Airports Act 1986

1986 CHAPTER 31

An Act to provide for the dissolution of the British Airports Authority and the vesting of its property, rights and liabilities in a company nominated by the Secretary of State; to provide for the reorganisation of other airport undertakings in the public sector; to provide for the regulation of the use of airports and for the imposition of economic controls at certain airports; to make other amendments of the law relating to airports; to make provision with respect to the control of capital expenditure by local authority airport undertakings; and for connected purposes. [8th July 1986]

BE IT ENACTEDby the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

TRANSFER OF UNDERTAKING OF BRITISH AIRPORTS AUTHORITY

Preliminary

1 Power to direct reorganisation of BAA's undertaking prior to appointed day

(1) If the Secretary of State so directs at any time before the day appointed under section 2(1), the BAA shall, before the end of such period as the Secretary of State may specify in his direction, submit to the Secretary of State for his approval written proposals for the carrying on of any of the activities of the BAA by such companies as may be nominated by it in the proposals.

(2) Any company so nominated shall be a company limited by shares and registered under the Companies Act 1985 ; and any proposals submitted to the Secretary of State under this section shall include a copy of the memorandum and articles of association of each of the companies so nominated.

(3) The Secretary of State may approve any such proposals either without modifications or with such modifications as, after consulting the BAA, he thinks fit; and where the Secretary of State approves them with modifications the BAA shall, before such date as the Secretary of State may, in giving his approval, specify—

(a) secure that such alterations are made to the memorandum and articles of association of any nominated company, or

(b) form such company or companies to carry on any of the activities of the BAA,

as may be necessary to give effect to those modifications.

(4) Any company so formed shall be a company limited by shares and registered under the Companies Act 1985.

(5) Together with the proposals submitted to the Secretary of State under this section the BAA shall submit to the Secretary of State for his approval a scheme providing, in the case of each of the nominated companies, for the transfer to that company of any property, rights or liabilities of the BAA relevant to the carrying on of any activities which the BAA has power to carry on and which are within the scope of the objects of that company.

(6) A scheme under this section shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify, and the Secretary of State may approve any such scheme either without modifications or with such modifications as, after consulting the BAA, he thinks fit.

(7) Any such modifications may, in particular, provide for property, rights or liabilities of the BAA to be transferred to any company required to be formed in pursuance of subsection (3)(b).

(8) On the coming into force of a scheme under this section the property, rights and liabilities affected by the scheme shall, subject to section 75(3), be transferred and vest in accordance with the scheme.

(9) If such a scheme has not come into force before the day appointed under section 2(1), any direction, proposals, scheme or approval previously given or made under this section shall cease to have effect.

Dissolution of BAA and vesting of its property etc. in a successor company

2 Dissolution of BAA and vesting of its property etc. in a successor company

(1) On such day as the Secretary of State may by order appoint—

(a) the BAA shall cease to exist; and

(b) (subject to section 3) all the property, rights and liabilities to which the BAA was entitled or subject immediately before that day shall become by virtue of this section property, rights and liabilities of a company nominated for the purposes of this section by the Secretary of State;

and references in this Act to the appointed day or to the successor company are references to the day so appointed or to the company so nominated respectively.

(2) The Secretary of State may, after consulting the BAA, by order nominate for the purposes of this section any company formed and registered under the Companies Act

1985; but on the appointed day the company in question must be a company limited by shares which is wholly owned by the Crown.

(3) References in this Act to property, rights and liabilities of the BAA are references to all such property, rights and liabilities, whether or not capable of being transferred or assigned by the BAA.

(4) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—

> "Director of the successor company (within the meaning of the Airports Act 1986) being a director nominated or appointed by a Minister of the Crown or by a person acting on behalf of the Crown";

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

(5) An order under this section appointing a day under subsection (1) or nominating any company for the purposes of this section may be varied or revoked by a subsequent order at any time before any property, rights or liabilities vest in any company by virtue of this section.

3 Cancellation of liabilities of BAA to the Secretary of State

(1) Subject to subsections (2) and (3), any liability of the BAA to the Secretary of State—

(a) in respect of the BAA's commencing capital debt, or

(b) in respect of loans made, or having effect as if made, under section 6 of the 1975 Act (Government loans to BAA),

shall be extinguished immediately before the appointed day ; and the assets of the National Loans Fund shall be reduced accordingly.

(2) Subsection (1)(a) shall not operate to extinguish any liability of the BAA under section 4 of the 1975 Act (commencing capital debt of the BAA)—

(a) to repay any part of the principal of its commencing capital debt which falls due for repayment before the appointed day, or

(b) to pay interest on its commencing capital debt in respect of a period falling before that day.

(3) Subsection (1)(b) shall not operate to extinguish any liability of the BAA under section 6 of the 1975 Act—

(a) to repay any part of the principal of any such loan as is referred to in subsection (1)(b) which falls due for repayment before the appointed day, or

(b) to pay interest on any such loan in respect of a period falling before that day.

(4) References in this section to the BAA's commencing capital debt are references to the debt referred to in section 4(1) of the 1975 Act.

4 Initial Government holding in the successor company

(1) As a consequence of the vesting in the successor company by virtue of section 2 of property, rights and liabilities of the BAA, the successor company shall issue Such securities of the company as the Secretary of State may from time to time direct—

(a) to the Treasury or the Secretary of State; or

(b) to any person entitled to require the issue of the securities following their initial allotment to the Treasury or the Secretary of State.

(2) The Secretary of State shall not give a direction under subsection (1) at a time when the successor company has ceased to be wholly owned by the Crown.

(3) Securities required to be issued in pursuance of this section shall be issued or allotted at such time or times and on such terms (as to allotment) as the Secretary of State may direct.

(4) Shares issued in pursuance of this section—

(a) shall be of such nominal value as the Secretary of State may direct; and

(b) shall be issued as fully paid and treated for the purposes of the Companies Act 1985 as if they had been paid up by virtue of the payment to the successor company of their nominal value in cash.

(5) The Secretary of State may not exercise any power conferred on him by this section, or dispose of any securities issued or of any rights to securities initially allotted to him in pursuance of this section, without the consent of the Treasury.

(6) Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired by virtue of this section shall be paid into the Consolidated Fund.

5 Government investment in securities of the successor company

(1) Subject to section 7(5), the Treasury or, with the consent of the Treasury, the Secretary of State may at any time, acquire—

(a) securities of the successor company; or

(b) rights to subscribe for any such securities.

(2) The Secretary of State may not dispose of any securities or rights acquired by him under this section without the consent of the Treasury.

(3) Any expenses incurred by the Treasury or the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.

(4) Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired under this section shall be paid into the Consolidated Fund.

6 Exercise of" functions through nominees

(1) The Treasury or, with the consent of the Treasury, the Secretary of State may, for the purposes of section 4 or 5, appoint any person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State ; and—

(a) securities of the successor company may be issued under section 4 to any nominee of the Treasury or the Secretary of State appointed for the purposes of that section or to any person entitled to require the issue of the securities following their initial allotment to any such nominee, and

(b) any such nominee appointed for the purposes of section 5 may acquire securities or rights under that section,

in accordance with directions given from time to time by the Treasury or, with the consent of the Treasury, by the Secretary of State.

(2) Any person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of subsection (1) shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

7 Target investment limit for Government shareholding

(1) As soon after the date when the successor company ceases to be wholly owned by the Crown as he considers expedient, and in any case not later than six months after that date, the Secretary of State shall by order fix a target investment limit in relation to the shares for the time being held in the successor company by virtue of any provision of this Part by the Treasury and their nominees and by the Secretary of State and his nominees (" the Government shareholding ").

(2) The target investment limit shall be expressed as a proportion of the voting rights which are exercisable in all circumstances at general meetings of the successor company (" the ordinary voting rights").

(3) The first target investment limit fixed under this section shall be equal to the proportion of the ordinary voting rights which is carried by the Government shareholding at the time when the order fixing the limit is made.

(4) The Secretary of State may from time to time by order fix a new target investment limit in place of the one previously in force under this section ; but—

(a) any new limit must be lower than the one it replaces; and

(b) an order under this section may only be revoked by an order fixing a new limit.

(5) It shall be the duty of the Treasury and of the Secretary of State so to exercise—

(a) their powers under section 5 and any power to dispose of any shares held by virtue of any provision of this Part, and

(b) their power to give directions to their respective nominees,

as to secure that the Government shareholding does not carry a proportion of the ordinary voting rights exceeding any target investment limit for the time being in force under this section.

(6) Notwithstanding subsection (5), the Treasury or the Secretary of State may take up, or direct any of their respective nominees to take up, any rights for the time being available to them or him, or to that nominee, as an existing holder of shares or other securities of the successor company ; but if, as a result, the proportion of the ordinary voting rights carried by the Government shareholding at any time exceeds the target investment limit, it shall be the duty of the Treasury or (as the case may be) the Secretary of State to comply with subsection (5) as soon after that time as is reasonably practicable.

(7) For the purposes of this section the temporary suspension of any of the ordinary voting rights shall be disregarded.

8 Financial structure of the successor company

(1) If the Secretary of State so directs at any time before the successor company ceases to be wholly owned by the Crown, such sum (not exceeding the accumulated realised profits of the BAA) as may be specified in the direction shall be carried by the successor company to a reserve (" the statutory reserve ").

(2) The statutory reserve may only be applied by the successor company in paying up unissued snares of the company to be allotted to members of the company as fully paid bonus shares.

(3) Notwithstanding subsection (2), the statutory reserve shall not count as an undistributable reserve of the successor company for the purposes of section 264(3)(d) of the Companies Act 1985; but, for the purpose of determining under that section whether the successor company may make a distribution at any time, any amount for the time being standing to the credit of the statutory reserve shall be treated for the purposes of section 264(3)(c) as if it were unrealised profits of the company.

(4) For the purposes of any statutory accounts of the successor company, the value of any asset and the amount of any liability of the BAA vesting in the successor company on the appointed day shall be taken to be the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by the successor company under this Act for the period from the end of that dealt with in the last annual statement of accounts published by the BAA down to the appointed day.

(5) For the purposes of any statutory accounts of the successor company the amount to be included in respect of any item shall be determined as if anything done by the BAA (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included from time to time in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the BAA had been realised and retained by the successor company.

(6) References in this section to the statutory accounts of the successor company are references to any accounts prepared by the successor company for the purposes of any provision of the Companies Act 1985 (including group accounts).

9 Temporary restrictions on successor company's borrowings etc.

(1) If articles of association of the successor company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may during any period be borrowed or raised by the successor company and its subsidiaries, taken as a whole, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.

(2) For the purposes of this section any alteration of the articles of association of the successor company which—

(a) has the effect of conferring or extending any such power as is mentioned in subsection (1), and

(b) is made at a time when that company has ceased to be wholly owned by the Crown,

shall be disregarded.

Supplementary

10 Statements in connection with flotation

(1) This section shall apply where—

(a) an offer for sale to the public of any securities of the successor company is made by or on behalf of the Crown;

(b) any invitation or advertisement is issued (whether or not in documentary form) by or on behalf of the Crown in connection with the offer; and

(c) that invitation or advertisement does not contain all the listing particulars.

(2) None of the persons mentioned in subsection (3) shall incur any civil liability by reason of the invitation or advertisement, or any omission from it, if—

(a) the contents of the invitation or advertisement were submitted to the Council of The Stock Exchange ;

(b) the Council did not object to the contents of the invitation or advertisement; and

(c) the invitation or advertisement and the listing particulars, taken together, would not be likely to mislead persons of the kind likely to consider the offer.

(3) The persons referred to in subsection (2) are—

(a) the Crown;

(b) any person acting on behalf of the Crown in connection with the offer;

(c) the maker of any statement contained in the invitation or advertisement;

(d) any person responsible for the preparation of, or of any part of, the listing particulars.

(4) The reference in subsection (2) to a person mentioned in subsection (3) incurring civil liability shall include a reference to any other person being entitled as against the person so mentioned to be granted any civil remedy or to rescind or repudiate any agreement.

(5) In this section " the listing particulars", in relation to the offer, means such particulars as, by virtue of any provision of any enactment other than this section or of any subordinate legislation, have been approved by the Council of The Stock Exchange for the purposes of the admission of the securities to which the offer relates to the Official List of The Stock Exchange.

11 Application of Trustee Investments Act 1961 in relation to investment in the successor company

(1) For the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961 (which provides that shares and debentures of a company shall not count as wider-range and narrower-range investments respectively within the meaning of that Act unless the company has paid dividends in each of the five years immediately preceding that in which the investment is made) in relation to investment in shares or debentures of the successor company during the calendar year in which the appointed day falls (" the first investment year ") or during any year following that year, the successor company shall be deemed to have paid a dividend as there mentioned—

(a) in any year preceding the first investment year which is included in the relevant five years; and

(b) in the first investment year, if that year is included in the relevant five years and the successor company does not in fact pay such a dividend in that year.

(2) In subsection (1) "the relevant five years" means the five years immediately preceding the year in which the investment in question is made or proposed to be made.

PART II

TRANSFER OF AIRPORT UNDERTAKINGS OF LOCAL AUTHORITIES

Preliminary

12 Interpretation of Part II

(1) In this Part—

" local authority "—

(a) in relation to England and Wales, means a local authority within the meaning of the Local Government Act 1972 or the Common Council of the City of London; and

(b) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973 ; and

" principal council "—

(a) in relation to England and Wales, means the council of a non-metropolitan county, of a district, or of a London borough; and

(b) in relation to Scotland, means a regional or islands council.

(2) References in this Part to—

(a) a public airport company ;

(b) the controlling authority of a public airport company;

(c) a composite authority;

(d) constituent councils of a composite authority ; or

(e) an associated company,

shall be read in accordance with the relevant provisions of section 16.

(3) For the purposes of this Part an airport shall be treated as controlled by a principal council or (as the case may be) by two or more principal councils jointly if it is for the time being owned—

(a) by that council or jointly by those councils ; or

(b) by a subsidiary of that council or those councils; or

(c) by that council or those councils jointly with any such subsidiary.

(4) Any reference in this Part, in relation to two or more principal councils, to a subsidiary of those councils shall be read as a reference to a body corporate which would, if those councils were a single body corporate, be a subsidiary of that body corporate.

Transfer of airport undertakings of local authorities

13 Transfer of airport undertakings of local authorities to companies owned by such authorities

(1) The Secretary of State may give to any principal council who control (whether alone or jointly with one or more other principal councils) an airport to which this section applies in accordance with section 14, a direction requiring the council to form a company for the purpose of carrying on—

(a) the business of operating the airport as a commercial undertaking; and

(b) any activities which appear to the council to be incidental to or connected with carrying on that business.

(2) The company shall be a company limited by shares and registered under the Companies Act 1985, and shall be formed by the council before such date as the Secretary of State may specify in his direction under subsection (1).

(3) In the case of an airport which is jointly controlled by two or more principal councils the Secretary of State may give a direction under subsection (1) to such one of those councils as he thinks fit; but in any such case the council to whom the direction is given must consult the other principal council or councils before forming a company in accordance with the direction.

(4) The Secretary of State may revoke a direction given by him under subsection (1) at any time before a company has been formed in accordance with the direction.

(5) References in subsection (1) to carrying on the business of operating an airport as a commercial undertaking include references to carrying on any activities which, at the time when the direction in question is given, are carried on at the airport or on airport land—

(a) by the principal council, or (as the case may be) any of the principal councils, who control the airport,

(b) by any subsidiary by whom the airport is owned as mentioned in section 12(3),

(c) by any person managing the airport under the terms of any lease or other arrangement made by or on behalf of the principal council or councils who control it or by any such subsidiary, or

(d) by any person who has been granted a right to carry on activities there by any council, subsidiary or person falling within any of the preceding paragraphs,

with the exception of any activities which the Secretary of State has, before the date referred to in subsection (2), agreed with the principal council or councils who control the airport should not be carried on by the company to be formed in pursuance of the direction.

(6) In subsection (5) " airport land ", in relation to an airport, means land which is attached to the airport and was on 1st April 1986 administered with the airport as a single unit.

(7) This section and section 15 (together with section 12(3) and (4)) shall apply to a metropolitan county passenger transport authority as they apply to a principal council.

14 Airports to which s. 13 applies

(1) Section 13 applies to an airport if the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before the relevant date.

(2) In subsection (1)—

" annual turnover ", in relation to the business carried on at an airport by the airport operator, means the aggregate, as stated or otherwise shown in the accounts of the business, of all sums received in the course of the business during a financial year, including grants from any public or local authority but excluding—

(a) capital receipts ; and

(b) loans made by any person ;

" financial year " means a period of twelve months ending with 31st March; and

" the relevant date ", in relation to an airport, means the date of any direction given by the Secretary of State in respect of the airport under section 13(1).

(3) The Secretary of State may by order substitute for the sum for the time being specified in subsection (1) such greater sum as may be specified in the order.

(4) An order under subsection (3) shall not affect the validity of any direction in force under section 13(1) immediately before the coming into operation of the order.

15 Transfer schemes

(1) Where a principal council have formed a company in pursuance of section 13, the council shall, before such date as the Secretary of State may specify in a direction given to the council, submit to the Secretary of State a scheme providing for the transfer to the company of any property, rights or liabilities of the council, or of any subsidiary of theirs, which it appears to the council to be appropriate to transfer to that company.

(2) In preparing a scheme in pursuance of subsection (1) a council shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the scheme (and in particular any advice as to the description of property, rights and liabilities which it is in his view appropriate to transfer to the company).

(3) A scheme under subsection (1) shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve a scheme either without modifications or with such modifications as he thinks fit after consulting the council who submitted the scheme.

(4) If it appears to the Secretary of State that a scheme submitted under subsection (1) does not accord with any advice given by him as mentioned in subsection (2), he may do one or other of the following things, as he thinks fit, namely—

(a) approve the scheme under subsection (3) with modifications, or

(b) after consulting the council who submitted the scheme, substitute for it a scheme of his own, to come into force on such date as may be specified in the scheme.

(5) In the case of a scheme relating to an airport which is jointly controlled by two or more principal councils (" the relevant authorities ") the authority required to submit the scheme under subsection (1) must consult the other relevant authority or authorities before submitting the scheme under that subsection ; and the Secretary of State shall not approve the scheme (whether with or without modifications), or substitute a scheme of his own, unless—

(a) he has given that other authority or (as the case may be) those other authorities an opportunity of making, within such time as he may allow for the purpose, written representations with respect to the scheme; and

(b) he has considered any such representations made to him within that time.

(6) In relation to a scheme relating to any such airport, subsection (1) shall be read as if—

(a) the reference to any property, rights or liabilities of the council submitting the scheme were a reference to any property, rights or liabilities vested in, or in any person on behalf of, the relevant authorities ; and

(b) the reference to any subsidiary of the council submitting the scheme were a reference to any subsidiary of the relevant authorities.

(7) On the coming into force of a scheme under this section the property, rights and liabilities affected by the scheme shall, subject to section 75(3), be transferred and vest in accordance with the scheme.

(8) The Secretary of State may, if he thinks fit, give a council a direction specifying a date under subsection (1) above at the same time as he gives the council a direction under section 13(1); and the Secretary of State may revoke any direction given by him under subsection (1) above at any time before any property, rights or liabilities vest in any company by virtue of this section.

(9) Section 13(7) applies for the purposes of this section.

