

SCHEDULES

SCHEDULE 1

Section 30.

AIR TRAFFIC ADMINISTRATION ORDERS: GENERAL

PART I

MODIFICATIONS OF 1986 ACT

Introduction

1 This Part of this Schedule applies if an air traffic administration order is made.

General application of provisions of 1986 Act

2 Sections 11 to 23 and 27 of the 1986 Act (which relate to administration orders under Part II of that Act) apply with the modifications specified in this Part of this Schedule.

General modifications

3 In those sections as applied by this Part of this Schedule—
(a) references to an administration order are to an air traffic administration order, and
(b) references to an administrator are to an air traffic administrator.

Effect of order

4 In section 11 of the 1986 Act (effect of order) as applied by this Part of this Schedule—
(a) the requirement in subsection (1)(a) that any petition for the winding up of the company shall be dismissed does not prejudice the air traffic administration order if it is made by virtue of section 27 above,
(b) the reference in subsection (3)(d) to proceedings includes a reference to any proceedings under or for the purposes of section 20 above, and
(c) subsection (3)(d) has effect as if 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,”.

Appointment of air traffic administrator

5 In section 13 of the 1986 Act (appointment of administrator) as applied by this Part of this Schedule for subsection (3) substitute—

“(3) An application for an order under subsection (2) may be made—

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- (a) by the Secretary of State,
- (b) by the CAA with the Secretary of State’s consent,
- (c) by any continuing air traffic administrator of the company, or
- (d) where there is no such air traffic administrator, by the company, the directors or any creditor or creditors of the company.”

General powers of air traffic administrator

- 6 (1) Section 14 of the 1986 Act (general powers of administrator) as applied by this Part of this Schedule has effect as follows.
- (2) In subsection (1)(b) the reference to the powers specified in Schedule 1 to the 1986 Act includes a reference to a power to act on behalf of the company—
- (a) for the purposes of this Part, or
 - (b) for the purposes of the exercise or performance of any power or duty which is conferred or imposed on the company by virtue of its holding a licence.
- (3) In subsection (4) the reference to a power conferred by the company’s memorandum or articles of association includes a reference to a power conferred by virtue of the company’s holding a licence.

Power to deal with charged property

- 7 (1) Section 15 of the 1986 Act (power to deal with charged property) as applied by this Part of this Schedule has effect as follows.
- (2) In subsection (2) for “the purpose or one or more of the purposes specified in the administration order” substitute “one or both of the purposes of the administration order”.
- (3) In subsection (5)(b) for “in the open market by a willing vendor” substitute “for the best price which is reasonably available on a sale which is consistent with the purposes of the air traffic administration order”.

Duties of air traffic administrator

- 8 (1) Section 17 of the 1986 Act (duties of administrator) as applied by this Part of this Schedule has effect as follows.
- (2) For subsection (2) substitute—
- “(2) Subject to any directions of the court, it shall be the duty of the air traffic administrator to manage the affairs, business and property of the company in accordance with proposals under section 23 as they are revised from time to time.”
- (3) In subsection (3) omit paragraph (a).

Discharge of order

- 9 (1) Section 18 of the 1986 Act (discharge and variation of administration order) as applied by this Part of this Schedule has effect as follows.
- (2) For subsections (1) and (2) substitute—

Status: This is the original version (as it was originally enacted).

“(1) An application for an air traffic administration order to be discharged may be made—

- (a) by the air traffic administrator, on the ground that the purposes of the order have been achieved; or
- (b) by the Secretary of State or (with his consent) by the CAA, on the ground that it is no longer necessary that those purposes are achieved.”

(3) In subsection (3) omit the words “or vary”.

(4) In subsection (4)—

- (a) omit the words “or varied” and “or variation”, and
- (b) after “to the registrar of companies” insert “, to the CAA and to the Secretary of State”.

Notice of making of order

- 10 In section 21(2) of the 1986 Act (notice of order to be given by administrator) as applied by this Part of this Schedule after “to the registrar of companies” insert “, to the CAA, to the Secretary of State”.

Statement of proposals

- 11 In section 23 of the 1986 Act (statement of proposals) as applied by this Part of this Schedule for subsections (1) and (2) substitute—

“(1) Where an air traffic administration order has been made, the air traffic administrator shall, within 3 months (or such longer period as the court may allow) after the making of the order, send a statement of his proposals for achieving the purposes of the order—

- (a) to the Secretary of State,
- (b) to the CAA,
- (c) to all creditors of the company (so far as he is aware of their addresses), and
- (d) to the registrar of companies.

