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## STATUTORY INSTRUMENTS

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# 1994 No. 426

## The Airports (Northern Ireland) Order 1994

### PART III

#### MANAGEMENT OF AIRPORTS

##### **Power of district councils to provide and maintain airports**

**17.**—(1) A district council may, with the consent of the Department and subject to such conditions as the Department may impose, establish and maintain airports, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.

(2) A district council may, for the purpose of exercising any of the powers conferred on the council by paragraph (1), acquire land by agreement or compulsorily.

(3) The power of a district council to acquire land under paragraph (2) may be exercised—

- (a) for the purpose of securing that land adjacent to the site of an airport which the council has established, or is about to establish, is not used in such manner as to cause interference with, or danger or damage to, aircraft using the airport;
- (b) for the purpose of providing or improving any road which is to be provided or improved in pursuance of an order under Article 10 or for any other purpose for which land is required in connection with such an order.

(4) The power of a district council to acquire land compulsorily under paragraph (2) includes power to acquire, by the creation of a new right, an easement or other right over land.

(5) The powers conferred by paragraph (2) shall not be exercisable in relation to Crown land, to the extent of the estate therein held by or on behalf of the Crown; and paragraphs (4) and (5) of Article 16 apply for the purposes of this paragraph as they apply for the purposes of that Article.

(6) If the Department is satisfied, with respect to any airport provided by a district council under this Article, that it is necessary or expedient that the council should be empowered to carry on in connection with the airport any particular business, being a business which appears to the Department to be ancillary to the carrying on of an airport but which the council would not otherwise have power to carry on, the Department may authorise that council, subject to such conditions, if any, as the Department may think fit, to carry on that business in connection with the airport.

(7) In this Article “provide” and “maintain” have the meanings assigned to them by section 147 of the Local Government Act (Northern Ireland) 1972<sup>F1</sup>.

**F1** [1972 c.9 \(NI\)](#)

##### **Airport byelaws**

**18.**—(1) This Article applies to—

- (a) any airport managed by a district council under Article 17; and

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- (b) any other airport designated for the purposes of this Article by an order made by the Department.
- (2) The airport operator of an airport to which this Article applies may make byelaws for regulating the use and operation of the airport and the conduct of persons while within the airport.
- (3) Any such byelaws may, in particular, include byelaws—
- (a) for securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operation of the airport;
  - (b) for controlling the operation of aircraft within, or directly above, the airport for the purpose of limiting or mitigating the effect of noise, vibration and atmospheric pollution caused by aircraft using the airport;
  - (c) for preventing obstruction within the airport;
  - (d) for regulating vehicular traffic anywhere within the airport, except on roads within the airport to which the Road Traffic (Northern Ireland) Order 1981<sup>F2</sup> applies, and in particular (with that exception) for imposing speed limits on vehicles within the airport and for restricting or regulating the parking of vehicles or their use for any purpose or in any manner specified in the byelaws;
  - (e) for prohibiting waiting by vehicles plying for hire except at standings appointed by such person as may be specified in the byelaws;
  - (f) for prohibiting or restricting access to any part of the airport;
  - (g) for preserving order within the airport and preventing damage to property within it;
  - (h) for regulating or restricting advertising within the airport;
  - (i) for requiring any person, if so requested by a constable or airport official, to leave the airport or any particular part of it, or to state his name and address and the purpose of his being within the airport;
  - (j) for securing the safe custody and redelivery of any property which, while not in proper custody, is found within the airport or in an aircraft within the airport, and in particular—
    - (i) for requiring charges to be paid in respect of any such property before it is redelivered; and
    - (ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the byelaws;
  - (k) for defining the area which is to be taken as constituting the airport for the purposes of the byelaws.
- (4) In sub-paragraph (i) of paragraph (3) “airport official” means a person authorised by the airport operator; and any such official shall not exercise any power under a byelaw made by virtue of that sub-paragraph without producing written evidence of his authority if required to do so.
- (5) Part VI of the Local Government Act (Northern Ireland) 1972<sup>F3</sup> shall have effect in relation to byelaws made by a district council under this Article.
- (6) Schedule 4 shall have effect in relation to byelaws made by any other airport operator under this Article.