Public airport companies

16 Public airport companies and their controlling authorities

(1) References in this Part to a public airport company are references to a company (whether formed under section 13 or not) which carries on the business of operating an airport as a commercial undertaking and is for the time being either—

(a) a subsidiary of a single principal council, or

(b) a subsidiary of two or more such councils.

(2) In this Part of this Act-

(a) references to the controlling authority of a public airport company are references to the principal council or principal councils of whom it is for the time being a subsidiary as mentioned in subsection (1); and

(b) references to a composite authority are references to a controlling authority consisting of two or more principal councils, the councils concerned being referred to as the constituent councils of that authority.

(3) For the purposes of this Part a public airport company is an associated company of a principal council if that council are its controlling authority or one of the constituent councils of a composite authority who are its controlling authority.

17 Control over constitution and activities of public airport companies

(1) Subject to subsection (2), it shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that at least three of the directors of the company, or at least one-quarter of their number (whichever is less), are full-time employees of the company who are suitably qualified to act as directors of the company by virtue of their experience in airport management.

(2) Where at any time it appears to the Secretary of State—

(a) that a public airport company has made arrangements for the management of the airport operated by it to be carried on otherwise than through its officers or employees, and

(b) that any such arrangements are adequate to secure that those participating in the management of the airport under the arrangements are suitably qualified to do so by virtue of their experience in airport management,

the Secretary of State may direct that subsection (1) shall not apply in relation to that company.

(3) Any direction given by the Secretary of State under subsection (2) may provide—

(a) that it is to have effect only for such period, or in such circumstances, as may be specified in it, or

(b) that its continuation in force is to be subject to compliance with such conditions specified in it as the Secretary of State thinks fit.

(4) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company does not—

(a) engage in activities in which the controlling authority have no power to engage, or

(b) permit any subsidiary of the company to engage in any such activities.

(5) Where the controlling authority of a public airport company are a composite authority, the duties imposed by subsections (1) and (4) are joint duties of both or all of the constituent councils of that authority ; and subsection (4) shall apply in any such case as if it referred to activities in which none of the constituent councils have power to engage.

18 Disabilities of directors of public airport companies

(1) A director of a public airport company who is paid for acting as such, or who is an employee of the company or of a subsidiary of the company, shall be disqualified for being elected, or being, a member—

(a) where the company's controlling authority is a single principal council, of that council; or

(b) where the company's controlling authority are a composite authority, of any of the councils who are the constituent councils of that authority.

(2) Where a director of a public airport company is a member of any such council as is mentioned in subsection (1)(a) or (b) he shall not at any meeting of the council—

(a) take part in the consideration or discussion of any contract or proposed contract between the company or a subsidiary of the company and the council; or

(b) vote on any question with respect to any contract or pro posed contract between the company or a subsidiary of the company and—

(i) the council, or

(ii) (if they are a constituent council), any of the constituent councils,

or with respect to any other matter relating to the activities of the company or such a subsidiary.

(3) Any person who contravenes paragraph (a) or (b) of subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale, unless he proves that he did not know that the matter in relation to which the contravention occurred was such a contract or proposed contract as is mentioned in that paragraph or (as the case may be) was a matter otherwise relating to the activities of the company or subsidiary concerned.

(4) A prosecution for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.

(5) A principal council who are the controlling authority of a public airport company or one of the constituent councils of such an authority may by standing orders provide for the exclusion of a member of the council who is a director of the company from a meeting of the council while there is under consideration by the council—

(a) any contract or proposed contract between the company or a subsidiary of the company and the council, or

(b) any other matter relating to the activities of the company or such a subsidiary.

(6) Subsections (2) and (5) above shall apply in relation to members of—

(a) a committee of any principal council who are the controlling authority of a public airport company or one of the constituent councils of such an authority, or

(b) a joint committee of two or more local authorities one or more of whom are such a council,

(including, in either case, a sub-committee) as they apply in relation to members of any such council, but with the substitution of references to meetings of any such committee for references to meetings of the council.

(7) This section shall apply in relation to a director of a subsidiary of a public airport company as it applies in relation to a director of such a company.

19 Prohibition on employment by public airport company of officers etc. of controlling authority

(1) No person who is a full-time officer or employee of a principal council shall hold any office or employment under an associated company except as a director who is not also an employee of the company.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

20 Powers of investment and disposal in relation to public airport companies

(1) Without prejudice to the powers of a principal council—

(a) to subscribe for shares on the formation of a company formed by them in pursuance of section 13, or

(b) to acquire any shares in or other securities of a company formed in pursuance of that section by way of consideration for any transfer of property, rights and liabilities to that company under section 15(7),

a principal council shall have power at any time to subscribe for, take up or acquire (as the case may be) any securities of any associated company.

(2) A principal council shall have power to provide for the -disposal, in such manner as they think fit, of any such securities.

(3) A local authority shall have power, with the consent of the Secretary of State, to acquire securities of any company which carries on the business of operating an airport as a commercial undertaking and is not an associated company (whether or not it is a public airport company or was formed in pursuance of section 13).

(4) Subsections (1) and (3) are without prejudice to the operation of section 30(1)(a) of the 1982 Act (need for consent of Secretary of State to the maintenance of airports by local authorities).

(5) A principal council who are the controlling authority of a public airport company, or (as the case may be) both or all of the constituent councils of a composite authority who are such a controlling authority, may, in exercising their power under subsection (2) in relation to the disposal of any securities of the company, provide for an employees' share scheme to be •established in respect of the company ; and any such scheme may provide for the transfer of shares without consideration.

(6) In subsection (5) " employees' share scheme " means a •scheme for encouraging or facilitating the holding of shares or debentures in a public airport company by or for the benefit •of—

(a) the bona fide employees or former employees of the company or of a subsidiary of the company ; or

(b) the wives, husbands, widows, widowers or children or step-children under the age of 18 of such employees or former employees.

21 Capital controls relating to investment in public airport companies by local authorities in England and Wales

(1) Where a local authority dispose of any securities of a public airport company (whether it continues to be such a company after the disposal or not)—

(a) any amount received by the authority in respect of the disposal shall be treated for the purposes of section 72 of the 1980 Act (expenditure which authorities may make) as a receipt of the authority which, by virtue of section 75(1) of that Act, is a capital receipt of the authority for the purposes of Part VIII of that Act (capital expenditure of local authorities etc.), but

(b) only the relevant sum shall be taken into account under section 72(3)(d) of that Act.

(2) In subsection (1) " the relevant sum ", in relation to an amount falling within paragraph (a) of that subsection, means—

(a) three-tenths of that amount, or

(b) if regulations are made for the purposes of section 72(3)(d) of the 1980 Act which prescribe a proportion other than three-tenths in relation to disposals falling within subsection (1), the proportion of that amount so prescribed.

(3) Where a local authority incur any expenditure in respect of the acquisition of any securities—

(a) of a public airport company, or

(b) of any company which, as a result of the acquisition by the authority of those securities, becomes a public airport company,

the amount of that expenditure shall, in so far as it is not prescribed expenditure of the authority for the purposes of Part VIII of the 1980 Act by virtue of Schedule 12 to that Act, be treated as prescribed expenditure of the authority for those purposes.

(4) In this section and section 22 "the 1980 Act" means the Local Government, Planning and Land Act 1980; and this section and section 22 apply to England and Wales only.

22 Other local authority capital controls in England and Wales

(1) For the purposes of Part VIII of the 1980 Act

(a) the amount of any advance of a capital nature made—

(i) to a public airport company by any person other than a subsidiary of the company or an authority to whom Part VIII of that Act applies, or

(ii) to a subsidiary of a public airport company by a person other than that company, any other subsidiary of that company or such an authority, and

(b) subject to subsection (2), any amount raised by the issue of any securities—

(i) by a public airport company to any person other than such an authority, or

(ii) by a subsidiary of a public airport company to any person other than that company,

shall be treated as prescribed expenditure of the controlling authority of that company.

(2) Subsection (1)(b) shall not apply to any amount raised by the issue of any securities—

(a) by a public airport company where, as a result of the issue of those securities, it ceases to be such a company ; or

(b) by a subsidiary of a public airport company where, as a result of the issue of those securities, it ceases to be such a subsidiary.

(3) Any amount repaid by a public airport company or a subsidiary of such a company in respect of any such advance as is mentioned in subsection (1)(a) shall be treated for the purposes of section 72 of the 1980 Act as a receipt of the controlling authority of that company which, by virtue of section 75(1) of that Act, is a capital receipt of the authority for the purposes of Part VIII of that Act.

(4) Where the controlling authority of a public airport company are a composite authority, subsections (1) and (3) shall have effect as if the references to the controlling authority were references to such one of the constituent councils of that authority as may be determined by agreement between those councils.

(5) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company appoints as auditors of the company only persons who, in addition to being qualified for appointment as such auditors in accordance with section 389 of the Companies Act 1985, are approved

for appointment as such auditors by the Audit Commission for Local Authorities in England and Wales.

(6) Where the controlling authority of a public airport company are a composite authority, the duty imposed by subsection (5) is a joint duty of both or all of the constituent councils of that authority.

(7) Section 21(4) applies for the purposes of this section.

23 Local authority capital controls in Scotland

(1) Any liability to meet capital expenses incurred by a public airport company, or by a subsidiary of such a company, shall, in the case of a company whose controlling authority are an authority to whom section 94 of the Local Government (Scotland) Act 1973 (consent of Secretary of State required for the incurring of liability to meet capital expenses) applies, be treated for the purposes of that section as a liability to meet capital expenses incurred by the company's controlling authority.

(2) It shall be the duty of the controlling authority of a public airport company to exercise their control over the company so as to ensure that the company appoints as auditors of the company only persons who, in addition to being qualified for appointment as such auditors in accordance with section 389 of the Companies Act 1985, are approved for appointment as such auditors by the Commission for Local Authority Accounts in Scotland.

(3) This section applies to Scotland only.

24 Provision of services for public airport companies

(1) A principal council shall have power to enter into an agreement with any associated company, or with any subsidiary of an associated company, for the provision by the council for that company or (as the case may be) for that subsidiary of any administrative, professional or technical services.

(2) Any agreement under this section shall include provision for payment of proper commercial charges in respect of services to be provided under the agreement.

(3) Where a principal council have entered into an agreement under this section, the accounts of that council shall' include a separate account in respect of that agreement and—

(a) in England and Wales, section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account as it applies in relation to any statement of accounts prepared by the council pursuant to regulations under section 23 of that Act; and

(b) in Scotland, sections 101 and 105 of the Local Government (Scotland) Act 1973 (rights of inspection and regulations as to accounts) shall have effect as if any reference to an abstract of the accounts of an authority included a reference to any such separate account.

25 Financial backing for establishment and operations of public airport companies

(1) A principal council shall have power to make loans-to any associated company, or to guarantee loans made to any associated company by any other person, for the provision of working capital.

(2) The reference in subsection (1) to guaranteeing loans is a reference to guaranteeing the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, the loans.

(3) A principal council shall have power to make loans—

(a) to any associated company, or

(b) to any subsidiary of an associated company,

for the purpose of meeting any expenses incurred or to be incurred by that company or subsidiary in connection with the provision or improvement of assets in connection with its business.

(4) Any loan under subsection (1) or (3) must be made on terms, both as to rates of interest and otherwise, no more favourable than the terms on which the council making the loan would themselves be able to borrow at the time when the loan is made.

(5) A principal council shall have power to give any guarantees and do any other things which appear to the council to be necessary or expedient for the purpose of or in connection with—

(a) any disposal authorised under section 20(2); or

(b) any disposal by any associated company of the whole or any part of that company's undertaking, or of any property, rights or liabilities of that company.

(6) A principal council shall have power to provide financial assistance by way of grants, loans or guarantees for any associated company which has incurred losses affecting the viability of its business.

(7) A principal council shall have power, where on the winding up of any associated company the assets of the company are not sufficient to meet the company's liabilities, to make to the creditors of the company such payments as may be necessary to meet the balance of those liabilities (and may accordingly give to persons dealing or proposing to deal with any such company such guarantees with respect to the exercise of their power under this subsection in relation to the company as they think fit).

Supplementary

26 Avoidance of restrictions on transfer of securities of public airport companies

(1) Any provision to which this section applies shall be void in so far as it operates—

(a) to preclude the holder of any securities of a public air port company from disposing of those securities, or

(b) to require the holder of any such securities to dispose, or offer to dispose, of those securities to particular persons or to particular classes of persons, or

(c) to preclude the holder of any such securities from disposing of those securities except—

(i) at a particular time or at particular times, or

(ii) on the fulfilment of particular conditions or in other particular circumstances.

(2) This section applies to any provision relating to any securities of a public airport company and contained in—

(a) the memorandum or articles of association of the company or any other instrument purporting to regulate to any extent the respective rights and liabilities of the members of the company,

(b) any resolution of the company, or

(c) any instrument issued by the company and embodying terms and conditions on which any such securities are to be held by persons for the time being holding them.

27 Consents under s. 30 of the 1982 Act

Where any airport controlled by a principal council, or jointly by two or more principal councils, comes into the ownership of a public airport company as a result of a transfer under section 15(7), any consent given to that council or (as the case may be) to any of those councils under section 30(1)(a) of the 1982 Act, or any consent having effect as if so given, shall (together with any conditions to which it is subject) continue in force so as to enable the council in question, through the company, to maintain that airport; but that council may not by virtue of the consent establish or maintain (whether directly or indirectly) any other airport.

28 Compensation for loss or diminution of pension rights

(1) The Secretary of State may provide by regulations for the payment, by such persons as may be prescribed by or determined under the regulations, in such cases and to such extent as may be so prescribed or determined, of pensions, allowances or gratuities by way of compensation to or in respect of persons who have suffered loss or diminution of pension rights by reason of—

(a) any transfer of property, rights and liabilities under section 15(7), or

(b) the disposal under section 20(2) of any interests held by a principal council in a public airport company.

(2) Regulations under this section may—

(a) include provision as to the manner in which and the persons to whom any claim for compensation is to be made, and for the determination of all questions arising under the regulations;

(b) make or authorise the Secretary of State to make exceptions and conditions in relation to any classes of persons or any circumstances to which the regulations apply; and

(c) be framed so as to have effect from a date earlier than the making of the regulations ;

but regulations having effect from a date earlier than their making shall not place any individual who is qualified to participate in the benefits for which the regulations provide in a worse position than he would have been in if the regulations had been framed so as to have effect only from the date of their making.

(3) Regulations under this section may include either or both of the following provisions, namely—

(a) provision authorising the payment, without probate (or, in Scotland, confirmation) and without other proof of title, of any sum due under the regulations in respect of a person who has died to his personal representatives or such other persons as may be prescribed by the regulations; and

(b) provision rendering void any assignment of (or, in Scotland, assignation of) or charge on, or any agreement to assign or charge, any benefit under the regulations, and provision that on the bankruptcy of a person entitled to such a benefit (or, in Scotland, sequestration of the estate of, or granting of a trust deed for creditors by, such a person) no part of it shall pass to any trustee or other person acting on behalf of the creditors, except in accordance with an order made by a court in pursuance of any enactment specified in the regulations.

(4) Subject to subsection (5), where regulations under this section have made provision for the payment of pensions, allowances or gratuities as mentioned in subsection (1), compensation in respect of any such loss or diminution of pension rights as is mentioned in that subsection shall be paid only in accordance with those regulations in any case to which those regulations apply; and accordingly such compensation shall not be paid under any other statutory provision, by virtue of any provision in a contract or otherwise.

(5) Subsection (4) shall not prevent the payment of any sum K which a person is entitled by virtue of contractual rights acquired by him before such date as the Secretary of State may by order specify.

(6) Any regulations or order made under this section by the Secretary of State may make different provision for different cases to which those regulations or that order apply or applies, as the case may be, and may in particular make different provision as respects different areas.

(7) In this section—

" pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes—

(a) a gratuity so payable:

(b) a return of contributions to a pension fund, with or without interest on or any other addition to those contributions; and

(c) any sums payable on or in respect of the death of that person;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension.

PART III

REGULATION OF USE OF AIRPORTS, ETC.

29 Interpretation of Part III, etc.

(1) In this Part—

" air transport licensing functions" means the functions conferred on the CAA in relation to the grant of such licences as are referred to in section 64(1)(a) of the 1982 Act and in relation to the revocation, suspension or variation of such licences (whether on the application of any person or otherwise);

" movement ", in relation to an airport, means a take-off or landing by an aircraft at the airport.

(2) For the purposes of this Part any class or description may be framed by reference to any matters or circumstances whatever.

30 Directions to airport operators in the interests of national security etc.

(1) The Secretary of State may give to any airport operator or to airport operators generally such directions of a general character as appear to the Secretary of State to be necessary or expedient in the interests of national security or of relations with a country or territory outside the United Kingdom.

(2) The Secretary of State may give to any airport operator a direction requiring him (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction, if the Secretary of State considers it necessary or expedient to give such a direction in the interests of national security.

(3) The Secretary of State may give to the appropriate person in relation to any airport a direction requiring that person (according to the circumstances of the case)—

(a) to do, or not to do, in connection with any operational activities relating to the airport a particular thing specified in the direction, or

(b) to secure that a particular thing specified in the direction is done or not done in connection with any such activities,

if the Secretary of State considers it necessary or expedient to give such a direction in order to discharge or facilitate the discharge of any international obligation of the United Kingdom.

(4) In subsection (3)—

" the appropriate person ", in relation to an airport, means—

(a) the airport operator, or

(b) an associated company of the airport operator; and

" operational activities ", in relation to an airport, means any activities—

(a) which are carried on wholly or mainly for the benefit of users of the airport, or

(b) the revenues from which are wholly or mainly attributable to payments by such users ; but the Secretary of State may by order make such modifications of the definition of " operational activities " as he thinks necessary or expedient having regard to any international obligation of the United Kingdom.

(5) In so far as any direction applying to an airport operator by virtue of subsection (1), (2) or (3) conflicts with the requirements of any other enactment or instrument having effect in relation to him as an airport operator, those requirements shall be disregarded; and it is hereby declared that nothing in Part IV of this Act is to be construed as prejudicing the generality of subsection (3).

(6) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security or of relations with a country or territory outside the United Kingdom, or against the commercial interests of any person.

(7) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, any direction given or other thing done by virtue of this section if the

Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that direction or thing is against the interests of national security or of relations with a country or territory outside the United Kingdom, or against the commercial interests of some other person.

(8) Any person who in contravention of subsection (7) discloses any direction given, or other thing done, by virtue of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(9) Before giving any direction or directions under this section to a particular person the Secretary of State shall consult that person; and before giving any directions under subsection (1) to airport operators generally the Secretary of State shall consult such of the following, namely—

(a) airport operators who appear to him to be likely to be affected by the directions, and

(b) organisations representing airport operators,

as he considers appropriate.

31 Traffic distribution rules

(1) Where

(a) it appears to the Secretary of State that two or more airports are airports serving the same area in the United Kingdom, and

(b) he considers it appropriate to do so,

he may in accordance with this section make rules (to be known as traffic distribution rules) providing for air traffic, or any class or description of air traffic, to be distributed between those airports in such manner as he thinks fit.

(2) It shall be the duty of the CAA so to perform its air transport licensing functions as to secure that any traffic distribution rules in force under this section are complied with.

