

# **Vehicle Technology and Aviation Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Transport, are published separately as Bill 143 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Chris Grayling has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Vehicle Technology and Aviation Bill are compatible with the Convention rights.

# Vehicle Technology and Aviation Bill

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**B I L L**

TO

Make provision about automated vehicles, electric vehicles, vehicle testing and civil aviation; to create an offence of shining or directing a laser at a vehicle; and to make provision about fees for courses offered as an alternative to prosecution for road traffic offences.

**B**E IT ENACTED by 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 1**

AUTOMATED VEHICLES: LIABILITY OF INSURERS ETC

**1 Listing of automated vehicles by the Secretary of State**

- (1) The Secretary of State must prepare, and keep up to date, a list of all motor vehicles that— 5
- (a) are or might be used on roads or in other public places in Great Britain, and
  - (b) are in the Secretary of State’s opinion designed or adapted to be capable, in at least some circumstances or situations, of safely driving themselves without having to be monitored by an individual. 10
- (2) The list may identify vehicles—
- (a) by type,
  - (b) by reference to information recorded in a registration document issued under regulations made under section 22 of the Vehicle Excise and Registration Act 1994, or 15
  - (c) in some other way.
- (3) The Secretary of State must publish the list when it is first prepared and each time it is revised.
- (4) In this Part “automated vehicle” means a vehicle listed under this section.

## 2 Liability of insurers etc where accident caused by automated vehicle

- (1) Where –
- (a) an accident is caused by an automated vehicle when driving itself,
  - (b) the vehicle is insured at the time of the accident, and
  - (c) an insured person or any other person suffers damage as a result of the accident,
- 5
- the insurer is liable for that damage.
- (2) Where –
- (a) an accident is caused by an automated vehicle when driving itself,
  - (b) the vehicle is not insured at the time of the accident,
  - (c) section 143 of the Road Traffic Act 1988 (users of motor vehicles to be insured or secured against third-party risks) does not apply to the vehicle at that time –
    - (i) because of section 144(2) of that Act (exemption for public bodies etc), or
    - (ii) because the vehicle is in the public service of the Crown, and
  - (d) a person suffers damage as a result of the accident,
- 10
- the owner of the vehicle is liable for that damage.
- (3) In this Part “damage” means death or personal injury, and any damage to property other than –
- (a) the automated vehicle,
  - (b) goods carried for hire or reward in or on that vehicle or in or on any trailer (whether or not coupled) drawn by it, or
  - (c) property in the custody, or under the control, of –
    - (i) the insured person (where subsection (1) applies), or
    - (ii) the person in charge of the automated vehicle at the time of the accident (where subsection (2) applies).
- 15
- 20
- (4) In respect of damage to property caused by, or arising out of, any one accident involving an automated vehicle, the amount of the liability under this section of the insurer or owner of the vehicle is limited to the amount for the time being specified in section 145(4)(b) of the Road Traffic Act 1988 (limit on compulsory insurance for property damage).
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- (5) This section has effect subject to section 3.
- (6) Except as provided by section 4, liability under this section may not be limited or excluded by a term of an insurance policy or in any other way.
- 35
- (7) The imposition by this section of liability on the insurer or vehicle owner does not affect any other person’s liability in respect of the accident.

## 3 Contributory negligence etc

- (1) Where –
- (a) an insurer or vehicle owner is liable under section 2 to a person (“the injured party”) in respect of an accident, and
  - (b) the accident, or the damage resulting from it, was to any extent caused by the injured party,
- 40
- the amount of the liability is subject to whatever reduction under the Law Reform (Contributory Negligence) Act 1945 would apply to a claim in respect
- 45

of the accident brought by the injured party against a person other than the insurer or vehicle owner.

- (2) The insurer or owner of an automated vehicle is not liable under section 2 to the person in charge of the vehicle where the accident that it caused was wholly due to the person's negligence in allowing the vehicle to drive itself when it was not appropriate to do so. 5

#### **4 Accident resulting from unauthorised alterations or failure to update software**

- (1) An insurance policy in respect of an automated vehicle may exclude or limit the insurer's liability under section 2(1) for damage suffered by an insured person arising from an accident occurring as a direct result of – 10
- (a) alterations to the vehicle's operating system made by the insured person, or with the insured person's knowledge, that are prohibited under the policy, or
  - (b) a failure to install software updates to the vehicle's operating system that the insured person is required under the policy to install or to have installed. 15
- (2) But any exclusion or limitation of liability for damage suffered by an insured person who is not the holder of the policy applies only in relation to – 20
- (a) alterations to the vehicle's operating system which, at the time of the accident, the person knows are prohibited under the policy, or
  - (b) a failure to install software updates which at that time the person knows he or she is required under the policy to install or to have installed.
- (3) Subsection (4) applies where an amount is paid by an insurer under section 2(1) in respect of damage suffered, as a result of an accident, by someone who is not insured under the policy in question. 25
- (4) If the accident occurred as a direct result of – 30
- (a) alterations to the vehicle's operating system made by an insured person, or with an insured person's knowledge, that were prohibited under the policy, or
  - (b) a failure to install software updates to the vehicle's operating system that an insured person was required under the policy to install or to have installed,
- the amount paid by the insurer is recoverable from that person to the extent provided for by the policy. 35
- (5) But the right of recovery from an insured person who is not the holder of the policy applies only in relation to – 40
- (a) alterations to the vehicle's operating system which, at the time of the accident, the person knew were prohibited under the policy, or
  - (b) a failure to install software updates which at that time the person knew he or she was required under the policy to install or to have installed.

#### **5 Right of insurer etc to claim against person responsible for accident**

- (1) Where –

- (a) section 2 imposes on an insurer, or the owner of a vehicle, liability to a person who has suffered damage as a result of an accident (“the injured party”), and
- (b) the amount of the insurer’s or vehicle owner’s liability to the injured party in respect of the accident (including any liability not imposed by section 2) is settled, 5  
 any other person liable to the injured party in respect of the accident is under the same liability to the insurer or vehicle owner.
- (2) For the purposes of this section, the amount of the insurer’s or vehicle owner’s liability is settled when it is established – 10  
 (a) by a judgment or decree,  
 (b) by an award in arbitral proceedings or by an arbitration, or  
 (c) by an enforceable agreement.
- (3) If the amount recovered under this section by the insurer or vehicle owner exceeds the amount which that person has agreed or been ordered to pay to the injured party (ignoring so much of either amount as represents interest), the insurer or vehicle owner is liable to the injured party for the difference. 15
- (4) Nothing in this section allows the insurer or vehicle owner and the injured party, between them, to recover from any person more than the amount of that person’s liability to the injured party. 20
- (5) For the purposes of –  
 (a) section 10A of the Limitation Act 1980 (special time limit for actions by insurers etc in respect of automated vehicles), or  
 (b) section 18ZC of the Prescription and Limitation (Scotland) Act 1973 (actions under this section), 25  
 the right of action that an insurer or vehicle owner has by virtue of this section accrues at the time of the settlement referred to in subsection (1)(b).

## 6 Application of enactments

- (1) Any damage for which a person is liable under section 2 is treated as if it had been caused – 30  
 (a) for the purposes of the Fatal Accidents Act 1976, by that person’s wrongful act, neglect or default;  
 (b) for the purposes of sections 3 to 6 of the Damages (Scotland) Act 2011 (asp 7) (rights of relatives of a deceased), by that person’s act or omission; 35  
 (c) for the purposes of Part 2 of the Administration of Justice Act 1982 (damages for personal injuries, etc Scotland), by an act or omission giving rise to liability in that person to pay damages.
- (2) Section 1 of the Congenital Disabilities (Civil Liability) Act 1976 (“the 1976 Act”) has effect for the purposes of section 2 of this Act – 40  
 (a) as if a person were answerable to a child in respect of an accident caused by an automated vehicle when driving itself if the person –  
 (i) is or has been liable under section 2 in respect of any effect of the accident on a parent of the child, or  
 (ii) would be so liable if the accident caused a parent of the child to suffer damage; 45

- (b) as if the provisions of this Part relating to liability under section 2 applied in relation to liability by virtue of paragraph (a) above under section 1 of the 1976 Act;
  - (c) as if subsection (6) of section 1 of the 1976 Act (exclusion of liability) were omitted. 5
- (3) For the purposes of section 3(1), the Law Reform (Contributory Negligence) Act 1945 and section 5 of the Fatal Accidents Act 1976 (contributory negligence) have effect as if the behaviour of the automated vehicle were the fault of the person made liable for the damage by section 2 of this Act.
- (4) Liability under section 2 is treated as liability in tort or, in Scotland, delict for the purposes of any enactment conferring jurisdiction on a court with respect to any matter. 10
- (5) An insurer or vehicle owner who has a right of action against a person by virtue of section 5 does not have a right to recover contribution from that person under the Civil Liability (Contribution) Act 1978 or under section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940. 15

## 7 Interpretation

- (1) For the purposes of this Part—
  - (a) a vehicle is “driving itself” if its operation is not being controlled by an individual; 20
  - (b) a vehicle is “insured” if there is in force in relation to the use of the vehicle on a road or other public place in Great Britain a policy of insurance that satisfies the conditions in section 145 of the Road Traffic Act 1988.
- (2) In this Part— 25
  - “automated vehicle” has the meaning given by section 1(4);
  - “damage” has the meaning given by section 2(3);
  - “insured person”, in relation to an insured vehicle, means any person whose use of the vehicle is covered by the policy in question;
  - “insurer”, in relation to an insured vehicle, means the insurer under that policy. 30
- (3) In this Part—
  - (a) a reference to an accident includes a reference to two or more causally related accidents;
  - (b) a reference to an accident caused by an automated vehicle includes a reference to an accident that is partly caused by an automated vehicle. 35

## PART 2

### ELECTRIC VEHICLES: CHARGING

#### *Introductory*

## 8 Definitions 40

- (1) For the purposes of this Part—

- (a) “charge point” means a device intended for charging a vehicle that is capable of being propelled by electrical power derived from a storage battery (or for discharging electricity stored in such a vehicle);
  - (b) “hydrogen refuelling point” means a device intended for refuelling a vehicle that is capable of being propelled by electrical power derived from hydrogen; 5
  - (c) a charge point or a hydrogen refuelling point is a “public charging point” if it is provided for use by members of the general public.
- (2) In this Part –
- “operator”, in relation to a public charging point, has the meaning given by regulations; 10
  - “prescribed” means prescribed by regulations;
  - “vehicle” means a vehicle that is intended or adapted for use on roads.

