



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

### CHAPTER V

#### COMPETITION

#### 85 Interpretation of Chapter V.

- (1) For the purposes of this Chapter—
  - [<sup>F1</sup>(a) the 2002 Act is the Enterprise Act 2002;]
  - (b) the 1998 Act is the <sup>M1</sup>Competition Act 1998;
  - [<sup>F2</sup>(c) the CMA is the Competition and Markets Authority.]
- (2) For the purposes of this Chapter these expressions have the meanings given by section 40—
  - (a) aerodrome;
  - (b) licence;
  - (c) licence holder.
- (3) If an expression is used in this Chapter and also in <sup>F3</sup>... the 1998 Act it has the same meaning in this Chapter as it has in the [<sup>F4</sup>1998 Act].

#### Textual Amendments

- F1** S. 85(1)(a) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 23\(2\)](#); S.I. 2003/1397, art. 2(1), Sch.
- F2** S. 85(1)(c) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\), art. 1\(1\), Sch. 1 para. 153](#) (with art. 3)

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- F3** Words in s. 85(3) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(a), Sch. 26; S.I. 2003/1397, art. 2(1), Sch.
- F4** Words in s. 85(3) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(b); S.I. 2003/1397, art. 2(1), Sch.

#### Commencement Information

- I1** S. 85 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.

## 86 Functions exercisable by CAA and <sup>F5</sup>CMA]

- (1) The functions to which subsections (2) and (3) apply shall be concurrent functions of the CAA and <sup>F6</sup>the CMA].
- <sup>F7</sup>(2) This subsection applies to the <sup>F8</sup>CMA’s] functions under Part 4 of the 2002 Act (other than sections 166 <sup>F9</sup>, 171 and 174E)] so far as <sup>F10</sup>those functions—
- <sup>F10</sup>(a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and]
- <sup>F10</sup>(b)] relate to the supply of air traffic services.]
- <sup>F11</sup>(3) This subsection applies to the <sup>F12</sup>CMA’s] functions under the provisions of Part 1 of the 1998 Act (other than sections 31D(1) to (6), 38(1) to (6) <sup>F13</sup>, 40B(1) to (4)] and 51), so far as relating to—
- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act, <sup>F14</sup>or]
- <sup>F15</sup>(c) transferred EU anti-trust commitments or transferred EU anti-trust directions,] which relate to the supply of air traffic services.]
- (4) References to <sup>F16</sup>the CMA] in—
- (a) <sup>F17</sup>Part 4 of the 2002 Act (except for sections 166 <sup>F18</sup>, 171 and 174E] but including provisions of that Act applied by that Part)], and
- (b) Part I of the 1998 Act (<sup>F19</sup>except in sections 31D(1) to (6), 38(1) to (6) <sup>F20</sup>, 40B(1) to (4)]], 51, 52(6) and (8) and 54),
- must be read as including references to the CAA.
- <sup>F21</sup>(4A) References to section 5 of the 2002 Act in Part 4 of that Act must be read as including a reference to section 91(1) of this Act.]
- (5) But <sup>F22</sup>...—
- (a) <sup>F23</sup>subsections (4) and (4A) apply only so far as they are] consequential on subsections (1) to (3) above, and
- (b) <sup>F24</sup>subsection (4) applies] only if the context does not otherwise require.
- <sup>F25</sup>(5A) Section 130A of the 2002 Act is to have effect in its application in relation to the CAA by virtue of subsections (1) and (2)—
- (a) as if for subsection (1) of that section there were substituted—
- “(1) Where the Civil Aviation Authority—

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- (a) is proposing to carry out its functions under section 91(1) of the Transport Act 2000 in relation to a matter for the purposes mentioned in subsection (2), and
- (b) considers that the matter is one in respect of which it would be appropriate for the Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,
- the Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and
- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “the supply of air traffic services (within the meaning given by section 98 of the Transport Act 2000)”.]
- (6) If a question arises as to whether subsections (1) to (3) above apply to a particular case the question must be referred to and determined by the Secretary of State.
- (7) No objection may be taken to anything done by or in relation to the CAA—
- (a) [F26Part 4 of the 2002 Act], or
- (b) under Part I of the 1998 Act ([F27except under section 31D(1) to (6), 38(1) to (6)][F28, 40B(1) to (4)] or 51),
- on the ground that it should have been done by or in relation to [F29the CMA].