(3) Traffic distribution rules may do any of the following things (and no more), namely—

(a) specify classes or descriptions of air traffic that are permitted under the rules to use any of the airports concerned;

(b) impose prohibitions or restrictions in relation to the use of any of those airports by air traffic of any class or description specified in the rules ;

(c) provide for the rules to come into operation (in whole or in part) at such time or in such circumstances as may be specified in the rules.

(4) Before making any traffic distribution rules the Secretary of State shall consult the CAA who shall in turn, before giving advice to the Secretary of State, consult such of the following namely—

(a) airport operators who appear to it to be likely to be affected by the rules,

(b) operators of aircraft who appear to it to be likely to be so affected, and

(c) organisations representing airport operators or operators of aircraft,

as it considers appropriate.

(5) Where

(a) the subject-matter of any particular rules made by the Secretary of State under this section is a matter in relation to which the CAA has given advice to the Secretary of State (whether before or after the passing of this Act), and

(b) those rules are so made not later than five years after the giving of that advice,

the requirements of subsection (4) shall be taken to have been satisfied with respect to those rules.

(6) In subsection (1) the reference to airports serving the same area in the United Kingdom is a reference to airports in the case of which a substantial number of the passengers departing from, or arriving at, the airports by air (other than those interrupting their flights there or transferring from one flight to another) have as their original points of departure, or (as the case may be) as their ultimate destinations, places situated within the same area in the United Kingdom.

32 Power to limit aircraft movements at certain airports

(1) The Secretary of State may, if he considers it appropriate to do so in the case of a particular airport to which this section applies, make an order in accordance with this section which does either or both of the following things, namely—

(a) imposes an overall limit on the number of occasions on which, during any period specified in the order, aircraft may take off or land at the airport,

(b) imposes such other limit or limits applying to the taking off or landing of aircraft at the airport during any such period in circumstances or cases specified in the order as the Secretary of State thinks fit.

(2) This section applies to an airport if it appears to the Secretary of State that the existing runway capacity of the airport is not fully utilised for a substantial proportion of the time during which its runway or runways is or are available for the take-off or landing of aircraft.

(3) It shall be the duty of the airport operator to secure that any limit imposed under this section is complied with; and in performing its air transport licensing functions the CAA shall have regard to the existence of any such limit.

(4) An order under this section may—

(a) provide for aircraft taking off or landing at the airport in circumstances or cases specified in the order to be disregarded for the purposes of any specified limit falling within subsection (1)(a) or (b) or for the purposes of every such limit imposed by the order;

(b) provide for the number of occasions on which aircraft of any description specified in the order take off or land at the airport in any period so specified to be determined, for any such purposes as are mentioned in paragraph (a), in any manner so specified (whether or not involving the counting of two or more such occasions as a single occasion).

(5) The Secretary of State shall not make an order under this section imposing any limit in relation to a particular period by virtue of which the level of the movements to be permitted at the airport during that period is lower than—

(a) the highest level of any corresponding movements at the airport occurring during any equivalent period within the three years preceding the making of the order, or

(b) where any limit is for the time being in force under this section in relation to any corresponding movements at the airport during an equivalent period, the level of such movements permitted during that period by virtue of that limit.

(6) Before making an order under this section the Secretary of State shall consult the CAA, the airport operator affected by the order and such of the following, namely—

(a) operators of aircraft who appear to the Secretary of State to be likely to be affected by the order,

(b) organisations representing operators of aircraft, and

(c) any local authority or authorities who appear to the Secretary of State to be affected by operations at the airport,

as the Secretary of State considers appropriate.

(7) In subsection (6) " local authority "—

(a) in relation to England, Wales and Scotland, has the meaning given by section 12(1);

(b) in relation to Northern Ireland, means a district council established under the Local Government Act (Northern Ireland) 1972.

33 Schemes for allocating capacity at airports

(1) Where

(a) an order is for the time being in force in relation to an airport under section 32, or

(b) it appears to the Secretary of State that the demand for the use of an airport exceeds, or is likely in the near future to exceed, the operational capacity of the airport, and as a result he considers it appropriate that a scheme under this section should apply in relation to the airport,

the Secretary of State may give the CAA a direction requiring it to prepare and submit for his approval a scheme under this section in relation to the airport.

(2) Any direction of the Secretary of State under subsection (1) shall specify the matters which are to be dealt with in the scheme ; and the Secretary of State shall consult the CAA before giving it any such direction.

(3) A scheme under this section in relation to an airport may do either or both of the following things, namely—

(a) provide for an aircraft to be precluded from performing a movement at the airport unless (in addition to satisfying any requirements or conditions having effect otherwise than under the scheme) the operator of the aircraft has acquired a right under the scheme to cause it to perform that movement;

(b) provide for special charges to be payable to the airport operator by operators of aircraft in respect of the performance by the aircraft of movements at the airport.

(4) A scheme under this section may—

(a) where it provides for the acquisition of rights in pursuance of subsection (3)(a), provide—

(i) for the allocation of such rights on such basis or by such method as may be specified in the scheme,

(ii) for such rights to be framed by reference to particular times or periods of time,

(iii) for such rights to be transferable,

(iv) for such rights to be subject to such conditions as may be specified in the scheme;

(b) where it provides for the payment of special charges in pursuance of subsection (3) (b), provide for different charges to apply in the case of operators of different classes or descriptions, or in different circumstances ;

(c) in either case, provide for provisions of the scheme not to apply to operators, or to movements, of any specified class or description.

(5) A scheme under this section shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve a scheme either without modifications or with such modifications as, after consulting the CAA, he thinks fit.

(6) Before submitting a scheme under this section for the approval of the Secretary of State, the CAA shall consult the airport operator and such of the following, namely—

(a) operators of aircraft who appear to it to be likely to be affected by the scheme, and

(b) organisations representing airport operators or operators of aircraft,

as it considers appropriate.

(7) Where a scheme under this section is in force in relation to an airport it shall be the duty of the airport operator to give effect to the scheme.

(8) A scheme under this section in relation to an airport—

(a) may be varied or revoked by any subsequent such scheme; and

(b) may, with the approval of the Secretary of State, be revoked by the CAA otherwise than in connection with its replacement by any such scheme;

and where any such scheme was prepared in pursuance of a direction given by virtue of subsection (1)(a), the scheme shall in any event cease to have effect if the airport ceases to be subject to such an order as is mentioned in that provision (but without prejudice to the power of the Secretary of State to give a further direction in relation to the airport by virtue of subsection (1)(b)).

(9) The revocation or termination of a scheme as mentioned in subsection (8) shall be without prejudice to the recovery of sums already owing to the airport operator.

34 Matters to be taken into account by CAA

(1) This section applies to the following functions of the CAA, namely—

(a) the function of giving advice to the Secretary of State on being consulted by him under any of sections 31 to 33, and

(b) the function of preparing a scheme under section 33 where directed to do so under that section.

(2) Section 4 of the 1982 Act (general objectives of the CAA) shall not apply to any function to which this section applies; and instead, in performing any such function, the CAA shall take into account—

(a) such of the international obligations of the United Kingdom as the Secretary of State may notify to it for the purposes of this section ; and

(b) any advice received from the Secretary of State with respect to the relations of the United Kingdom with a country or territory outside the United Kingdom;

and, subject to that, shall have regard to the matters referred to in subsection (3).

(3) Those matters are—

(a) the need to secure the sound development of civil aviation throughout the United Kingdom ;

(b) the reasonable interests of users of air transport services ; and

(c) such policy considerations as the Secretary of State may notify to the CAA for the purposes of this section.

35 Regulation of availability of airports by reference to airport licences

An Order in Council under section 60 of the 1982 Act (Air Navigation Orders) may provide for regulating the availability of an airport for the take-off or landing of aircraft, or of aircraft of any specified class or description, by reference to the nature of the licence for the time being in force in respect of the airport by virtue of subsection (3)(c) of that section.

PART IV

ECONOMIC REGULATION OF AIRPORTS

Preliminary

36 Interpretation of Part IV, etc.

(1) In this Part—

" the 1973 Act " means the Fair Trading Act 1973 ;

" the 1980 Act " means the Competition Act 1980 ;

" airport charges ", in relation to an airport, means—

(a) charges levied on operators of aircraft in connection with the landing, parking or taking off of aircraft at the airport (including charges that are to any extent determined by reference to the number of passengers on board the aircraft, but excluding charges payable by virtue of regulations under section 73 of the 1982 Act (air navigation services etc.)); and

(b) charges levied on aircraft passengers in connection with their arrival at, or departure from, the airport by air;

" the Commission " means the Monopolies and Mergers Commission;

" operational activities " has the same meaning as it has for the time being in section 30(3);

" prescribed " has the meaning given by subsection (3);

" relevant activities ", in relation to an airport, means the provision at the airport of any services or facilities for the purposes of—

(a) the landing, parking or taking off of aircraft;

(b) the servicing of aircraft (including the supply of fuel); or

(c) the handling of passengers or their baggage or of cargo at all stages while on airport premises (including the transfer of passengers, their baggage or cargo to and from aircraft).

(2) It is hereby declared that the reference in the definition of " relevant activities " in subsection (1) to the provision of facilities for the purposes of the handling of passengers does not include the provision of facilities for car parking, for the refreshment of passengers at the airport or for the supply of consumer goods or services there.

(3) Without prejudice to the generality of section 7(2) of the 1982 Act (special provisions as respects certain functions of the CAA), regulations made by the Secretary of State in pursuance of that provision may prescribe for the purposes of that provision any functions conferred on the CAA by this Part; and in this Part " prescribed " means prescribed by regulations so made.

Permissions

37 Airports subject to economic regulation: requirement for permission to levy airport charges

(1) Where an airport is subject to economic regulation under this Part no airport charges shall be levied at the airport unless—

(a) they are levied by the airport operator, and

(b) a permission to levy airport charges is for the time being in force in respect of the airport.

(2) Where the annual turnover of the business carried on at an airport by the airport operator exceeded the relevant sum in the case of at least two of the last three financial years ending before the date when this section comes into force, then (subject to section 53(3)) the airport shall be subject to economic regulation under this Part as from the end of the period of six months beginning with that date.

(3) Where

(a) an airport is not one to which subsection (2) applies, but

(b) the annual turnover of the business carried on at the airport by the airport operator exceeded the relevant sum in the case of at least two of the last three financial years ending before a date later than the date when this section comes into force,

the airport shall be subject to economic regulation under this Part as from the end of the period of nine months beginning with that later date.

(4) Nothing in this section applies—

(a) to any airport managed by the Secretary of State;

(b) to any airport owned or managed by the CAA or by any subsidiary of the CAA ; or

(c) to any airport for the time being exempted from economic regulation under this Part by virtue of subsection (5).

(5) Where at any time the Secretary of State is satisfied as respects any airport which is subject to economic regulation under this Part that the annual turnover of the business carried on at the airport by the airport operator did not exceed the relevant sum in the case of each of the two last financial years ending before that time, he may, after consulting the CAA, determine that the airport shall cease to be subject to economic regulation under this Part as from the date of his determination.

(6) Any such determination may be made by the Secretary of State either of his own motion or on the application of the airport operator.

(7) A determination under subsection (5) shall not—

(a) preclude subsection (3) from applying to the airport in question on a subsequent occasion; or

(b) affect any rights or liabilities accruing by virtue of this Part before the determination is made.

(8) Where any person levies any airport charges in contravention of subsection (1)—

(a) he shall not be guilty of an offence by reason only of his contravening that subsection ; but

(b) any airport charges so levied shall not be recoverable by him, and, in so far as they have been paid to him, shall be recoverable from him.

(9) In this section " the relevant sum " means £1 million or such other sum as is for the time being specified in subsection (1) of section 14, and "annual turnover" and "financial year " have the meaning given by subsection (2) of that section.

(10) Where at the coming into operation of an order under section 14(3) any airport is, or is due to become, subject to economic regulation under this Part in accordance with subsection (2) or (3) above, that subsection shall continue to apply to the airport notwithstanding any increase in the relevant sum effected by the order.

38 Grant or refusal of permissions

(1) Where an airport is by virtue of section 37(2) or (3) due to become subject to economic regulation under this Part at the end of the period of either six or nine months referred to in that provision, the airport operator may, at any time after the beginning of that period, make an application to the CAA for the grant in respect of the airport of a permission to levy airport charges.

(2) Any such application—

(a) must be in writing and contain such particulars with respect to such matters as the CAA may specify in a notice published in the prescribed manner ; and

(b) must be accompanied by such fee as may be specified in a scheme or regulations made under section 11 of the 1982 Act.

(3) Where an application is made in relation to an airport by the airport operator in accordance with this section, then, as from the date of the application or the date when the airport becomes subject to economic regulation under this Part (whichever is the later), there shall, by virtue of this subsection, be deemed for all purposes to be a permission in force under this Part in respect of the airport until such time as—

(a) the CAA grants a permission in pursuance of the application ; or

(b) the airport operator is notified by the CAA that it has refused the application.

(4) Where

(a) any such application has been so made by an airport operator, and

(b) he has complied with any requirement to produce any documents, or to furnish any accounts, estimates, returns or other information, to the CAA which the CAA may have imposed on him under this Act for the purpose of enabling it to determine whether, and (if so) what, conditions should be imposed under this Part in relation to the airport in question,

the CAA shall grant the application within such period as may be prescribed.

(5) Where

(a) any such application has been so made by an airport operator, but

(b) he has failed to comply with any such requirement as is mentioned in subsection (4) (b) within such time as may have been allowed for the purpose.

the CAA may, if it thinks fit, allow him further time (not exceeding such period as may be prescribed) to comply with the requirement; and if he has still not complied with it when that further time expires the CAA shall refuse the application.

(6) The grant or refusal of an application made by an airport operator under this section shall be notified to him in such manner as may be prescribed.

(7) Any permission granted under this section in respect of an airport shall come into force on whichever is the later of the following dates, namely—

(a) the date when it is granted, and

(b) the date when the airport becomes subject to economic regulation under this Part,

and shall remain in force unless and until it is revoked in pursuance of section 49(9) or the airport ceases to be subject to economic regulation under this Part by virtue of a determination of the Secretary of State under section 37(5) (and shall so remain in force notwithstanding any change of airport operator).

Conditions

39 Imposition of conditions by CAA

(1) So long as a permission is for the time being in force under this Part in respect of an airport, the airport operator shall comply with such conditions as are for the time being in force in relation to the airport by virtue of the following sections of this Part.

(2) The CAA shall perform its functions under those sections in the manner which it considers is best calculated—

(a) to further the reasonable interests of users of airports within the United Kingdom ;

(b) to promote the efficient, economic and profitable operation of such airports;

(c) to encourage investment in new facilities at airports in time to satisfy anticipated demands by the users of such airports; and

(d) to impose the minimum restrictions that are consistent with the performance by the CAA of its functions under those sections;

and section 4 of the 1982 Act (general objectives of the CAA) shall accordingly not apply in relation to the performance by the CAA of those functions.

(3) In performing those functions the CAA shall take into account such of the international obligations of the United Kingdom as may be notified to it by the Secretary of State for the purposes of this section.

(4) The duty of an airport operator under subsection (1) to comply with any such conditions as are there mentioned shall be enforceable in accordance with sections 48 to 50 (and not otherwise).

(5) Nothing in this Part shall be read as requiring or authorising the CAA to impose or modify any conditions in relation to an airport otherwise than on granting a permission under this Part in respect of it or while any such permission is in force.

(6) Without prejudice to the generality of section 11 of the 1982 Act, a scheme or regulations under that section may make provision for charges to be paid in respect of the performance by the CAA of any of its functions under the following sections of this Part.

40 Mandatory conditions in case of designated airports

(1) Where an airport is designated for the purposes of this section by an order made by the Secretary of State, then (subject to subsection (9))—

(a) if the airport is so designated at the time when a per mission under this Part is granted in respect of it under section 38(4), the CAA shall, at the time of granting the permission, impose in relation to the airport such conditions as to accounts and airport charges as are mentioned in subsections (2) and (3); and

(b) if the airport is so designated at any later time, the CAA shall impose any such conditions in relation to the airport within the period of nine months beginning with the date of the designation.

(2) The conditions as to accounts referred to in subsection (1) are—

(a) such conditions as the CAA considers appropriate to secure that the accounts of the airport operator disclose—

(i) any subsidy furnished (whether by the making of loans on non-commercial terms or otherwise) by any person or authority to the airport operator in connection with his business so far as consisting of the carrying on of operational activities relating to the airport, and the identity of any such person or authority,

(ii) any subsidy so furnished to that business by the airport operator out of funds attributable to any other activities carried on by him,

(iii) the aggregate income and expenditure of the airport operator attributable to the levying by him of airport charges at the airport,

(iv) the aggregate income and expenditure of the airport operator attributable to operational activities relating to the airport (whether carried on by the airport operator or any other person) being income and expenditure which are taken into account by him in fixing airport charges, and

(v) where the airport operator has for the time being the management of two or more airports, the aggregate income and expenditure of the airport operator attributable to the business carried on by him at each of those airports; and

(b) where the accounts of the airport operator are not required to be delivered to the registrar of companies in accordance with the Companies Act 1985, such conditions as the CAA considers appropriate with respect to the publication of those accounts ;

and the reference in paragraph (a) to the accounts of the airport operator shall be read as referring to accounts delivered to the registrar of companies in accordance with that Act or published in pursuance of paragraph (b).

(3) The conditions as to airport charges referred to in subsection (1) are such conditions as the CAA considers appropriate for regulating the maximum amounts that may be levied by the airport operator by way of airport charges at the airport during the period of five years beginning with such date as may be specified by the CAA when imposing the conditions, being a date falling not later than the end of the period of twelve months beginning with the date when the conditions are imposed.

(4) Subject to subsection (9), the CAA shall—

(a) at the end of the period of five years specified in subsection (3), and

(b) at the end of each succeeding period of five years,

make such modifications in the conditions imposed in pursuance of subsection (3) (as they are for the time being in force) as it thinks appropriate for regulating during the succeeding period of five years the maximum amounts that may be levied by the airport operator by way of airport charges at the airport; and any reference in this Part to the making of modifications in any such conditions includes a reference to the making of a modification whose effect is merely to extend the application of a particular condition or conditions for a further period of five years.

(5) Without prejudice to the generality of subsections (3) and (4), conditions imposed or modified in pursuance of those provisions—

(a) may provide—

(i) for an overall limit on the amount that may be levied by the airport operator by way of all airport charges at the airport, or

(ii) for limits to apply to particular categories of charges, or

(iii) for a combination of any such limits ;

(b) may operate to restrict increases in any such charges, or to require reductions in them, whether by reference to any formula or otherwise;

(c) may provide for different limits to apply in relation to different periods of time falling within the period of five years for which the conditions are in force.

(6) Except with the agreement of the airport operator concerned, conditions imposed in pursuance of subsection (3) shall not be modified by the CAA otherwise than in pursuance of subsection (4).

(7) The CAA may, if it thinks fit and after consultation with the airport operator concerned, determine, at any time during any period of five years for which conditions under subsection (3) are in force in accordance with the preceding provisions of this section, that that period shall be extended by such period (not exceeding twelve months) as may be specified in its determination ; and in any such case any reference in this Part to that period shall be read as a reference to that period as extended by virtue of this subsection.