*Requirements and prohibitions*

**9 Public charging points: access and connection** 15

- (1) Regulations may impose requirements on operators of public charging points in connection with –
- (a) the method of payment or other way in which access to the use of public charging points may be obtained;
  - (b) the components of public charging points that provide the means by which vehicles connect to such points (“connecting components”). 20
- (2) Regulations under subsection (1)(a) may require operators –
- (a) to provide a prescribed method of payment or verification for obtaining access to the use of public charging points;
  - (b) to co-operate with each other for the purposes of a requirement imposed by the regulations (for example, by sharing facilities or information); 25
  - (c) to take prescribed steps for the purposes of such a requirement (for example, to provide information to a prescribed person).
- (3) Regulations under subsection (1)(b) may, for example, require the operator of a public charging point to ensure that its connecting components comply with prescribed requirements (which may include technical specifications for connecting components or any related equipment). 30

**10 Large fuel retailers etc: provision of public charging points**

- (1) Regulations may impose requirements on – 35
- (a) large fuel retailers falling within a prescribed description, or
  - (b) service area operators falling within a prescribed description,
- in connection with the provision on their premises of public charging points.
- (2) Regulations under subsection (1) may, for example –
- (a) require large fuel retailers or service area operators to provide public charging points; 40
  - (b) require public charging points to be available for use at prescribed times;

- (c) require services or facilities prescribed by the regulations to be provided in connection with public charging points.
- (3) In this section “large fuel retailer” and “service area operator” have the meaning given by regulations.

## **11 Information about public charging points** 5

- (1) Regulations may require operators of public charging points to make available prescribed information relating to such points.
- (2) The information that may be prescribed under subsection (1) in relation to a public charging point is such information as the Secretary of State considers likely to be useful to users or potential users of the point, for example information about—
  - (a) the location of the point and its operating hours,
  - (b) available charging or refuelling options,
  - (c) the cost of obtaining access to the use of the point,
  - (d) the method of payment or other way in which access to the use of the point may be obtained, 15
  - (e) means of connection to the point,
  - (f) whether the point is in working order, and
  - (g) whether the point is in use.
- (3) The regulations may make provision—
  - (a) about when, how, to whom and in what form the information is to be made available;
  - (b) for the information to be made available without restrictions on its use and disclosure. 20
- (4) The regulations may be made so as to have effect for a prescribed period. 25

## **12 Smart charge points**

- (1) Regulations may provide that a person must not sell or install a charge point unless it complies with prescribed requirements.
- (2) The requirements that may be imposed under subsection (1) include requirements relating to the technical specifications for a charge point, including for example the ability of a charge point—
  - (a) to receive and process information provided by a prescribed person,
  - (b) to react to information of a kind mentioned in paragraph (a) (for example, by adjusting the rate of charging or discharging),
  - (c) to transmit information (including geographical information) to a prescribed person, 35
  - (d) to monitor and record energy consumption,
  - (e) to comply with requirements relating to security,
  - (f) to achieve energy efficiency, and
  - (g) to be accessed remotely. 40
- (3) Regulations under subsection (1) may also prescribe requirements to be met in relation to the sale or installation of a charge point.
- (4) In this section—

- (a) “sell” includes let on hire, lend or give;
- (b) references to a prescribed person include references to –
  - (i) a person of a prescribed description, and
  - (ii) a device operated by one or more prescribed persons.

*General and supplementary*

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### 13 Enforcement

- (1) Regulations under this Part may make provision for enforcement in connection with a contravention of a requirement or prohibition imposed by the regulations.
- (2) Regulations made by virtue of subsection (1) may, for example –
  - (a) contain provision for determining whether there has been a failure to comply with a requirement or prohibition; 10
  - (b) provide for the imposition of a financial penalty (*and for the payment of such a penalty into the Consolidated Fund*);
  - (c) set out the procedure to be followed in imposing a penalty; 15
  - (d) make provision about the amount of a penalty;
  - (e) make provision about the enforcement of a penalty;
  - (f) provide for a right of appeal against the imposition of a penalty;
  - (g) provide for a determination for the purposes of the regulations to be made by the Secretary of State or a prescribed person. 20
- (3) The provision referred to in subsection (2)(a) includes provision authorising prescribed persons to enter any land, in accordance with the regulations, for the purpose of inspecting a public charging point on the land.

### 14 Exceptions

- (1) Regulations under this Part may create exceptions from any requirement or prohibition imposed by the regulations. 25
- (2) An exception may be created in relation to a prescribed description of persons or public charging points.
- (3) The Secretary of State may determine that a requirement or prohibition imposed by regulations under this Part does not apply in relation to a person or public charging point specified in the determination. 30
- (4) The Secretary of State must publish a determination made under subsection (3).

### 15 Regulations

- (1) Regulations under this Part –
  - (a) may make different provision for different purposes or different areas; 35
  - (b) may make supplemental, incidental, transitional or consequential provision.
- (2) A power to make regulations under this Part is exercisable by the Secretary of State by statutory instrument. 40

- (3) Before making regulations under this Part, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (4) Subject to subsection (6), where—
- (a) a statutory instrument contains regulations under this Part, and
  - (b) any of those regulations are the first regulations under a provision of this Part,
- the instrument may not be made unless a draft of it has been laid before Parliament and approved by a resolution of each House. 5
- (5) A statutory instrument containing regulations under this Part, none of which are the first regulations under a provision of this Part, is subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (6) Where regulations contain only provision made by virtue of—
- (a) section 9(3) (prescribed requirements for connecting components), or
  - (b) section 12 (prescribed requirements for charge points),
- the instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament. 15

### PART 3

#### CIVIL AVIATION

##### *Air traffic services licensed under Part 1 of Transport Act 2000*

- 16 Licensed air traffic services: modifying the licence and related appeals** 20
- (1) For section 11 of the Transport Act 2000 substitute—
- “11 Modification of a licence**
- (1) The CAA may modify a licence by modifying the licence conditions.
  - (2) Subsection (1) is subject to section 11B.
  - (3) The Secretary of State may modify a licence— 25
    - (a) by modifying any term specifying the period for which the licence continues in force or any term by or under which that period is determined;
    - (b) by modifying a prescribed term.
  - (4) In this section “prescribed” means prescribed in regulations made by the Secretary of State. 30
- 11A Modification of licence: procedure**
- (1) Before modifying a licence in reliance on section 11, the modifying authority must—
    - (a) publish a notice in relation to the proposed modification; 35
    - (b) send a copy of the notice to the persons listed in subsection (2);
    - (c) consider any representations about the proposed modification that are made in the period specified in the notice (and not withdrawn).
  - (2) The persons are— 40

- 
- (a) the licence holder;
  - (b) any owners or operators of aircraft, or any bodies representing them, that the modifying authority considers appropriate;
  - (c) any owners or managers of aerodromes, or any bodies representing them, that the modifying authority considers appropriate; 5
  - (d) any bodies representing users of air transport services that the modifying authority considers appropriate;
  - (e) where the modifying authority is the CAA, the Secretary of State; 10
  - (f) where the modifying authority is the Secretary of State, the CAA.
- (3) The notice under subsection (1) must –
- (a) state that the modifying authority proposes to modify the licence; 15
  - (b) specify the proposed modification;
  - (c) give the modifying authority’s reasons for the proposed modification;
  - (d) state the effect of the proposed modification;
  - (e) specify a reasonable period for making representations. 20
- (4) If, after publishing the notice under subsection (1), the modifying authority decides not to make the modification in reliance on section 11, the modifying authority must –
- (a) publish a notice, giving its reasons;
  - (b) send a copy of the notice to the persons listed in subsection (2). 25
- (5) If, after complying with subsections (1) to (3) in relation to a modification, the modifying authority decides to modify a licence in reliance on section 11, the modifying authority must –
- (a) publish a notice in relation to the modification;
  - (b) send a copy of the notice to the persons listed in subsection (2). 30
- (6) The modifying authority is not to be treated as having complied with subsections (1) to (3) in relation to a modification of a licence if the modification differs significantly from the modification proposed in the notice under subsection (1).
- (7) The notice under subsection (5) must – 35
- (a) specify the modification;
  - (b) specify the date from which the modification is to have effect (subject to paragraphs 6 to 8 of Schedule A1);
  - (c) give the modifying authority’s reasons for the modification;
  - (d) state the effect of the modification; 40
  - (e) state how it has taken account of any representations made in the period specified in the notice under subsection (1);
  - (f) state the reasons for any differences between the modifications and those set out in that notice.
- (8) The date specified under subsection (7)(b) – 45
- (a) in the case of a modification of a licence condition, must fall after the end of the period of 6 weeks beginning with the day on

which the notice under subsection (5) was published (subject to paragraphs 6 to 8 of Schedule A1);	
(b) otherwise, must fall after the end of the period of 28 days beginning with that day.	
(9) In this section “modifying authority” –	5
(a) in relation to a modification of a licence condition, means the CAA;	
(b) in relation to any other modification, means the Secretary of State.	
(10) This section is subject to section 11B.	10
<b>11B Restrictions on power to modify licence conditions</b>	
(1) The CAA must not make a proposed modification if, within the period specified under section 11A(3)(e), the Secretary of State directs it not to do so.	
(2) The CAA must –	15
(a) publish a direction given to it under subsection (1);	
(b) send a copy of the direction to persons listed in subsection (3).	
(3) The persons are –	
(a) the licence holder;	
(b) any owners or operators of aircraft, or any bodies representing them, that the modifying authority considers appropriate;	20
(c) any owners or managers of aerodromes, or any bodies representing them, that the modifying authority considers appropriate;	
(d) any bodies representing users of air transport services that the modifying authority considers appropriate.”	25
(2) Omit sections 12 to 18 of that Act.	
(3) Schedule 1 to this Act, which makes provision for appeals against modifications of licence conditions, has effect.	
(4) Before Schedule 1 to the Transport Act 2000 insert the Schedule A1 (appeals under section 19A) set out in Schedule 2 to this Act.	30
<b>17 Air traffic services licensed under Part 1 of the Transport Act 2000: enforcement</b>	
(1) Chapter 1 of Part 1 of the Transport Act 2000 is amended as follows.	
(2) For section 20 substitute –	35
<b>“20 Enforcement</b>	
Schedule B1 makes provision for –	
(a) the enforcement of the duties imposed by section 8 and licence conditions, and	
(b) connected appeals.”	40
(3) Omit sections 21 to 24.	

