
DRAFT STATUTORY INSTRUMENTS

1999 No.

The Aeroplane Noise Regulations 1999

Citation and commencement

1. These Regulations may be cited as the Aeroplane Noise Regulations 1999 and shall come into force on the seventh day after the day on which they are made.

Revocation and amendment

2.—(1) The Aeroplane Noise (Limitation on Operation of Aeroplanes) Regulations 1993⁽¹⁾ and the Aeroplane Noise (Limitation on Operation of Aeroplanes) (Amendment) Regulations 1994⁽²⁾ are hereby revoked.

(2) The Air Navigation (Noise Certification) Order 1990⁽³⁾ shall be amended as follows—

- (a) in article 4, before “This Order” there shall be inserted
“⁽¹⁾ Subject to paragraph (2) of this article,;”
- (b) in article 4, at the end, there shall be added the following paragraph—
“⁽²⁾ This Order shall not apply to any aeroplane to which the Aeroplane Noise Regulations 1999⁽⁴⁾ applies.”;
- (c) in article 5, paragraph (1), the words “, other than an aeroplane to which paragraph (2) applies,,” shall be omitted;
- (d) in article 5, paragraph (2) shall be omitted;
- (e) in article 6, paragraphs (2) to (8) shall be omitted;
- (f) in Schedule 1, in Part I, paragraphs 3(1) and (2) and 4 shall be omitted, and
- (g) in Schedule 1, Parts II, III, IV and VI shall be omitted.

Interpretation

3. In these Regulations—

“accepted” in relation to a certificate of airworthiness means an application made to the CAA for such a certificate or for the modification of such a certificate which the CAA has not rejected;

“aeroplane” means an aeroplane in respect of which a certificate of airworthiness is in force;

“air carrier” means an air transport undertaking with a valid operating licence;

“authorised person” means any constable and any person authorised by the CAA (whether by name or by class or description) either generally or in relation to a particular case or class of cases;

“the CAA” means the Civil Aviation Authority;

(1) S.I.1993/1409.
(2) S.I. 1994/1734.
(3) S.I. 1990/1514.
(4) S.I. 1999/xxxx.

“certificate of airworthiness” has the same meaning as in article 118(1) of the Air Navigation (No. 2) Order 1995(5);

“Community air carrier” means an air carrier with a valid operating licence granted by a member State or EEA State in accordance with Council Regulation (EEC) No. 2407/92 of 23 July 1992 on licensing air carriers(6);

“the Convention” means the Convention on International Civil Aviation signed on behalf of the United Kingdom at Chicago on 7th December 1944(7);

“the 1989 Council Directive” means Council Directive 89/629/EEC of 4th December 1989(8) on the limitation of noise emission from civil subsonic jet aeroplanes;

“the 1992 Council Directive” means Council Directive 92/14/EEC of 2 March 1992(9) on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 as amended by Council Directive 98/20/EC of 30 March 1998(10);

“derived version” means a modification of a prototype aeroplane which, from the point of view of airworthiness, is similar to the prototype but incorporates changes in type design which may affect its noise characteristics adversely;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(11);

“EEA State” means a State, other than a member State, which is a Contracting Party to the EEA Agreement;

“Government airport” has the same meaning as “Government aerodrome” in the Air Navigation (No. 2) Order 1995;

“noise certificate” means a document issued or validated by a State or by a competent authority of a State attesting noise certification in respect of an aeroplane either by way of a separate certificate or a statement contained in another document approved by the State of registry of the aeroplane and required by that State to be carried in the aeroplane;

“operating licence” means an authorisation granted to an undertaking permitting it to carry out carriage by air of passengers, mail and/or cargo for remuneration and/or hire;

“overseas departments” has the same meaning as in article 2.3 of the 1992 Council Directive;

“total civil subsonic jet fleet” in relation to a Community air carrier means the total aircraft fleet of civil subsonic jet aeroplanes at the disposal of that carrier, through ownership or any form of lease agreement of not less than one year;

“Volume 1 of Annex 16/1981” means the first edition—1981 of Volume 1 of Annex 16 to the Convention(12);