(8) Where the CAA makes any such determination in the case of conditions providing for different limits to apply in relation to different periods of time, any limit applying in relation to the last of those periods shall apply also in relation to the additional period for which the conditions are to remain in force in accordance with the determination, unless the CAA and the airport operator concerned agree that some other limit shall apply instead.

(9) Before imposing any conditions in pursuance of subsection (3), or making any modifications in pursuance of subsection (4), in relation to any airport, the CAA shall, unless the Secretary of State otherwise directs, make a reference to the Commission in respect of the airport under section 43(1).

(10) The Secretary of State may by order under this section either designate particular airports for the purposes of this section or designate any class of airports for those purposes; and any such class may be framed by reference to annual turnover, as defined in the order, or by reference to any other matter whatever.

41 Discretionary conditions

(1) The CAA may, if it thinks fit in the case of any airport which is not a designated airport, impose in relation to the airport such conditions as are mentioned in section 40(2), either at the time of granting a permission under this Part in respect of the airport or at any other time while it is in force.

(2) Where, at the time of granting a permission under this Part in respect of an airport (whether a designated airport or not) or at any other time while such a permission is in force, it appears to the CAA that the airport operator is pursuing one of the courses of conduct specified in subsection (3), then (subject to subsection (6) and section 42) the CAA may, if it thinks fit, impose in relation to the airport such conditions as it considers appropriate for the purpose of remedying or preventing what it considers are the adverse effects of that course of conduct.

(3) The courses of conduct referred to in subsection (2) are—

(a) the adoption by the airport operator, in relation to any relevant activities carried on by him at the airport, of any trade practice, or any pricing policy, which unreasonably discriminates against any class of users of the airport or any particular user or which unfairly exploits his bargaining position relative to users of the airport generally;

(b) the adoption by the airport operator, in relation to the granting of rights by virtue of which relevant activities may be carried on at the airport by any other person or persons, of any practice which—

(i) unreasonably discriminates against persons granted any class of such rights, or any particular grantee of such a right, or unfairly exploits his bargaining position relative to the grantees of such rights generally, or

(ii) unreasonably discriminates against any class of persons applying for such rights or any particular applicant, or unreasonably limits the number of such rights that are granted in the case of any particular services or facilities,

or which has resulted in the adoption by any other person of a practice that does any of those things ;

(c) the fixing by the airport operator of any charges levied by him at the airport in relation to any relevant activities carried on by him there at levels which—

(i) are insufficient, even after taking into account such other revenues (if any) as are relevant to the fixing of such charges, to cover the costs of providing the services or facilities to which the charges relate or are, in the opinion of the CAA, artificially low, and

(ii) materially harm (or are intended materially to harm) the business carried on by an airport operator at any other airport in the United Kingdom.

(4) In subsection (3)(c)(i) the reference to levels at which charges are fixed being artificially low is a reference to such levels being significantly lower than they would otherwise have been—

(a) by reason of any subsidy—

(i) furnished by any person or authority to the airport operator in connection with his business so far as consisting of the carrying on of operational activities relating to the airport, or

(ii) furnished to that business by the airport operator out of funds attributable to any other activities carried out by him,

whether by the making of loans on non-commercial terms or otherwise; or

(b) where the airport operator is a company, by reason of any conduct on the part of the company which, in the opinion of the CAA, has resulted, or will result, in—

(i) a failure by the company to achieve a reasonable return on the capital employed by it in carrying on operational activities relating to the airport, or

(ii) a failure by the company to distribute to members of the company a reasonable proportion of the profits available for distribution, or

(iii) a failure by the company to reach a level of borrowing which is appropriate having regard to its equity share capital (within the meaning of the Companies Act 1985).

(5) In determining for the purposes of subsection (4) what is reasonable or (as the case may be) appropriate in the case of a company, the CAA—

(a) shall disregard the fact that the relevant conduct on the part of the company was in conformity with any policy for the time being of a person having control over the company, but

(b) shall have regard to any circumstances which, in the opinion of the CAA, would affect any company carrying on the business of operating the airport as a commercial undertaking.

(6) Before imposing any conditions under subsection (2) in relation to an airport, the CAA shall notify the airport operator concerned of the course of conduct within subsection (3)(a), (b) or (c) which it appears to the CAA that he is pursuing and of the conditions which the CAA proposes to impose; and if, within such period as may be prescribed, the airport operator notifies the CAA that he objects to its proposals, the CAA—

(a) shall not proceed with the implementation of those proposals; but

(b) may instead make a reference to the Commission in respect of the airport under section 43(3).

(7) In this section " designated airport" means an airport for the time being designated for the purposes of section 40.

42 Discretionary conditions: supplementary provisions

(1) Nothing in section 41(2) shall be read as authorising the CAA to impose under that provision—

(a) any condition providing for any such overall limit as is mentioned in paragraph (a)(i) of section 40(5); or

(b) any condition for regulating the maximum amount that may be levied by an airport operator by means of any particular category of charges levied by him at an airport if the same category of charges is for the time being subject

to any limit or limits imposed in pursuance of paragraph (a)(ii) or (iii) of section 40(5).

(2) The CAA shall, in determining—

(a) whether an airport operator is pursuing a course of con duct within section 41(3)(a), or

(b) (where it determines that an airport operator is pursuing such a course of conduct) whether, and (if so) what, conditions should be imposed by it under section 41(2) in relation to the airport in question,

take into account any advice given to it by the Secretary of State for the purposes of this subsection as to practices currently adopted at airports in countries or territories outside the United Kingdom.

(3) Where the CAA receives from any operator of aircraft whose principal place of business is in any such country or territory any representations to the effect that the powers of the CAA under section 41(2) appear to be exercisable in relation to an airport on the grounds that the airport operator is pursuing a course of conduct within section 41(3)(a), the CAA shall notify those representations to the Secretary of State for the purpose of enabling him to determine whether to give any advice to the CAA for the purposes of subsection (2) above.

References to Commission

43 References to Commission in relation to imposition or modification of conditions

(1) Where the CAA is, by virtue of section 40(9), required to make a reference to the Commission under this subsection in respect of any airport, that reference shall be so framed as to require the Commission to investigate and report on—

(a) the question as to what are the maximum amounts that should be capable of being levied by the airport operator by way of airport charges at the airport during such period of five years as the CAA may specify in the reference ; and

(b) the questions specified in subsection (2).

(2) Those questions are—

(a) whether the airport operator has, at any time during the relevant period, pursued—

(i) in relation to any airport charges levied by him at the airport, or

(ii) in relation to any operational activities carried on by him and relating to the airport, or

(iii) in relation to the granting of a right by virtue of which any operational activities relating to the airport may be carried on by any other person or persons,

a course of conduct which has operated or might be expected to operate against the public interest; and

(b) if so, whether the effects adverse to the public interest which that course of conduct has had, or might be expected to have, could be remedied or prevented by the imposition of any conditions in relation to the airport or by the modification of any conditions already in force in relation to it.

(3) Where the CAA is, by virtue of section 41(6), authorised to make a reference to the Commission under this subsection in respect of any airport, that reference shall be so framed as to require the Commission to investigate and report on the questions—

(a) whether the airport operator has, at any time during the relevant period, pursued the course of conduct referred to in the CAA's notification under section 41(6); and

(b) if so, whether any such course of conduct has operated or might be expected to operate against the public interest; and

(c) if so, whether the effects adverse to the public interest which that course of conduct has had, or might be expected to have, could be remedied or prevented by the imposition of any conditions in relation to the airport or by the modification of any conditions already in force in relation to it.

(4) The CAA may, at any time, by notice given to the Commission vary any reference under subsection (3) by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receiving such a notice the Commission shall give effect to the variation.

(5) In determining for the purposes of this section whether any particular matter has operated, or might be expected to operate, against the public interest, the Commission—

(a) shall have regard to the objectives specified in paragraphs (a) to (d) of section 39(2); and

(b) in the case of a matter relating to the granting of a right by virtue of which any operational activities relating to an airport may be carried on by any person or persons, shall in addition have regard to the following objective, namely the furtherance of the reasonable interests of persons granted such rights.

(6) In this section " the relevant period "—

(a) in relation to any reference in respect of an airport under subsection (1), means—

(i) in the case of the first reference in respect of that airport under that subsection, the period of twelve months ending with the date of the reference ; and

(ii) in the case of any subsequent such reference, the period ending with the date of that reference and beginning with the date of the reference immediately preceding it; and

(b) in relation to any reference in respect of an airport under subsection (3), means the period of twelve months ending with the date of the reference.

44 Supplementary provisions relating to references

(1) For the purpose of assisting the Commission in carrying out an investigation on a reference under section 43, the CAA may—

(a) in the case of a reference under subsection (1) of that section, specify in the reference—

(i) any view that the CAA has formed as to what the maximum amounts referred to in paragraph (a) of that subsection should be,

(ii) any course of conduct which, in its opinion, has been pursued by the airport operator in relation to any of the matters specified in

subsection (2)(a) of that section and has operated, or might be expected to operate, against the public interest,

(iii) any effects adverse to the public interest which, in its opinion, any such course of conduct has had or might be expected to have, and

(iv) any conditions or modifications of conditions by which, in its opinion, its view as to those maximum amounts could be implemented or (as the case may be) those adverse effects could be remedied or prevented;

(b) in the case of a reference under subsection (3) of that section, or a variation of such a reference, specify in the reference or variation—

(i) any effects adverse to the public interest which, in the opinion of the CAA, any course of conduct specified in the reference or variation has had or might be expected to have, and

(ii) any conditions or modifications of conditions by which, in its opinion, those adverse effects could be remedied or prevented.

(2) It shall be the duty of the CAA, for the purpose of assisting the Commission in carrying out an investigation on any reference under section 43, to give to the Commission—

(a) any information in the possession of the CAA which—

(i) it is within the power of the CAA to give, and

(ii) relates to matters falling within the scope of the investigation, and

(iii) either is requested by the Commission for that purpose or is information that it would in the CAA's opinion be appropriate to give to the Commission for that purpose without any such request, and

(b) any other assistance which the Commission may require, and which it is within the power of the CAA to give, in relation to any such matters ;

and the Commission shall, for the purpose of carrying out the investigation, take account of any information given to them in pursuance of paragraph (a).

(3) The following provisions of the 1973 Act, namely sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) and Part II of Schedule 3 (performance of functions of the Commission), together with section 24 of the 1980 Act (modification of provisions about performance of Commission's functions), shall apply in relation to references under section 43 of this Act as if—

(a) the functions of the Commission in relation to such references were functions under the 1973 Act;

(b) the expression " merger reference " included a reference under this section;

(c) in section 70 of the 1973 Act, references to the Secretary of State were references to the CAA and the reference to three months were a reference to six months ;

(d) in paragraph 11 of Schedule 3 to the 1973 Act, the reference to section 71 of that Act were a reference to section 43(4) of this Act; and

(e) paragraph 16(2) of that Schedule were omitted.

(4) The CAA shall—

(a) publish particulars of any reference under section 43, and of any variation of such a reference, in such manner as it considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it; and

(b) send a copy of the reference or variation to the Secretary of State and to the airport operator concerned.

45 Reports on references

(1) In making a report on any reference under section 43, the Commission—

(a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as, in their opinion, is expedient for facilitating proper understanding of those questions and of their conclusions ;

(b) where they conclude that any course of conduct specified in the reference has operated, or might be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which that course of conduct has had or might be expected to have ; and

(c) where they conclude that any adverse effects so specified could be remedied or prevented by the imposition of any conditions in relation to the airport in question, or by the modification of any conditions already in force in relation to it, shall specify in the report the conditions that should be imposed or (as the case may be) the modifications that should be made.

(2) The Commission's conclusions on a reference under section 43(1) so far as relating to the maximum amounts referred to in paragraph (a) of that provision shall take the form of recommendations as to what those maximum amounts should be during the five years in question ; and any such recommendations may do any of the things referred to in paragraphs (a) to (c) of section 40(5).

(3) Where, on any reference under section 43, the Commission conclude that an airport operator is a party to an agreement to which the Restrictive Trade Practices Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, have operated, or might be expected to operate, against the public interest; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection.

(4) Section 82 of the 1973 Act (general provisions as to reports) shall apply in relation to reports of the Commission on references under section 43 above as it applies to reports of the Commission under that Act.

(5) A report of the Commission on any reference under section 43 shall be sent to the CAA.

(6) On receiving such a report, the CAA—

(a) shall send a copy of the report to the Secretary of State and to the airport operator concerned ; and

(b) subject to any direction given by the Secretary of State under subsection (7), shall publish the report in such manner as the CAA considers appropriate for bringing the report to the attention of persons likely to be affected by it.

(7) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 21 days beginning with the day on which he receives the copy of the report, direct the CAA to exclude that matter from the report as published under subsection (6).

46 Imposition or modification of conditions following Commission's report

(1) Where the CAA—

(a) is required to impose any such conditions as are mentioned in section 40(3), or to make any such modifications as are mentioned in section 40(4), in respect of any such maximum amounts as are there mentioned, and

(b) has received a report made by the Commission under section 45 and containing their recommendations as to what those maximum amounts should be,

the CAA shall impose any such conditions in accordance with section 40(3) or make any such modifications in accordance with section 40(4) (as the case may be).

(2) Where the CAA has received a report of the Commission on a reference under section 43 and the report—

(a) includes conclusions to the effect that any course of conduct within the scope of the reference has operated or might be expected to operate against the public interest,

(b) specifies effects adverse to the public interest which that course of conduct has had or might be expected to have,

(c) includes conclusions to the effect that those effects could be remedied or prevented by the imposition of any conditions in relation to the airport in question or by the modification of any conditions already in force in relation to it, and

(d) specifies conditions or modifications by which those effects could be remedied or prevented,

the CAA shall, subject to subsection (3), impose such conditions, or make such modifications of any conditions already in force, in relation to the airport in question as the CAA considers appropriate for the purpose of remedying or preventing the adverse effects specified in the report.

(3) In the case of a report of the Commission on a reference under section 43(1), the Secretary of State may, if he thinks fit, direct that, notwithstanding that the report satisfies the requirements of paragraphs (a) to id) of subsection (2) above, the CAA shall not impose any conditions or make any modifications as mentioned in that subsection.

(4) Before imposing any conditions or making any modifications as mentioned in subsection (1) the CAA shall have regard to the recommendations referred to in paragraph (b) of that subsection; and before imposing any conditions or making any modifications as mentioned in subsection (2) the CAA shall have regard to the conditions or modifications referred to in paragraph id) of that subsection.

(5) Where the CAA has imposed any conditions or made any modifications as mentioned in subsection (1) or (2), it shall publish the following matters, namely—

(a) particulars of the conditions or modifications in question, and

(b) in so far as those conditions or modifications do not accord with the recommendations referred to in subsection (1)(b), or (as the case may be) with the conditions or modifications referred to in subsection (2)(d), a statement of the CAA's reasons for not implementing the Commission's report,

in such manner as it considers appropriate for the purpose of bringing those matters to the attention of persons likely to be affected by them.

47 Charges to be paid by airport operators in respect of Commission's expenses

(1) The Secretary of State may, in accordance with the following provisions of this section, provide by regulations for annual charges to be payable by airport operators in respect of the expenses incurred by the Commission in carrying out investigations, and reporting, on references to which this subsection applies.

(2) Subsection (1) applies to any reference made to the Commission under section 43 other than a reference under subsection (1) of that section which relates to the first period of five years for which any such conditions as are mentioned in section 40(3) are to be in force in relation to a particular airport.

(3) Any such regulations as are mentioned in subsection (1) shall—

(a) require the Commission—

(i) to prepare, in such form and including such information as may be prescribed by the regulations, an annual statement containing an assessment of the expenses incurred by it as mentioned in subsection (1) in the preceding period of twelve months, and

(ii) to send a copy of any such statement to the CAA;

(b) prescribe the circumstances in which airport operators, being persons having the management of airports in respect of which permissions under this Part are in force, are to be liable to charges under this section in respect of the expenses of the Commission specified in any such statement;

(c) provide that, where a particular airport operator is liable to such a charge, the amount of the charge payable by him shall (subject to paragraph (d)) be a proportion of the expenses referred to in paragraph (b) to be determined by reference to such matters or circumstances as may be specified in the regulations ; and

(d) prescribe the maximum amount of any charge under this section.

(4) Without prejudice to the generality of subsection (3)(b), any such regulations may provide for an airport operator falling within that provision to be liable to a charge under this section notwithstanding that none of the expenses there referred to relate to a reference made in respect of an airport managed by him.

(5) Where by virtue of any such regulations a charge under this section is payable by any airport operator, the CAA shall notify him that he is required to pay that charge to the CAA; and where an airport operator has been so notified the amount of any such charge shall be recoverable from him as a debt due to the CAA.

(6) Any sums received by the CAA by virtue of this section shall be paid to the Secretary of State, who shall then pay them into the Consolidated Fund.

Enforcement of conditions

48 Breach of conditions other than accounts conditions: complaints and compliance orders

(1) Where

(a) a complaint is made to the CAA in relation to any airport that the airport operator is failing to comply, or has failed to comply and is likely again to fail to comply, with any condition in contravention of section 39(1); and

(b) that complaint is made—

(i) by any person on whom any airport charges have been levied by the airport operator at the airport (whether actually paid by that person or not), or

(ii) by any other airport operator who claims that the business carried on by him at another airport in the United Kingdom has been or is being materially harmed by the alleged failure to comply with the condition in question,

the CAA shall investigate that complaint (unless the CAA considers that it is frivolous); but nothing in this section applies to a condition to which any provision of section 50 applies,

(2) Where any such complaint is made to the CAA by a person not falling within subsection (1)(b)(i) or (ii), the CAA may investigate the complaint if it thinks fit.

(3) If, having investigated any such complaint, the CAA is satisfied that an airport operator is failing to comply, or has failed to comply and is likely again to fail to comply, with any condition in contravention of section 39(1), the CAA shall either—

(a) by order make such provision as it considers appropriate for the purpose of securing compliance with that condition and for remedying any loss or damage sustained, or injustice suffered, by any person in consequence of the failure to comply with that condition; or

(b) subject to section 40(6) and subsection (4) below, modify the condition in such manner as it considers appropriate in all the circumstances.

(4) The CAA shall not under subsection (3)(b) modify a condition in such a manner as would permit of the occurrence, or (as the case may be) recurrence, of any effects adverse to the public interest which have been specified by the Commission in a report made by them on any reference under section 43 in respect of the airport in question.

(5) If, having investigated any such complaint, the CAA is satisfied that an airport operator has failed to comply with any condition in contravention of section 39(1) (but not that he is for the time being failing to comply with it or is likely again to fail to comply with it) the CAA may by order make such provision as it considers appropriate for remedying any loss or damage sustained, or injustice suffered, by any person in consequence of the failure to comply with that condition.

(6) An order under subsection (3) (a) or (5)—

(a) shall require the airport operator concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified; and

(b) shall, as respects any such requirement, take effect (ac cording to the terms of the order) either as soon as a copy of it is served on the airport operator or at such later time as may be specified in it by the CAA ; and

(c) may be revoked by the CAA at any time.

(7) A copy of any such order shall be served by the CAA on the airport operator in the prescribed manner; and references in this and the following section to the service of a copy of such an order on an airport operator shall be construed accordingly.