- (4) For section 25 substitute –

**“25 Power to obtain information**

Schedule C1 makes provision –

- (a) to enable the CAA to obtain information for the purposes of carrying out its functions under section 34 and Schedule B1, 5
- (b) for enforcement in connection with the exercise of those powers, and
- (c) for connected appeals.”

- (5) After that section insert –

*“Penalties* 10

**25A Imposing penalties**

- (1) The CAA may not impose a penalty on a person under paragraph 9 or 10 of Schedule B1 or paragraph 2, 3 or 4 of Schedule C1 for an act or omission if it has imposed a penalty on a person under one of those provisions in respect of the same act or omission. 15
- (2) Subsection (1) does not prevent the CAA imposing more than one penalty on a person in respect of acts or omissions that take place at different times or over different periods.

**25B Recovering penalties**

- (1) This section applies if all or part of a penalty imposed on a person under this Chapter is not paid within the period specified in the notice given in respect of the penalty under paragraph 12 of Schedule B1 or paragraph 6 of Schedule C1. 20
- (2) The unpaid balance carries interest from time to time at the rate for the time being specified in section 17 of the Judgments Act 1838. 25
- (3) The CAA may recover from any person as a debt due to the CAA –
  - (a) the unpaid balance, and
  - (b) any interest on the penalty that has not been paid.
- (4) *Any sums received by the CAA by way of a penalty or interest under this Chapter must be paid into the Consolidated Fund.* 30

**25C Statement of policy on penalties**

- (1) The CAA must prepare and publish a statement of its policy with respect to –
  - (a) imposing penalties under this Chapter, and
  - (b) determining their amount. 35
- (2) The CAA may revise the statement of policy and, if it does so, it must publish the revised statement.
- (3) When imposing a penalty under this Chapter, or determining the amount of such a penalty, the CAA must have regard to the last statement of policy published before the act or omission in respect of which the penalty is to be imposed. 40

- (4) When preparing or revising a statement, the CAA must consult any persons that it considers appropriate.”
- (6) After Schedule A1 (inserted by section 16) insert –
  - (a) the Schedule B1 (enforcement of duties under section 8 and licence conditions) set out in Schedule 3 to this Act; 5
  - (b) the Schedule C1 (information) set out in Schedule 4 to this Act.

*Flight providers*

**18 Air travel organisers’ licences**

- (1) Section 71 of the Civil Aviation Act 1982 (regulation of provision of accommodation in aircraft) is amended as follows. 10
- (2) After subsection (1) insert –
  - “(1ZA) Subsection (1) applies to an activity in the European Economic Area by a person established in the United Kingdom as it applies to an activity in the United Kingdom.”
- (3) After subsection (1D) insert – 15
  - “(1E) The provision that may be made under or by virtue of subsection (1A)(b) includes provision granting exemption in relation to cases where the person by whom flight accommodation is or may be made available or procured does not make available or procure any other services.” 20

**19 Air Travel Trust**

- (1) In section 71A of the Civil Aviation Act 1982 (contributions by licence holders to Air Travel Trust), in subsection (5), after “the trust” insert “(as it has effect from time to time)”. 25
- (2) After that subsection insert –
  - “(6) The Secretary of State may by regulations amend the definition of “Air Travel Trust” in subsection (5) above so that it refers, in addition to or instead of any trust for the time being referred to in that subsection, to one or more other qualifying trusts.
  - (7) A trust is a qualifying trust for the purposes of subsection (6) above if – 30
    - (a) the Secretary of State for Transport is a party to the deed establishing the trust, and
    - (b) the primary purpose of the trust is the assistance of persons who suffer losses or incur costs as a result of failure by contributors to the trust to fulfil obligations with regard to the provision of flight accommodation in connection with those persons’ trips or holidays. 35

In paragraph (b) “flight accommodation” has the same meaning as in section 71.”
- (3) In section 102 of that Act (powers to make Orders in Council, orders and 40

regulations), after subsection (3) insert –

“(3A) Where an entry in the said column 3 specifies that a power to make regulations is subject to the affirmative resolution procedure, a statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.” 5

- (4) In Part 2 of Schedule 13 to that Act (provisions applying to certain powers) –
- (a) in the entry for section 71A, for “Section 71A” substitute “Section 71A(1)”;
- (b) after that entry insert – 10

“Section 71A(6)	Regulations amending the definition of “Air Travel Trust”	Subject to the affirmative resolution procedure	Paragraphs 1 and 2 of Part 3 apply.”
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## 20 Provision of information 15

- (1) Section 84 of the Civil Aviation Act 1982 (provision by others of information for the CAA and Secretary of State) is amended as follows.

- (2) In subsection (1) –
- (a) in paragraph (c) omit “of which he is not the operator”;
- (b) after that paragraph insert – 20

“(ca) a person established in the United Kingdom who in the European Economic Area has, at any time during the period of two years ending with the date of service of the notice, held himself out as one who may as a principal or otherwise enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in aircraft;” 25

- (c) after paragraph (ii) insert –
- “(iia) in the case of such a person as in mentioned in paragraph (ca) of this subsection, descriptions of information which relates to his past, present or future activities in the European Economic Area connected with the making available of accommodation so mentioned;” 30

- (3) After subsection (1) insert – 35

“(1A) Paragraphs (c) and (ca) of subsection (1) apply to a person who is the operator of the aircraft in question only if –

- (a) the person is not the holder of a licence issued by the CAA in accordance with the Operation of Air Services in the Community Regulation, or 40
- (b) the accommodation to be made available as mentioned in those paragraphs is not limited to flight accommodation within the meaning of section 71.”

**PART 4**

MISCELLANEOUS

**21 Powers to designate premises for vehicle testing and to cap testing station fees**

- (1) In Part 2 of the Road Traffic Act 1988 (construction and use of vehicles and equipment), after section 65A insert – 5

*“Premises designated for vehicle testing*

**65B Power to designate premises for vehicle testing**

- (1) The Secretary of State may designate premises as a station where listed procedures specified in the designation may be carried out.
- (2) The listed procedures are – 10
- (a) examinations of public service vehicles under section 45 of this Act;
  - (b) examinations of goods vehicles under –
    - (i) regulations made under section 49 of this Act, or
    - (ii) section 50 of this Act; 15
  - (c) inspections of vehicles under section 69A(1) or (2) of this Act;
  - (d) inspections of goods vehicles under subsection (6)(a) of section 1 of the Road Traffic (Foreign Vehicles) Act 1972 (power in certain cases to prohibit driving of foreign vehicle);
  - (e) examinations of public service vehicles for the purposes of section 6(1)(a) of the Public Passenger Vehicles Act 1981 (certificate of initial fitness etc required for use as public service vehicles); 20
  - (f) examination of vehicles for the purposes of section 10(2) of that Act (certificate that vehicle conforms to approved type); 25
  - (g) inspections for which fees are payable under the International Carriage of Dangerous Goods by Road (Fees) Regulations 1988 (S.I. 1988/370) or the International Transport of Goods under Cover of TIR Carnets (Fees) Regulations 1988 (S.I. 1988/371);
  - (h) examinations of vehicles under the Motor Cycles Etc. (Single Vehicle Approval) Regulations 2003 (S.I. 2003/1959); 30
  - (i) tests of vehicles to determine whether charges under the Greater London Low Emission Zone Charging Order 2006 are payable in respect of them;
  - (j) examinations of vehicles under regulation 27 of the Road Vehicles (Approval) Regulations 2009 (S.I. 2009/717) (individual approval); 35
  - (k) examinations of public service vehicles under regulations under section 176 of the Equality Act 2010 (accessibility certificates) or section 177 of that Act (approval certificates). 40
- (3) The Secretary of State may by regulations amend this section so as to add, vary or remove a listed procedure.
- (4) A designation under this section may be limited to vehicles of particular types or sizes, or with particular characteristics, or otherwise.