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- (5) S.I. 1995/1970, to which there are amendments not relevant to these Regulations.
- (6) O.J. No. L 240, 24.8.92, p.1—extended to EEA States by the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2073 and 2183) as amended by the decision of the EEA Joint Committee No. 7/94 of 21 March 1994 (O.J. L 160, 28.6.94, p.1).
- (7) 7th edition published in 1997 by the International Civil Aviation Organisation, reference Doc. 7300/7.
- (8) O.J. No. L 363, 13.12.89, p.27. the 1989 Council Directive was extended to EEA States by the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2073 and 2183). See also the Decision of the Council and the Commission on the conclusion of that Agreement 94/1/ECSC,EC—O.J. L 1, 3.1.94, p.1 and particularly article 23 on p.11 and paragraph 2 of Part XVII of Annex II on p.312.
- (9) O.J. No. L 76, 23.3.92, p.21, as corrected in O.J. No. L 168, 23.6.92, p.30. The 1992 Council Directive was extended to EEA States by the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2073 and 2183) as amended by the Decision of the EEA Joint Committee No. 7/94 of 21 March 1994 (O.J. L 160, 28.6.94, p.1).
- (10) O.J. No. L 107, 7.4.98, p.4. The 1998 Directive was extended to EEA States by the decision of the EEA Joint Committee No. 105/98 of 30 October 1998 amending Annex XX to the EEA Agreement (O.J. L).
- (11) Cm 2073 and 2183.
- (12) This Annex is published by the International Civil Aviation Organisation. The first edition of Volume 1 of this Annex was published in 1981.

“Volume 1 of Annex 16/1988” means the second edition—1988 of Annex 16 to the Convention(13).

Noise certificate requirements for UK registered propeller driven aeroplanes

4.—(1) This regulation shall apply to any civil propeller-driven aeroplane registered in the United Kingdom and falling within one of the categories set out in Volume 1 of Annex 16/1981.

(2) Subject to regulation 6, an aeroplane to which this regulation applies shall not be used in the territories of member States or EEA States unless there is in force in respect of that aeroplane a noise certificate granted by the CAA certifying that—

- (a) in the case of an aeroplane with a maximum certificated take-off mass which exceeds 5,700 kilograms, other than an aeroplane to which sub-paragraphs (e), (f) or (g) applies, which in the opinion of the CAA—
 - (i) (a) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness before 6 October 1977, or
 - (b) conforms to a derived version of such a prototype aeroplane, and
 - (ii) was first issued with a certificate of airworthiness on or after 26 November 1981, the aeroplane meets the standards specified in Part II, Chapter 2 of Volume I of Annex 16/1988, less sections 2.1 and 2.4.2 of that Chapter;
- (b) in the case of an aeroplane with a maximum certificated take-off mass which exceeds 5,700 kilograms, other than an aeroplane described in section 6.1.1 of Part II of Volume 1 of Annex 16/1988 and other than an aeroplane to which sub-paragraph (h) applies, which in the opinion of the CAA—
 - (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 1 January 1985 and before 17 November 1988, or
 - (ii) conforms to a derived version of such a prototype aeroplane, the aeroplane meets the standards specified in Part II, Chapter 3 of Volume I of Annex 16/1988;
- (c) in the case of an aeroplane with a maximum certificated take-off mass which exceeds 9,000 kilograms which in the opinion of the CAA—
 - (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 17 November 1988, or
 - (ii) conforms to a derived version of such a prototype aeroplane, the aeroplane meets the standards specified in Part II, Chapter 3 of Volume I of Annex 16/1988;
- (d) in the case of an aeroplane with a maximum certificated take-off mass which exceeds 5,700 kilograms, other than an aeroplane to which sub-paragraphs (f), (g) or (h) applies, which in the opinion of the CAA—
 - (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 6 October 1977 and before 1 January 1985, or
 - (ii) conforms to a derived version of such a prototype aeroplane,

(13) This Annex is published by the International Civil Aviation Organisation. The second edition of Volume 1 of this Annex was published in 1988.

the aeroplane meets the standards specified in Part II, Chapter 5 of Volume I of Annex 16/1988;

- (e) in the case of an aeroplane with a maximum certificated take-off mass which does not exceed 9,000 kilograms which in the opinion of the CAA—
- (i) (a) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness before 1 January 1975, or
 - (b) conforms to a derived version of such a prototype aeroplane being a derived version in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype before 17 November 1988, and
 - (ii) was either first issued with a certificate of airworthiness on or after 1 January 1980 or first registered in the United Kingdom on or after that date,

the aeroplane meets the standards specified in Part II, Chapter 6 of Volume I of Annex 16/1988;

- (f) in the case of an aeroplane with a maximum certificated take-off mass which does not exceed 9,000 kilograms which in the opinion of the CAA—
- (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 1 January 1975 and before 17 November 1988, or
 - (ii) conforms to a derived version of such a prototype aeroplane being a derived version in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype on or after 1 January 1975 and before 17 November 1988,

the aeroplane meets the standards specified in Part II, Chapter 6 of Volume I of Annex 16/1988,

