

Status: Point in time view as at 01/04/2001.

Changes to legislation: Transport Act 2000, SCHEDULE 2 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 30.

AIR TRAFFIC ADMINISTRATION ORDERS: SCHEMES

Commencement Information

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

Application of Schedule

- 1 This Schedule applies if—
- (a) the court has made an air traffic administration order in relation to a licence company (the existing licence company), and
 - (b) it is proposed that on and after the appointed day another company (the new licence company) should carry out licensed activities in respect of all or part of a licensed area.

Commencement Information

- I2** [Sch. 2](#) wholly in force at 1.2.2001, see [s. 275\(1\)](#) 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

- 2 For the purposes of this Schedule—
- (a) an air traffic administration order is an order made under section 27 or 28;
 - (b) an air traffic administrator is a person appointed by the court to achieve the purposes of an air traffic administration order;
 - (c) the court is the court which (but for section 27) would have jurisdiction to wind up the existing licence company;
 - (d) references to the existing licence company and the new licence company must be construed in accordance with paragraph 1;
 - (e) references to a licence company are to be construed in accordance with section 26;
 - (f) other licence companies are licence companies, other than the existing licence company and the new licence company;
 - (g) licensed activities are activities which the licence concerned authorises the existing licence company to carry out;
 - (h) a licensed area is an area in respect of which the licence concerned authorises the existing licence company to provide air traffic services;

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- (i) the appointed day is a day which falls before the discharge of the air traffic administration order takes effect and which is appointed by the court for the purposes of this Schedule.

Commencement Information

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

Making and modification of schemes

- 3 (1) The existing licence company, acting with the consent of the new licence company and, in relation to the matters affecting them, of any other licence companies, may make a scheme designed to secure that the new licence company carries out licensed activities in respect of all or part of the licensed area.
- (2) No scheme takes effect unless it is approved by the Secretary of State after consulting the CAA.
- (3) If a scheme is submitted to the Secretary of State for approval he may modify the scheme before approving it.
- (4) But no modification may be made unless the following consent—
- (a) the new licence company,
 - (b) the existing licence company, and
 - (c) in relation to the matters affecting them, any other licence companies.
- (5) A scheme comes into force on the appointed day.
- (6) At any time after a scheme has come into force, if he thinks it appropriate the Secretary of State may by order provide that the scheme is to be taken for all purposes to have come into force with the modifications specified in the order.
- (7) But the Secretary of State may not make an order under sub-paragraph (6) unless the following consent—
- (a) the existing licence company,
 - (b) the new licence company, and
 - (c) in relation to the provisions of the order which affect them, any other licence companies.
- (8) An order under sub-paragraph (6)—
- (a) may make, with effect from the coming into force of the scheme to which it relates, any such provision as could have been made by the scheme, and
 - (b) in connection with giving effect to that provision from that time, may make such supplementary, consequential and transitional provision as the Secretary of State thinks appropriate.

Commencement Information

I4 Sch. 2 wholly in force at 1.2.2001, see s. 275(1) 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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Effect on licence

- 4 (1) A scheme may provide for a licence held by the existing licence company to have effect, with such modifications as the scheme may specify, as if the licence had been granted to the new licence company.
- (2) If different schemes are made in relation to different parts of the licensed area—
- (a) each scheme has effect as if there were a separate licence in respect of each part, and
 - (b) each licence has effect as if it had been granted to the company which is the new licence company under the scheme concerned.

Commencement Information

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

Property, rights and liabilities

- 5 A scheme may provide for the transfer of property, rights and liabilities from the existing licence company to the new licence company.

Commencement Information

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

- 6 (1) In determining whether and in what manner to exercise the powers under paragraph 3 to approve and modify a scheme, the Secretary of State must have regard to the need to ensure that a scheme allocates property, rights and liabilities to the new licence company in such manner as appears to the Secretary of State to be appropriate.
- (2) In deciding what is appropriate the Secretary of State must take into account the licensed activities which will be carried out on or after the appointed day by any of—
- (a) the new licence company,
 - (b) the existing licence company, and
 - (c) any other licence companies.

Commencement Information

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

- 7 (1) When a scheme comes into force, it has effect without more so as to transfer to the new licence company the property, rights and liabilities to which the scheme relates.
- (2) A scheme may divide the property, rights or liabilities of the existing licence company and in connection with that division may—
- (a) create for the existing licence company, the new licence company or any other licence companies an interest in or right over any property to which the scheme relates;

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- (b) create new rights and liabilities as between any two or more of those companies with respect to the subject-matter of the scheme;
 - (c) in connection with any provision made by virtue of paragraph (a) or (b), make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.
- (3) A scheme may impose duties on the existing licence company, the new licence company and any other licence company to take all such steps as may be necessary to secure that—
- (a) any interest, right or liability created by virtue of paragraph (a) or (b) of sub-paragraph (2), and
 - (b) any incidental provision made by virtue of paragraph (c) of that sub-paragraph,
- has effect.
- (4) A scheme may require the new licence company and any other licence companies to provide consideration in respect of the transfer or creation of property, rights and liabilities by means of the scheme.
- (5) A requirement imposed under sub-paragraph (4) is enforceable in the same way as if the property, rights and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.
- (6) The property, rights and liabilities of the existing licence company which may be transferred in accordance with a scheme include—
- (a) property, rights and liabilities which the existing licence company would not otherwise be capable of transferring or assigning;
 - (b) property, rights and liabilities to which the existing licence company may become entitled or subject after the making of the scheme and before the appointed day;
 - (c) property situated anywhere in the United Kingdom or elsewhere;
 - (d) rights and liabilities under enactments;
 - (e) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (7) If a scheme makes a person entitled to possession of a document, the provision that may be made by virtue of sub-paragraph (2)(b) includes—
- (a) provision for treating that person as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies of it,
 - (b) provision applying section 64 of the ^{M1}Law of Property Act 1925 (production and safe custody of documents) to that acknowledgement,
 - (c) provision that, where a scheme transfers any interest in land or other property situated in Scotland, subsections (1) and (2) of section 16 of the ^{M2}Land Registration (Scotland) Act 1979 (omission of certain clauses in deeds) are to have effect in relation to the transfer as if the transfer had been effected by deed and as if from each of those subsections the words “unless specially qualified” had been omitted, and