49 Validity and effect of compliance orders

(1) If an airport operator is aggrieved by any compliance order applying to him by virtue of section 48 and desires to question the validity of the order on the ground—

(a) that the order is not within the powers of that section; or

(b) where any regulations under section 7(2) of the 1982 Act provide for regulating the procedure to be followed by the CAA in the performance of its functions under section 48, that any requirement of those regulations has not been complied with in relation to the order,

he may, within 42 days from the date of service on him of a copy of the order, make an application to the court under this section.

(2) On any such application the court may, if satisfied—

(a) that the compliance order is not within the powers of section 48, or

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as is mentioned in subsection (11(b) above,

quash the order or any provision of the order.

(3) Except as provided by this section, the validity of a compliance order shall not be questioned in any legal proceedings whatever.

(4) No criminal proceedings shall, by virtue of the making of a compliance order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

(5) The obligation to comply with a compliance order is a duty owed to any person who may be affected by a contravention of it.

(6) Where a duty is owed by virtue of subsection (5) to any person—

(a) any breach of the duty which causes that person to sustain loss or damage, and

(b) any act which, by inducing a breach of that duty or interfering with its performance, causes that person to sustain loss or damage and which is done wholly or partly for the purpose of achieving that result,

shall be actionable at the suit or instance of that person.

(7) In any proceedings brought against any person in pursuance of subsection (6)(a), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(8) Without prejudice to any right which any person may have by virtue of subsection (6)(a) to bring civil proceedings in respect of any contravention or apprehended contravention of a compliance order, the CAA may enforce compliance with any such order by civil proceedings for an injunction or interdict or for any other appropriate relief.

(9) Where it appears to the CAA that an airport operator has contravened a compliance order and is unlikely to comply with it in the immediate future the CAA may, instead of proceeding under subsection (8), revoke the permission for the time being in force under this Part in respect of the airport to which the contravention relates.

(10) Where any such permission is revoked by reason of an airport operator's contravention of a compliance order, then (notwithstanding section 38(4)) a permission shall not again be granted under this Part in respect of the airport in question so long as he remains the airport operator unless it appears to the CAA that, if the CAA were to impose in relation to the airport any condition corresponding to the one whose breach gave rise to the making of the compliance order, he would comply with that condition.

(11) In this section—

" act", in relation to any person, includes any failure to do an act which he is under a duty to do and " done " shall be construed accordingly ;

" compliance order " means an order under section 48 (3) (a) or (5);

" contravention ", in relation to a compliance order, includes any failure to comply with it;

" the court "—

(a) in relation to England and Wales, means the High Court; and

(b) in relation to Scotland, means the Court of Session.

50 Breach of accounts conditions: criminal penalties etc.

(1) Any airport operator who fails to comply with any condition imposed in accordance with section 40(2)(a) (in pursuance of either section 40(1) or section 41(1)) shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(2) Any airport operator who, in the case of any condition imposed in accordance with section 40(2)(b) (in pursuance of either section 40(1) or section 41(1)), fails to comply with that condition before the end of the period allowed for compliance with it by virtue of that or any other such condition shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the fifth level on the standard scale; and

(b) on a second or subsequent summary conviction, to a fine of one-tenth of the amount corresponding to that level for each day on which the contravention is continued.

(3) Where an airport operator has failed to comply with any such condition as is mentioned in subsection (1) above, then (whether or not proceedings are brought under that subsection in respect of that contravention) the CAA may impose, in relation to the airport to which the contravention relates, such conditions as the CAA considers appropriate with respect to the publication of any matter to whose non-disclosure the contravention relates ; and if the airport operator fails to comply with any condition so imposed before the end of the period allowed for compliance with it by virtue of that or any other such condition he shall be guilty of an offence and liable as mentioned in paragraphs (a) and (b) of subsection (2).

(4) In any proceedings for an offence under this section it shall be a defence for the person charged to prove—

(a) in the case of an offence under subsection (1), that he took all reasonable steps for securing compliance with the condition in question ;

(b) in the case of an offence under subsection (2) or (3), that he took all reasonable steps for securing compliance with the condition in question before the end of the period mentioned in that subsection.

(5) Any reference in this section to an airport operator failing to comply with a condition is a reference to his failing to do so in contravention of section 39(1).

Supplementary

51 Supplementary provisions relating to conditions

(1) Any condition imposed by the CAA under this Part otherwise than in pursuance of section 40(3) shall (subject to the provisions of this section and to the continuation in force of a permission under this Part in respect of the airport in question) either remain in force for a particular period or remain in force without limit of time, as the CAA may determine; and when imposing any such condition the CAA shall accordingly either—

(a) specify the period in question, or

(b) specify that it is a condition whose duration is unlimited,

as the case may require.

(2) Where the CAA has in the case of any condition specified a period under subsection (1)(c), the CAA may, if it thinks fit, determine that that period shall be extended by such period as may be specified in its determination.

(3) Where any such conditions as are mentioned in section 40(2) are in force in relation to an airport, the CAA may at any time modify or revoke those conditions; but the CAA shall not revoke any such conditions otherwise than in connection with replacing them with further conditions unless the conditions revoked were imposed in pursuance of section 41(1).

(4) Where any such conditions as are mentioned in section 41(2) are in force in relation to an airport (being conditions imposed otherwise than following a reference to the Commission under section 43(3)) the CAA may at any time modify or revoke those conditions unless—

(a) subsection (5)(a) operates to preclude the modification of the conditions under this subsection, or

(b) that provision has previously so operated and the conditions were modified following a reference to the Commission made in pursuance of subsection (5)(b).

(5) Before making any modifications under subsection (4) whose object is the more effective securing of the purpose for which the conditions concerned were imposed the CAA shall notify the airport operator concerned of the course of conduct within section 41(3)(a), (b) or (c) which it appears to the CAA that he is still pursuing and of the modifications which it proposes to make ; and, if within such period as may be prescribed, the airport operator notifies the CAA that he objects to its proposals, the CAA—

(a) shall not proceed with the implementation of those proposals, but

(b) may instead make a reference to the Commission in respect of the airport under section 43(3);

and, in relation to any such reference, section 43(3) shall have effect as if references to section 41(6) were references to this subsection.

(6) Where any conditions have been imposed or modified by the CAA in relation to an airport for the purpose of remedying or preventing any such adverse effects as are mentioned in section 46(2), the CAA may—

(a) make such modifications or further modifications of those conditions as it considers appropriate, or

(b) revoke the conditions,

as long as the modifications or revocation in question would not permit of the occurrence or (as the case may be) recurrence of any of those adverse effects.

(7) Where under this Part the CAA imposes any condition in relation to an airport or modifies, extends the period of operation of, or revokes, any such condition the CAA shall notify the airport operator of the imposition, modification or revocation of the condition, or (as the case may be) of the extension of the period of its operation, in such manner as may be prescribed.

(8) Where a permission is in force under this Part in respect of an airport, the airport operator shall, if so required by any person and on payment of such reasonable fee as the airport operator may determine, provide that person with a copy of that permission and of any conditions for the time being in force under this Part in relation to the airport.

52 Special provisions relating to groups of airports

(1) Where it appears to the CAA that two or more airports are airports serving the same area in the United Kingdom and either—

(a) that they are managed by the same airport operator, or

(b) that they are owned by the same person, or by members of the same group of companies, and they operate as a group of airports whose activities are coordinated by the airport operators concerned,

any conditions imposed or modified by the CAA in pursuance of section 40(3) or (4) in relation to any one of those airports may be framed so as to prescribe a limit or limits operating by reference to the aggregate of amounts levied by way of airport charges at that airport and amounts so levied at the other airport or airports.

(2) In subsection (1) the reference to airports serving the same area in the United Kingdom shall be construed in accordance with section 31(6); and, for the purposes of that subsection, a body corporate and each of its subsidiaries shall be treated as members of a group of companies.

53 Functions in relation to permissions and conditions initially exercisable by Secretary of State

(1) If the Secretary of State, at any time during the period of six months beginning with the date of the coming into force of section 37 notifies the CAA that he proposes to perform, in relation to any airport which is—

(a) due to become subject to economic regulation under this Part at the end of that period by virtue of section 37(2). and

(b) specified in the notification,

the functions of the CAA specified in subsection (2), those functions shall (subject to subsection (4)) be performed in relation to the airport by the Secretary of State and not by the CAA, and references to the CAA in the provisions mentioned in subsection (2) and in sections 51 and 73 shall, so far as may be necessary for the purpose or in consequence of the transfer of those functions, be read as references to the Secretary of State.

(2) The functions of the CAA referred to in subsection (1) are—

(a) its functions under section 38 with respect to the grant or refusal of a permission under this Part, and

(b) if the airport in question is for the time being designated for the purposes of section 40, its functions under that section and section 52 with respect to the imposition of conditions in accordance with section 4Q(1)(a), and

(c) if the airport in question is not so designated, its functions under section 41(1) with respect to the imposition of such conditions as are there mentioned at the time of granting a permission under this Part.

(3) If the Secretary of State so determines at the time of granting a permission under this Part in respect of an airport in pursuance of this section, that airport shall, instead of becoming subject to economic regulation under this Part at the end of the period of six months referred to in subsection (1), become so subject on such earlier date as may be specified by the Secretary of State in his determination.

(4) Where functions of the CAA under section 40 or 41(1) fall to be performed by the Secretary of State by virtue of this section, the Secretary of State—

(a) shall perform those functions in the manner which he considers is best calculated to achieve the objectives specified in paragraphs (a) to (d) of section 39(2); and

(b) shall perform those functions with respect to the imposition of conditions in pursuance of section 40(3) without there having been made any prior reference to the Commission in connection with the imposition of any such conditions.

(5) Where, before a notification is given by the Secretary of State under subsection (1) in the case of an airport, the airport operator has already made an application in accordance with section 38 to the CAA, then, as from the date when the notification is given—

(a) the application shall be treated as if it had been so made to the Secretary of State, and

(b) anything previously done by or in relation to the CAA in connection with the application shall be treated as if done by or in relation to the Secretary of State,

and any fee paid by him in pursuance of section 38(2)(b) shall be refunded to him by the CAA.

54 Orders under the 1973 Act or 1980 Act modifying or revoking conditions

(1) Where, in the circumstances mentioned in subsection (3), the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the 1973 Act or section 10(2)(a) of the 1980 Act, the order may also provide for the revocation or modification of any relevant conditions to such extent as may be requisite to give effect to or to take account of any provision made by the order.

(2) In subsection (1) "relevant conditions" means any conditions for the time being in force under this Part other than any conditions imposed or modified in pursuance of section 40(3) or (4).

(3) Subsection (1) shall have effect where—

(a) the circumstances are as mentioned in section 56(1) of the 1973 Act (order on report on monopoly reference) and the monopoly situation exists in relation to the carrying on of any operational activities relating to one or more airports ;

(b) the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and at least one of the two or more enterprises which ceased to be distinct enterprises was an airport operator ; or

(c) the circumstances are as mentioned in section 10(1) of the 1980 Act (order on report on competition reference) and the anti-competitive practice relates to the carrying on of any operational activities relating to one or more airports.

(4) Expressions used in this section which are also used in the 1973 Act or the 1980 Act have the same meanings as in that Act.

55 Application of Part IV to associated companies of airport operators

Schedule 1 shall have effect with respect to the application of the preceding provisions of this Part to associated companies of airport operators.

56 Co-ordination of exercise of functions by CAA and Director General of Fair Trading

The Secretary of State may by regulations make such provision as he thinks expedient—

(a) for the purpose of regulating—

(i) the performance by the CAA of functions under this Part, and

(ii) the performance by the Director General of Fair Trading of functions under the 1973 Act or the 1980 Act,

in cases where, apart from the regulations, such functions would be authorised or required to be performed by the CAA and the Director respectively in relation to the same matter ; and

(b) for the purpose of prescribing the procedure to be followed in such cases by the CAA and the Director.

PART V

STATUS OF CERTAIN AIRPORT OPERATORS AS STATUTORY UNDERTAKERS, ETC.

57 Scope of Part V

(1) Subject to subsection (3), this Part applies to—

(a) any airport in respect of which a permission to levy airport charges is in force under Part IV, or in respect of which there subsists a pending application for such a permission made in accordance with section 38, other than an airport excluded by virtue of subsection (2); and

(b) any airport which is owned or managed by any subsidiary of the CAA.

(2) The airports excluded by virtue of this subsection are—

(a) any airport owned by the BAA, and

(b) any airport owned by a principal council (within the meaning of Part II of this Act) or by a metropolitan county passenger transport authority or jointly owned by two or more principal councils or by such an authority and one or more such councils.

(3) During the period beginning with the coming into force of this section and ending with the coming into force of section 37 this Part applies to—

(a) any airport which is managed by a company to which any property, rights or liabilities have been transferred in pursuance of a scheme made under section 1 or 15 ; and

(b) any such airport as is mentioned in subsection (1)(b) above.

(4) In this Part " relevant airport operator " means the airport operator in the case of an airport to which this Part applies.

58 Application of enactments relating to statutory undertakings

Schedule 2 shall have effect with respect to the application of the enactments mentioned in that Schedule (which relate to statutory undertakers etc.) to airports to which this Part applies and to relevant airport operators.

59 Acquisition of land and rights over land

(1) The Secretary of State may authorise any relevant airport operator to acquire land in Great Britain compulsorily for any purpose connected with the performance of the operator's functions as such; and the following enactments, namely—

(a) if the land is in England and Wales, the Acquisition of Land Act 1981, except Part VI, and

(b) if the land is in Scotland, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, except section 3,

shall apply in relation to the compulsory purchase of land by a relevant airport operator under this section; and, in the case of the latter Act, shall so apply as if the operator were a local authority and as if this subsection were contained in an Act in force immediately before the commencement of that Act.

(2) For the purpose of the acquisition by a relevant airport operator of land in Great Britain by agreement the following provisions shall apply, namely—

(a) if the land is in England and Wales, the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) except sections 4 to 8, 27 and 31, and

(b) if the land is in Scotland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 120 to 125, 127, 142 and 143 of the Lands Clauses Consolidation (Scotland) Act 1845.

(3) The provisions of the 1982 Act which are specified in subsection (4) below shall apply in relation to any relevant airport operator as they apply in Great Britain to the CAA and, in the case of Schedule 10 to the 1982 Act, as if the references to an order made or proposed to be made under Part II of that Act or to the making of such an order included an order for the compulsory purchase of land by a relevant airport operator which the Secretary of State has confirmed or proposes to confirm or (as the case may be) the confirmation of such an order.

(4) The provisions of the 1982 Act mentioned in subsection (3) are—

section 44 (power to obtain rights over land);

section 45 (power to restrict use of land for purpose of securing safety at airports);

section 46 (power to exercise control over land in interests of civil aviation);

section 48 (power to stop up and divert highways), except subsection (9);

section 50 (power of entry for purposes of survey);

section 52 (displacements from land); and

Schedules 7 to 10 (supplemental provisions and provisions relating to statutory undertakers).

(5) The power of a relevant airport operator to acquire land compulsorily under this section may be exercised for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 48 of the 1982 Act, as applied by this section, or for any other purpose for which land is required in connection with such an order.

(6) The following enactments (which refer to consecrated land and burial grounds), namely—

(a) section 128 of the Town and Country Planning Act 1971; and

(b) section 118 of the Town and Country Planning (Scotland) Act 1972,

shall have effect in relation to any land acquired by a relevant airport operator as they have effect in relation to land acquired by statutory undertakers under Part VI of that Act of 1971 or (as the case may be) under Part VI of that Act of 1972.

60 Disposal of compulsorily acquired land, 61. Compensation in respect of planning decisions relating to safety of airports etc.

(1) This section applies to the disposal of any land—

(a) which was acquired compulsorily by a relevant airport operator or any predecessor in title of his under section 59(1) or any other enactment; and

(b) which, at the time of the disposal, forms part of an airport or is attached to an airport and administered with it as a single unit or has, at any time since the date of its acquisition, formed part of an airport or been so attached and administered.

(2) A relevant airport operator shall not dispose of any land to which this section applies, or any interest or right in or over such land, within the period of 25 years beginning with the date of its acquisition as mentioned in subsection (1), unless—

(a) the disposal is for the purposes of the provision of any of the services and facilities associated with the operation of an airport; or

(b) the disposal is of a leasehold interest in the land for a term of less than 7 years; or

(c) the Secretary of State consents to the disposal.

(3) Any consent of the Secretary of State under this section may be given subject to such conditions as he thinks fit.

61 Compensation in respect of planning decisions relating to safety of airports etc.

(1) In the case of an airport to which this Part applies, a local planning authority (" a planning authority ") shall be entitled to recover from the airport operator a sum equal to any compensation which the planning authority has become liable to pay, if—

(a) it has become so liable under section 164, 165, 169, 187(2), or 237(1) of the Town and Country Planning Act 1971 ("the 1971 Act") or under section 153, 154, 158, 176(2) or 226(1) of the Town and Country Planning (Scotland) Act 1972 ("the 1972 Act") (which relate to compensation for certain planning restrictions, for purchase notices which do not take effect and in respect of undertakers' operational land); and

(b) the liability is attributable to a planning decision which would not have been taken, or (in the case of compensation under section 164 of the 1971 Act or section 153 of the 1972 Act) to an order under section 45 of the 1971 Act or section 42 of the 1972 Act which would not have been made, but for the need—

(i) to secure the safe and efficient operation of the airport, or

(ii) to prevent persons or buildings from being struck by aircraft using the airport, or

(iii) to secure the safe and efficient operation of apparatus owned by the airport operator and provided for the purpose of assisting air traffic control or as an aid to air navigation.

(2) Where a sum equal to any compensation is payable or paid to a planning authority by an airport operator in pursuance of subsection (1), the planning authority shall pay the airport operator any amount received by the planning authority in respect of the compensation under section 168 of the 1971 Act or section 157 of the 1972 Act (which relate to the recovery of compensation on subsequent development).

(3) Where a purchase notice is served under section 180 of the 1971 Act or section 169 of the 1972 Act in respect of a planning decision which would not have been taken but for such a need as is mentioned in subsection (1) in the case of any airport to which this Part applies, any local authority who are deemed under section 181(2) or 186(1) of the 1971 Act or section 170(2) or 175(1) of the 1972 Act to have served a notice to treat in respect of the interest to which the purchase notice relates may, by notice in writing given to the airport operator not later than one month from the time when the amount of compensation payable by the local authority for the interest is agreed or determined, require the airport operator to purchase the interest from the local authority for a sum equal to the amount of compensation so agreed or determined.

(4) Where a notice in writing is given to an airport operator under subsection (3) he shall, subject to any agreement between him and the local authority, be deemed to have contracted with the local authority to purchase the interest at that price.

(5) Any dispute as to whether a planning decision would not have been taken, or an order under section 45 of the 1971 Act or section 42 of the 1972 Act would not have been made, but for such a need as is mentioned in subsection (1) shall be referred to and determined by the Secretary of State.

(6) In the preceding provisions of this section "planning decision " means a decision made on an application under Part III of the 1971 Act or Part III of the 1972 Act; and references in those provisions to a local planning authority shall be construed—

(a) in relation to England and Wales, as including references to any authority to whom functions of a local planning authority are delegated; and

(b) in relation to Scotland, as references to a planning authority.