- (g) in the case of an aeroplane with a maximum certificated take-off mass which does not exceed 9,000 kilograms which in the opinion of the CAA—
- (i) conforms to a derived version of a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 1 January 1975 and before 17 November 1988, and
 - (ii) in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype on or after 17 November 1988,

the aeroplane meets the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988;

- (h) subject to sub-paragraph (i), in the case of an aeroplane with a maximum certificated take-off mass which does not exceed 9,000 kilograms and which in the opinion of the CAA—
- (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 17 November 1988, or
 - (ii) conforms to a derived version of such a prototype aeroplane,

the aeroplane, meets the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988;

- (i) in the case of an aeroplane with a maximum certificated take-off mass which does not exceed 9,000 kilograms and which in the opinion of the CAA—

- (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 17 November 1998 and before 17 November 1993, or
- (ii) conforms to a derived version of such a prototype aeroplane being a derived version in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype on or after 17 November 1988 and before 17 November 1993,

the aeroplane, if it is unable to meet the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988, meets the standards specified in Part II, Chapter 6 of Volume I of Annex 16/1988;

- (j) in the case of any other aeroplane, the aeroplane complies with requirements which are at least equal to the applicable standards specified in Part II, Chapters 2, 5 or 6 of Volume I of Annex 16/1981.

5.—(1) Subject to paragraph (3), this regulation shall apply to any civil propeller-driven aeroplane with a maximum certificated take-off mass not exceeding 5,700 kilograms first registered in the United Kingdom on or after 24th July 1980 and not falling within one of the categories set out in Volume 1 of Annex 16/1981.

(2) Subject to regulation 6, an aeroplane to which this regulation applies shall not be used in the territories of member States or EEA States unless there is in force in respect of that aeroplane a noise certificate granted by the CAA certifying—

- (a) in the case of an aeroplane which in the opinion of the CAA—
 - (i) conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 1 January 1975 and before 17 November 1988, or
 - (ii) conforms to a derived version of such a prototype aeroplane being a derived version in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype on or after 1 January 1975 and before 17 November 1988,

that the aeroplane meets the standards specified in Part II, Chapter 6 of Volume I of Annex 16/1988;

- (b) in the case of an aeroplane which in the opinion of the CAA—
 - (i) conforms to a derived version of a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 1 January 1975 and before 17 November 1988, and
 - (ii) in respect of which the CAA accepted an application to modify the certificate of airworthiness for the prototype on or after 17 November 1988,
- the aeroplane meets the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988;
- (c) in the case of an aeroplane which in the opinion of the CAA conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 17 November 1988 or conforms to a derived version of such a prototype aeroplane, that the aeroplane, meets the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988;
 - (d) in the case of an aeroplane which in the opinion of the CAA conforms to a prototype aeroplane being a prototype in respect of which the CAA accepted an application for a certificate of airworthiness on or after 17 November 1988 and before 17 November 1993 or conforms to a derived version of such a prototype aeroplane, the aeroplane, if it is unable

- to meet the standards specified in Part II, Chapter 10 of Volume I of Annex 16/1988, meets the standards specified in Part II, Chapter 6 of Volume I of Annex 16/1988;
- (e) in the case of any other aeroplane, the aeroplane complies with requirements which are at least equal to the applicable standards specified in Part II, Chapter 6 of Volume 1 of Annex 16/1981.
- (3) This regulation shall not apply to—
- (a) any aeroplane not satisfying the applicable requirements for noise certification when it can be equipped to those standards provided that—
- (i) suitable conversion equipment exists for the aeroplane type in question,
 - (ii) aeroplanes fitted with such equipment are capable of achieving the standards required for noise certification,
 - (iii) such equipment is available,
 - (iv) the operator has ordered the equipment, and
 - (v) such equipment is fitted within two years from the date of registration in the United Kingdom, or
- (b) any aeroplane which has been used before 1st July 1979 by a Community air carrier under a hire purchase or leasing contract concluded by that date, and which for this reason, has been registered in a State other than that in which it is used, or
- (c) any aeroplane of historic interest.

Exemptions for UK registered propeller driven aeroplanes

6.—(1) After consultation with the Secretary of State the CAA may grant an exemption from the requirements of paragraph (2) of regulation 4 or paragraph (2) of regulation 5 to permit, in exceptional individual cases, temporary use in the United Kingdom and Gibraltar of aeroplanes which could not otherwise lawfully be operated on the basis of those regulations or paragraph (2).