**F2** 1981 NI 1

**F3** 1972 c.9 (NI)

## Appointment of constables for an airport

19.—(1) An airport operator authorised in that behalf by the [<sup>F4</sup>Department of Justice] may appoint any person employed by the operator to be a constable on the airport managed by that operator.

(2) An authorisation under this Article may be granted subject to such conditions as the [<sup>F5</sup>appropriate authority] thinks fit.

[<sup>F6</sup>(2A) In this Article “appropriate authority” means—

- (a) in relation to conditions which affect an excepted or reserved matter otherwise than incidentally, the Secretary of State; and
- (b) otherwise, the Department of Justice;

and for the purposes of this paragraph, “excepted matter” and “reserved matter” have the same meanings as in the Northern Ireland Act 1998.

(2B) An authorisation under this Article shall not be granted until the Secretary of State has given notice in writing to the Department of Justice—

- (a) specifying the conditions of the kind referred to in paragraph (2A)(a) to which the authorisation, if granted, is to be subject; or
- (b) declaring that the authorisation, if granted, is not to be subject to any such conditions.]

(3) Every person appointed under paragraph (1) shall on his appointment make a declaration before a justice of the peace to execute the office of a constable on the airport for which he was appointed, and, when he has made the declaration, he shall on that airport have the powers and privileges and be liable to the duties and responsibilities of a constable.

(4) Constables appointed under this Article shall be under the exclusive control of the airport operator by whom they are appointed and that operator may suspend or terminate the appointment of any such constable.

(5) For the purposes of—

- [<sup>F7</sup>(a) the Employment Rights (Northern Ireland) Order 1996; and]
- (b) the Industrial Relations (Northern Ireland) Order 1992<sup>F8</sup>,

the holding of the office of constable under this Article on any airport shall be treated as work under a contract of employment with the airport operator; and, accordingly, for those purposes, service in such office shall not be treated as police service within the meaning of those Orders.

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| <b>F4</b> | Words in art. 19(1) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(2) (with arts. 24-28) |
| <b>F5</b> | Words in art. 19(2) substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(3) (with arts. 24-28) |
| <b>F6</b> | Art. 19(2A)(2B) inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 7(4) (with arts. 24-28)        |
| <b>F7</b> | 1996 NI 16  |
| <b>F8</b> | 1992 NI 5   |

## Facilities for consultation at airports

20.—(1) This Article applies to any airport which is designated for the purposes of this Article by an order made by the Department.

- (2) The operator of an airport to which this Article applies shall provide for—
  - (a) users of the airport;

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- (b) the General Consumer Council for Northern Ireland;
- (c) the district council in whose district the airport or any part thereof is situated or whose district is in the locality of the airport; and
- (d) any other organisation representing the interests of persons concerned with the locality in which the airport is situated,

adequate facilities for consultation with respect to any matter concerning the management or administration of the airport which affects their interests.

### **Control of noise at airports**

**21.** An airport operator shall take such measures as the Department may direct for limiting noise and vibration or mitigating their effect and, in particular, for restricting the use of the airport to aircraft and persons complying with such requirements as may be specified in the directions.

### **Grants towards cost of soundproofing buildings**

**22.—**(1) If it appears to the Department that buildings near an airport require further protection from noise and vibration attributable to use of the airport than can be given by measures taken or to be taken in pursuance of Article 21, the Department may by order make a scheme requiring the airport operator to make grants towards the cost of insulating those buildings or parts of those buildings against noise.

(2) A scheme under this Article may apply only to buildings of such a class or classes as may be specified in the scheme.

(3) A scheme under this Article shall specify the area or areas in which buildings must be situated for the grants to be payable, and the persons to whom, the expenditure in respect of which and the rate at which the grants are to be paid, and may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme.

(4) A scheme under this Article may require the airport operator, in any case where an application for a grant is refused, to give the applicant at his request a written statement of the reasons for the refusal.

(5) Before making a scheme under this Article in relation to an airport, the Department shall consult the airport operator.

### **Power of airport operators to detain and sell aircraft for unpaid airport charges**

**23.—**(1) This Article applies to any airport designated for the purposes of this Article by an order made by the Department.