<ul style="list-style-type: none"> <li>(5) A designation under this section –           <ul style="list-style-type: none"> <li>(a) is made by giving notice in writing to the person in charge of the premises designated;</li> <li>(b) may be varied or withdrawn by a further notice in writing given to that person.</li> </ul> </li> <li>(6) A listed procedure may be carried out only at –           <ul style="list-style-type: none"> <li>(a) premises authorised for the procedure by a designation under this section, or</li> <li>(b) premises provided for the procedure by the Secretary of State.</li> </ul> </li> </ul>	<p>5</p>
<b>65C Power to cap testing station fees</b>	
<ul style="list-style-type: none"> <li>(1) The Secretary of State may by regulations provide that any charge made in respect of the use of designated premises for carrying out a listed procedure may not exceed a specified amount.</li> <li>(2) Regulations under this section –           <ul style="list-style-type: none"> <li>(a) may prescribe different amounts in relation to different cases, procedures or other circumstances, or otherwise for different purposes;</li> <li>(b) may make incidental, supplementary, consequential or transitional provision or savings.</li> </ul> </li> <li>(3) In this section –           <ul style="list-style-type: none"> <li>“designated premises” means premises designated under section 65B;</li> <li>“listed procedure” has the meaning given by section 65B(2);</li> <li>“specified” means specified in the regulations.”</li> </ul> </li> <li>(2) In section 195 of that Act (provisions as to regulations) –           <ul style="list-style-type: none"> <li>(a) in subsection (3), before “or 189” insert “, 65B(3)”;</li> <li>(b) in subsection (4) (regulations subject to affirmative resolution procedure), before “or (where made)” insert “, 65B(3)”;</li> <li>(c) after that subsection insert –               <ul style="list-style-type: none"> <li>“(4YA) A reference in subsection (3) or (4) to regulations under section 65B(3) of this Act does not include regulations making only consequential amendments.</li> <li>“Consequential amendment” here means an amendment that is consequential on the repeal, revocation or replacement of a provision contained in or made under an enactment.”</li> </ul> </li> </ul> </li> </ul>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
<b>22 Offence of shining or directing a laser at a vehicle</b>	
<ul style="list-style-type: none"> <li>(1) A person commits an offence if –           <ul style="list-style-type: none"> <li>(a) he or she shines or directs a laser beam at a vehicle which is in the course of a journey, and</li> <li>(b) the laser beam dazzles or distracts a person with control of the vehicle.</li> </ul> </li> <li>(2) It is a defence for a person charged with an offence under this section to show that he or she –           <ul style="list-style-type: none"> <li>(a) did not intend to commit the offence, and</li> <li>(b) exercised all due diligence and took all reasonable precautions to avoid committing the offence.</li> </ul> </li> </ul>	<p>40</p> <p>45</p>

- (3) A person is taken to have shown the facts mentioned in subsection (2) if—
  - (a) sufficient evidence of each fact is adduced to raise an issue with respect to it, and
  - (b) the contrary in each case is not proved beyond reasonable doubt.
- (4) A person who commits an offence under this section is liable— 5
  - (a) on summary conviction, to a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both.
- (5) The reference in subsection (1)(a) to a vehicle being in the course of a journey is to be read— 10
  - (a) in relation to an aircraft, as a reference to the aircraft being in flight;
  - (b) in relation to a vessel, as a reference to the vessel proceeding on a voyage.
- (6) For the purposes of subsection (5)(a) an aircraft is in flight for the period— 15
  - (a) beginning with the moment when it first moves for the purposes of take-off, and
  - (b) ending with the moment when it next comes to rest after landing.
- (7) In subsection (1)(b) “a person with control of the vehicle”— 20
  - (a) in relation to an aircraft, means any pilot engaged in flying, or in monitoring the flying of, the aircraft;
  - (b) in relation to a vessel, means the master, the pilot or any seaman engaged in navigating the vessel.
- (8) In this section— 25
  - “vehicle” means any thing used for travel by land, water or air;
  - “vessel” includes a hovercraft.

## **23 Courses offered as alternative to prosecution: fees etc**

- (1) After section 90F of the Road Traffic Offenders Act 1988 insert—

### **“PART 3B**

#### COURSES OFFERED AS ALTERNATIVE TO PROSECUTION 30

#### **90G Power to charge fees: England and Wales**

- (1) A policing body may charge a fee for enrolment on an approved course offered as an alternative to prosecution in England and Wales for a specified fixed penalty offence.
- (2) A fee may be set at a level that exceeds the cost of an approved course and related administrative expenses, but any excess must be used for the purpose of promoting road safety. 35
- (3) The Secretary of State may by regulations make further provision about— 40
  - (a) how fees, or components of fees, are to be calculated;
  - (b) the level of fees or components of fees;
  - (c) the use of fee income.

- 
- (4) The regulations may include provision as to the amount, or maximum amount, of a fee or component of a fee.
- (5) In this section –
- “approved course” means a course approved (whether before or after this section comes into force) by a body specified in regulations under subsection (6); 5
  - “fixed penalty offence” means an offence that is a fixed penalty offence for the purposes of Part 3 (see section 51);
  - “policing body” means –
    - (a) a local policing body, or 10
    - (b) the British Transport Police Authority;
  - “promoting road safety” includes the prevention, detection or enforcement of offences relating to vehicles;
  - “prosecution”, in relation to an offence, includes any alternative way of being dealt for the offence (other than attending an approved course); 15
  - “specified fixed penalty offence” means an offence specified under subsection (6).
- (6) The Secretary of State may by regulations –
- (a) specify fixed penalty offences for the purposes of this section; 20
  - (b) specify a body to approve courses for the purposes of this section.
- (7) Nothing in this section limits any power to charge fees apart from this section.
- 90H Power to prevent courses being offered for repeat offences: England and Wales** 25
- (1) The Secretary of State may by regulations prohibit a chief officer from offering an approved course to a person as an alternative to prosecution in England and Wales for a specified fixed penalty offence where –
- (a) there is a course fee, and 30
  - (b) the person has, within a period specified in the regulations, satisfactorily completed a similar approved course in respect of an earlier specified fixed penalty offence.
- (2) The regulations must include provision for the purpose of identifying what counts as a “similar” course; and that provision may, in particular, confer power on a person to determine what courses count as similar. 35
- (3) In this section “chief officer” means –
- (a) a chief officer of police of a police force in England and Wales, or
  - (b) the Chief Constable of the British Transport Police Force.
- (4) In this section the following terms have the meaning given by section 90G(5) – 40
- “approved course”;
  - “specified fixed penalty offence”.
- 90I Procedure for regulations under this Part**
- (1) A power to make regulations under this Part is exercisable by statutory instrument. 45

- (2) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under this Part may include –
  - (a) incidental or supplementary provision; 5
  - (b) different provision for different purposes.”
- (2) After Article 91F of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)) insert –

#### “PART 4B

#### COURSES OFFERED AS ALTERNATIVE TO PROSECUTION 10

##### **91G Power to charge fees**

- (1) The Policing Board may charge a fee for enrolment on an approved course offered as an alternative to prosecution for a specified fixed penalty offence.
- (2) A fee may be set at a level that exceeds the cost of an approved course and related administrative expenses, but any excess must be used for the purpose of promoting road safety. 15
- (3) The Department of Justice may by regulations make further provision about –
  - (a) how fees, or components of fees, are to be calculated; 20
  - (b) the level of fees or components of fees;
  - (c) the use of fee income.
- (4) The regulations may include provision as to the amount, or maximum amount, of a fee or component of a fee.
- (5) In this Article – 25
  - “approved course” means a course approved (whether before or after this Article comes into force) by a body specified in regulations under paragraph (6);
  - “fixed penalty offence” means an offence that is a fixed penalty offence for the purposes of Part 5 (see Article 57); 30
  - “promoting road safety” includes the prevention, detection or enforcement of offences relating to vehicles;
  - “prosecution”, in relation to an offence, includes any alternative way of being dealt for the offence (other than attending an approved course); 35
  - “specified fixed penalty offence” means an offence specified under paragraph (6).
- (6) The Department of Justice may by regulations –
  - (a) specify fixed penalty offences for the purposes of this Article;
  - (b) specify a body to approve courses for the purposes of this Article. 40
- (7) Nothing in this Article limits any power to charge fees apart from this Article.

**91H Power to prevent courses being offered for repeat offences**

- (1) The Department of Justice may by regulations prohibit the Chief Constable from offering an approved course to a person as an alternative to prosecution for a specified fixed penalty offence where –
- (a) there is a course fee, and 5
  - (b) the person has, within a period specified in the regulations, satisfactorily completed a similar approved course in respect of an earlier specified fixed penalty offence.
- (2) The regulations must include provision for the purpose of identifying what counts as a “similar” course; and that provision may, in particular, confer power on a person to determine what courses count as similar. 10
- (3) In this Article the following terms have the meaning given by Article 91G(5) –
- “approved course”;
  - “specified fixed penalty offence”. 15

**91I Procedure for regulations under this Part**

- (1) Regulations under this Part are subject to negative resolution.
- (2) Regulations under this Part may include such incidental or supplementary provision as appears to the Department of Justice to be necessary or expedient.” 20
- (3) The Secretary of State may by regulations amend Part 3B of the Road Traffic Offenders Act 1988 for the purpose of making provision corresponding or similar to section 90G or 90H of that Act in relation to courses offered as an alternative to prosecution in Scotland for a fixed penalty offence.
- (4) In this subsection (3) “fixed penalty offence” means an offence that is a fixed penalty offence for the purposes of Part 3 the 1988 Act (see section 51 of that Act). 25
- (5) The power to make regulations under subsection (3) is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House. 30

**PART 5**

## GENERAL

**24 Minor and consequential amendments** 35

- (1) Schedule 5 (minor and consequential amendments) has effect.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
- (3) The power to make regulations under this section is exercisable by statutory instrument. 40
- (4) Regulations under this section may amend any enactment passed or made before this Act or in the same Session.

- (5) A statutory instrument containing regulations under this section any of which amend primary legislation may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.
- (6) A statutory instrument containing regulations under this section none of which amends primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (7) In this section –
  - “amend” includes repeal or revoke;
  - “primary legislation” means –
    - (a) an Act of Parliament; 10
    - (b) an Act of the Scottish Parliament;
    - (c) an Act or Measure of the National Assembly for Wales;
    - (d) Northern Ireland legislation.

## 25 Commencement

- (1) This Act comes into force on whatever day or days the Secretary of State appoints by regulations. 15
- (2) Subsection (1) does not apply to the following sections of this Act (which come into force on the day on which this Act is passed) –
  - (a) sections 18 and 19;
  - (b) section 24(2) to (7); 20
  - (c) this section;
  - (d) sections 26 and 27.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) Regulations under this section – 25
  - (a) may appoint different days for different purposes;
  - (b) may make transitional, transitory or saving provision.

## 26 Extent

- (1) Part 1, section 21 and section 23(1) and (3) to (6) extend to England and Wales and Scotland. 30
- (2) Section 23(2) extends to Northern Ireland.
- (3) Parts 2 and 3 and section 22 extend to England and Wales, Scotland and Northern Ireland.
- (4) An amendment made by Schedule 5 has the same extent as the provision to which it relates. 35

## 27 Short title

This Act may be cited as the Vehicle Technology and Aviation Act 2017.

