

LORDS AMENDMENTS TO THE  
CIVIL AVIATION BILL

*[The page and line references are to HL Bill 26, the bill as first printed for the Lords.]*

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**Clause 1**

- 1** Page 2, line 10, at end insert –  
“(ca) the need to secure that each holder of a licence under this Chapter is able to take reasonable measures to reduce, control or mitigate the adverse environmental effects of the airport to which the licence relates, facilities used or intended to be used in connection with that airport (“associated facilities”) and aircraft using that airport,”
- 2** Page 2, line 27, at end insert –  
“(5A) For the purposes of subsection (3)(ca) the environmental effects of the airport, associated facilities and aircraft include –  
(a) substances, energy, noise, vibration or waste, including emissions, discharges and other releases into the environment,  
(b) visual or other disturbance to the public,  
(c) effects from works carried out at the airport or the associated facilities or to extend the airport or the associated facilities, and  
(d) effects from services provided at the airport or the associated facilities.”

**Clause 2**

- 3** Page 3, line 5, after “relates,” insert –  
“(ca) the need to secure that each holder of a licence under this Chapter is able to take reasonable measures to reduce, control or mitigate the adverse environmental effects of the airport to which the licence relates, facilities used or intended to be used in connection with that airport (“associated facilities”) and aircraft using that airport,”
- 4** Page 3, line 19, at end insert –

- “( ) For the purposes of subsection (4)(ca) the environmental effects of the airport, associated facilities and aircraft include the effects mentioned in section 1(5A).”

#### Clause 6

- 5 Page 6, line 1, leave out “Treaty on the Functioning of the European Union” and insert “TFEU”
- 6 Page 6, line 4, at end insert—
- “(10) In applying tests A to C, the CAA must have regard to—
- (a) relevant notices and guidance published by the European Commission about the application and enforcement of the prohibitions in Articles 101 and 102 of the TFEU;
  - (b) relevant advice and information published under section 52 of the Competition Act 1998 (advice and information about the application and enforcement of the prohibitions in Part 1 of that Act and Articles 101 and 102 of the TFEU);
  - (c) relevant advice and information published under section 171 of the Enterprise Act 2002 (advice and information about the operation of Part 4 of that Act).
- (11) In this section “the TFEU” means the Treaty on the Functioning of the European Union.”

#### Clause 9

- 7 Page 8, line 1, after “to” insert “operator”

#### Clause 12

- 8 Page 9, line 31, at end insert “, and
- (b) a previous market power determination which would otherwise cease to have effect by virtue of section 7(9) or (10) continues to have effect until those circumstances arise.”

#### Clause 22

- 9 Page 16, line 8, after “paragraphs” insert “6A,”

#### Clause 26

- 10 Page 18, line 10, leave out paragraph (c) and insert—
- “(c) that an error was made in the exercise of a discretion.”

#### Clause 30

- 11 Page 20, line 29, leave out subsection (2)
- 12 Page 20, line 33, leave out “mentioned in section 1(3) and (4)” and insert “in respect of which duties are imposed on the CAA by section 1”

#### Clause 66

- 13 Page 40, line 10, leave out “, including the supply of fuel”

**Clause 67**

14 Page 41, line 23, at end insert –

- “(8) For the purposes of sections 5(4) and 66(1) the servicing of aircraft between landing and take-off at the aerodrome includes –
- (a) the supply of fuel, and
  - (b) the repair, maintenance and overhaul of aircraft that land at the aerodrome.”

**Clause 68**

15 Page 41, line 28, leave out “, including the supply of fuel”

16 Page 41, line 35, leave out “and (7)” and insert “to (8)”

**Clause 94**

17 Page 57, line 20, at end insert –

- “(d) that a person (“P”) acting in the course of a business carried on by P does not in the United Kingdom facilitate the making available of flight accommodation by another person in circumstances in which one or more prescribed arrangements relating to payment apply, unless P meets the condition in subsection (1A).”