(2) Where default is made in the payment of airport charges incurred in respect of any aircraft at an airport to which this Article applies, the airport operator may, subject to the provisions of this Article—

- (a) detain, pending payment, either—
  - (i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins); or
  - (ii) any other aircraft of which the person in default is the operator at the time when the detention begins; and
- (b) if the charges are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.

(3) An airport operator shall not detain, or continue to detain, an aircraft under this Article by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein—

- (a) disputes that the charges, or any of them, are due or, if the aircraft is detained under paragraph (2)(a)(i), that the charges in question were incurred in respect of that aircraft; and
- (b) gives to the airport operator, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(4) An airport operator shall not sell an aircraft under this Article without the leave of the High Court; and the High Court shall not give leave except on proof that a sum is due to the airport operator for airport charges, that default has been made in the payment thereof and that the aircraft which the airport operator seeks leave to sell is liable to sale under this Article by reason of the default.

(5) An airport operator proposing to apply for leave to sell an aircraft under this Article shall take such steps as the Department may by regulations prescribe—

- (a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the High Court thereon; and
- (b) for affording to any such person an opportunity of becoming a party to the proceedings on the application;

and, if leave is given, the airport operator shall secure that the aircraft is sold for the best price that can reasonably be obtained.

(6) Failure to comply with any requirement of paragraph (5) in respect of any sale, while actionable as against the airport operator concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.

(7) The proceeds of any sale under this Article shall be applied as follows, and in the following order, that is to say—

- (a) in payment of any sum payable in respect of the aircraft under any statutory provision;
- (b) in payment of the expenses incurred by the airport operator in detaining, keeping and selling the aircraft, including his expenses in connection with the application to the High Court;
- (c) in payment of the airport charges which the High Court has found to be due;

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

(8) The power of detention and sale conferred by this Article in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in paragraphs (3) to (7) include, except where the context otherwise requires, references to any such equipment and stores.

(9) The power of detention conferred by this Article in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this Article, be transferred by the airport operator to the purchaser.

(10) The power conferred by this Article to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the airport on which those charges were incurred or on any other airport owned or managed by the airport operator concerned.

(11) In this Article—

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“airport charges” means charges payable to an airport operator for the use of, or for services provided at, an airport, but does not include charges payable by virtue of regulations under section 73 of the 1982 Act;

“aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or air-worthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(12) Nothing in this Article shall prejudice any right of an airport operator to recover any charges, or any part thereof, by action.

**Financial assistance for airport operators**

24.—(1) The Department with the approval of the Department of Finance and Personnel may make grants or loans to any airport operator to enable that operator to defray capital expenditure which has been or may be incurred by the operator with the approval of the Department.

(2) Any loan made by the Department under paragraph (1) shall be repaid to it at such times and by such methods, and interest thereon shall be paid to the Department at such rates and at such times, as the Department with the approval of the Department of Finance and Personnel may from time to time determine.

**Status of certain airport operators as statutory undertakers**

25.—(1) This Article applies to—

- (a) any regulated airport;
- (b) any airport (other than a regulated airport) which is managed by a district council under Article 17; <sup>F9</sup> . . .
- (c) <sup>F9</sup> . . . . .

(2) Schedule 5 shall have effect with respect to the application of the statutory provisions mentioned in that Schedule (which relate to statutory undertakers) to the airport operators of airports to which this Article applies.

**F9** Art. 25(1)(c) and preceding word omitted (10.11.2011) by virtue of [Airport Charges Regulations 2011 \(S.I. 2011/2491\)](#), reg. 29(2), [Sch. 2 para. 5\(4\)](#)

**Power to dispose of land to airport operators**

26. Notwithstanding anything in any other statutory provision, a Northern Ireland department may, on such financial and other conditions as that department considers appropriate, dispose of land vested in that department to the operator of a regulated airport for any purpose connected with the performance of his functions as such.

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**Changes and effects yet to be applied to :**

- Instrument am. (prosp.) by [1998 c. 41 s.74\(1\)Sch.12 para.20\(1\)](#)
- Instrument rev. in pt. by [1998 c. 41 s.74\(3\)Sch.14 Pt. II](#)