## SCHEDULES

### SCHEDULE 1

Section 16

#### MODIFICATION OF LICENCE CONDITIONS UNDER SECTION 11 OF THE TRANSPORT ACT 2000: APPEALS

- |   |  |    |
|---|--|----|
| 1 | After section 19 of the Transport Act 2000 insert—   | 5  |
|   | <i>“Appeal against modification of licence conditions</i>  |    |
|   | <b>19A Appeal to Competition and Markets Authority</b>   |    |
|   | (1) An appeal lies to the CMA against a decision by the CAA to modify a licence condition under section 11(1).   |    |
|   | (2) An appeal may be brought under this section only by—   | 10 |
|   | (a) the licence holder,  |    |
|   | (b) an owner or operator of an aircraft whose interests are materially affected by the decision, or  |    |
|   | (c) an owner or manager of a prescribed aerodrome whose interests are materially affected by the decision.   | 15 |
|   | (3) “Prescribed aerodrome” means an aerodrome of a description prescribed by regulations made by the Secretary of State.   |    |
|   | (4) An appeal may be brought under this section only with the permission of the CMA.   |    |
|   | (5) An application for permission to appeal under this section may be made only by a person who, if permission is granted, will be entitled to bring the appeal. | 20 |
|   | (6) The CMA may refuse permission to appeal under this section only on one of the following grounds—   |    |
|   | (a) that the appeal is brought for reasons that are trivial or vexatious;  | 25 |
|   | (b) that the appeal does not have a reasonable prospect of success;  |    |
|   | (c) that subsection (7) is satisfied.  |    |
|   | (7) This subsection is satisfied if the appeal is brought—   | 30 |
|   | (a) against a decision that relates entirely to a matter remitted to the CAA following an earlier appeal under this section, and                                 |    |
|   | (b) on grounds that were considered, or could have been raised by the current applicant or a relevant connected person, as part of the earlier appeal.           | 35 |

- (8) In subsection (7) “relevant connected person”, in relation to an applicant, means a person who was connected to the applicant at any time during the consideration of the earlier appeal by the CMA.

### 19B When appeals may be allowed

The CMA may allow an appeal under section 19A only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds – 5

- (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. 10

### 19C Determination of appeal

- (1) Where it does not allow an appeal under section 19A, the CMA must confirm the decision appealed against.
- (2) Where it allows an appeal under section 19A, the CMA must do one or more of the following – 15
- (a) quash the decision appealed against;
  - (b) remit the matter that is the subject of the decision appealed against to the CAA for reconsideration and decision in accordance with this Chapter and any directions given by the CMA; 20
  - (c) substitute its own decision for that of the CAA.
- (3) Where it allows only part of an appeal under section 19A –
- (a) subsection (2) applies in relation to the part of the decision appealed against in respect of which the appeal is allowed, and 25
  - (b) subsection (1) applies in respect of the rest of that decision.
- (4) Where the CMA substitutes its own decision for that of the CAA, the CMA may give directions to –
- (a) the CAA, and
  - (b) the licence holder. 30
- (5) The CMA must not give a direction under this section that requires a person to do anything that the person would not have the power to do apart from the direction.
- (6) A direction given by the CMA under this section to a person other than the CAA is enforceable – 35
- (a) in England and Wales and Northern Ireland, as if it were an order of the High Court;
  - (b) in Scotland, as if it were an order of the Court of Session.

### 19D Determination of appeal: time limits

- (1) The CMA must determine an appeal under section 19A within the period of 24 weeks beginning with the day on which the CAA published, in accordance with section 11A, the notice of the decision that is the subject of the appeal. 40
- This is subject to subsections (2) to (5).

- 
- (2) The CMA may extend the appeal period by not more than 12 weeks if satisfied that there are good reasons for doing so.
- (3) The CMA may extend the appeal period only once in reliance on subsection (2).
- (4) The CMA may extend the appeal period by any period that it considers appropriate if – 5
- (a) there is an appeal to the Competition Appeal Tribunal under this Chapter which the CMA considers may be relevant to the appeal under section 19A, and
  - (b) the appeal to the Tribunal has not been determined or withdrawn. 10
- (5) The CMA may extend the appeal period more than once in reliance on subsection (4).
- (6) If the CMA extends the appeal period it must – 15
- (a) publish a notice stating the new time limit for determining the appeal;
  - (b) send a copy of the notice to the persons listed in subsection (7).
- (7) Those persons are – 20
- (a) the holder of the licence that is the subject of the appeal;
  - (b) if the appeal was brought by someone other than the licence holder, the appellant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 27(3) of Schedule A1); 25
  - (d) any owners or operators of aircraft that the CMA considers appropriate;
  - (e) any owners or managers of prescribed aerodromes (within the meaning given in section 19A(3)) that the CMA considers appropriate; 30
  - (f) the CAA.
- (8) The Secretary of State may by regulations modify the periods of time specified in this section.
- (9) In this section “appeal period”, in relation to an appeal under section 19A, means the period allowed for determining the appeal. 35
- 19E Determination of appeal: publication etc**
- (1) A determination made by the CMA on an appeal under section 19A –
- (a) must be contained in an order made by the CMA, and
  - (b) takes effect at the time specified in the order or determined in accordance with the order. 40
- (2) The order must set out the reasons for the determination.
- (3) The CMA must –
- (a) publish the order as soon as practicable after the determination is made; 45

- (b) send a copy of the order to the persons listed in subsection (4).
- (4) Those persons are –
- (a) the holder of the licence which is the subject of the appeal;
  - (b) if the appeal is brought by a person other than the licence holder, the appellant; 5
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 27(3) of Schedule A1);
  - (d) any owners or operators of aircraft that the CMA considers appropriate; 10
  - (e) any owners or managers of prescribed aerodromes (within the meaning given in section 19A(3)) that the CMA considers appropriate;
  - (f) the CAA. 15
- (5) The CMA may exclude from publication under subsection (3) any information that it is satisfied is –
- (a) commercial information the disclosure of which would or might, in the opinion of the CMA, significantly harm the legitimate business interests of an undertaking to which it relates, or 20
  - (b) information relating to the private affairs of an individual, the disclosure of which would or might, in the opinion of the CMA, significantly harm the individual’s interests.
- (6) The CAA must take any steps that it considers necessary for it to comply with the order. 25
- (7) The steps must be taken –
- (a) if a time is specified in the order or is to be determined in accordance with that order, within that time;
  - (b) otherwise, within a reasonable time. 30
- 19F Procedure on appeals**
- (1) Schedule A1 makes further provision in respect of appeals under section 19A.
- (2) In carrying out the functions listed in subsection (3), the CMA must have regard to the matters in respect of which duties are imposed on the CAA by section 2. 35
- (3) Those functions are –
- (a) deciding an application for permission to appeal under section 19A;
  - (b) deciding an application under Schedule A1 for permission to intervene in an appeal; 40
  - (c) determining an appeal under section 19A, including taking decisions and giving directions described in section 19D.
- (4) Except where Schedule A1 provides otherwise, the functions of the CMA with respect to an appeal under section 19A are to be carried out on behalf of the CMA by a group constituted for the purpose, by 45

the chair of the CMA, under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

## SCHEDULE 2

Section 16

## NEW SCHEDULE A1 TO THE TRANSPORT ACT 2000

This Schedule sets out the new Schedule A1 to the Transport Act 2000, to be inserted before Schedule 1 to that Act – 5

## “SCHEDULE A1

## APPEALS UNDER SECTION 19A

## PART 1

## PERMISSION TO APPEAL 10

*Application for permission to appeal*

- 1 (1) An application to the CMA for permission to appeal under section 19A may not be made after the end of the period of six weeks beginning with day on which the CAA published the decision notice. 15
- (2) In this Schedule “the decision notice” means the notice published under section 11A of the decision that is the subject of the application for permission to appeal under section 19A.
- (3) The applicant must send a copy of the application to the CAA.
- (4) The CAA must – 20
  - (a) publish the application;
  - (b) send a copy of the application to the persons listed in subparagraph (5) (other than the applicant).
- (5) Those persons are – 25
  - (a) the holder of the licence that is the subject of the application;
  - (b) any other person with a qualifying interest in the decision that is the subject of the application;
  - (c) any owners or operators of aircraft that the CAA considers appropriate; 30
  - (d) any owners or managers of prescribed aerodromes that the CAA considers appropriate.

*Determination of application for permission to appeal*

- 2 (1) The decision of the CMA on an application for permission to appeal is to be taken by an authorised member of the CMA. 35
- (2) The authorised member must take the decision before the end of the period of ten weeks beginning with the day on which the CAA published the decision notice.

- (3) The authorised member may grant permission to appeal subject to conditions.
- (4) The conditions may, in particular, include—
- (a) conditions which limit the matters that are to be considered on the appeal; 5
  - (b) conditions for the purpose of expediting the determination of the appeal;
  - (c) conditions requiring the appeal to be considered together with other appeals, including appeals relating to different matters or decisions and appeals brought by different persons. 10
- (5) An authorised member of the CMA who grants permission to appeal against a decision that relates entirely or partly to a matter remitted to the CAA following an earlier appeal under section 19A must grant permission subject to conditions excluding the consideration of—
- (a) matters that were considered as part of the earlier appeal, and
  - (b) matters that could have been raised by the applicant or a relevant connected person as part of the earlier appeal, 20
- unless the member considers that there are compelling reasons not to do so.
- (6) In sub-paragraph (5) “relevant connected person”, in relation to an applicant, means a person who was connected to the applicant at any time during the consideration of the earlier appeal by the CMA. 25
- (7) An authorised member of the CMA must—
- (a) publish the decision on an application for permission to appeal and the reasons for the decision;
  - (b) send a copy of the decision and the reasons to the persons listed in sub-paragraph (8). 30
- (8) Those persons are—
- (a) the holder of the licence which is the subject of the application;
  - (b) if the application was made by someone other than the licence holder, the applicant; 35
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal;
  - (d) any owners or operators of aircraft that the CMA considers appropriate; 40
  - (e) any owners or managers of prescribed aerodromes that the CMA considers appropriate;
  - (f) the CAA.
- (9) An authorised member of the CMA may exclude from publication under sub-paragraph (7) any information that the member is satisfied is— 45
- (a) commercial information the disclosure of which would or might, in the opinion of the member, significantly harm

- the legitimate business interests of an undertaking to which it relates, or
- (b) information relating to the private affairs of an individual the disclosure of which would or might, in the opinion of the member, significantly harm the individual's interests. 5

*Time limit for CAA to make representations*

- 3 (1) This paragraph applies where the CAA wishes to make representations to the CMA in relation to an application under paragraph 1 for permission to appeal against a decision.
- (2) The CAA must make representations in writing before the end of the period of eight weeks beginning with the day on which the CAA published the decision notice. 10
- (3) The CAA must send a copy of its representations to –
- (a) the holder of the licence that is the subject of the application; 15
  - (b) if the application was made by someone other than the licence holder, the applicant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal;
  - (d) any owners or operators of aircraft that the CAA considers appropriate; 20
  - (e) any owners or managers of prescribed aerodromes that the CAA considers appropriate.

