



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART III

#### REGULATION OF CIVIL AVIATION

*Trespass by aircraft and aircraft nuisance, noise, etc.*

#### **78 Regulation of noise and vibration from aircraft.**

- (1) The Secretary of State may by a notice published in the prescribed manner provide that it shall be the duty of the person who is the operator of an aircraft which is to take off or land at a designated aerodrome to secure that, after the aircraft takes off or, as the case may be, before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Secretary of State to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.
- (2) If it appears to the Secretary of State that any requirement specified in relation to a designated aerodrome in a notice published in pursuance of subsection (1) above has not been complied with as respects any aircraft he may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any representations then made by that person, give to the person managing the aerodrome a direction requiring him to secure that, until the Secretary of State revokes the direction, facilities for using the aerodrome are withheld to the extent specified in the direction from aircraft of which the person aforesaid is the operator and from his servants; and it shall be the duty of the person for the time being managing the aerodrome to comply with the direction.
- (3) If the Secretary of State considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with the taking-off or landing of aircraft at a designated aerodrome, to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome

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during certain periods, he may by a notice published in the prescribed manner do all or any of the following, that is to say—

- (a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified;
- (b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified;
- (c) determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) above and, as respects each of those persons, the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods;

and subject to subsection (4) below and paragraphs (e) and (f) of subsection (5) below it shall be the duty of the person for the time being managing the aerodrome to secure that the prohibitions or restrictions relating to the aerodrome which are imposed by the notice are complied with.

- (4) Without prejudice to subsection (5)(f) below, a particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) above in respect of that aerodrome if—
  - (a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the Secretary of State in a notice published in the prescribed manner; and
  - (b) the person for the time being managing the aerodrome or a person authorised by him for the purpose, determines that that occasion or series of occasions should be so disregarded,

but it shall be the duty of the first-mentioned person to notify the Secretary of State in writing, within one week from its occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this subsection applies.

- (5) The following supplementary provisions shall have effect for the purposes of subsection (3) above, that is to say—
  - (a) it shall be the duty of the Secretary of State, before he makes a determination in respect of an aerodrome in pursuance of paragraph (c) of that subsection, to consult any body appearing to him to be representative of operators of aircraft using the aerodrome;
  - (b) a notice under that subsection may make, in relation to a designated aerodrome, provision as respects any period notwithstanding that the period is included in or that there is included in the period, any other period as respects which provision relating to the aerodrome is made by the notice or by another notice under that subsection;
  - (c) if it appears to the Secretary of State that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then, without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome, any person authorised by the Secretary of State for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;

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- (d) if it appears to a person authorised for the purpose by the person for the time being managing the relevant aerodrome that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then without prejudice to paragraph (c) above, or the powers mentioned therein, the first-mentioned person, or a person authorised by him for the purpose, may detain the aircraft for such period as the first-mentioned person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon any land;
  - (e) nothing in that subsection requires a person managing an aerodrome to prevent an aircraft from landing at the aerodrome; and
  - (f) the Secretary of State may, by a notice given in the prescribed manner to the person managing an aerodrome to which a notice under that subsection relates, determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded for the purposes of the notice under that subsection.
- (6) The Secretary of State may give to the person managing a designated aerodrome such directions as the Secretary of State considers appropriate for the purpose of avoiding, limiting, or mitigating the effect of, noise and vibration connected with the taking-off or landing of aircraft at the aerodrome; and it shall be the duty of the person for the time being managing the aerodrome to comply with the directions.
- [<sup>F1</sup>(6A) Directions under subsection (6) above may be given for the purpose of avoiding, limiting, or mitigating the effect of, such noise and vibration either—
- (a) generally, or
  - (b) in any particular area or areas.]
- (7) The duties imposed by subsections (1) to (3) and (6) above in relation to aerodromes in Scotland shall be enforceable by order of the Court of Session on an application by or on behalf of the Secretary of State under section 91 of the <sup>M1</sup>Court of Session Act 1868.
- (8) The Secretary of State may, after consultation with the person managing a designated aerodrome, by order require him at his own expense—
- (a) to provide in an area and within a period specified in the order, and to maintain and operate in accordance with any instructions so specified, such equipment for measuring noise in the vicinity of the aerodrome as is so specified; and
  - (b) to make to the Secretary of State such reports as are so specified with respect to the noise measured by the equipment and to permit any person authorised by the Secretary of State for the purpose to inspect the equipment on demand at any time;
- and it shall be the duty of the person for the time being managing the aerodrome to comply with the requirements of the order.
- (9) If a person fails to perform any duty imposed on him by subsection (8) above the Secretary of State may, after affording him an opportunity of making representations to the Secretary of State with respect to the matter and after considering any representations then made by him—
- (a) take such steps as the Secretary of State considers appropriate for remedying the failure, which may include steps to secure the provision, maintenance and operation of equipment by the Secretary of State or the CAA; and
  - (b) recover in any court of competent jurisdiction from the person aforesaid any expense attributable to the taking of those steps which is incurred by the Secretary of State from time to time;

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and if a person fails to perform any duty imposed on him by virtue of paragraph (b) of subsection (8) above, then without prejudice to the preceding provisions of this subsection he shall—

- (i) be guilty of an offence and liable on summary conviction to a fine [<sup>F2</sup>not exceeding level 5 on the standard scale; and]
  - (ii) if the failure continues after his conviction of an offence under this subsection arising from the failure, be guilty of a separate offence under this subsection on each day on which the failure continues thereafter and liable [<sup>F3</sup>on summary conviction to a fine not exceeding [<sup>F4</sup>10% of level 5 on the standard scale][<sup>F4</sup>10% of the greater of £5,000 or level 4 on the standard scale]] .
- (10) Paragraph (b) of subsection (9) above is without prejudice to the Secretary of State's power apart from that paragraph to recover the expenses mentioned therein.
- (11) The Secretary of State may, after consultation with any local authority appearing to him to be concerned, by order repeal any provision of a local Act which he considers is unnecessary having regard to the provisions of this section and of section 79 below.
- (12) Any notice published in pursuance of subsection (1), (3) or (4) above may contain such incidental or supplementary provisions as the Secretary of State considers appropriate for the purposes of that subsection and may be varied or revoked by a subsequent notice published in pursuance of that subsection.

#### Textual Amendments

- F1** S. 78(6A) inserted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\), ss. 2\(2\)](#), 14; S.I. 2007/598, [art. 2](#), Sch. 1
- F2** Words in s. 78(9)(i) substituted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\), ss. 2\(3\)\(a\)](#), 14; S.I. 2007/598, [art. 2](#), Sch. 1
- F3** Words in s. 78(9)(ii) substituted (1.3.2007) by [Civil Aviation Act 2006 \(c. 34\), ss. 2\(3\)\(b\)](#), 14; S.I. 2007/598, [art. 2](#), Sch. 1
- F4** Words in s. 78(9)(ii) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 3 para. 2\(2\)](#) (with reg. 5(1))

#### Modifications etc. (not altering text)

- C1** S. 78: Functions transferred (S.) (1.7.1999) by [S.I. 1999/1750](#), art. 2, [Sch. 1](#)
- C2** S. 78(9) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), [s. 68\(3\)](#)
- C3** S. 78(10) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), [s. 68\(3\)](#)

#### Marginal Citations

- M1** 1868 c. 100.

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