(2) After consultation with the Secretary of State the CAA may grant an exemption from the requirements of paragraph (2) of regulation 4 to authorise the use of any aeroplane with a maximum certificated take-off mass exceeding 5,700 kilograms which is specially designed and manufactured in very few units, and used for the transportation of aeronautical industry products of exceptional sizes, and which cannot be put into service on the basis of that regulation provided that use is restricted to the United Kingdom, Gibraltar and the territories of other consenting member States and EEA States.

Noise certificate requirements for foreign registered propeller driven aeroplanes

7.—(1) Subject to paragraphs (2) and (3) no civil propeller driven aeroplane registered otherwise than in the United Kingdom, Gibraltar or another member State or EEA State shall land or take-off in the United Kingdom unless there is in force in respect of that aeroplane a noise certificate granted by the competent authority of the State of registry on the basis of satisfactory evidence that the aeroplane complies with requirements which are at least as stringent as those which the aeroplane, were it on the register of the United Kingdom, would be required to meet by virtue of regulation 4 or 5.

(2) After consultation with the Secretary of State the CAA may grant an exception from the requirements of paragraph (1) to permit, in exceptional cases, temporary use in the United Kingdom of aeroplanes which could not otherwise lawfully be operated on the basis of that paragraph or paragraph (3).

(3) After consultation with the Secretary of State the CAA may grant an exemption from the requirements of paragraph (1) to authorise the use of any aeroplane with a maximum certificated take-off mass exceeding 5,700 kilograms which is specially designed and manufactured in very few

units, and used for the transportation of aeronautical industry products of exceptional sizes, and which cannot be put into service on the basis of that paragraph.

Noise certificate requirements for civil subsonic jet aeroplanes

8.—(1) Subject to paragraph (3), this regulation shall apply to any civil subsonic jet aeroplane registered in the United Kingdom and falling within one of the categories set out in Volume 1 of Annex 16/1981.

(2) Subject to regulation 25, an aeroplane to which this regulation applies shall not be used in the territories of member States or EEA States unless there is in force in respect of that aeroplane a noise certificate granted by the CAA certifying that the aeroplane complies with requirements which are at least equal to the applicable standards specified in Part II, Chapters 2 or 3 of Volume 1 of Annex 16/1981.

(3) This regulation shall not apply to any aeroplane to which regulation 10 or 12 or, on or after 1 April 2002, regulation 14 applies but it shall apply to any such aeroplane for the time being exempted from the requirements of any of those regulations if that aeroplane would otherwise fall within the description set out in paragraph (1).

9.—(1) Subject to paragraph (3), this regulation shall apply to any civil subsonic jet aeroplane registered in the United Kingdom.

(2) Subject to regulation 25, an aeroplane to which this regulation applies shall not be used in the territories of member States or EEA States unless there is in force in respect of that aeroplane a noise certificate granted by the CAA certifying that the aeroplane complies with requirements which are at least equal to the standards specified in Part II, Chapter 2, of Volume 1 of Annex 16/1981.

(3) This regulation shall not apply to any aeroplane to which regulation 8, 10 or 12 or, on or after 1 April 2002, regulation 14 applies but it shall apply to any such aeroplane for the time being exempted from the requirements of paragraph (2) of regulation 10, paragraph (2) of regulation 12 or paragraph (2) of regulation 14 if that aeroplane would otherwise fall within the description set out in paragraph (1).

10.—(1) Subject to paragraph (3), this regulation shall apply to any civil subsonic jet aeroplane, registered in the United Kingdom after 1st November 1990, which has a maximum take-off mass of more than 34,000 kilograms and a capacity of more than 19 seats and powered by engines having a by-pass ratio of less than 2.

(2) Subject to regulations 21 and 22, an aeroplane to which this regulation applies shall not be operated in the territories of member States or EEA States unless there is in force in respect of that aeroplane a noise certificate granted by the CAA certifying that the aeroplane complies with requirements which are at least equal to the standards specified in Part II, Chapter 3, Volume 1 of Annex 16/1988.

(3) This regulation shall not apply—

- (a) to any aeroplane entered on the register of a member State or EEA State on 1st November 1990,
- (b) to any aeroplane used only in the territories of the overseas departments,
- (c) on or after 1st April 2002, to any aeroplane to which regulation 14 applies.

