



Airports Act 1986

1986 CHAPTER 31

PART II

TRANSFER OF AIRPORT UNDERTAKINGS OF LOCAL AUTHORITIES

Public airport companies

16 Public airport companies and their controlling authorities

- (1) References in this Part to a public airport company are references to a company (whether formed under section 13 or not) which carries on the business of operating an airport as a commercial undertaking and is for the time being either—
 - (a) a subsidiary of a single principal council, or
 - (b) a subsidiary of two or more such councils.
- (2) In this Part of this Act—
 - (a) references to the controlling authority of a public airport company are references to the principal council or principal councils of whom it is for the time being a subsidiary as mentioned in subsection (1); and
 - (b) references to a composite authority are references to a controlling authority consisting of two or more principal councils, the councils concerned being referred to as the constituent councils of that authority.
- (3) For the purposes of this Part a public airport company is an associated company of a principal council if that council are its controlling authority or one of the constituent councils of a composite authority who are its controlling authority.

17 Control over constitution and activities of public airport companies

- (1) Subject to subsection (2), it shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that at least three of the directors of the company, or at least one-quarter of their number

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(whichever is less), are full-time employees of the company who are suitably qualified to act as directors of the company by virtue of their experience in airport management.

- (2) Where at any time it appears to the Secretary of State—
- (a) that a public airport company has made arrangements for the management of the airport operated by it to be carried on otherwise than through its officers or employees, and
 - (b) that any such arrangements are adequate to secure that those participating in the management of the airport under the arrangements are suitably qualified to do so by virtue of their experience in airport management,
- the Secretary of State may direct that subsection (1) shall not apply in relation to that company.
- (3) Any direction given by the Secretary of State under subsection (2) may provide—
- (a) that it is to have effect only for such period, or in such circumstances, as may be specified in it, or
 - (b) that its continuation in force is to be subject to compliance with such conditions specified in it as the Secretary of State thinks fit.
- (4) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company does not—
- (a) engage in activities in which the controlling authority have no power to engage, or
 - (b) permit any subsidiary of the company to engage in any such activities.
- (5) Where the controlling authority of a public airport company are a composite authority, the duties imposed by subsections (1) and (4) are joint duties of both or all of the constituent councils of that authority ; and subsection (4) shall apply in any such case as if it referred to activities in which none of the constituent councils have power to engage.

18 Disabilities of directors of public airport companies

- (1) A director of a public airport company who is paid for acting as such, or who is an employee of the company or of a subsidiary of the company, shall be disqualified for being elected, or being, a member—
- (a) where the company's controlling authority is a single principal council, of that council; or
 - (b) where the company's controlling authority are a composite authority, of any of the councils who are the constituent councils of that authority.
- (2) Where a director of a public airport company is a member of any such council as is mentioned in subsection (1)(a) or (b) he shall not at any meeting of the council—
- (a) take part in the consideration or discussion of any contract or proposed contract between the company or a subsidiary of the company and the council; or
 - (b) vote on any question with respect to any contract or proposed contract between the company or a subsidiary of the company and—
 - (i) the council, or
 - (ii) (if they are a constituent council), any of the constituent councils,
 or with respect to any other matter relating to the activities of the company or such a subsidiary.

- (3) Any person who contravenes paragraph (a) or (b) of subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale, unless he proves that he did not know that the matter in relation to which the contravention occurred was such a contract or proposed contract as is mentioned in that paragraph or (as the case may be) was a matter otherwise relating to the activities of the company or subsidiary concerned.
- (4) A prosecution for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.
- (5) A principal council who are the controlling authority of a public airport company or one of the constituent councils of such an authority may by standing orders provide for the exclusion of a member of the council who is a director of the company from a meeting of the council while there is under consideration by the council—
- (a) any contract or proposed contract between the company or a subsidiary of the company and the council, or
 - (b) any other matter relating to the activities of the company or such a subsidiary.
- (6) Subsections (2) and (5) above shall apply in relation to members of—
- (a) a committee of any principal council who are the controlling authority of a public airport company or one of the constituent councils of such an authority, or
 - (b) a joint committee of two or more local authorities one or more of whom are such a council,
- (including, in either case, a sub-committee) as they apply in relation to members of any such council, but with the substitution of references to meetings of any such committee for references to meetings of the council.
- (7) This section shall apply in relation to a director of a subsidiary of a public airport company as it applies in relation to a director of such a company.