18 Page 57, line 33, at end insert –

- “(1D) The arrangements relating to payment that may be prescribed under subsection (1)(d) are any arrangements under which P makes or receives payment, or facilitates the making or receipt of payment by another person, in connection with the making available of the flight accommodation.””

19 Page 57, line 35, leave out paragraph (a) and insert –

- “(a) in paragraph (b), for the words from “the minimum charges” to the end substitute “goods, services and other benefits which are or are not to be provided by any person in prescribed circumstances;”, and”

20 Page 57, line 43, leave out “to be provided in prescribed circumstances” and insert “which are or are not to be provided by any person in prescribed circumstances”

**Clause 96**

21 Page 59, line 24, at end insert –

- “( ) is a person in respect of whom a debt relief order has been made under Part 7A of the Insolvency Act 1986,”

**After Clause 101**

22 Insert the following new Clause –

**“CAA efficiency**

- (1) Section 21 of the Civil Aviation Act 1982 (annual report) is amended as follows.

- (2) In subsection (2), after paragraph (d) insert—
- “(e) shall contain a statement by the CAA about efficiency in the performance of its functions (an “efficiency statement”);
  - (f) shall contain the auditors’ assessment mentioned in subsection (2B).”
- (3) After subsection (2) insert—
- “(2A) The Secretary of State may from time to time give directions about matters that must be covered in an efficiency statement, including matters relating to the plans or the past or present activities of the CAA.
  - (2B) The auditors appointed under section 15(2) in respect of an accounting year must produce an assessment of the efficiency statement for that year.”

### Clause 109

- 23** Page 64, line 30, leave out “This Part comes” and insert “The following provisions come”
- 24** Page 64, line 30, at end insert “—
- (a) paragraphs 1 and 7 of Schedule 10 and section 76(5) so far as it relates to those paragraphs, and
  - (b) this Part.”

### Schedule 1

- 25** Page 66, line 13, leave out sub-paragraph (3)
- 26** Page 67, line 4, leave out sub-paragraph (1) and insert—
- “( ) The Competition Appeal Tribunal may allow an appeal under paragraph 1 only to the extent that it is satisfied that the market power determination or operator determination appealed against was wrong on one or more of the following grounds—
- (a) that the determination was based on an error of fact;
  - (b) that the determination was wrong in law;
  - (c) that an error was made in the exercise of a discretion.”
- 27** Page 67, line 35, at end insert—

#### *“Effect of suspending or setting aside market power determination*

- 3A (1) This paragraph applies where—
- (a) the CAA publishes a notice of a market power determination (“determination A”) in respect of an airport area (“area Z”),
  - (b) the CAA subsequently publishes a notice of another market power determination (“determination B”) in respect of all or part of area Z or in respect of an area that includes all or part of area Z,
  - (c) determination A ceases to have effect in respect of all or part of area Z by virtue of section 7(9) or (10), and
  - (d) there is subsequently an appeal under this Schedule against determination B.

- (2) If the effect of determination B is suspended under paragraph 1(4), determination A has effect again during the period of suspension, unless the Competition Appeal Tribunal orders otherwise.
- (3) If all or part of determination B is set aside at the end of a period of suspension, determination A continues to have effect after the end of the period of suspension, unless the Competition Appeal Tribunal orders otherwise.
- (4) If all or part of determination B is set aside otherwise than at the end of a period of suspension, determination A has effect again from the setting aside, unless the Competition Appeal Tribunal orders otherwise.
- (5) If the suspension or setting aside of determination B only affects part of area Z, or an area that includes part of area Z, the references in sub-paragraphs (2) to (4) to determination A are to be treated as references to that determination so far as it relates to that part of area Z.
- (6) Sub-paragraphs (2) to (4) do not apply if determination B is suspended or set aside only so far as it relates to an area that does not include any part of area Z.
- (7) Nothing in sub-paragraphs (3) to (5) affects the operation of section 7(9) or (10) where notice is published of a further market power determination in respect of all or part of area Z or in respect of an area that includes all or part of area Z.