11.—(1) Subject to paragraph (2) no civil subsonic jet aeroplane which is registered otherwise than in the United Kingdom, Gibraltar or another member State or EEA State shall land or take-off in the United Kingdom unless there is in force in respect of that aeroplane a noise certificate granted by the competent authority of the State of registry certifying that the aeroplane complies

with requirements which are at least equal to the standards specified in Part II, Chapter 2, of Volume 1 of Annex 16/1981.

(2) This regulation shall not apply to any aeroplane to which regulation 12 or, on or after 1st April 2002, regulation 14 applies but it shall apply to any such aeroplane for the time being exempted from the requirements of either of those regulations if that aeroplane would otherwise fall within the description set out in paragraph (1).

12.—(1) Subject to paragraph (3) and to regulation 13, this regulation applies to any civil subsonic jet aeroplane with a maximum take-off mass of 34,000 kilograms or more or with a certified maximum internal accommodation for the aeroplane type in question of more than 19 passenger seats, excluding any seats for crew only, and in either case fitted with engines having a by-pass ratio of less than 2.

(2) Subject to regulations 20 and 22 to 25 an aeroplane to which this regulation applies shall not be operated at any airport in the United Kingdom unless there is in force in respect of that aeroplane a noise certificate granted, in the case of an aeroplane registered in the United Kingdom by the CAA, in the case of an aeroplane registered in Gibraltar by the competent authority for Gibraltar and in the case of an aeroplane registered elsewhere by the competent authority of the State of registry, certifying that the aeroplane meets either—

- (a) the standards specified in Part II, Chapter 3, Volume 1 of Annex 16/1988, or
- (b) the standards specified in Part II, Chapter 2, Volume 1 of Annex 16/1988, provided that the aeroplane was first issued an individual certificate of airworthiness less than 25 years before 1 April 1995.

(3) This regulation shall not apply—

- (a) to any aeroplane on the register of a member State or EEA State other than the United Kingdom in respect of which there is in force an exemption granted by that State pursuant to articles 4 to 7 of the 1992 Directive,
- (b) to any aeroplane on a register kept for Gibraltar in respect of which there is in force an exemption granted by Gibraltar pursuant to articles 4 to 7 of the 1992 Directive,
- (c) before 1st April 2002, to any aeroplane the subject of the 1989 Directive,
- (d) on or after 1 April 2002, to any aeroplane to which regulation 14 applies.

13.—(1) Subject to paragraph (2), regulation 12 shall not apply in relation to any aeroplane listed in the Schedule to these Regulations insofar as—

- (a) that aeroplane, having been granted noise certification to the standards specified in Part II, Chapter 2, Volume 1 of Annex 16/1988, operated into any airport in the territories of member States or EEA States in a twelve month reference period between 1986 and 1990 selected in conjunction with the States concerned, and
- (b) that aeroplane was on the register of the developing nation shown for that aeroplane in the Schedule to these Regulations in that twelve month reference period and continues to be used either directly or under any form of lease agreement by a natural or legal person established in that nation.

(2) Paragraph (1) shall not apply in relation to an aeroplane listed in the Schedule to these Regulations where that aeroplane is leased to a natural or legal person who is not established in the developing nation shown for that aeroplane in the said Schedule.

14.—(1) Subject to paragraph (3), this regulation applies to any civil subsonic jet aeroplane with a maximum take-off mass of 34,000 kilograms or more or with a certified maximum internal accommodation for the aeroplane type in question of more than 19 passenger seats, excluding any seats for crew only.

(2) Subject to regulations 22 and 25, an aeroplane to which this regulation applies shall not be operated at any airport in the United Kingdom on or after 1st April 2002 unless there is in force in respect of that aeroplane a noise certificate granted, in the case of an aeroplane registered in the United Kingdom by the CAA, in the case of an aeroplane registered in Gibraltar by the competent authority for Gibraltar and in the case of an aeroplane registered elsewhere by the competent authority of the State of registry, certifying that the aeroplane complies with requirements which meet the standards specified in Part II, Chapter 3, Volume 1 of Annex 16/1988.

(3) This regulation shall not apply—

- (a) to any aeroplane on the register of a member State or EEA State other than the United Kingdom in respect of which there is in force an exemption granted by that State pursuant to article 5.2 of the 1992 Directive,
- (b) to any aeroplane on a register kept for Gibraltar in respect of which there is in force an exemption granted by Gibraltar pursuant to article 5.2 of the 1992 Directive.