19 Prohibition on employment by public airport company of officers etc. of controlling authority

- (1) No person who is a full-time officer or employee of a principal council shall hold any office or employment under an associated company except as a director who is not also an employee of the company.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

20 Powers of investment and disposal in relation to public airport companies

- (1) Without prejudice to the powers of a principal council—
- (a) to subscribe for shares on the formation of a company formed by them in pursuance of section 13, or
 - (b) to acquire any shares in or other securities of a company formed in pursuance of that section by way of consideration for any transfer of property, rights and liabilities to that company under section 15(7),
- a principal council shall have power at any time to subscribe for, take up or acquire (as the case may be) any securities of any associated company.

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- (2) A principal council shall have power to provide for the -disposal, in such manner as they think fit, of any such securities.
- (3) A local authority shall have power, with the consent of the Secretary of State, to acquire securities of any company which carries on the business of operating an airport as a commercial undertaking and is not an associated company (whether or not it is a public airport company or was formed in pursuance of section 13).
- (4) Subsections (1) and (3) are without prejudice to the operation of section 30(1)(a) of the 1982 Act (need for consent of Secretary of State to the maintenance of airports by local authorities).
- (5) A principal council who are the controlling authority of a public airport company, or (as the case may be) both or all of the constituent councils of a composite authority who are such a controlling authority, may, in exercising their power under subsection (2) in relation to the disposal of any securities of the company, provide for an employees' share scheme to be established in respect of the company ; and any such scheme may provide for the transfer of shares without consideration.
- (6) In subsection (5) " employees' share scheme " means a scheme for encouraging or facilitating the holding of shares or debentures in a public airport company by or for the benefit of—
 - (a) the bona fide employees or former employees of the company or of a subsidiary of the company ; or
 - (b) the wives, husbands, widows, widowers or children or step-children under the age of 18 of such employees or former employees.

21 Capital controls relating to investment in public airport companies by local authorities in England and Wales

- (1) Where a local authority dispose of any securities of a public airport company (whether it continues to be such a company after the disposal or not)—
 - (a) any amount received by the authority in respect of the disposal shall be treated for the purposes of section 72 of the 1980 Act (expenditure which authorities may make) as a receipt of the authority which, by virtue of section 75(1) of that Act, is a capital receipt of the authority for the purposes of Part VIII of that Act (capital expenditure of local authorities etc.), but
 - (b) only the relevant sum shall be taken into account under section 72(3)(d) of that Act.
- (2) In subsection (1) " the relevant sum ", in relation to an amount falling within paragraph (a) of that subsection, means—
 - (a) three-tenths of that amount, or
 - (b) if regulations are made for the purposes of section 72(3)(d) of the 1980 Act which prescribe a proportion other than three-tenths in relation to disposals falling within subsection (1), the proportion of that amount so prescribed.
- (3) Where a local authority incur any expenditure in respect of the acquisition of any securities—
 - (a) of a public airport company, or
 - (b) of any company which, as a result of the acquisition by the authority of those securities, becomes a public airport company,

the amount of that expenditure shall, in so far as it is not prescribed expenditure of the authority for the purposes of Part VIII of the 1980 Act by virtue of Schedule 12 to that Act, be treated as prescribed expenditure of the authority for those purposes.

- (4) In this section and section 22 "the 1980 Act" means the Local Government, Planning and Land Act 1980; and this section and section 22 apply to England and Wales only.