*Appeals to Competition Appeal Tribunal: supplementary*

3B ”

28 Page 67, line 35, at end insert –

“( ) When deciding an appeal under paragraph 1 (including giving directions), making an order under paragraph 1 or 3A or making a market power determination or operator determination, the Competition Appeal Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 1.”

29 Page 67, line 35, at end insert –

“( ) When deciding an appeal under paragraph 1 relating to a market power determination (including giving directions) or making such a determination, the Competition Appeal Tribunal must have regard to the notices, guidance, advice and information described in section 6(10).”

30 Page 67, line 38, after “3” insert “or 3A(3) or (4)”

**Schedule 2**

31 Page 72, line 25, at end insert –

“6A (1) Sub-paragraph (2) applies where –

- (a) the CAA decides under section 22 to modify a licence by adding a relevant financial arrangements condition,
- (b) an application is made for permission to appeal under section 25 against the decision, and

- (c) the condition would have effect, but for this paragraph, before the end of the period of 10 weeks beginning with the day on which notice of the decision was published in accordance with section 22 (“the 10 week period”).
- (2) The relevant financial arrangements condition does not have effect during the 10 week period.
- (3) Sub-paragraph (4) applies where –
  - (a) the CAA decides under section 22 to modify a licence by adding a relevant financial arrangements condition, and
  - (b) the Competition Commission grants permission to appeal against the decision.
- (4) The relevant financial arrangements condition does not have effect until the appeal against the decision is determined or withdrawn (or, if there is more than one appeal against the decision, until all of the appeals are determined or withdrawn).
- (5) In this paragraph, “relevant financial arrangements condition” has the same meaning as in paragraph 6.”

32 Page 80, line 41, after “matter” insert “, information or evidence”

### Schedule 3

33 Page 87, line 38, leave out sub-paragraph (3)

34 Page 88, line 18, leave out sub-paragraph (3)

35 Page 88, line 36, leave out sub-paragraph (3)

36 Page 89, line 2, leave out sub-paragraph (1) and insert –

- “( ) The Competition Appeal Tribunal may allow an appeal under paragraph 1, 2 or 3 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds –
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that an error was made in the exercise of a discretion.”

37 Page 89, line 12, at end insert –

- “( ) When deciding an appeal under paragraph 1, 2 or 3 (including giving directions), the Competition Appeal Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 1.”

### Schedule 4

38 Page 90, line 3, leave out sub-paragraph (3)

39 Page 90, line 40, leave out sub-paragraph (1) and insert –

- “( ) The Competition Appeal Tribunal may allow an appeal under paragraph 1 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds –
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that an error was made in the exercise of a discretion.”

40 Page 91, line 6, at end insert –

“( ) When deciding an appeal under paragraph 1 (including giving directions), the Competition Appeal Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 1.”

#### Schedule 5

41 Page 91, line 34, leave out sub-paragraph (3)

42 Page 92, line 2, leave out sub-paragraph (1) and insert –

“( ) The Competition Appeal Tribunal may allow an appeal under paragraph 1 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds –

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that an error was made in the exercise of a discretion.”

43 Page 92, line 12, at end insert –

“( ) When deciding an appeal under paragraph 1 (including giving directions), the Competition Appeal Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 1.”

#### Schedule 8

44 Page 97, line 16, leave out “Part 5 of”

45 Page 97, line 16, leave out from “1986” to “is” in line 17

46 Page 99, line 5, at end insert –

“2A (1) Section 79 (orders and regulations) is amended as follows.

(2) In subsection (2), at the end insert “, unless it is an instrument described in subsection (4A)”.

(3) After subsection (4) insert –

“(4A) A statutory instrument that contains (whether alone or with other provision) an order under section 57A(11) increasing the specified sum by more than is necessary to reflect changes in the value of money may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

47 Page 101, line 9, at end insert –

“7A (4) Article 70 (regulations and orders) is amended as follows.

(5) In paragraph (2), after “Schedule 7” insert “and orders described in paragraph (2A)”.