Content of noise certificates

15. The noise certificate referred to in regulations 4 and 5 and 7 to 9 shall provide at least the following information—

- (a) the State of registry and registration mark of the aeroplane,
- (b) the manufacturer's serial number,
- (c) the manufacturer's type and model designation,
- (d) a statement of any additional modifications incorporated for the purpose of compliance with the applicable noise certification standards,
- (e) the maximum mass at which compliance with the applicable noise certification standards has been demonstrated, and
- (f) for aeroplanes for which application or certification is submitted on or after 6 October 1977: the noise level or levels and their 90 per cent confidence limits at the reference point or points for which compliance with the applicable noise certification standards has been demonstrated.

Grant of noise certificates by the CAA

16.—(1) The CAA shall grant a noise certificate in respect of any aeroplane registered in the United Kingdom to which these Regulations apply if it is satisfied on the basis of satisfactory evidence that the aeroplane complies with the standard specified for that aeroplane in these Regulations.

(2) For the purposes of determining the standard applicable to an aeroplane to which regulation 4 or 5 applies where the interval between—

- (a) the application for a certificate of airworthiness for a prototype aeroplane and the first issue of a certificate for an aeroplane of that type; or
- (b) the application to modify a certificate of airworthiness for a prototype aeroplane and the first issue of a certificate for an aeroplane of that type as modified,

exceeds 5 years, the date on which the application was made shall be deemed to be 5 years before the date of the first issue of the certificate.

(3) The CAA shall grant every noise certificate subject to a condition as to the maximum total weights at which the aeroplane may land or take-off and may grant such a certificate subject to such other conditions relating to standards as to noise as it thinks fit.

(4) Subject to paragraph (5) and regulations 17 and 26 a noise certificate granted by the CAA under these Regulations shall remain in force without limit of time.

- (5) A noise certificate granted by the CAA under these Regulations shall cease to be sufficient—
- (a) at such time as the aeroplane or any part of it is modified, in any way which affects the ability of the aeroplane to comply with the noise standard required by these Regulations, otherwise than in a manner and with material of a type approved by the CAA either generally or in relation to a class of aeroplane or to a particular aeroplane, and
 - (b) until the completion of any inspection or test of the aeroplane required by the CAA to be made, which shows that the aeroplane complies with the noise standard required by these Regulations.

Suspension and revocation of noise certificates and exemptions by the CAA

17.—(1) The CAA may, if it thinks fit, provisionally suspend or vary any noise certificate or provisionally suspend any exemption granted by it under these Regulations pending inquiry into or consideration of the case. Subject to regulation 26, the CAA may, after sufficient ground being shown to its satisfaction after due inquiry, revoke or vary any such certificate or revoke any such exemption.

(2) The holder or any person having the possession or custody of any noise certificate or exemption which has been revoked by the CAA under these Regulations shall surrender it to the CAA within a reasonable time after being required to do so by it.

(3) The breach of any condition subject to which any noise certificate has been granted by the CAA under these Regulations shall render the certificate invalid during the continuance of the breach.

Carriage and production of noise certificate

18.—(1) An aeroplane to which regulation 4, 5, 8, 9 or 10 applies shall not be used in the territories of member States or EEA States unless the noise certificate required by these Regulations to be in force in respect of that aeroplane is carried on board the aeroplane.

(2) An aeroplane to which regulation 7, 11, 12 or 14 applies shall not take off from or land in the United Kingdom unless the noise certificate required by these Regulations to be in force in respect of that aeroplane is carried on board the aeroplane.

(3) The commander of an aeroplane shall, within a reasonable time after being requested to do so by the CAA or an authorised person, cause to be produced to the CAA or that person the noise certificate in force in respect of that aeroplane.

Recognition of noise certificates and exemptions issued by other member States or EEA States

19.—(1) A noise certificate granted by the competent authority of a member State or EEA State other than the United Kingdom attesting noise certification in respect of an aeroplane registered in the territory of that State to the effect that the aeroplane complies with requirements which are at least equal to the applicable standards specified in Part II, Chapters 2, 3, 5 or 6 of Volume I of Annex 16/1981 shall be recognised as valid.

(2) Exemptions granted by a member State or EEA State other than the United Kingdom pursuant to articles 4 or 5 of the 1989 Council Directive shall be recognised as valid.