62 Provisions as to telecommunication apparatus

(1) Paragraph 23 of the telecommunications code (undertakers' works) shall apply for the purposes—

(a) of any work in pursuance of an order or direction under section 44 or 46 of the 1982 Act, as applied by section 59 above, and

(b) of anything done with respect to a highway in pursuance of an order under section 48 of the 1982 Act (as so applied) to which subsection (2) below applies,

to the person doing that work or, as the case may be, the highway authority; and, in the case of any such order as is mentioned in paragraph (b), any person entitled to land over which the highway passes shall be entitled to require the alteration of the telecommunications apparatus in question.

(2) This subsection applies to an order under section 48 of the 1982 Act where the order provides—

(a) for the stopping up or diversion of the highway, or

(b) unless the highway is a trunk road, for the improvement of the highway,

and immediately before the order comes into operation any telecommunication apparatus is kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the highway.

(3) Subject to the preceding provisions of this section, the operator of a telecommunications code system shall, in a case falling within subsection (2)(a), have the same rights in respect of any apparatus kept installed for the purposes of that system as if the order had not come into operation.

(4) Paragraph 23 of the telecommunications code shall not apply by virtue of subsection (2)(b) in relation to the alteration of any telecommunication apparatus where the alteration is for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

(5) Sub-paragraph (8) of paragraph 23 (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Secretary of State.

(6) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of the code.

(7) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.

(8) In this section " the telecommunications code " and other expressions defined by paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984 shall be construed in accordance with that provision.

(9) In the application of this section to Scotland, the reference to the highway authority shall be read as a reference to the roads authority as defined by section 151(1) of the Roads (Scotland) Act 1984, and any reference to a highway shall be read as a reference to a road as defined in that provision.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

Byelaws

63 Airport byelaws

(1) Where an airport is either—

(a) designated for the purposes of this section by an order made by the Secretary of State, or

(b) managed by the Secretary of State,

the airport operator (whether the Secretary of State or some other person) may make byelaws for regulating the use and operation of the airport and the conduct of all persons while within the airport.

(2) Any such byelaws may, in particular, include byelaws—

(a) for securing the safety of aircraft, vehicles and person* 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 enactments apply, 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 hackney carriages 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 air port ;

(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 restricting the area which is to be taken as constituting the airport for the purposes of the byelaws.

(3) In paragraph (d) of subsection (2) " the road traffic enactments " means the enactments (whether passed before or after this Act) relating to road traffic, including the lighting

and parking of vehicles, and any order or other instrument having effect by virtue of any such enactment.

(4) In paragraph (i) of subsection (2) " 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 paragraph without producing written evidence of his authority if required to do so.

(5) Byelaws made under this section by a person other than the Secretary of State shall not have effect until they are confirmed by the Secretary of State, and the provisions of Schedule 3 shall apply to any such byelaws.

(6) Before any byelaws are made by the Secretary of State under this section, he shall take such steps as appear to him to be appropriate for giving public notice of the proposed byelaws and for affording an opportunity for representations to be made with respect to them; and the Secretary of State shall have regard to any such representations and may then make the byelaws in the form proposed or in that form with such modifications as he thinks fit.

(7) Any byelaws made by the Secretary of State under this section shall be made by statutory instrument.

(8) Section 236(9) of the Local Government Act 1972 and section 202(13) of the Local Government (Scotland) Act 1973 (notice of byelaws made by one local authority to be given to another) and section 237 of the Act of 1972 and section 203 of the Act of 1973 (penalties) shall not apply to any byelaws made by a local authority under this section.

64 Byelaws: penalties and power to revoke in certain cases

(1) Any person contravening any byelaws made under section 63 shall be liable on summary conviction to a fine not exceeding such amount as, subject to subsection (2) of this section, may be specified by the byelaws in relation to the contravention.

(2) The maximum fines that byelaws may specify by virtue of subsection (1) are fines of an amount at the fourth level on the standard scale or of a lower amount.

(3) Where any person other than the Secretary of State has made any byelaw in relation to any airport by virtue of section 63 (2) (6), the Secretary of State may, after consulting that person, by order—

(a) revoke or vary that byelaw if the Secretary of State considers it appropriate to do so by reason of his having designated the airport for the purposes of section 78 of the 1982 Act (regulation of noise and vibration from aircraft); or

(b) revoke or vary that byelaw to the extent that it appears to the Secretary of State to be inconsistent with the safety of persons or vehicles using the airport, of aircraft or of the general public or to be inconsistent with any international obligation of the United Kingdom.

Other provisions relating to airports

65 Control of road traffic at designated airports

(1) Subject to the provisions of this section, the road traffic enactments shall apply in relation to roads which are within a designated airport but to which the public does not have access as they apply in relation to roads to which the public has access.

(2) The Secretary of State may by order direct that in their application to roads within such an airport the road traffic enactments shall have effect subject to such modifications as appear to him necessary or expedient for the purpose of, or in consequence of, conferring—

(a) on the airport operator functions exercisable under those enactments by a highway authority or local authority ; or

(b) on the chief officer of any airport constabulary functions so exercisable by a chief officer of police.

(3) An order under subsection (2) may exempt from the application of the road traffic enactments particular roads or lengths of road to which the public does not have access and may require the airport operator to indicate the roads or lengths of roads so exempted in such manner as may be specified in the order.

(4) Before making an order under this section in relation to any airport (other than one managed by the Secretary of State) the Secretary of State shall consult the airport operator.

(5) Any road or place within an airport in the metropolitan police district shall be deemed to be a street or place within the meaning of section 35 of the London Hackney Carriage Act 1831.

(6) In this section—

" airport constabulary" means, in relation to an airport owned or managed by the Secretary of State, the special constables appointed under section 57 of the 1982 Act and, in relation to any airport owned or managed by a local authority, any body of constables which the authority have power to maintain at that airport;

" designated airport" means an airport which is designated for the purposes of this section by an order made by the Secretary of State ; and

" the road traffic enactments " has the meaning given by section 63(3).

(7) In the application of subsection (2) to Scotland, for " highway authority or local authority" there shall be substituted " roads authority as defined in section 151(1) of the Roads (Scotland) Act 1984 ".

66 Functions of operators of designated airports as respects abandoned vehicles

(1) The Secretary of State may by order direct that, in their application to land within any designated airport, the provisions of—

(a) sections 3, 4 and 5 of the Refuse Disposal (Amenity) Act 1978 (powers and duties of local authorities to remove and dispose of vehicles abandoned on land in their area) and section 8 of that Act (powers of entry etc.) so far as relating to section 3 of that Act, and

(b) any regulations for the time being in force under any of those sections,

shall have effect subject to such modifications as appear to him necessary or expedient for the purpose of, or in consequence of, conferring on the airport operator the functions exercisable under those provisions by local authorities or local authorities of any description.

(2) In relation to the provisions of—

(a) sections 99 to 102 of the Road Traffic Regulation Act 1984 (removal of vehicles from roads if illegally, obstructively or dangerously parked or broken down, and from roads or open land if abandoned), and

(b) any regulations for the time being in force under any of those sections,

the powers of the Secretary of State under section 65(2) shall be exercisable not only as respects the application of those provisions to roads within an airport but also as respects their application to other land within the airport.

(3) Where the provisions of—

(a) section 3 of the Refuse Disposal (Amenity) Act 1978,

(b) section 99, 100 or 102 of the Road Traffic Regulation Act 1984, or

(c) any regulations for the time being in force under any of those sections,

apply to any land within any airport in accordance with an order made under or by virtue of this section, those provisions shall have effect in relation to vehicles in a building on that land which is used for providing facilities for the parking of vehicles as they have effect in relation to vehicles on land in the open air.

(4) Before making an order under subsection (1) in relation to an airport (other than one managed by the Secretary of State) the Secretary of State shall consult the airport operator.

(5) In this section—

" designated airport " means an airport which is designated for the purposes of this section by an order made by the Secretary of State ; and

" the road traffic enactments " has the meaning given by section 63(3).

67 Provision of special accommodation at airports

(1) The Secretary of State may, in the case of any airport—

(a) give the airport operator a direction requiring him to make available for the exclusive use of designated persons using the airport such special accommodation and any associated facilities as may be specified in the direction;

(b) give the airport operator a direction requiring him to take such steps as may be specified in the direction for the purposes of, or in connection with, the use of such accommodation and facilities by such persons;

(c) where it appears to the Secretary of State that the airport lacks special accommodation and associated facilities suitable for being made available as mentioned in paragraph (a), give the airport operator a direction requiring him to take such steps as may be specified in the direction for the purpose of, or in connection with, securing the provision at the airport of such accommodation and facilities.

(2) In subsection (1) "designated persons", in relation to an airport, means such persons, or classes of persons, as may from time to time be notified to the airport operator by the Secretary of State for the purposes of this section.

(3) Without prejudice to the generality of subsection (1)(c), a direction given by virtue of that provision may require an airport operator to carry out works of construction or alteration, and may specify the manner in which the accommodation in question is to be equipped in any respect.

(4) The Secretary of State may, with the consent of the Treasury, make grants to airport operators for the purpose of defraying or contributing towards expenses incurred by them in complying with directions given to them under this section.

(5) Before giving a direction under this section the Secretary of State shall consult the airport operator concerned.

68 Monitoring of aircraft movements

(1) Where an airport is designated for the purposes of section 78 of the 1982 Act (regulation of noise and vibration from aircraft), the Secretary of State may, after consultation with the airport operator, by order require him—

(a) to provide, maintain and operate such equipment as is specified in the order (in accordance with any instructions so specified) for the purpose of monitoring the movements, within an area so specified, of aircraft on flights to and from the airport, and

(b) to make to the Secretary of State such reports as are so specified with respect to the movements monitored by the equipment in pursuance of paragraph (a), 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 airport operator to comply with the requirements of the order.

(2) Any reference in subsection (1) to the movements of aircraft shall be read as a reference to the routes taken by them measured by reference to both direction and height.

(3) Subsections (9) and (10) of the said section 78 (enforcement) shall apply for the purposes of this section as if, in subsection (9) of that section, any reference to subsection (8) of that section were a reference to subsection (1) of this section.

69 Duty of CAA with respect to implementation of recommendations concerning airport capacity

(1) If, after considering any recommendations made to him by the CAA in pursuance of section 16(2) of the 1982 Act (recommendations concerning airport capacity), the Secretary of State so directs, the CAA shall take such steps as it considers appropriate for the purpose of encouraging or facilitating the provision (whether by an airport operator or any other person) of any facilities or services that are necessary for the implementation of those recommendations.

(2) The steps taken by the CAA in pursuance of subsection (1)—

(a) may, without prejudice to the generality of that subsection, include the furnishing of information, the provision of assistance to persons requesting it and the provision of advice (whether or not requested); but

(b) shall not include the carrying out of any works of construction or alteration or the defraying of, or the making of any contribution towards, expenses incurred by any other person in carrying out any such works.

(3) Before embarking on the performance of its duty under subsection (1) with respect to any recommendations the CAA shall consult the airport operator in the case of any relevant airport as to the manner in which that duty is to be performed by the CAA.

(4) Without prejudice to the generality of section 11 of the 1982 Act, a scheme or regulations under that section may make provision for charges to be paid in respect of the performance by the CAA of its duty under subsection (1) above with respect to any recommendations, and for such charges to be paid by—

(a) the airport operator in the case of any relevant airport, and

(b) any person for whom assistance or advice has, at his request, been provided by the CAA in pursuance of that duty;

but if such provision is not made by any such scheme or regulations the CAA shall be entitled to recover an amount or amounts in respect of any expenses reasonably incurred by it in performing that duty from such one or more persons falling within paragraphs (a) and (b) above as the CAA considers appropriate.

(5) An airport is a relevant airport for the purposes of subsection (3) or (4) if—

(a) the recommendations referred to in that subsection relate to the airport, or

(b) the airport is subject to economic regulation under Part IV, and it and any new airport to which those recommendations relate would be airports serving the same area in the United Kingdom ;

and the reference in paragraph (b) above to airports serving the same area in the United Kingdom shall be construed in accordance with section 31(6).

(6) Section 4 of the 1982 Act applies in relation to the performance by the CAA of its functions under this section.

70 Extension of Shops (Airports) Act 1962

Section 1 of the Shops (Airports) Act 1962 (exemption of traders at certain airports from restrictions under Part I of the Shops Act 1950 on hours of closing) shall have effect in relation to the provisions of Part IV of the Shops Act 1950 (Sunday trading) as well as in relation to the provisions of Part I of that Act; and accordingly, in subsection (1) of that section, after " hours of closing)" there shall be inserted " and of Part IV of that Act (which relates to Sunday trading) ".

71 Capital controls in relation to local authority airport undertakings other than public airport companies

(1) Where an authority to whom Part VIII of the Local Government. Planning and Land Act 1980 applies own any airport (which is accordingly not an airport operated by a public airport company within the meaning of Part II of this Act), then, for the purposes of that Part of that Act—

(a) the amount of any grant or advance of a capital nature made by any person for the purposes of the authority's airport undertaking shall be treated as prescribed expenditure of the authority, but

(b) no expenditure by the authority for the purposes of that undertaking other than any amount expended on the making of any such grant or advance shall be treated as prescribed expenditure of the authority ;

and any amount repaid in respect of any such grant or advance as is mentioned in paragraph (a) shall be treated for the purposes of section 72 of that Act as a receipt of the authority which, by virtue of section 75(1) of that Act, is a capital receipt of the authority for the purposes of Part VIII of that Act.

(2) The profits to which any such authority are entitled from their airport undertaking shall not be taken into account for the purposes of subsection (3)(e) of section 72 of that Act; and accordingly—

(a) in subsection (3)(e) " trading undertaking " shall not include an airport undertaking ; and

(b) subsection (4)(iii) of that section shall cease to have effect.

(3) Any amount received by any such authority in respect of the disposal of any assets held by the authority for the purposes of their airport undertaking shall not be taken into account for the purposes of section 75(1) (b) of that Act.

(4) This section shall apply in relation to an airport owned jointly by two or more authorities to whom Part VIII of that Act applies as it applies in relation to an airport owned by one such authority alone (references to the airport undertaking of a particular authority being read as references to the airport undertaking of the authorities in question), but the provisions of subsection (1) requiring any amount to be treated as prescribed expenditure of any authority, or (as the case may be) as such a receipt of an authority as is there mentioned, shall have effect only in relation to such one of the authorities in question as may be determined by agreement between those authorities.

(5) This section applies to England and Wales only.

Constitution of CAA

72 Increase in maximum number of members of CAA

In section 2(2) of the 1982 Act (which provides that the CAA shall consist of not less than six nor more than twelve members), for " twelve " there shall be substituted " sixteen ".

Supplementary

73 Furnishing of information etc. to CAA

(1) The CAA may by notice in writing served on any person require him at such time or times as may be specified in the notice—

(a) to produce to the CAA such documents or descriptions of documents specified in the notice, and

(b) to furnish to the CAA, in such form as may be specified in the notice, such accounts, estimates, returns or other information,

as the CAA may reasonably require for the purpose of performing its functions under this Act or for the purpose of giving any advice, assistance or information to the Secretary of State in connection with the performance by him of any functions under this Act.

(2) A person shall not by virtue of subsection (1) be compelled—

(a) to produce any documents which he could not be compelled to produce in civil proceedings before the High Court or (in Scotland) the Court of Session, or

(b) in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(3) Any person who fails without reasonable excuse to comply with the requirements of a notice served on him under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.

(4) Any person who, in purported compliance with the requirements of any such notice, knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

74 Restriction on disclosure of information

(1) Subject to the following provisions of this section, no information with respect to any particular business which has been obtained under or by virtue of the provisions of this Act shall, so long as the business continues to be carried on. be disclosed without the consent of the person for the time being carrying it on.

(2) Subsection (1) does not apply to any disclosure of information which is made—

(a) for the purpose of facilitating the performance of any functions under this Act or any of the enactments specified in subsection (3) of any Minister, any Northern Ireland department, the head of any such department, the CAA, the Commission, the Director General of Fair Trading or a local weights and measures authority in Great Britain;

(b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings ;

(c) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the enactments specified in subsection (3);

(d) in pursuance of any Community obligation.

(3) The enactments referred to in subsection (2) are—

(a) the Trade Descriptions Act 1968 ;

(b) the Fair Trading Act 1973 ;

(c) the Consumer Credit Act 1974 ;

(d) the Restrictive Trade Practices Act 1976 ;

(e) the Resale Prices Act 1976 ;

(f) the Estate Agents Act 1979 ;

(g) the Competition Act 1980 ; and

(h) the 1982 Act and any Order in Council made under section 60 of that Act (Air Navigation Orders).

(4) Nothing in subsection (1) shall be construed—

(a) as limiting the matters which may be included in, or made public as part of, a report of the Commission under section 45 ; or

(b) as applying to any information which has been made public as part of such a report.

(5) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(6) In this section " the Commission " means the Monopolies and Mergers Commission.

75 Supplementary provisions relating to transfer schemes

(1) A scheme under section 1 or 15 may define the property, rights and liabilities to be transferred by the scheme—

(a) by specifying the property, rights and liabilities in question, or

(b) by referring to all the property, rights and liabilities comprised in the whole or any specified part of the transferor's undertaking,

(or partly in one way and partly in the other) and may contain such supplementary, incidental and consequential provisions as may appear to the authority making the scheme to be necessary or expedient (including, in particular, provision with respect to the consideration to be furnished by the transferee for any transfer under the scheme, whether in the case of a scheme under section 15 it is to be furnished to the transferor or to any other person).

(2) A scheme under section 1 or 15 may—

(a) provide that any functions of the transferor under any statutory provision not contained in this Act shall, to the extent to which that provision relates—

(i) to property transferred by the scheme, or

(ii) to any undertaking of the transferor, or part of such an undertaking, so transferred,

be transferred to the transferee under the scheme ; and

(b) define any such functions—

(i) by specifying the statutory provision in question,

(ii) by referring to all the statutory provisions (not contained in this Act) which relate to the property, or to the undertaking or part of the undertaking, to be transferred by the scheme, or

(iii) by referring to all the statutory provisions within sub-paragraph (ii), but specifying certain excepted provisions.

(3) Subject to the following provisions of this section, Schedule 4 to the Transport Act 1968 (supplementary provisions as to certain transfers of property, rights and liabilities) shall apply to any transfer under section 1(8) or 15(7); and each of those provisions shall have effect subject to the provisions of that Schedule.

(4) In Schedule 4 to that Act as it applies by virtue of subsection (3)—

(a) any reference to a transfer by, or a vesting by virtue of, that Act shall be read as a reference to a transfer by, or a vesting by virtue of, the scheme in question;

(b) the reference in paragraph 8 to any of the transferred rights and liabilities shall be read as including a reference to any property or functions transferred by the scheme;

(c) the reference in paragraph 10, in relation to pending legal proceedings or applications, to any transferred property, right or liability shall be read as including a reference to any functions transferred by the scheme; and

(d) the reference in paragraph 13(5) to the relevant provisions of that Act shall be read as including a reference to the relevant provisions of this Act.

(5) The Secretary of State may by order make modifications in Schedule 4 for the purposes of its application to transfers under section 1(8) or 15(7) of this Act.

(6) For the purposes of this Act, and of Schedule 4 as it applies by virtue of subsection (3), the granting of a lease of any property by a scheme under section 1 or 15 to the transferee under the scheme shall be regarded as a transfer of that property to him by the scheme.

