



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

#### CHAPTER I

#### AIR TRAFFIC SERVICES

#### *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.

*Status: Point in time view as at 14/08/2002.*

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- (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.
- (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

- II** [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 <sup>MI</sup>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;

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- (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.

#### Commencement Information

**I2** 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

**M1** 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,

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- (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
  - (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.

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#### Commencement Information

- I3** 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.
- (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

- I4** 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.

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- (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**

- I5** 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**)

## **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—

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- (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**

- I6** 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**)

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