Exemption for jet aeroplanes subject to conversion

20. The CAA shall grant an exemption from the requirements of paragraph (2) of regulation 12 in relation to any aeroplane which does not meet the standards of Chapter 3 of Volume 1 of Annex 16/1988 but which can be altered to meet those standards provided that—

- (a) suitable conversion equipment exists and is actually available for the aeroplane type in question,
- (b) aeroplanes fitted with such equipment meet the standards of Chapter 3 of Volume 1 of Annex 16/1988,
- (c) the equipment was ordered by 1st April 1994, and
- (d) the earliest delivery date for such alterations was accepted.

Exemption where jet aeroplanes accidentally destroyed

21.—(1) After consultation with the Secretary of State, the CAA may grant an exemption from the requirements of paragraph (2) of regulation 10 in relation to an aeroplane which replaces one which has been accidentally destroyed provided that the requirements contained in paragraph (2) are satisfied.

- (2) The requirements referred to in paragraph (1) are that—
 - (a) the operator is unable to replace the aeroplane accidentally destroyed with a comparable aeroplane—
 - (i) which is available on the market, and
 - (ii) in respect of which there is in force a noise certificate certifying that the aeroplane meets the standards referred to in paragraph (2) of regulation 10, and
 - (b) the registration of the replacement aeroplane in the United Kingdom is carried out within one year of the date on which the replaced aeroplane was accidentally destroyed.

Exemption for jet aeroplanes of historical interest

22. After consultation with the Secretary of State, the CAA may grant an exemption from the requirements of paragraph (2) of regulation 10, paragraph (2) of regulation 12 or paragraph (2) of regulation 14 in relation to any aeroplane of historical interest.

Exemption where air carrier's operations adversely affected to an unreasonable extent

23. After consultation with the Secretary of State, the CAA may grant an exemption from the 25 year period specified in regulation 12(2)(b) for not more than three years in total in relation to any aeroplane in respect of which an air carrier demonstrates that the pursuit of its operations would otherwise be adversely affected to an unreasonable extent.

Exemption to permit phasing of deletions from register

24.—(1) Subject to the approval of the CAA after the CAA has consulted with the Secretary of State, nothing in paragraph (2) of regulation 12 shall require the deletion from the United Kingdom register of aeroplanes which do not meet the standards of Chapter 3 of Volume 1 of Annex 16/1988 at an annual rate equivalent to more than 10% of the total civil subsonic jet fleet of a Community air carrier.

(2) Where the CAA has applied an equivalent exemption in respect of an aeroplane on the register of a third country which operated into the United Kingdom or Gibraltar before 27th April 1998 that exemption shall continue to have effect provided that the air carrier operating the aeroplane in question complies with the conditions subject to which the equivalent exemption was granted.

(3) For the purposes of paragraph (2) “equivalent exemption” means an exemption having effect equivalent to the effect of the provisions of paragraph (1).

Temporary exemption for jet aeroplanes

25.—(1) After consultation with the Secretary of State, the CAA may grant an exemption from the requirements of paragraph (2) of regulation 8 or paragraph (2) of regulation 9 to permit, in exceptional individual cases, temporary use in the United Kingdom and Gibraltar of aeroplanes which could not otherwise lawfully be operated on the basis of that regulation.

(2) Subject to paragraph (3), after consultation with the Secretary of State, the CAA may grant an exemption from the requirements of paragraph (2) of regulation 12 or paragraph (2) of regulation 14 to permit the temporary use at any airport situated in the United Kingdom of any aeroplane which could not otherwise lawfully be operated on the basis of regulations 12, 14 or 22 to 24.

(3) The CAA shall not grant such an exemption under paragraph (2) unless—

- (a) the operations of the aeroplane are of such an exceptional nature that it would be unreasonable to withhold such an exemption; or
- (b) the aeroplane is being operated on a non-revenue flight for the purposes of alterations, repair or maintenance.

Review of CAA decisions

26.—(1) A decision by the CAA to—

- (a) refuse to grant a noise certificate or exemption,
- (b) revoke or vary a noise certificate, or
- (c) revoke an exemption

may be made on behalf of the CAA only by a member or employee of the CAA. Where the CAA makes a decision with respect to any of the matters referred to in this paragraph it shall serve on the applicant for a noise certificate or exemption or the holder or any person having the possession or custody of the noise certificate or exemption, as the case may be, a notice stating the reasons for the decision and the applicant or holder may, within 14 days after the date of service of that notice, serve on the CAA a request that the case be reviewed by the CAA.