(2) The air traffic administrator may from time to time revise those proposals.

(2A) If the air traffic administrator proposes to make revisions which appear to him to be substantial, he shall before making them send a statement of the proposed revisions—

- (a) to the Secretary of State,
- (b) to the CAA,
- (c) to all creditors of the company (so far as he is aware of their addresses), and
- (d) to the registrar of companies.

(2B) The air traffic administrator shall give a copy of any statement under subsection (1) or (2A) to all members of the company before the end of the period described in subsection (1) or, as the case may be, before making the revisions.

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- (2C) The requirement in subsection (2B) is satisfied if the administrator—
- (a) sends a copy of the statement to all members of the company (so far as he is aware of their addresses), or
 - (b) publishes in the prescribed manner a notice stating an address to which members should write for copies of the statement to be sent to them free of charge.”

Applications to court

- 12 (1) Section 27 of the 1986 Act (protection of interests of creditors and members) as applied by this Part of this Schedule has effect as follows.

- (2) After subsection (1) insert—

“(1A) If a creditor or member of the company makes an application under subsection (1), the court shall give notice of the application to the Secretary of State, who shall be entitled to be heard by the court in connection with the application.

(1B) At any time when an air traffic administration order is in force the Secretary of State or (with his consent) the CAA may apply to the court by petition for an order under this section on one or both of the following grounds.

(1C) The first ground is that the air traffic administrator has exercised or is exercising or proposing to exercise his powers in relation to the company in a manner which will not best ensure the achievement of the purposes of the order.

(1D) The second ground is that he has exercised or is exercising or proposing to exercise his powers in relation to the company in a manner which involves a contravention of—

- (a) a condition of the licence granted under Chapter I of Part I of the Transport Act 2000, or
- (b) a duty imposed by section 8(1) of that Act, or
- (c) any other requirement imposed on the company by virtue of its holding the licence.”

- (3) Omit subsection (3).

- (4) In subsection (4) omit the words “Subject as above”.

- (5) After that subsection insert—

“(4A) Provision may be made by virtue of subsection (4)(d) that the air traffic administration order is to be discharged from such date as may be specified in the order unless, before that date, such measures are taken as the court thinks fit for the purpose of protecting the interests of creditors.”

- (6) For subsection (6) substitute—

“(6) Where an air traffic administration order is discharged, the air traffic administrator shall within 14 days after the date on which the discharge takes effect send an office copy of the order under this section—

- (a) to the Secretary of State,
- (b) to the CAA, and

(c) to the registrar of companies;
and if, without reasonable excuse, the air traffic administrator fails to comply with this subsection, he is liable to a fine and, for continued contravention, to a daily default fine.”

PART II

OTHER PROVISIONS

General adaptations

- 13 (1) References in the 1986 Act (except in sections 8 to 10 and 24 to 26), or in any other enactment passed before the day on which this Act is passed, to an administration order under Part II of that Act, to an application for such an order and to an administrator include references (respectively) to an air traffic administration order, to an application for an air traffic administration order and to an air traffic administrator.
- (2) References in the 1986 Act, or in any other enactment passed before the day on which this Act is passed, to an enactment contained in Part II of that Act include references to that enactment as applied by section 30 above or Part I of this Schedule.
- (3) But—
- (a) sub-paragraph (1) applies in relation to a reference in an enactment contained in Part II of the 1986 Act only so far as necessary for the purposes of the operation of the provisions of that Part as so applied;
 - (b) sub-paragraphs (1) and (2) apply subject to Part I of this Schedule.

Saving

- 14 The provisions of this Schedule are without prejudice to the power conferred by section 411 of the 1986 Act (company insolvency rules) as modified by paragraph 13(1) and (2).

Interpretation

- 15 (1) In this Schedule “the 1986 Act” means the Insolvency Act 1986.
- (2) For the purposes of this Schedule and any modification of the 1986 Act made by this Schedule—
- (a) an air traffic administration order is an order made under section 27 or 28 above;
 - (b) an air traffic administrator is a person appointed by the court to achieve the purposes of an air traffic administration order;
 - (c) the CAA is the Civil Aviation Authority.