(7) In this section " statutory provision" means any provision (whether of a general or special nature) contained in, or having effect under, any Act (whether public general or local).

76 Stamp duty

(1) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of—

(a) the formation of a company in pursuance of section 1(3) or 13, or

(b) any increase in the capital of a company—

(i) nominated under section 1(1), or

(ii) formed in pursuance of section 1(3) or 13,

if the transaction concerned is certified by the Treasury as satisfying the requirements of subsection (2) below.

(2) A transaction satisfies the requirements of this subsection if—

(a) it is effected solely in connection with a transfer to be effected in pursuance of a scheme made under section 1 or 15 ; and

(b) it takes place on or before the transfer date ; and

(c) in a case falling within subsection (1)(a) above, the total issued capital of the company does not on the transfer date exceed the total value of the assets less liabilities transferred; and

(d) in a case falling within subsection (1)(b) above, the aggregate amount of the increase of issued capital of the company does not on that date exceed that total value;

and in this subsection " issued capital " means issued share capital or loan capital.

(3) Stamp duty shall not be chargeable—

(a) on any scheme made under section 1 or 15 ; or

(b) on any instrument which is certified to the Commissioners of Inland Revenue by the transferring authority, or (as the case may be) by both or all of the transferring authorities, as having been made or executed in pursuance of Schedule 4 to the Transport Act 1968 as it applies in relation to any such scheme by virtue of section 75(3).

(4) An instrument such as is mentioned in subsection (3)(b) shall not be treated as duly stamped unless it is stamped with the duty to which it would be liable but for subsection (3), or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

(5) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of any increase in the capital of the successor company which is effected by the issue of shares allotted at a time when the successor company is wholly owned by the Crown and which is certified by the Treasury as having been—

(a) effected for the purpose of complying with the requirements of section 4 above; or

(b) where any convertible securities have been issued in pursuance of that section, effected in consequence of the exercise of the conversion rights attached to those securities; or

(c) effected by the issue of shares subscribed for by the Treasury or the Secretary of State under section 5(1)(a) above.

77 Corporation tax

(1) Subject to subsection (2), the successor company shall be treated for all purposes of corporation tax as if it were the same person as the BAA.

(2) The successor company shall not by virtue of subsection (1) be regarded as a body falling within section 272(5) of the 1970 Act (bodies established for carrying on industries or undertakings under national ownership or control).

(3) Where any debentures are issued in pursuance of section 4, any annual payment secured by those debentures shall be treated for all purposes of corporation tax as if it were a charge on income of the successor company.

(4) For the avoidance of doubt it is hereby declared that—

(a) any issue of shares in pursuance of section 4 is to be regarded as a subscription for shares for the purposes of section 48(10) of the Finance Act 1981 (write-off of government investment: restriction of tax losses); and

(b) where any debentures are issued in pursuance of section 4, the principal sums payable under the debentures are to be regarded as money lent for those purposes.

(5) Where in the case of a claim for group relief—

(a) the claimant company is the BAA or the successor company and the surrendering company is a company to whom property, rights or liabilities have been transferred by a scheme made under section 1, and

(b) the claim relates to the accounting period of the surrendering company first ending after that transfer, and

(c) the corresponding accounting period of the claimant company ends with the same date as that accounting period,

then, for the purposes of section 261(2) of the 1970 Act (corresponding accounting periods) as it applies in relation to the claim, those accounting periods shall be taken to coincide and, for the purposes of section 262(1) of the 1970 Act (companies joining or leaving group) as it so applies, the claimant company and the surrendering company shall be taken to have been members of the same group throughout each of those periods (notwithstanding anything in section 262(2) and (3) of that Act).

(6) In this section " the 1970 Act" means the Income and Corporation Taxes Act 1970, and in subsection (5) above expressions used in sections 258 to 264 of that Act (group relief) have the same meanings as in those sections.

78 Offences by bodies corporate

(1) Where a body corporate is guilty of an offence under this Act 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, 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 an offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (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.

79 Orders and regulations

(1) Any power conferred on the Secretary of State by this Act to make an order or regulations shall be exercisable by statutory instrument.

(2) Any statutory instrument containing—

(a) an order made by the Secretary of State under this Act, other than an order appointing a day or an order under section 2(2) or 32, or

(b) any regulations under this Act,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No order shall be made under section 32 unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(4) A draft of an order under that section which would, apart from the provisions of this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.

(5) Any regulations under section 28 or order under section 64(3) or 85(5) may make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

80 Directions etc.

(1) It shall be the duty of any person to whom the Secretary of State gives directions under this Act to give effect to those directions.

(2) Subject to any express provision contained in this Act, any direction given by the Secretary of State under a provision of this Act may be varied or revoked by a subsequent direction given under that provision.

(3) Any determination made by the Secretary of State under this Act shall be notified by him to such persons appearing to him to be likely to be affected by it as he considers appropriate.

(4) Any direction or notification given under this Act shall be in writing.

81 Financial provisions

There shall be paid out of money provided by Parliament—

(a) any administrative expenses incurred by the Secretary of State in consequence of the provisions of this Act;

(b) any sums required by him for making grants under section 67; and

(c) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

82 General interpretation.

(1) In this Act—

" the 1975 Act" means the Airports Authority Act 1975;

" the 1982 Act " means the Civil Aviation Act 1982 ;

" airport" means the aggregate of the land, buildings and works comprised in an aerodrome within the meaning of the 1982 Act;

" airport operator " means the person for the time being having the management of an airport, or, in relation to a particular airport, the management of that airport;

" air transport services " means services for the carriage by air of passengers or cargo ;

" the appointed day " means the day appointed under section 2(1);

" the BAA " means the British Airports Authority;

" the CAA " means the Civil Aviation Authority;

" cargo " includes mail;

" debenture " includes debenture stock ;

" functions " includes powers and duties ;

" modifications " includes additions, omissions and amendments ;

" operator ", in relation to an aircraft, means the person for the time being having the management of the aircraft;

" the registrar of companies " has the same meaning as in the Companies Act 1985 ;

" securities", in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

" shares " includes stock ;

" subordinate legislation " has the same meaning as in the Interpretation Act 1978;

" subsidiary " has the same meaning as in the Companies Act 1985;

" the successor company " means the company nominated for the purposes of section 2;

" user ", in relation to an airport, means—

(a) a person for whom any services or facilities falling within the definition of " relevant activities " in section 36(1) are provided at the airport, or

(b) a person using any of the air transport services operating from the airport.

(2) A company shall be regarded for the purposes of this Act as wholly owned by the Crown at any time when each of the issued shares in the company is held by, or by a nominee of, the Treasury or the Secretary of State.

(3) Any reference in section 14 or 37 to the business carried on at any airport by the airport operator shall, in a case where the person for the time being having the management of the airport has not had its management for the whole or any part of any period relevant for the purposes of that section, be construed as including a reference to the business

carried on there by any other person who had the management of the airport for the whole or any part of that period.

(4) For the purposes of this Act a body corporate shall be treated as an associated company of an airport operator if either that body or the airport operator is a body corporate of which the other is a subsidiary or if both of them are subsidiaries of one and the same body corporate.

83 Amendments, transitional provisions and repeals

(1) The enactments mentioned in Schedule 4 shall have effect subject to the amendments there specified (being amendments consequential on the preceding provisions of tins Act).

(2) The Secretary of State may by order make such consequential modifications of any provision contained in any Act (whether public general or local) passed, or subordinate legislation made, before the appointed day as appear to him to be necessary or expedient in respect of any reference in that Act or subordinate legislation to the BAA.

(3) The Secretary of State may, after consulting any local authority which appears to him to be concerned, by order repeal or amend any enactment in a local Act which appears to him to be unnecessary having regard to the provisions of this Act or to be inconsistent with any provision of this Act.

(4) The transitional provisions and savings contained in Schedule 5 shall have effect; but nothing in that Schedule shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to repeals).

(5) The enactments mentioned in Schedule 6 are hereby repealed to the extent specified in the third column of that Schedule.

84 Application of provisions of Act to certain overseas territories

(1) Her Majesty may by Order in Council direct that any of the following, namely—

(a) sections 30 and 35, and

(b) any provision of section 78, 80 or 82,

shall extend, with such modifications (if any) as may be specified in the Order, to any of the Channel Islands or to any colony.

(2) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

85 Short title, commencement and extent

(1) This Act may be cited as the Airports Act 1986.

(2) The following provisions of this Act shall come into force on the day on which this Act is passed—

section 1;
section 3 ;
section 75;
section 76(1) to (4);
section 77(5) and (6);

sections 79 to 82 ;
this section.

(3) The following provisions of this Act shall come into force on the appointed day—
section 2;
sections 4 to 11 ;
section 76(5);
section 77(1) to (4);
paragraph 9 of Schedule 4 and section 83(1) so far as relating thereto;
section 83(2) and (4) and Schedule 5 ;
Part I of Schedule 6 and section 83(5) so far as relating thereto.

(4) The following provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
Part II;
Part III;
sections 68 and 70 to 72 ;
section 78;
section 84.

(5) The following provisions of this Act shall come into force on such date as the Secretary of State may by order appoint
Part IV (including Schedule 1);
Part V (including Schedule 2);
sections 63 to 66 and Schedule 3 ;
section 67;
section 69;
sections 73 and 74 ;
paragraphs 1 to 8 and 10 of Schedule 4 and section 83(1) so far as relating thereto ;
section 83(3);
Part II of Schedule 6 and section 83(5) so far as relating thereto.

(6) An order under subsection (5) may appoint different days for different provisions or for different purposes.

(7) With the exception of the provisions mentioned in subsection (8), this Act does not extend to Northern Ireland.

(8) Those provisions are—
section 2(4);
Part III;
section 68;
sections 72 to 74 ;
sections 78 to 82 ;
section 83(1) and (5) and Schedules 4 and 6 so far as they amend or repeal any enactment extending to Northern Ireland; and
this section.

SCHEDULES

SCHEDULE 1

Section 55.

APPLICATION OF PART IV TO ASSOCIATED COMPANIES OF AIRPORT OPERATORS

Preliminary

1 This Schedule has effect for the purpose of authorising or requiring the imposition by the CAA under this Part (as it applies in accordance with this Schedule) of the following conditions in relation to an airport, namely—

(a) conditions under section 40(1) or 41(1) with respect to the accounts of an associated company of the airport operator, and

(b) conditions under section 41(2) or 46(2) in respect of a course of conduct pursued by such a company,

and for related purposes ; and in this Schedule any such conditions are referred to as " subsidiary conditions ".

Section 39

2 Section 39(1) and (4) shall apply to any subsidiary conditions for the time being in force in relation to an airport as if—

(a) references to the airport operator were references to the associated company of the airport operator with respect to whose accounts the conditions were imposed or (as the case may be) that pursued the course of conduct in respect of which the conditions were imposed, and

(b) references to any such conditions as are mentioned in section 39(1) were references to any such conditions as are mentioned above.

Section 40

3 (1) Where an associated company of the airport operator in the case of any airport, either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, section 40(2) shall have effect in relation to the airport with the modifications specified in sub-paragraphs (2) to (4) below.

(2) After paragraph (a) there shall be inserted the following paragraph—

"(aa) such conditions as the CAA considers appropriate to secure that the accounts of any associated company of the airport operator, being a company which either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, disclose—

(i) any subsidy furnished (whether by the making of loans on non-commercial terms or otherwise) by any person or authority to the company in connection with its business so far as consisting of the carrying on of operational activities

relating to the airport, and the identity of any such person or authority,

(ii) any subsidy so furnished to that business by the company out of funds attributable to any other activities carried on by it, and

(iii) the aggregate income and expenditure of the company attributable to any such operational activities (whether carried on by the company or by some other person); and".

(3) After " the airport operator " where it occurs in paragraph (b) there shall be inserted " or the associated company ".

(4) After " the airport operator " where it last occurs there shall be inserted " or in paragraph (aa) to the accounts of any associated company of the airport operator ".

(5) Where

(a) sub-paragraph (1) above does not apply to an airport at the time when conditions are imposed in relation to the airport under section 40(1)(a) or (b), but

(b) at any later time it appears to the CAA that that subparagraph then applies to the airport,

the CAA shall thereupon impose in relation to the airport such conditions as are mentioned in paragraphs (aa) and (b) of section 40(2) as modified by this paragraph.

Section 41

4 In section 41—

(a) in subsection (1), the reference to section 40(2) shall be construed as including, in relation to an airport to which sub-paragraph (1) of paragraph 3 above applies, a reference to section 40(2) as modified by that paragraph,

(b) in subsections (2), (3)(a) and (b) and (6), references to the airport operator shall be construed as including references to an associated company of the airport operator, and

(c) in relation to such a company—

(i) the reference in subsection (2) to subsection (3) shall be construed as a reference to subsection (3)(a) and (b) (as modified by paragraph (b) above), and

(ii) the reference in subsection (6) to subsection (3)(a), (b) or (c) shall be construed as a reference to subsection (3)(a) or (b) (as so modified).

Section 42

5 In section 42(2) and (3)—

(a) references to an airport operator shall be construed as including references to an associated company of an airport operator, and

(b) in relation to such a company, references to any provision of section 41 shall be construed as references to that provision as modified by paragraph 4 above.

Section 43

6 (1) Where an associated company of the airport operator in the case of any airport either carries on operational activities relating to the airport or is entitled to grant rights by virtue of which any such activities may be carried on by other persons, section 43(2) shall have effect in relation to any reference under section 43(1) with respect to the airport with the insertion after paragraph (a) of the following paragraph—

"(aa) whether any associated company of the airport operator has, at any time during the relevant period, pursued—

(i) in relation to' any operational activities carried on by the company and relating to the airport, or

(ii) in relation to the granting of a right by virtue of which any operational activities relating to the airport may be carried on by any other person or persons,

a course of conduct which has operated or might be expected to operate against the public interest; and".

(2) In section 43(3), as it applies in relation to an associated company of an airport operator in accordance with this Schedule, the reference to the airport operator shall be construed as a reference to the associated company in question.

Section 44

7 (1) In relation to any reference to which paragraph 6(1) above applies, section 44(1)(a) shall have effect with the insertion at the end of sub-paragraph (ii) of " and any course of conduct which, in its opinion, has been pursued by an associated company of the airport operator in relation to any of the matters specified in subsection (2)(aa) of that section and has operated, or might be expected to operate, against the public interest, ".

(2) In section 44(4) the reference to the airport operator concerned shall—

(a) in the case of a reference or variation under section 43 relating only to a course of conduct pursued by an associated company of an airport operator, be construed as a reference to that company, and

(b) in the case of a reference or variation under that section relating to courses of conduct pursued by an airport operator and such a company respectively, be construed as a reference to both the airport operator and the company.

Section 45

8 (1) In section 45(3) the reference to an airport operator shall, in the case of a reference under section 43 relating wholly or in part to a course of conduct pursued by an associated company of an airport operator, be construed as, or as including, a reference to any such company (as the case may require).

(2) In section 45(6) the reference to the airport operator concerned shall be construed as mentioned in paragraph 7(2) above according to the nature of the reference under section 43.

Section 48

9 (1) In section 48(1)(a) the reference to the airport operator in relation to an airport shall be construed as including a reference to an associated company of the airport operator.

(2) Section 48(3), (5), (6) and (7) shall have effect in relation to any complaint against an associated company of an airport operator made by virtue of sub-paragraph (1) above as if any reference to an airport operator or to the airport operator concerned were a reference to any such company or to the company against which the complaint is made (as the case may require).

Section 49

10 (1) In section 49(1) and (9) any reference to an airport operator shall be construed as including a reference to an associated company of an airport operator.

(2) Where the permission for the time being in force in respect of an airport is revoked under section 49(9) (as it applies in accordance with sub-paragraph (1) above) by reason of an associated company's contravention of a compliance order, then (notwithstanding section 38(4)) a permission shall not again be granted under this Part in respect of that airport unless it appears to the CAA that, if the CAA were to impose in relation to the airport any condition corresponding to the one whose breach gave rise to the making of the compliance order, that condition would be complied with by the person (whether the airport operator or an associated company of the airport operator) to whose activities any such condition would relate.

(3) In this paragraph " compliance order " and " contravention " shall be construed in accordance with section 49(11).

Section 50

11 (1) In section 50 any reference to an airport operator shall be construed as including a reference to an associated company of an airport operator.

(2) In that section, as it applies to any such company in accordance with sub-paragraph (1)—

(a) in subsection (1), the reference to section 40(2)(o) shall be construed as a reference to paragraph (aa) of section 40(2) (as modified by paragraph 3(2) and (4) above),

(b) in subsection (2), the reference to section 40(2)(b) shall be construed as a reference to that provision as modified by paragraph 3(3), and

(c) the references to section 39(1) and section 41(1) shall be construed as references to those provisions as modified by paragraph 2 and paragraph 4(a) above.

12 (1) Section 51(3) shall apply in relation to any subsidiary conditions as if the reference to section 40(2) were a reference to that provision as modified by paragraph 3 above.

(2) Section 51(5) shall apply in relation to any subsidiary conditions as if—

(a) references to the airport operator concerned were references to the associated company of the airport operator that pursued the course of conduct in respect of which the conditions were imposed ; and

(b) the reference to section 41(3)(a), (b) or (c) were a reference to section 41(3)(a) or (b) (as modified by paragraph 4(b) above).

(3) Section 51(7) shall apply in relation to any subsidiary conditions as if the reference to the airport operator were a reference to the associated company with respect to whose accounts die conditions were imposed or (as the case may be) that pursued the course of conduct in respect of which the conditions were imposed.

Section 54

13 In section 54(3)(b), the reference to an airport operator shall be construed as including a reference to an associated company of an airport operator engaged in carrying on any operational activities relating to one or more airports.

SCHEDULE 2

Section 58.

APPLICATION OF ENACTMENTS RELATING TO STATUTORY UNDERTAKERS ETC.

General application of enactments

1 (1) Any airport to which this Part applies shall be deemed to be a statutory undertaking, and a relevant airport operator a statutory undertaker, for the purposes of the following enactments, namely—

the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 ;

the New Towns (Scotland) Act 1968 ;

the Town and Country Planning Act 1971 ;

the Town and Country Planning (Scotland) Act 1972 ;

Part I of the Local Government (Miscellaneous Provisions) Act 1976 ;

the Development of Rural Wales Act 1976 ;

the New Towns Act 1981 ;

the Acquisition of Land Act 1981 ; and

sections 283, 296 and 611 of the Housing Act 1985 ;

and for the purposes of any other enactment in which " statutory undertakers " or " statutory undertaking " has the meaning assigned to it by section 275(1) of the Town and Country Planning (Scotland) Act 1972.

(2) In the following enactments, namely—

the Town and Country Planning Act 1971,

the Town and Country Planning (Scotland) Act 1972, and

the New Towns Act 1981,

" the appropriate Minister" shall, in relation to a relevant airport operator, mean the Secretary of State for Transport.

Application of particular enactments

2 In the Public Health Act 1936—

(a) section 330 (power of certain undertakers in England and Wales to alter sewers), and

(b) section 333 (protection of certain such undertakers from works executed under that Act),

shall apply in relation to a relevant airport operator and the airport in question as they apply in relation to a railway company and its railway.