(2) The function of deciding a case where such a request has been duly served on the CAA may not be performed on behalf of the CAA by any other person and for the purpose of making any decision in such a case a quorum of the CAA shall be one member. The CAA shall sit with such technical assessors to advise it as the CAA may appoint but the CAA shall not appoint as an assessor any person who participated in the decision which is the subject of the CAA’s review. Where such a request has been duly served the CAA shall, before making a decision, consider any representations which may have been served on it by the person concerned within 21 days after the date of service of the notice given by the CAA pursuant to paragraph (1). Where the CAA makes a decision pursuant to this paragraph it shall be the duty of the CAA to serve a statement of its reasons for the decision on the person concerned.

(3) Anything required to be served on any person under this regulation shall be set out in a notice in writing which may be served by—

- (a) delivering it to that person,
- (b) leaving it at his proper address,
- (c) sending it by post to that address, or

- (d) sending it to him at that address by telex or other similar means which produce a document containing the text of the communication, in which event the document shall be regarded as served when it is received,

and where the person is a body corporate the document may be served on the secretary of that body.

(4) For the purpose of this regulation, the proper address of any person shall, in the case of a body corporate, be the registered or principal office of that body and in any other case be the last known address of the person to be served.

(5) In this regulation “vary a noise certificate” means the addition, omission or variation of any conditions subject to which a noise certificate may be granted.

CAA’s duty in relation to exemptions

27.—(1) Before the CAA grants any exemption under regulation 6(2) or 7(3) it shall first inform the Commission of its proposal to do so.

(2) If the CAA grants an exemption under regulation 21 or under regulation 22 relating to the requirements in paragraph (2) of regulation 10 or suspends or revokes such an exemption the CAA shall inform the Commission and the competent authorities of the other member States and EEA States of that fact.

(3) If the CAA grants an exemption under any provision in regulation 20, 22 (insofar as that regulation relates to the requirements in paragraph (2) of regulation 12 or paragraph (2) of regulation 14), 23 or 24 or suspends or revokes such an exemption it shall inform the Commission and the competent authorities of the other member States and EEA States of that fact and of the grounds for its decision.

Power to prevent aeroplanes flying

28. Where the CAA or an authorised person has reason to believe that an aeroplane is intended to be operated by any person without the noise certificate required to be in force in respect of that aeroplane the CAA or the authorised person may—

- (a) give to the person appearing to the CAA or the authorised person to be in command of the aeroplane a direction that he shall not permit the aeroplane to take off until the CAA or the authorised person has informed him that the direction is cancelled,
- (b) whether or not the CAA or the authorised person has given such a direction, detain the aeroplane until the CAA or the authorised person is satisfied that the aeroplane will not be so operated,

and a person, who, without reasonable excuse, fails to comply with a direction given to him in pursuance of this regulation shall be guilty of an offence.

Right of access to airports and other places

29.—(1) Subject to paragraph (2), for the purposes of ascertaining whether the provisions of these Regulations are being complied with, the CAA and any authorised person, upon production (if required) of his credentials, shall have the right of access at all reasonable times to any airport or any other place in the United Kingdom where an aeroplane has landed for the purpose of inspecting that aeroplane or any noise certificate required to be in force in respect of that aeroplane or for the purpose of detaining that aeroplane under regulation 28.

(2) In relation to any Government airport, the CAA or the authorised person (as the case may be) shall obtain the permission of the person in charge of that airport before exercising the right of access referred to in paragraph (1).

(3) Any person who intentionally obstructs or impedes any person acting in the exercise of his powers or the performance of his duties under this regulation shall be guilty of an offence.

Circumvention

30.—(1) This regulation shall apply to any civil subsonic jet aeroplane not registered in any member State or EEA State which has a maximum take-off mass of more than 34,000 kilograms and a capacity of more than 19 seats, powered by engines having a by-pass ratio of less than 2 and for which there is not in force a noise certificate certifying that the aeroplane complies with requirements which are at least equal to the standards specified in Part II, Chapter 3, Volume 1 of Annex 16/1988.

(2) An aeroplane to which this regulation applies shall not be operated in the United Kingdom if its operation would have the effect of circumventing regulation 10(2).

(3) Any person who agrees any form of leasing agreement which has the effect referred to in paragraph (2) shall be guilty of an offence.

Penalties

31.—(1) If any provision of these Regulations is contravened in relation to an aeroplane the operator of that aeroplane and the commander thereof shall (without prejudice to the liability of any other person under these Regulations for that contravention) be deemed for the purposes of the following provisions of this regulation to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of these Regulations was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) If any person contravenes regulation 18 he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any person contravenes any other provision of these Regulations, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Liability of persons other than principal offender

32.—(1) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a Scottish partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

xxx xxx 1999

Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions