

SCHEDULES

SCHEDULE 23

AIR PASSENGER DUTY

PART 4

OTHER PROVISION

- 16 Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.
- 17 In section 28 (introduction to air passenger duty) for subsection (3) substitute—
- “(3) Sections 29 and 29A below set out how to determine if an aircraft is a chargeable aircraft for the purposes of this Chapter.”
- 18 (1) Section 29 (chargeable aircraft) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) For the purposes of this Chapter an aircraft is a chargeable aircraft if—
- (a) it is a fixed-wing aircraft designed or adapted to carry persons in addition to the flight crew,
- (b) its authorised take-off weight is not less than 5.7 tonnes, and
- (c) it is fuelled by kerosene (as defined in section 1(8) of the Hydrocarbon Oil Duties Act 1979).”
- (3) In subsection (2) for “ten” (wherever occurring) substitute “5.7”.
- (4) Omit subsection (3).
- 19 After section 29 insert—

“29A Chargeable aircraft: exceptions

- (1) This section applies for the purposes of this Chapter.
- (2) An aircraft is not a chargeable aircraft whenever its operation falls within an exemption set out in sub-paragraph (b), (c), (f) or (g) under the category of activity “Aviation” in Annex I to Directive [2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 (as amended by Directive [2008/101/EC](#) of the European Parliament and of the Council of 19 November 2008).
- (3) Those exemptions are to be read in accordance with paragraphs 2.2 to 2.5 of the Annex to Commission Decision [2009/450/EC](#) of 8 June 2009.
- (4) An aircraft is not a chargeable aircraft whenever it is being operated under a public service obligation imposed under Article 16 of Regulation [\(EC\) No](#)

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1008/2008 of the European Parliament and of the Council of 24 September 2008 (common rules for the operation of air services).”

20 In section 30 (rate of duty) before subsection (5) insert—

“(4E) In relation to the carriage of a chargeable passenger on an aircraft to which subsection (4F) applies—

- (a) if the rate which (apart from this subsection) would apply is the rate in subsection (2)(a) or (b), a rate equal to twice the rate in subsection (2)(b) is to apply instead,
- (b) if the rate which (apart from this subsection) would apply is the rate in subsection (3)(a) or (b), a rate equal to twice the rate in subsection (3)(b) is to apply instead,
- (c) if the rate which (apart from this subsection) would apply is the rate in subsection (4)(a) or (b), a rate equal to twice the rate in subsection (4)(b) is to apply instead, and
- (d) if the rate which (apart from this subsection) would apply is the rate in subsection (4A)(a) or (b), a rate equal to twice the rate in subsection (4A)(b) is to apply instead.

(4F) This subsection applies to an aircraft if—

- (a) its authorised take-off weight is not less than 20 tonnes, but
- (b) it is not authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants).

(4G) In subsection (4F)(a) “take-off weight” is to be read in accordance with section 29(2) but as if “20” were substituted for “5.7” wherever occurring.

(4H) For the purposes of subsection (4F)(b) an aircraft is authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants) if—

- (a) there is a certificate of airworthiness (as defined in section 29(4)) in force in respect of the aircraft showing that the maximum number of persons who may be seated on the aircraft (excluding members of the flight crew and cabin attendants) is more than 18, or
- (b) the Commissioners are satisfied that the aircraft is designed or adapted to seat more than 18 persons (excluding members of the flight crew and cabin attendants) or the aircraft belongs to a class or description of aircraft in respect of which the Commissioners are so satisfied.”

21 In section 30A (as inserted by paragraph 9 above) after subsection (5) insert—

“(5A) In relation to the carriage of a chargeable passenger on an aircraft to which section 30(4F) applies—

- (a) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (3)(a) or (b), the following rate is to apply instead—
 - (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
 - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (3)(b),

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- (b) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (4)(a) or (b), the following rate is to apply instead—
 - (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
 - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (4)(b), and
 - (c) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (5)(a) or (b), the following rate is to apply instead—
 - (i) the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, or
 - (ii) if no rate is so set for the purposes of this paragraph, a rate equal to twice the rate set for the purposes of subsection (5)(b).”
- 22 (1) Section 43 (interpretation) is amended as follows.
 - (2) In subsection (1) for the definition of “passenger” substitute—

““passenger”, in relation to any aircraft, means any person carried on the aircraft other than—

 - (a) a member of the flight crew,
 - (b) a cabin attendant, or
 - (c) a person who is not carried for reward and who satisfies such other requirements as may be prescribed.”
 - (3) After subsection (1) insert—

“(1A) The agreements and arrangements covered by the definition of “agreement for carriage” in subsection (1) include informal agreements or arrangements between, for example, members of a family or friends.”
- 23 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 April 2013.