3 (1) The following provisions (which relate to the protection of certain statutory undertakers), namely—

section 93 of Schedule 3 to the Water Act 1945, and

section 45 of Schedule 4 to the Water (Scotland) Act 1980,

shall apply with the necessary modifications in relation to any works which statutory water undertakers propose to execute along, upon or under any airport to which this Part applies, whether or not section 93 or section 45 has been applied to the undertakers by an order under that Act of 1945 or (as the case may be) under that Act of 1980.

(2) In sub-paragraph (1) " statutory water undertakers " means—

(a) in relation to England and Wales, statutory water under takers within the meaning of the Water Act 1973 and includes a person authorised to construct works by an order under section 23 of the Water Act 1945 ; and

(b) in relation to Scotland, a water authority within the meaning of the Water (Scotland) Act 1980.

4 A relevant airport operator shall be deemed to be a public undertaker for the purposes of section 56 of the Housing (Scotland) Act 1966 (demolition of obstructive buildings).

5 For the purposes of section 112 of the Land Drainage Act 1976 (protection of nationalised undertakings, etc.) an airport to which this Part applies shall be deemed to be an undertaking to which that section applies and the airport operator shall accordingly be deemed to be a person carrying on such an undertaking.

6 In the Building Act 1984—

(a) section 4(1)(b) (exemption of buildings of statutory undertakers from building regulations), and

(b) section 59(4) (exemption of such buildings from provisions relating to drainage),

shall apply in relation to a relevant airport operator as they apply in relation to statutory undertakers, but as if in those provisions any reference to a house included a hotel, and any reference to offices or showrooms did not include offices or showrooms on any airport to which this Part applies.

SCHEDULE 3

Section 63(5).

AIRPORT BYELAWS MADE BY PERSONS OTHER THAN THE SECRETARY OF STATE

1 References in this Schedule to the airport operator in relation to any byelaws are references to the person making those byelaws as mentioned in section 63(5).

2 Where the airport operator is a body corporate, the byelaws shall be made under its common seal.

3 At least one month before application for confirmation of the byelaws is made to the Secretary of State, notice of the intention to apply for confirmation shall be given by the airport operator in one or more local newspapers circulating in the locality in which the airport to which the byelaws relate is situated or (if the byelaws relate

to more than one airport) circulating respectively in the several localities in which those airports are situated ; and the notice shall specify a period of not less than one month during which representations on the byelaws may be made to the Secretary of State.

4 For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the airport operator at each airport to which the byelaws relate and shall, at all reasonable hours, be open to public inspection free of charge.

5 The airport operator shall, on application made by any person before the byelaws are confirmed, furnish him with a copy of the byelaws or of any part of them on payment of such reasonable fee as the airport operator may determine.

6 The Secretary of State may confirm with or without modifications, or refuse to confirm, any byelaw submitted to him for confirmation, and may fix the date on which a byelaw confirmed by him is to come into operation ; and if no date is so fixed, the byelaw shall come into operation at the end of the period of one month beginning with the day on which it is confirmed.

7 A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the airport operator at each airport to which they relate and shall, at all reasonable hours, be open to public inspection free of charge ; and a copy of the byelaws shall on application be furnished to any person on payment of such reasonable fee as the airport operator may determine.

8 The production of a printed copy of a byelaw purporting to be made by an airport operator upon which is endorsed a certificate purporting to be signed by a person authorised for the purpose by the airport operator and stating—

(a) that the byelaw was made by the airport operator,

(b) that the copy is a true copy of the byelaw,

(c) that on a specified date the byelaw was confirmed by the Secretary of State, and

(d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaw,

shall be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate, without proof of the handwriting or authorisation of the person by whom it purports to be signed.

SCHEDULE 4

Section 83(1).

CONSEQUENTIAL AMENDMENTS

TOWN AND COUNTRY PLANNING ACT 1971 (C. 78)

1 In section 223(2)(b) (cases in which land is to be treated as not being operational land), after " the Gas Act 1986 " insert " , the Airports Act 1986 ".

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972 (C. 52)

2 In section 212(2)(b) (cases in which land is to be treated as not being operational land), after " the Gas Act 1986 " insert " , the Airports Act 1986 ".

Fair Trading Act 1973 (c. 41)

3 In section 133(2) (exceptions to general restriction on disclosure of information), after " the Director General of Gas Supply, " insert " the Civil Aviation Authority, " and after " or the Gas Act 1986," insert " or the Airports Act 1986, ".

Consumer Credit Act 1974 (c. 39)

4 In section 174(3)(a) (exceptions to general restriction on disclosure of information), after " or the Gas Act 1986 " insert " or the Airports Act 1986 " and after " the Director General of Gas Supply " insert " the Civil Aviation Authority ".

Restrictive Trade Practices Act 1976 (c. 34)

5 In section 41(1)(o) (disclosure of information), after " the Director General of Gas Supply," insert " the Civil Aviation Authority, " and after " the Gas Act 1986 " insert " or the Airports Act 1986 ".

Estate Agents Act 1979 (c. 38)

6 In section 10(3)(a) (exceptions to general restriction on disclosure of information), after " or the Gas Act 1986 " insert " or the Airports Act 1986 " and after " the Director General of Gas Supply," insert " the Civil Aviation Authority,".

Competition Act 1980 (c. 21)

7 In section 19 (restriction on disclosure of information)—

(a) in subsection (2), after " the Director General of Gas Supply," insert " the Civil Aviation Authority, " ; and

(b) in subsection (3), after paragraph (h), insert—

"(i) the Airports Act 1986."

Civil Aviation Act 1982 (c. 16)

8 (1) In section 23(6) (disclosure of information), for " 28 and 29 " substitute " and 28 ".

(2) In section 108(1) (extension of 1982 Act outside United Kingdom), for " 27, 32 to 35, 37," substitute " 34, 35, ".

Aviation Security Act 1982 (c. 36)

9 In section 29 (control of road traffic at designated airports)—

(a) in subsection (1), for the words from " section 13(1) to (3) " to " 1982" substitute " section 65 of the Airports Act 1986 " and for " those sections" substitute " that section " ; and

(b) in subsection (3), for the words from " section 13(1) to (3)" to " thereof " substitute " section 65 of the Airports Act 1986 includes a reference to subsection (2) of that section as extended by section 66(2) of that Act ".

Local Government Act 1985 (c. 51)

10 In section 40(3) (airports), for " to 33, 35, 37(3), (4) and (5), 60(3)(o) " substitute " , 31, 35 ".

SCHEDULE 5

Section 83(4).

TRANSITIONAL PROVISIONS

Supplementary provisions as to vesting of property etc. of BAA

1 Any agreement made, transaction effected or other thing done by, to or in relation to the BAA which is in force or effective immediately before the appointed day shall have effect as from that day as if made, effected or done by, to or in relation to the successor company, in all respects as if the successor company were the same person, in law, as the BAA; and accordingly references to the BAA—

(a) in any agreement (whether or not in writing) and in any deed, bond or instrument,

(b) in any process or other document issued, prepared or employed for the purpose of any proceeding before any court or other tribunal or authority, and

(c) in any other document whatever (other than an enactment) relating to or affecting any property, right or liability of the BAA which vests by virtue of section 2 in the successor company,

shall be taken as from the appointed day as referring to the successor company.

2 Where immediately before the appointed day there is in force an agreement which—

(a) confers or imposes on the BAA any rights or liabilities which vest in the successor company by virtue of section 2, and

(b) refers (in whatever terms and whether expressly or by implication) to a member or officer of the BAA,

the agreement shall have effect, in relation to anything falling to be done on or after that day, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of the BAA in question.

3 It is hereby declared for the avoidance of doubt that—

(a) the effect of section 2 in relation to any contract of employment with the BAA in force immediately before the appointed day is merely to modify the contract (as from that day) by substituting the successor company as the employer (and not to terminate the contract or vary it in any other way); and

(b) that section is effective to vest the rights and liabilities of the BAA under any agreement or arrangement for the payment of pensions, allowances or gratuities in the successor company along with all other rights and liabilities of the BAA;

and accordingly for the purposes of any such agreement or arrangement (as it has effect by virtue of paragraph 1 in relation to employment with the successor company) any period of employment with the BAA shall count as employment with the successor company.

Financial provisions

4 The terms which, by virtue of section 4(2) of the 1975 Act, are applicable immediately before the appointed day to any such liability of the BAA as is mentioned in section 3(2) of this Act shall continue to apply to that liability after it

becomes a liability of the successor company by virtue of section 2 of this Act, and section 4(3) of that Act shall continue to apply to sums received by the Secretary of State from the successor company by virtue of this paragraph.

5 The terms which, by virtue of section 6(2) of the 1975 Act, are applicable immediately before the appointed day to any such liability of the BAA as is mentioned in section 3(3) of this Act shall continue to apply to that liability after it becomes a liability of the successor company by virtue of section 2 of this Act, and section 6(4) of that Act shall continue to apply to sums received by the Secretary of State from the successor company by virtue of this paragraph.

6 Subsections (2) to (5) of section 7 of the 1975 Act (Treasury guarantees) shall continue to apply in relation to any guarantee given by the Treasury under that section with respect to a liability of the BAA which becomes a liability of the successor company by virtue of section 2 of this Act, but as if the reference to the BAA in subsection (4) of that section were a reference to the successor company.

Final statements of accounts etc.

7 (1) The successor company shall prepare a statement of the BAA's accounts for the period from the end of that dealt with in the last annual statement of accounts published by the BAA down to the appointed day (referred to in this paragraph and paragraph 8 as " the final period ").

(2) The statement shall be in such form and contain such particulars, compiled in such a manner, as the Secretary of State may, with the approval of the Treasury, direct.

(3) The successor company shall arrange for the accounts of the BAA for the final period to be audited by auditors appointed by the Secretary of State ; and a person shall not be qualified to be so appointed unless that person is a member of, or is a Scottish firm in which all the partners are members of, one or more bodies of accountants established in the United Kingdom and for the time being recognised by the Secretary of State for the purposes of section 389(1)(a) of the Companies Act 1985.

8 (1) The successor company shall make to the Secretary of State a report on the performance by the BAA of its functions during the final period.

(2) The report shall—

(a) set out any direction given to the BAA under section 2(7) of the 1975 Act during the final period, unless the Secretary of State has notified the successor company that in his opinion it is against the national interest to do so ; and

(b) include such information relating to the activities of the BAA and its financial position during that period as the Secretary of State may direct.

(3) There shall be attached to the report a copy of the statement of accounts prepared in respect of the final period under paragraph 7 and a copy of any report made on the statement by the auditors.

(4) The Secretary of State shall lay a copy of the report, and of the statements attached to it, before each House of Parliament.

9 (1) Where it is proposed to declare a distribution during the accounting reference period of the successor company which includes the appointed day, or before any accounts are laid or de livered to the registrar of companies in respect of that period, sections 270 to 276 of the Companies Act 1985 (relevant accounts) shall have effect as if—

(a) such accounts as are mentioned in sub-paragraph (2) were accounts relevant under section 270, and

(b) references in section 273 to initial accounts included references to any such accounts.

(2) The accounts referred to in sub-paragraph (1)(a) and (b) are such accounts as, on the assumptions stated in sub-paragraph (3), would have been prepared under section 227 of the Companies Act 1985 in respect of the relevant year.

(3) Those assumptions are—

(a) that the relevant year had been a financial year of the successor company ;

(b) that the vesting effected by section 2 of this Act had been a vesting of all the property, rights and liabilities to which the BAA was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year ;

(c) that the value of any asset and the amount of any liability of the BAA vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by the BAA in respect of its accounting year immediately preceding the relevant year ;

(d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year ; and

(e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.

(4) For the purposes of such accounts as are mentioned in subparagraph (2) the amount to be included in respect of any item shall be determined as if anything done by the BAA (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the BAA had been realised and retained by the successor company.

(5) Any such accounts shall not be regarded as statutory accounts for the purposes of section 8 of this Act.

(6) In this paragraph " the relevant year " means the accounting year of the BAA ending with the 31st March immediately preceding the appointed day.

Compulsory purchase orders

10 A compulsory purchase order made under section 17 of the 1975 Act which is in force immediately before the appointed day shall have effect as if made under section 59 of this Act; and the provisions of section 59 shall apply accordingly.

Byelaws and regulations relating to airports

11 (1) Any byelaws made or having effect as if made under section 9 of the 1975 Act and in force in relation to any airport immediately before the appointed day shall, as from

that day, have effect as if they were byelaws made under section 63 of this Act and the airport were an airport designated for the purposes of that section.

(2) The provisions of any regulations made or having effect as if made under subsection (2)(f) of section 63 of this Act and the airport the 1975 Act, and in force in relation to any airport immediately before the appointed day shall, as from that day, have effect (with any necessary modifications) as if they were contained in byelaws made under subsection (2)(f) of section 63 of this Act and the airport were an airport designated for the purposes of that section; and any such provisions may accordingly be varied or revoked by byelaws so made.

Control of road traffic

12 Where immediately before the appointed day section 13 of the 1975 Act (control of road traffic) applies to any airport, then, as from that day and until such time as the airport is designated by an order under section 65 of this Act-

(a) the airport shall be deemed to be an airport designated for the purposes of that section, and

(b) any order which, immediately before that day, is in force in relation to the airport under section 13(2) of the 1975 Act shall have effect as if made under section 65(2) of this Act.

Abandoned vehicles

13 Where immediately before the appointed day any order is in force in relation to an airport under section 14 of the 1975 Act (functions of BAA as respects abandoned vehicles) then, as from that day and until such time as the airport is designated by an order under section 66 of this Act—

(a) the airport shall be deemed to be an airport designated for the purposes of that section, and

(b) the order shall have effect as if made under section 66(1).

Cargo areas

14 Notwithstanding the repeal by this Act of section 12 of the 1975 Act (prevention of theft from cargo areas at BAA's airports) any area which, immediately before the appointed day, is to be treated as a cargo area for the purposes of section 27 of the Aviation Security Act 1982 (prevention of thefts at designated airports) in accordance with subsection (7) of that section shall continue to be so treated as if this Act had not been passed.

Extension of Shops (Airports) Act 1962

15 Any order designating an airport for the purposes of the Shops (Airports) Act 1962 and in force at the commencement of section 70 of this Act shall, as from that commencement, be treated as designating that airport for the purposes of that Act as amended by this Act.

SCHEDULE 6

Section 83(5).

REPEALS

PART I

REPEALS COMING INTO FORCE ON THE APPOINTED DAY

Chapter	*Short Title*	*Extent of Repeal*
1966 c. 34.	Industrial Development Act 1966.	In Schedule 2, the entry relating to the British Airports Authority.
1971 c. 78.	Town and Country Planning Act 1971.	In section 224(1)(c), the words "the British Airports Authority or ".
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	In section 213(1)(c), the words "the British Airports Authority or ".
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the British Airports Authority.
1975 c. 78.	Airports Authority Act 1975.	The whole Act.
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	In section 15(3), the words " the British Airports Authority,".
1976 c. 70.	Land Drainage Act 1976.	In section 112(2), the words "the British Airports Authority,".
1976 c. 75.	Development of Rural Wales Act 1976.	In section 34(1), in the definition of " statutory undertakers ", the words " the British Airports Authority,".
1978 c. 3.	Refuse Disposal (Amenity) Act 1978.	Section 12(1). Schedule 1.
1978 c. 8.	Civil Aviation Act 1978.	Section 8. In Schedule 1, paragraph 7.
1979 c. 46.	Ancient Monuments and Archaeological Areas Act 1979.	In section 61(2)(b), the words "the British Airports Authority,".
1980 c. 60.	Civil Aviation Act 1980.	Sections 24 and 25.
1980 c. 65.	Local Government, Planning and Land Act 1980.	In section 108(1)(b), the words "the British Airports Authority,".

Chapter	*Short Title*	*Extent of Repeal*
		In section 120(3), in the definition of " statutory undertakers ", the words " the British Airports Authority,".
		In section 170(1)(b), the words "the British Airports Authority,".
		In Schedule 16, paragraph 10.
1981 c. 64.	New Towns Act 1981.	In section 78(1)(c), the words "the British Airports Authority or".
		In section 79(1)(b), the words "or the British Airports".
		In Schedule 12, paragraph 19.
1981 c. 67.	Acquisition of Land Act 1981.	In section 8, in subsection (1)(b), the words " the British Airports Authority or ", and subsection (2).
		In section 32(8), the words from " section 17(1) " to the end.
		In Schedule 4, paragraph 25.
1982 c. 1.	Civil Aviation (Amendment) Act 1982.	Section 1.
1982 c. 16.	Civil Aviation Act 1982.	Section 34(2).
		In section 35(1), the words " is managed by a person other than the BAA and ".
		In section 88(10), the words ", the BAA".
		In section 105(1), the definition of the BAA.
		In Schedule 15, paragraph 17.
1982 c. 36.	Aviation Security Act 1982.	Section 27(7).
		Section 29(2)(b).
		Section 30(3)(b).
		In section 38(1), in the definition of "manager", the words "the British Airports Authority,".
1982 c. 48.	Criminal Justice Act 1982.	Section 44.

Chapter	*Short Title*	*Extent of Repeal*
		In section 81(3), the words "section 44 ".
1983 c. 44.	National Audit Act 1983.	In Part I of Schedule 4, the entry relating to the British Airports Authority.
1984 c. 12.	Telecommunications Act 1984.	In Schedule 4, paragraph 64.
1984 c. 22.	Public Health (Control of Disease) Act 1984.	In section 14(1), the words " or the British Airports Authority ".
1984 c. 27.	Road Traffic Regulation Act 1984.	In section 43(1), the words " and no such regulations " onwards.
		In Schedule 13, paragraph 33.
1984 c. 55.	Building Act 1984.	In section 4(1)(b) the words ", the British Airports Authority ", in sub-paragraph (i) the words " or in the case of the British Airports Authority a house or a hotel,", and in sub-paragraph (ii) the words " the British Airports Authority or" and " in question ".
		In section 59(4), the words ", the British Airports Authority ", in paragraph (a) the words " or in the case of the British Airports Authority a house or a hotel,", and in paragraph (b) the words " the British Airports Authority or " and " in question ".
1985 c. 71.	Housing (Consequential Provisions) Act 1985.	In Schedule 2, paragraph 29.

PART II

REPEALS COMING INTO FORCE ON A DATE APPOINTED UNDER SECTION 85(5)

Chapter	*Short Title*	*Extent of Repeal*
1973 c. 41.	Fair Trading Act 1973.	In Part II of Schedule 7, paragraph 13.

Chapter	*Short Title*	*Extent of Repeal*
1980 c. 65.	Local Government, Planning and Land Act 1980.	Section 72(4)(iii).
1982 c. 16.	Civil Aviation Act 1982.	Section 27.
		Section 29.
		Sections 32 and 33.
		Section 37.
		In section 38(2), the words " Without prejudice to section 6O(3)(f)),".
		Section 40.
		Section 58.
		Section 60(3)(o).
		Section 61(6).
		Section 99(5)(a).
		Schedule 5.
		In Part II of Schedule 13, the entries relating to sections 32(5), 33(1), 37, 40(2) and 61(6) of the 1982 Act.
		In Schedule 14, paragraph 5(1).
1982 c. 48.	Criminal Justice Act 1982.	Section 45.
		In section 81(5), the words " section 45 ".