#### Textual Amendments

- F5** Word in s. 86 heading substituted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(10\)](#) (with art. 3)
- F6** Words in s. 86(1) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(2\)](#) (with art. 3)
- F7** S. 86(2) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 24\(2\)](#); S.I. 2003/1397, art. 2(1), Sch.
- F8** Word in s. 86(2) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(3\)\(a\)](#) (with art. 3)
- F9** Words in s. 86(2) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(3\)\(b\)](#) (with art. 3)
- F10** Words in s. 86(2) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(3\)\(c\)](#) (with art. 3)
- F11** S. 86(3) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 2 para. 10\(2\)\(a\)](#)
- F12** Word in s. 86(3) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 154\(4\)](#) (with art. 3)
- F13** Words in s. 86(3) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 14](#); S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F14** Word in s. 86(3)(b) inserted (31.12.2020) by S.I. 2019/93, [Sch. 1 para. 9\(2\)\(a\)](#) (as substituted by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 21)

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- F15** S. 86(3)(c) substituted (31.12.2020) for s. 86(3)(c)(d) by S.I. 2019/93, **Sch. 1 para. 9(2)(b)** (as substituted by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1343), regs. 1(1), **21**)
- F16** Words in s. 86(4) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(5)(a)** (with art. 3)
- F17** Words in s. 86(4)(a) substituted (20.6.2003) by [Enterprise Act 2002](#) (c. 40), s. 279, **Sch. 9 para. 24(3)**; S.I. 2003/1397, art. 2(1), Sch.
- F18** Words in s. 86(4) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(5)(b)** (with art. 3)
- F19** Words in s. 86(4)(b) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004](#) (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 10(2)(b)**
- F20** Words in s. 86(4)(b) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), s. 103(3), **Sch. 15 para. 14**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F21** S. 86(4A) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(6)** (with art. 3)
- F22** Words in s. 86(5) omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(7)(a)** (with art. 3)
- F23** Words in s. 86(5)(a) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(7)(b)** (with art. 3)
- F24** Words in s. 86(5)(b) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(7)(c)** (with art. 3)
- F25** S. 86(5A) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(8)** (with art. 3)
- F26** Words in s. 86(7)(a) substituted (20.6.2003) by [Enterprise Act 2002](#) (c. 40), s. 279, **Sch. 9 para. 24(4)**; S.I. 2003/1397, art. 2(1), Sch.
- F27** Words in s. 86(7)(b) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004](#) (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 10(2)(c)**
- F28** Words in s. 86(7)(b) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), s. 103(3), **Sch. 15 para. 14**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F29** Words in s. 86(7) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(9)** (with art. 3)

#### Commencement Information

- I2** S. 86 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](#))

#### 87 CAA's [F302002] Act functions.

- (1) For the purposes of this section the CAA's [F302002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are functions of the CAA.

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- (2) The CAA must exercise its <sup>F30</sup>2002] Act functions 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 (3) to (6).
- (3) The CAA must exercise its <sup>F30</sup>2002] Act functions 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 suppliers of air traffic services;
  - (c) to secure that suppliers of air traffic services who are 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.
- (4) The only interests to be considered under subsection (3)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.
- (5) The reference in subsection (3)(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.
- (6) If in a particular case there is a conflict in the application of the provisions of subsections (3) to (5), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.
- (7) The CAA must exercise its <sup>F30</sup>2002] Act functions so as to impose on suppliers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.
- (8) Section 4 of the <sup>M2</sup>Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its <sup>F30</sup>2002] Act functions.

#### Textual Amendments

**F30** Word in s. 87 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 25](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)

#### Commencement Information

**I3** S. 87 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** [1982 c. 16](#).

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## 88 CAA's 1998 Act functions.

- (1) For the purposes of this section the CAA's 1998 Act functions are the functions mentioned in subsection (3) of section 86 which, by virtue of that section, are functions of the CAA.
- (2) In exercising its 1998 Act functions the CAA may (in particular) have regard to any matter which satisfies the following condition.
- (3) The condition is that the matter is one to which, by virtue of section 87, the CAA must have regard in exercising its [F312002] Act functions (within the meaning of that section).

### Textual Amendments

**F31** Word in s. 88(3) substituted (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, [Sch. para. 37](#)

### Commencement Information

**I4** S. 88 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](#))

## 89 Carrying out functions.

- (1) For the purposes of this section the [F322002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are concurrent functions of the CAA and [F33the CMA].
- (2) Before [F33the CMA] or the CAA first carries out the [F322002] Act functions in relation to a matter [F34it] must consult the other.
- (3) If [F33the CMA] or the CAA has carried out the [F322002] Act functions in relation to a matter the other must not carry out the [F322002] Act functions in relation to the matter.
- (4) If in carrying out the [F322002] Act functions the CAA makes a [F35market investigation reference (under section 131 of the 2002 Act)], to help the [F36CMA group (constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013) which is to conduct the] investigation on the reference the CAA must give to it—
  - (a) any information the CAA has which relates to matters within the scope of the investigation and which the [F37CMA group] 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 [F38CMA group] requests.
- (5) In carrying out the investigation concerned the [F39CMA group] must take account of any information given under subsection (4).

### Textual Amendments

**F32** Word in s. 89 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 9 para. 26](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#)

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- F33** Words in s. 89(1)-(3) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(2)** (with art. 3)
- F34** Word in s. 89(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(8)(b)**; S.I. 2003/766, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)
- F35** Words in s. 89(4) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(3)(a)** (with art. 3)
- F36** Words in s. 89(4) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(3)(b)** (with art. 3)
- F37** Words in s. 89(4)(a) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(3)(c)** (with art. 3)
- F38** Words in s. 89(4)(c) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(3)(c)** (with art. 3)
- F39** Words in s. 89(5) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 155(4)** (with art. 3)

#### Commencement Information

- I5** S. 89 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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