PART 2

INTERVENTION IN APPEAL 25

*Application for permission to intervene in appeal*

- 4 (1) Where an application is made under paragraph 1 for permission to appeal against a decision, an application for permission to intervene in the appeal may be made to the CMA by another person who would be entitled to appeal against the decision. 30
- (2) An application for permission to intervene –
- (a) may be made before the end of the period of one week beginning with the day of publication of the CMA's decision to grant permission to appeal against the decision;
  - (b) may be made after the end of that period only with the leave of an authorised member of the CMA. 35
- (3) The applicant must send a copy of the application to the CAA.
- (4) The CAA must –
- (a) publish the application;
  - (b) send a copy of the application to the persons listed in sub-paragraph (5) (other than the applicant). 40
- (5) The persons are –

- (a) the holder of the licence that is the subject of the application for permission to appeal;
- (b) any other person with a qualifying interest in the decision that is the subject of the application;
- (c) any owners or operators of aircraft that the CAA considers appropriate; 5
- (d) any owners or managers of prescribed aerodromes that the CAA considers appropriate.

*Determination of application for permission to intervene*

- 5 (1) The decision of the CMA on an application for permission to intervene is to be taken by an authorised member of the CMA. 10
- (2) An authorised member of the CMA may grant permission to intervene in an appeal only if the member is satisfied that allowing the applicant to intervene is necessary or desirable for the proper resolution of the appeal. 15
- (3) The authorised member –
  - (a) may grant permission to intervene for the purposes of supporting or opposing an appeal;
  - (b) must make any permission to intervene for the purpose of supporting an appeal subject to conditions preventing the intervener from putting forward new grounds of appeal; 20
  - (c) may make permission to intervene subject to other conditions, including conditions which limit the matters that may be raised by the intervener.
- (4) An authorised member of the CMA must – 25
  - (a) publish the decision on an application for permission to intervene and the reasons for the decision;
  - (b) send a copy of the decision and reasons to the persons listed in sub-paragraph (5).
- (5) Those persons are – 30
  - (a) the holder of the licence which is the subject of the application;
  - (b) if the application was made by someone other than the licence holder, the applicant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the application; 35
  - (d) any owners or operators of aircraft that the authorised member considers appropriate;
  - (e) any owners or managers of prescribed aerodromes that the authorised member considers appropriate; 40
  - (f) the CAA.
- (6) An authorised member of the CMA may exclude from publication under sub-paragraph (4) any information that the member is satisfied is – 45
  - (a) commercial information the disclosure of which would or might, in the opinion of the member, significantly harm

- the legitimate business interests of an undertaking to which it relates, or
- (b) information relating to the private affairs of an individual, the disclosure of which would or might, in the opinion of the member, significantly harm the individual’s interests. 5

### PART 3

#### APPLICATION FOR SUSPENSION OF MODIFICATION

##### *Application for direction suspending licence modification*

- 6 (1) Where an application is made under paragraph 1 for permission to appeal against a decision, an application for a direction suspending the effect of the decision may be made to the CMA – 10
- (a) by the person who applied for permission to appeal, or
- (b) by another person who would be entitled to appeal against the decision.
- (2) An application for a direction may be made at any time before the determination of the appeal. 15
- (3) The applicant must send a copy of the application to the CAA.
- (4) The CAA must –
- (a) publish the application;
- (b) send a copy of the application to the persons listed in subparagraph (5) (other than the applicant). 20
- (5) Those persons are –
- (a) the holder of the licence that is the subject of the application;
- (b) any other person with a qualifying interest in the decision that is the subject of the application; 25
- (c) any owners or operators of aircraft that the CAA considers appropriate;
- (d) any owners or managers of prescribed aerodromes that the CAA considers appropriate. 30

##### *Effect of early application for direction suspending licence modification*

- 7 (1) This paragraph applies if –
- (a) an application is made under paragraph 6 for a direction suspending the effect of a decision under section 11(1) to modify a licence condition, 35
- (b) the application is made before the end of the six weeks beginning with the day on which the CAA published the decision notice, and
- (c) the modification would have effect, but for this paragraph, before the end of the period of ten weeks beginning with that day (“the ten-week period”). 40
- (2) The modification does not have effect during the ten-week period.

- (3) The decision of the CMA on the application under paragraph 6 must be taken before the end of the ten-week period.

*Direction following application under paragraph 6*

- 8 (1) The functions of the CMA in relation to an application under paragraph 6 for a direction are to be carried out by an authorised member of the CMA. 5
- (2) An authorised member of the CMA may give a direction suspending the effect of a decision under section 11(1) to include a condition in a licence only if— 10
- (a) the applicant for the direction would incur significant costs if the licence condition were to have effect from the date specified in the decision, and
- (b) the balance of convenience does not otherwise require the licence condition to have effect from that date.
- (3) If the authorised member gives a direction suspending the effect of the decision, the licence condition does not have effect or ceases to have effect— 15
- (a) to the extent specified in the direction, and
- (b) for the period specified or described in the direction.
- (4) An authorised member of the CMA may by notice vary or withdraw a direction under this paragraph if the authorised member considers it appropriate to do so having regard to the costs and the balance of convenience referred to in sub-paragraph (2). 20

*Publication of decisions about directions* 25

- 9 (1) An authorised member of the CMA must—
- (a) publish a decision on an application under paragraph 6 for a direction and the reasons for the decision;
- (b) send a copy of the decision and reasons to the persons listed in sub-paragraph (4). 30
- (2) Where paragraph 7 applies, the requirements of sub-paragraph (1) must be complied with before the end of the ten-week period referred to in that paragraph.
- (3) An authorised member of the CMA must—
- (a) publish any notice varying or withdrawing a direction under paragraph 8 and the reasons for the variation or withdrawal; 35
- (b) send a copy of the notice and reasons to the persons listed in sub-paragraph (4).
- (4) Those persons are— 40
- (a) the holder of the licence which is the subject of the application or direction;
- (b) if the application for the direction was made by someone other than the licence holder, the applicant;

- (c) any other person with a qualifying interest in the decision that is the subject of the application;
- (d) any owners or operators of aircraft that the authorised member considers appropriate;
- (e) any owners or managers of prescribed aerodromes that the authorised member considers appropriate; 5
- (f) the CAA.

*Time limit for CAA to make representations*

- 10 (1) This paragraph applies where the CAA wishes to make representations to the CMA in relation to an application under paragraph 6 for a direction. 10
- (2) In a case to which paragraph 7 applies, the CAA must make the representations in writing before the end of the period of eight weeks beginning with the day on which the CAA published the decision notice. 15
- (3) In any other case—
- (a) an authorised member of the CMA must specify a reasonable period for making representations;
  - (b) the CAA must make the representations in writing before the end of that period. 20
- (4) In all cases, the CAA must send a copy of its representations to—
- (a) the holder of the licence that is the subject of the application;
  - (b) if the application was made by someone other than the licence holder, the applicant; 25
  - (c) any other person with a qualifying interest in the decision that is the subject of the application;
  - (d) any owners or operators of aircraft that the CAA considers appropriate;
  - (e) any owners or managers of prescribed aerodromes that the CAA considers appropriate. 30

PART 4

DETERMINATION OF APPEALS

*Determination of appeal by group*

- 11 (1) A group constituted by the chair of the CMA, under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, for the purpose of carrying out functions of the CMA with respect to an appeal under section 19A must consist of three members of the CMA panel. 35
- (2) A decision of the group is effective only if—
- (a) all of the members are present when it is made, and 40
  - (b) at least two members of the group are in favour of the decision.

*Representations made by the CAA*

- 12 (1) This paragraph applies where an application for permission has been granted and the CAA makes representations to the CMA for the purposes of the appeal under section 19A.
- (2) The CAA must send a copy of its representations to – 5
- (a) the holder of the licence which is the subject of the appeal;
  - (b) if the appeal was brought by someone other than the licence holder, the appellant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal; 10
  - (d) any owners or operators of aircraft that the CAA considers appropriate;
  - (e) any owners or managers of prescribed aerodromes that the CAA considers appropriate.

*Matters that may be disregarded* 15

- 13 (1) The CMA may disregard matters raised by the CAA if it thinks it necessary to do so for the purpose of securing that an appeal under section 19A is determined within the period allowed under section 19D, unless they are matters contained in representations made to the CMA – 20
- (a) in accordance with paragraph 10, or
  - (b) before the end of the period of 12 weeks beginning with the day on which the decision notice was published.
- (2) The CMA may disregard matters raised by the appellant if it thinks it necessary to do so for the purpose of securing that an appeal under section 19A is determined within the period allowed under section 19D, unless the matters were raised by the appellant – 25
- (a) at the time of the application under paragraph 1 for permission to appeal, or 30
  - (b) in an application under paragraph 6 for a direction.
- (3) The CMA may disregard matters raised by an intervener if it thinks it necessary to do so for the purpose of securing that an appeal under section 19A is determined within the period allowed under section 19D, unless the matters were raised by the intervener – 35
- (a) at the time of the application to intervene under paragraph 4, or
  - (b) in an application under paragraph 6 for a direction.