22 Other local authority capital controls in England and Wales

- (1) For the purposes of Part VIII of the 1980 Act
- (a) the amount of any advance of a capital nature made—
 - (i) to a public airport company by any person other than a subsidiary of the company or an authority to whom Part VIII of that Act applies, or
 - (ii) to a subsidiary of a public airport company by a person other than that company, any other subsidiary of that company or such an authority, and
 - (b) subject to subsection (2), any amount raised by the issue of any securities—
 - (i) by a public airport company to any person other than such an authority, or
 - (ii) by a subsidiary of a public airport company to any person other than that company,shall be treated as prescribed expenditure of the controlling authority of that company.
- (2) Subsection (1)(b) shall not apply to any amount raised by the issue of any securities—
- (a) by a public airport company where, as a result of the issue of those securities, it ceases to be such a company ; or
 - (b) by a subsidiary of a public airport company where, as a result of the issue of those securities, it ceases to be such a subsidiary.
- (3) Any amount repaid by a public airport company or a subsidiary of such a company in respect of any such advance as is mentioned in subsection (1)(a) shall be treated for the purposes of section 72 of the 1980 Act as a receipt of the controlling authority of that company which, by virtue of section 75(1) of that Act, is a capital receipt of the authority for the purposes of Part VIII of that Act.
- (4) Where the controlling authority of a public airport company are a composite authority, subsections (1) and (3) shall have effect as if the references to the controlling authority were references to such one of the constituent councils of that authority as may be determined by agreement between those councils.
- (5) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company appoints as auditors of the company only persons who, in addition to being qualified for appointment as such auditors in accordance with section 389 of the Companies Act 1985, are approved for appointment as such auditors by the Audit Commission for Local Authorities in England and Wales.
- (6) Where the controlling authority of a public airport company are a composite authority, the duty imposed by subsection (5) is a joint duty of both or all of the constituent councils of that authority.
- (7) Section 21(4) applies for the purposes of this section.

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23 Local authority capital controls in Scotland

- (1) Any liability to meet capital expenses incurred by a public airport company, or by a subsidiary of such a company, shall, in the case of a company whose controlling authority are an authority to whom section 94 of the Local Government (Scotland) Act 1973 (consent of Secretary of State required for the incurring of liability to meet capital expenses) applies, be treated for the purposes of that section as a liability to meet capital expenses incurred by the company's controlling authority.
- (2) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company appoints as auditors of the company only persons who, in addition to being qualified for appointment as such auditors in accordance with section 389 of the Companies Act 1985, are approved for appointment as such auditors by the Commission for Local Authority Accounts in Scotland.
- (3) This section applies to Scotland only.

24 Provision of services for public airport companies

- (1) A principal council shall have power to enter into an agreement with any associated company, or with any subsidiary of an associated company, for the provision by the council for that company or (as the case may be) for that subsidiary of any administrative, professional or technical services.
- (2) Any agreement under this section shall include provision for payment of proper commercial charges in respect of services to be provided under the agreement.
- (3) Where a principal council have entered into an agreement under this section, the accounts of that council shall include a separate account in respect of that agreement and—
 - (a) in England and Wales, section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account as it applies in relation to any statement of accounts prepared by the council pursuant to regulations under section 23 of that Act; and
 - (b) in Scotland, sections 101 and 105 of the Local Government (Scotland) Act 1973 (rights of inspection and regulations as to accounts) shall have effect as if any reference to an abstract of the accounts of an authority included a reference to any such separate account.

25 Financial backing for establishment and operations of public airport companies

- (1) A principal council shall have power to make loans-to any associated company, or to guarantee loans made to any associated company by any other person, for the provision of working capital.
- (2) The reference in subsection (1) to guaranteeing loans is a reference to guaranteeing the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, the loans.
- (3) A principal council shall have power to make loans—
 - (a) to any associated company, or
 - (b) to any subsidiary of an associated company,

for the purpose of meeting any expenses incurred or to be incurred by that company or subsidiary in connection with the provision or improvement of assets in connection with its business.

- (4) Any loan under subsection (1) or (3) must be made on terms, both as to rates of interest and otherwise, no more favourable than the terms on which the council making the loan would themselves be able to borrow at the time when the loan is made.
- (5) A principal council shall have power to give any guarantees and do any other things which appear to the council to be necessary or expedient for the purpose of or in connection with—
 - (a) any disposal authorised under section 20(2); or
 - (b) any disposal by any associated company of the whole or any part of that company's undertaking, or of any property, rights or liabilities of that company.
- (6) A principal council shall have power to provide financial assistance by way of grants, loans or guarantees for any associated company which has incurred losses affecting the viability of its business.
- (7) A principal council shall have power, where on the winding up of any associated company the assets of the company are not sufficient to meet the company's liabilities, to make to the creditors of the company such payments as may be necessary to meet the balance of those liabilities (and may accordingly give to persons dealing or proposing to deal with any such company such guarantees with respect to the exercise of their power under this subsection in relation to the company as they think fit).