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- (d) provision applying section 9 of the ^{M3}Conveyancing Act 1881 (which is the equivalent in Northern Ireland to section 64 of the ^{M4}Law of Property Act 1925) to that acknowledgement.
- (8) Sub-paragraph (9) applies if a transfer authorised by sub-paragraph (6)(a) would (were it not so authorised)—
 - (a) give rise to a contravention or liability by reason of a provision relating to the terms on which the existing licence company is entitled or subject to the property, right or liability transferred, or
 - (b) give rise to an interference with any interest or right by reason of such a provision.
- (9) In such a case the transfer does not give rise to such a contravention, liability or interference.
- (10) The provision referred to in sub-paragraph (8) may arise under an enactment or agreement or otherwise.

Commencement Information

I8 Sch. 2 wholly in force at 1.2.2001, see s. 275(1) 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 1925 c. 20.
M2 1979 c. 33.
M3 1881 c. 41.
M4 1925 c. 20.

- 8 (1) A scheme may impose duties on the existing licence company and on the new licence company to take all such steps as may be necessary to secure that the vesting in the new licence company, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.
- (2) A scheme may require the existing licence company to comply with any directions given by the new licence company in performing any duty imposed on the existing licence company by virtue of a provision included in the scheme under sub-paragraph (1).
- (3) A scheme may provide that, until the vesting of any foreign property, right or liability of the existing licence company in the new licence company is effective under the relevant foreign law, it is the duty of the existing licence company—
 - (a) to hold that property or right for the benefit of the new licence company, or
 - (b) to discharge that liability on behalf of the new licence company.
- (4) A scheme may provide that in specified cases foreign property, rights or liabilities acquired or incurred by an existing licence company after the scheme comes into force are immediately to become property, rights or liabilities of the new licence company; and in relation to such property, rights or liabilities the scheme may make provision equivalent to that in sub-paragraphs (1) to (3).
- (5) Nothing in any provision included in a scheme by virtue of this paragraph affects the law of any part of the United Kingdom as it applies to the vesting of any foreign property, right or liability in the new licence company by virtue of the scheme.

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- (6) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (7) Any expenses incurred by an existing licence company in consequence of any provision included in a scheme by virtue of this paragraph must be met by the new licence company.
- (8) Duties imposed on an existing licence company or a new licence company by virtue of this paragraph are enforceable in the same way as if they were imposed by a contract between the existing licence company and the new licence company.

Commencement Information

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

Supplementary provisions of schemes

- 9 (1) A scheme may contain supplementary, consequential and transitional provision for the purposes of, or in connection with, any provision of the scheme.
- (2) In particular a scheme may provide—
 - (a) that for purposes connected with any transfers made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) the new licence company is to be treated as the same person in law as the existing licence company;
 - (b) that (so far as may be necessary for the purposes of or in connection with any such transfers) agreements made, transactions effected and other things done by or in relation to the existing licence company are to be treated as made, effected or done by or in relation to the new licence company;
 - (c) that (so far as may be necessary for the purposes of or in connection with any such transfers) references in any agreement (whether or not in writing) or in any document to, or to any officer of, the existing licence company are to have effect with such modifications as the scheme may specify;
 - (d) that proceedings commenced by or against the existing licence company are to be continued by or against the new licence company;
 - (e) that contracts of employment with the existing licence company are not to terminate and that periods of employment with the existing licence company are to count for all purposes as periods of employment with the new licence company;
 - (f) that disputes about the effect of the scheme between the existing licence company and the new licence company, between either of them and any other licence company or between different companies which are other licence companies are to be referred to such arbitration as may be specified in or determined under the scheme;
 - (g) that determinations on such arbitrations are conclusive for all purposes;

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- (h) that certificates given jointly by two or more of the licence companies mentioned in paragraph (f) as to the effect of the scheme as between the licence companies giving the certificates are conclusive for all purposes.

Commencement Information

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

Assistance

- 10 (1) The new licence company, the existing licence company and any other licence companies which are likely to be affected by a scheme must provide the Secretary of State with all such information and other assistance as the Secretary of State may reasonably require for the purposes of, or in connection with, the exercise of any power conferred by paragraph 3.
- (2) If a company without reasonable excuse fails to do anything required of it by subparagraph (1) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

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

Effect of air traffic administration order

- 11 While an air traffic administration order is in force in relation to an existing licence company anything which the company is permitted or required to do—
- (a) by paragraph 3 or 10, or
- (b) in consequence of any provision of a scheme,
- is effective only if it is done on the company's behalf by its air traffic administrator.

Commencement Information

- I12** Sch. 2 wholly in force at 1.2.2001, see s. 275(1) 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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