*Remitting decision to CAA* 40

- 14 (1) This paragraph applies where CMA decides to remit a matter that is the subject of an appeal under section 19A to the CAA for reconsideration and decision.
- (2) Where, on reconsidering the matter, the CAA decides to modify a licence, the notice under section 11A(5) in respect of the 45

modification may, with the agreement of the licence holder, specify a date falling—

- (a) before the end of the period of six weeks beginning with the date on which the notice is published, but
- (b) on or after the date on which the decision that was the subject of the appeal took effect or would have taken effect but for its suspension under this Schedule. 5

*Substituting the CAA's decision*

- 15 (1) This paragraph applies where the CMA decides to substitute its own decision for a decision of the CAA that is the subject of an appeal under section 19A. 10
- (2) The decision of the CMA has effect as if made by the CAA except that—
  - (a) section 11A(5) does not apply;
  - (b) an appeal may not be brought against it under section 19A. 15
- (3) Any modification of a licence effected by the CMA takes effect from the date specified by the CMA.
- (4) The CMA may, with the agreement of the licence holder, specify a date falling—
  - (a) before the date on which the order containing its decision is published, but 20
  - (b) on or after the date on which the decision that was the subject of the appeal took effect or would have taken effect but for its suspension under this Schedule.

PART 5 25

GENERAL

*Consideration of new matters*

- 16 (1) This paragraph applies to—
    - (a) an authorised member of the CMA with the function of determining an application for permission to appeal under section 19A; 30
    - (b) a group with the function of determining an appeal under that section.
  - (2) The member or group must not have regard to any matter, information or evidence raised or provided by the CAA if it was not considered by the CAA in making the decision that is the subject of the application or the appeal, unless the member or group considers that—
    - (a) the CAA could not reasonably have been expected to consider the matter, information or evidence when making that decision, and 35
    - (b) the matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence. 40
- 45

- (3) The member or group must not have regard to any matter, information or evidence raised or provided by a person other than the CAA if it was not considered by the CAA in making the decision that is the subject of the application or appeal, unless the member of the group considers that— 5
- (a) the person or a relevant connected person could not reasonably have raised the matter with the CAA, or provided the information or evidence to the CAA, during the period in which the CAA was making that decision, and 10
  - (b) the matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence.
- (4) Where the member or group has regard to any matter, information or evidence in reliance on sub-paragraph (2) or (3), those sub-paragraphs do not prevent the member or group having regard to further matters, information or evidence raised or provided in response to it if the member or group considers that the further matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence. 15 20
- (5) In sub-paragraph (3) “relevant connected person”, in relation to a person who raises or provides a matter, information or evidence, means a person who was connected to that person at any time during the period in which the CAA was making the decision that is the subject of the application or appeal. 25
- (6) References in this paragraph to the period in which the CAA was making a decision are to the period— 30
- (a) beginning with the publication of a notice under section 11A(1) proposing to make the modification, and
  - (b) ending with the publication of a notice under section 11A(5) in relation to that modification.

*Production of documents*

- 17 (1) The CMA may by notice require a person to produce to it documents specified or described in the notice that are in the person’s custody or under the person’s control. 35
- (2) The notice may require the production of documents—
- (a) at the time and place specified in the notice;
  - (b) in the form and manner specified in the notice. 40
- (3) The notice may not require a person to produce documents that a person could not be compelled to provide in evidence in civil proceedings before the appropriate court (see paragraph 27).
- (4) A notice under this paragraph may be given on behalf of the CMA by an authorised member of the CMA. 45

*Oral hearings*

- 18 (1) For the purposes of this Schedule the following persons may hold an oral hearing and take evidence on oath—
- (a) an authorised member of the CMA considering an application under paragraph 1 for permission to appeal; 5
  - (b) an authorised member of the CMA considering an application under paragraph 4 for permission to intervene;
  - (c) an authorised member of the CMA considering an application under paragraph 6 for a direction;
  - (d) a group with the function of determining an appeal under section 19A. 10
- (2) In the course of holding such a hearing and taking such evidence, a person or group described in sub-paragraph (1) may administer oaths.
- (3) An authorised member of the CMA may by notice require a person— 15
- (a) to attend at a time and place specified in the notice, and
  - (b) at that time and place, to give evidence to a member or group described in sub-paragraph (1).
- (4) At an oral hearing, the member or group conducting the hearing may require the following persons to give evidence or to make representations— 20
- (a) the applicant, the appellant or any intervener (if present);
  - (b) a person attending a hearing as a representative of the applicant, the appellant, an intervener or the CAA. 25
- (5) Subject to sub-paragraph (6), a person who gives oral evidence at the hearing may be cross-examined by or on behalf of—
- (a) the appellant;
  - (b) an intervener;
  - (c) the CAA. 30
- (6) Such a person may be cross-examined by or on behalf of an intervener only with the leave of the member or group conducting the hearing.
- (7) If the applicant, the appellant, an intervener or a representative of any such person or the CAA is not present at a hearing— 35
- (a) there is no requirement to give notice to that person under sub-paragraph (3);
  - (b) the member or group conducting the hearing may determine the application or appeal without hearing that person’s evidence or representations. 40
- (8) A person may not be required under this paragraph to give evidence that the person could not be compelled to give in civil proceedings before the appropriate court (see paragraph 27).
- (9) Where a person is required under this paragraph to attend at a place more than 16 kilometres from the person’s place of residence, an authorised member of the CMA must arrange for the person to be paid the necessary expenses of attendance. 45

- (10) A notice under this paragraph may be given on behalf of the CMA by an authorised member of the CMA.

*Written evidence*

- 19 (1) The CMA may by notice require a person to produce a written statement with respect to a matter specified in the notice – 5
- (a) to an authorised member of the CMA considering an application under paragraph 1 for permission to appeal;
  - (b) to an authorised member of the CMA considering an application under paragraph 4 for permission to intervene;
  - (c) to an authorised member of the CMA considering an application under paragraph 6 for a direction; 10
  - (d) to a group with the function of determining an appeal under section 19A.
- (2) The notice may require the written statement – 15
- (a) to be produced at the time and place specified in the notice;
  - (b) to be verified by a statement of truth.
- (3) Where a notice requires a written statement to be verified by a statement of truth, the statement may be disregarded unless it is so verified.
- (4) A person may not be required under this paragraph to produce a written statement about a matter if the person could not be compelled to give evidence about that matter in civil proceedings before the appropriate court (see paragraph 27). 20
- (5) A notice under this paragraph may be given on behalf of the CMA by an authorised member of the CMA. 25

*Expert advice*

- 20 Where permission to appeal is granted under paragraph 2, the CMA may commission expert advice with respect to any matter raised by –
- (a) the appellant, 30
  - (b) an intervener, or
  - (c) the CAA.

*Enforcement of requirements in relation to evidence etc*

- 21 (1) This paragraph applies where a person – 35
- (a) fails to comply with a notice under paragraph 17, 18 or 19,
  - (b) fails to comply with any other requirement imposed under paragraph 17, 18 or 19,
  - (c) in complying with a notice under paragraph 19, makes a statement that is false or misleading in a material respect, or 40
  - (d) in providing information verified by a statement of truth required by appeal rules, provides information that is false or misleading in a material respect.

- 
- (2) An authorised member of the CMA may certify to the appropriate court –
- (a) the failure,
  - (b) the fact that the person has made a false or misleading statement in circumstances described in sub-paragraph (1)(c), or
  - (c) the fact that the person has provided false or misleading information in circumstances described in sub-paragraph (1)(d).
- (3) The appropriate court may inquire into a certified failure or act and, if it does so, must hear –
- (a) any witness against the person;
  - (b) any witness on behalf of the person;
  - (c) any statement in the person’s defence.
- (4) The appropriate court may punish the person as if the person had been guilty of contempt of court if it is satisfied that –
- (a) the certified failure or act took place, and
  - (b) the person did not have a reasonable excuse for the failure or act.
- (5) Where the person is a body corporate, the appropriate court may punish any director or other officer of that body, either instead or as well as punishing the body.
- (6) In this paragraph “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body.
- Withdrawal of applications and appeals*
- 22 (1) An application under paragraph 1 for permission to appeal may be withdrawn only with the consent of the CMA.
- (2) After an application for permission to appeal is granted, the appeal may be withdrawn only with the permission of the CMA.
- (3) An application under paragraph 4 for permission to intervene may be withdrawn only with the consent of the CMA.
- (4) After an application for permission to intervene is granted, the intervener may withdraw from the appeal only with the consent of the CMA.
- (5) For the purposes of sub-paragraphs (1) to (4), the consent of the CMA may be given by an authorised member of the CMA.
- (6) An application under paragraph 6 for a direction suspending the effect of a decision may be withdrawn at any time.
- (7) Withdrawal of an application under this Schedule or of an appeal has effect when the applicant or appellant gives notice to the CMA.
- (8) The applicant or appellant must send a copy of the notice to the CAA.
- (9) The CAA must –

- (a) publish the notice;
  - (b) send a copy of it to the persons listed in sub-paragraph (10) (other than the person withdrawing the application or appeal).
- (10) Those persons are – 5
- (a) the holder of the licence that is the subject of the appeal;
  - (b) any other person with a qualifying interest in the decision that is the subject of the application or appeal;
  - (c) any owners or operators of aircraft that the CAA considers appropriate; 10
  - (d) any owners or managers of prescribed aerodromes that the CAA considers appropriate.

