) does not apply if a charge required by a scheme or regulations made under section 11 of the ^{M18}Civil Aviation Act 1982 is not paid.

Commencement Information

I34 S. 35 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Marginal Citations

M18 1982 c. 16.

VALID FROM 01/04/2001

36 Land.

Schedule 4 gives licence holders powers in relation to land.

VALID FROM 01/04/2001

37 Licence holders as statutory undertakers.

Schedule 5 contains provisions treating licence holders as statutory undertakers.

38 Directions in interests of national security etc.

- (1) The Secretary of State may give to a licence holder or to licence holders generally such directions of a general character as he thinks are necessary or expedient—
- (a) in the interests of national security, or
 - (b) in the interests of encouraging or maintaining the United Kingdom's relations with another country or territory.
- (2) The Secretary of State may give to a licence holder a direction requiring it to do or not to do a particular thing, if the Secretary of State thinks it necessary or expedient to give the direction in the interests of national security.
- (3) The Secretary of State may give to a licence holder a direction requiring it—
- (a) to do or not to do a particular thing in connection with anything authorised by the licence, or
 - (b) to secure that a particular thing is done or not done in connection with anything authorised by the licence,

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if the Secretary of State thinks it necessary or expedient to give the direction in order to discharge or facilitate the discharge of an international obligation of the United Kingdom.

- (4) In exercising his powers under subsections (1) to (3) the Secretary of State must have regard to the need to maintain a high standard of safety in the provision of air traffic services.
- (5) In so far as a direction under this section conflicts with the requirements of section 93 or of an order under section 94, the direction is to be disregarded.
- (6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 93 or an order under section 94, the requirements are to be disregarded.
- (7) Before giving a direction under this section to a particular licence holder (as opposed to licence holders generally) the Secretary of State must consult it.
- (8) The Secretary of State must send a copy of a direction under this section to the CAA.
- (9) The Secretary of State must lay before each House of Parliament a copy of a direction under this section unless he thinks its disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person.
- (10) A person must not disclose, and is not required by any enactment or otherwise to disclose, a direction given or other thing done by virtue of this section if the Secretary of State notifies him that he thinks disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person (other than the person notified).
- (11) A person commits an offence if—
 - (a) without reasonable excuse he contravenes or fails to comply with a direction under this section, or
 - (b) he makes a disclosure in contravention of subsection (10).
- (12) A person who commits an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

Commencement Information

I35 S. 38 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

39 Directions relating to the environment.

- (1) The Secretary of State may give such directions as he thinks are necessary or expedient—
 - (a) to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation;
 - (b) to limit or mitigate the effects of such noise, vibration, pollution or disturbance.

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- (2) Directions under this section may be given to—
 - (a) a licence holder or licence holders generally;
 - (b) a person who is authorised by an exemption to provide air traffic services (an authorised person) or authorised persons generally.
- (3) A direction under this section may be of a general character or may require a licence holder or an authorised person to do or not to do a particular thing.
- (4) A direction under this section may include provision requiring persons to have regard to guidance which relates to the environment and which the Secretary of State may issue from time to time.
- (5) In so far as a direction under this section conflicts with the requirements of section 38 or 93 or of an order under section 94, the direction is to be disregarded.
- (6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 38 or 93 or an order under section 94, the requirements are to be disregarded.
- (7) Before giving a direction under this section to a particular licence holder or authorised person (as opposed to licence holders or authorised persons generally) requiring him to do or not to do a particular thing, the Secretary of State must consult—
 - (a) that licence holder or authorised person;
 - (b) the CAA.

Commencement Information

I36 S. 39 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in **Sch. 2 Pt. II**)

Interpretation

40 Interpretation.

- (1) This section defines these expressions (here listed alphabetically) for the purposes of this Chapter—
 - (a) aerodrome;
 - (b) condition of a licence;
 - (c) exemption;
 - (d) licence;
 - (e) licence holder;
 - (f) managed area;
 - (g) manager of an aerodrome;
 - (h) modification.
- (2) An aerodrome is an aerodrome as defined in section 105(1) of the ^{M19}Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).
- (3) These are managed areas—

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- (a) the United Kingdom;
 - (b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to provide air traffic services.
- (4) An exemption is an exemption under this Chapter.
- (5) A licence is a licence under this Chapter, and references to a licence holder must be construed accordingly.
- (6) A condition of a licence is a provision of the licence which is expressed as a condition.
- (7) “Modification” includes addition, alteration and omission, and cognate expressions are to be construed accordingly.

Commencement Information

I37 S. 40 wholly in force at 1.2.2001, see s. 275(1)(2) and [S.I. 2001/57, art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to the transitional provision and saving in [Sch. 2 Pt. II](#))

Marginal Citations

M19 1982 c. 16.

Status:

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