(6) After paragraph (2) insert –

“(2A) An order under Article 2A(9) increasing the specified sum by more than is necessary to reflect changes in the value of money may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”

48 Page 101, line 10, leave out “and 7” and insert “to 7A”

### Schedule 9

49 Page 101, line 40, leave out “In section 74(3) (exceptions from restrictions on disclosure of information)” and insert—

“( ) Section 74 (restriction on disclosure of information) is amended as follows.

( ) In subsection (3)”

50 Page 102, line 3, at end insert—

“( ) In subsection (4)—

(a) leave out paragraph (a), and

(b) in paragraph (b), for “such a report” substitute “a report of the Competition Commission under section 45”.”

### Schedule 10

51 Page 105, line 26, after “determination” insert “on that day”

52 Page 106, line 19, leave out “such”

53 Page 106, line 38, leave out from “if” to “, and” in line 39 and insert “the CAA makes, and publishes a notice of, a determination that the market power test is not met in relation to the designated airport (subject to sub-paragraph (3A))”

54 Page 106, line 40, at end insert—

“(3A) During the interim period, such an order must not be revoked—

(a) during the period in which a person may appeal to the Competition Appeal Tribunal against the determination,

(b) at a time when the effect of the determination is suspended or the Secretary of State or the Department of the Environment in Northern Ireland considers that it may be suspended, or

(c) if all or part of the determination has been set aside or quashed.”

55 Page 107, line 14, at end insert—

“(1A) In this paragraph “the main operator’s airport area” means the whole of the area at the 2012 Act airport in respect of which the operator (as defined in this Act) on the commencement day is the person who was the operator (as defined in the 1986 Act or the 1994 Order) of the predecessor airport immediately before the commencement day.”

56 Page 107, line 15, leave out “, if the predecessor airport is a designated airport”

57 Page 107, line 16, leave out from “airport” to “, and” in line 17 and insert “is to the predecessor airport”

58 Page 107, line 18, after first “to” insert “the airport area consisting of”

59 Page 107, line 18, leave out “the whole of the 2012 Act airport” and insert “the main operator’s airport area”

60 Page 107, line 20, leave out “, if the predecessor airport is a designated airport”

61 Page 107, line 21, leave out from “airport” to end of line 22 and insert “is to the



predecessor airport”

- 62 Page 107, line 24, leave out from beginning to “, and” and insert “is to services provided in the main operator’s airport area”
- 63 Page 107, line 25, leave out from first “to” to end of line 27 and insert “the airport is to the predecessor airport”
- 64 Page 107, line 30, leave out “the 2012 Act airport” and insert “the main operator’s airport area”
- 65 Page 107, line 34, leave out from first “of” to end and insert “the main operator’s airport area”
- 66 Page 107, line 35, leave out sub-paragraph (6) and insert –  
“(6) In paragraph 5(3), the reference to a determination that the market power test is not met in relation to the designated airport includes a determination that it is not met in relation to an airport area that includes the whole of the predecessor airport.”
- 67 Page 107, leave out line 42 and insert “the main operator’s airport area”
- 68 Page 107, line 44, leave out sub-paragraph (1)
- 69 Page 108, line 1, after “power” insert “under section 107”

### Schedule 13

- 70 Page 115, line 5, leave out sub-paragraph (3)
- 71 Page 115, line 13, leave out sub-paragraph (1) and insert –  
“( ) The Competition Appeal Tribunal may allow an appeal under paragraph 1 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds –  
(a) that the decision was based on an error of fact;  
(b) that the decision was wrong in law;  
(c) that an error was made in the exercise of a discretion.”
- 72 Page 115, line 23, at end insert –  
“( ) When deciding an appeal under paragraph 1 (including giving directions), the Competition Appeal Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 4 of the Civil Aviation Act 1982.”

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CIVIL AVIATION BILL

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*Ordered, by The House of Commons,  
to be Printed, 13 November 2012.*

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LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by  
The Stationery Office Limited  
£x.xx