### *Appeal Rules*

- 23 (1) The CMA Board may make rules regulating the conduct and disposal of appeals. 15
- (2) The rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing or requirement for which this Schedule provides.
- (3) The rules may, in particular, include – 20
- (a) provision requiring an application to be accompanied by information specified in the rules;
  - (b) provision requiring such information to be verified by a statement of truth;
  - (c) provision requiring an applicant to provide the CAA with information specified in the rules; 25
  - (d) provision imposing time limits or other restrictions on the taking of evidence at an oral hearing;
  - (e) provision imposing time limits or other restrictions on the making of representations or observations at such a hearing. 30
- (4) The rules may make different provision for different purposes.
- (5) Before making rules under this paragraph the CMA Board must consult any persons that it considers appropriate.
- (6) The CMA Board must publish the rules made under this paragraph. 35

### *Costs*

- 24 (1) Where an application under this Schedule or an appeal is withdrawn, an authorised member of the CMA may make any order that the member thinks fit requiring the parties to the application or appeal to make payments to each other and to the CMA in respect of costs incurred in connection with the application or appeal. 40
- (2) A group that determines an appeal must make an order requiring the payment to the CMA of the costs incurred by the CMA in connection with the appeal. 45

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- (3) Subject to sub-paragraph (4), an order under sub-paragraph (2) must require those costs to be paid –
- (a) where the appeal is allowed in full, by the CAA;
  - (b) where the appeal is dismissed in full, by the appellant;
  - (c) where the appeal is allowed in part, by the appellant and the CAA in such proportions as the group considers appropriate. 5
- (4) The order may require an intervener in the appeal to pay such proportion of those costs (if any) as the group considers appropriate. 10
- (5) A group that determines an appeal may make any order that it thinks fit requiring one party to the appeal to make payments to another in respect of costs reasonably incurred by the other party in connection with the appeal.
- (6) A person who is required to make a payment by an order under this paragraph must comply with the order before the end of the period of 28 days beginning with the day after the making of the order. 15
- (7) If that person does not do so, the unpaid balance carries interest at a rate specified in the order or determined in accordance with it. 20
- (8) In this paragraph, references to an intervener in an appeal, and to a party to an appeal, include a person who was granted permission to intervene in an appeal and subsequently withdrew from the appeal.
- Secretary of State’s power to modify time limits* 25
- 25 The Secretary of State may by regulations modify any period of time specified in this Schedule.
- Publication etc*
- 26 Where the CAA, the CMA or an authorised member of the CMA is required by this Schedule to publish something or send a copy of something and this Schedule does not specify a time for doing so, it must be published or sent as soon as practicable. 30
- Interpretation*
- 27 (1) In this Schedule –
- “appeal” means an appeal under section 19A;
  - “the appropriate court” –
    - (a) in relation to England and Wales and Northern Ireland, means the High Court;
    - (b) in relation to Scotland, means the Court of Session;
  - “authorised member of the CMA” has the meaning given in sub-paragraph (2); 40
  - “CMA Board” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;

- “intervener”, in relation to an appeal, means a person who has been granted permission to intervene in the appeal and who has not withdrawn from the appeal;
- “prescribed aerodrome” has the meaning given in section 19A(3); 5
- “statement of truth”, in relation to the production of a statement or in relation to information provided by a person, means a statement that the person producing that statement or providing that information believes the facts contained in the statement or the information to be true. 10
- (2) In this Schedule “authorised member of the CMA” –
- (a) in relation to a power exercisable in connection with an appeal, or an application or direction, in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power; and 15
- (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal or application or direction in respect of which a group has not been so constituted by the chair of the CMA, means – 20
- (i) any member of the CMA Board who is also a member of the CMA panel, or 25
- (ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question.
- (3) For the purposes of this Schedule and sections 19D and 19E, a person has a qualifying interest in a decision that is the subject of an appeal or an application under this Schedule for permission to appeal if – 30
- (a) the person has been granted permission to appeal against the decision and has not withdrawn the appeal, 35
- (b) the person has applied for permission to appeal against the decision and the application has not been withdrawn or refused, 40
- (c) the person has been granted permission to intervene in an appeal against the decision and the appeal has not been withdrawn, 40
- (d) the person has applied for permission to intervene in an appeal against the decision and the application has not been withdrawn or refused, or
- (e) the person has applied for a direction under paragraph 8, the application has not been withdrawn or refused and any direction made in response to the application has not been withdrawn.” 45

SCHEDULE 3

Section 17

NEW SCHEDULE B1 TO THE TRANSPORT ACT 2000

This Schedule sets out the new Schedule B1 to the Transport Act 2000, to be inserted after Schedule A1 to that Act (inserted by section 16 above) –

“SCHEDULE B1 5

ENFORCEMENT OF DUTIES UNDER SECTION 8 AND LICENCE CONDITIONS

PART 1

ENFORCEMENT

*Contravention notices*

- |   |  |    |
|---|--|----|
| 1 | (1) The CAA may give a notice under this paragraph (a “contravention notice”) to a licence holder if it has reasonable grounds for believing that the licence holder is contravening, or has contravened, a Chapter 1 requirement.   | 10 |
|   | (2) In this Schedule “Chapter 1 requirement”, in relation to a licence holder, means –   | 15 |
|   | (a) a duty imposed on the licence holder by section 8, or  |    |
|   | (b) a licence condition of the licence holder’s licence.   |    |
|   | (3) A contravention notice must –  |    |
|   | (a) specify the Chapter 1 requirement and contravention in respect of which it is given;   | 20 |
|   | (b) explain the action that the CAA may take under this Schedule in connection with the contravention;   |    |
|   | (c) explain that representations may be made about the matters in the notice before the end of the period specified in the notice.   | 25 |
|   | (4) The CAA must specify a period of not less than 30 days beginning with the day on which the contravention notice is given, subject to sub-paragraph (5).  |    |
|   | (5) The CAA may specify a shorter period in a contravention notice given in respect of a repeated contravention.   | 30 |
|   | (6) A contravention notice is given to a licence holder in respect of a repeated contravention if, in the period of two years ending with the day on which the notice is given, the CAA did one or more of the following in respect of a contravention by the licence holder of the same Chapter 1 requirement – | 35 |
|   | (a) gave the licence holder a contravention notice;  |    |
|   | (b) gave the licence holder an enforcement order;  |    |
|   | (c) gave the licence holder an urgent enforcement order;   |    |
|   | (d) imposed a penalty on the licence holder under paragraph 9 or 10.   | 40 |

- (7) The CAA may extend the period specified in a contravention notice given to a licence holder on one or more occasions by giving a notice to that licence holder.
- (8) The CAA may withdraw a contravention notice given to a licence holder at any time by giving a notice to the licence holder that includes its reasons for doing so. 5
- (9) As soon as practicable after giving a notice under sub-paragraph (1), (7) or (8), the CAA must –
- (a) publish the notice;
  - (b) send a copy of the notice to – 10
    - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
    - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate; 15
    - (iii) the Secretary of State.
- (10) A contravention notice given in respect of a contravention that is or was a continuing contravention must specify the period of contravention in respect of which it is given. 20
- (11) In this Schedule “representation period”, in relation to a contravention notice, means –
- (a) the period specified in the contravention notice for making representations;
  - (b) where the period has been extended in accordance with sub-paragraph (7), the extended period. 25

*Restrictions on giving contravention notices*

- 2 (1) If the CAA gives a licence holder a contravention notice or an urgent enforcement order (see paragraph 5)) in respect of a contravention, it may not subsequently give the licence holder a contravention notice in respect of the same contravention. 30
- (2) Sub-paragraph (1) does not apply if –
- (a) the CAA withdraws the first contravention notice without imposing a penalty on the person under paragraph 9, or
  - (b) the CAA revokes the urgent enforcement order without imposing a penalty on the licence holder under paragraph 10. 35
- (3) Sub-paragraph (1) does not prevent the CAA giving a licence holder more than one contravention notice, or a contravention notice and urgent enforcement order, in respect of – 40
- (a) contraventions of the same Chapter 1 requirement in different ways, or
  - (b) contraventions of the same Chapter 1 requirement at different times or during different periods.

*Enforcement order*

- 3 (1) The CAA may give an order under this paragraph (an “enforcement order”) to a licence holder if—
- (a) it has given the licence holder a contravention notice (and has not withdrawn it), 5
  - (b) the representation period has ended,
  - (c) it has considered any representations made about the matters in the contravention notice before the end of that period (and not withdrawn), and
  - (d) sub-paragraph (2) or (3) is satisfied. 10
- (2) This sub-paragraph is satisfied if the CAA has determined that the licence holder is contravening a Chapter 1 requirement specified in the contravention notice in one or more of the ways specified in the notice.
- (3) This sub-paragraph is satisfied if the CAA has determined that the licence holder— 15
- (a) has contravened a Chapter 1 requirement specified in the contravention notice in one or more of the ways specified in the notice, and
  - (b) did not, before the end of the representation period, take all of the appropriate steps mentioned in sub-paragraph (6)(b). 20
- (4) An enforcement order must—
- (a) specify the Chapter 1 requirement and contravention in respect of which it is given; 25
  - (b) require the licence holder to take any appropriate steps that are specified in the order;
  - (c) specify a reasonable period within which the steps must be taken;
  - (d) give the CAA’s reasons for giving the order. 30
- (5) As soon as practicable after giving an enforcement order, the CAA must—
- (a) publish the order;
  - (b) send a copy of the notice to— 35
    - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
    - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate; 40
    - (iii) the Secretary of State.
- (6) In this paragraph “appropriate steps”, in relation to a contravention of a Chapter 1 requirement, means steps that the CAA has determined are appropriate—
- (a) for complying with the requirement, and 45
  - (b) for remedying the consequences of the contravention.

*Enforcement order: modification and revocation*

- 4 (1) The CAA may –
- (a) modify an enforcement order with the agreement of the licence holder to whom it was given, or
  - (b) revoke an enforcement order. 5
- (2) Before modifying or revoking the order, the CAA must –
- (a) publish a notice in relation to the proposed modification or revocation;
  - (b) send a copy of the notice to the licence holder to whom the order was given; 10
  - (c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).
- (3) The notice under sub-paragraph (2) must –
- (a) state that the CAA proposes to modify or revoke the order;
  - (b) specify the proposed modification (if relevant); 15
  - (c) give the CAA’s reasons for the modification or revocation;
  - (d) specify a reasonable period for making representations.
- (4) As soon as practicable after modifying or revoking an enforcement order, the CAA must –
- (a) publish a notice giving details of the modification or revocation; 20
  - (b) send a copy of the notice to the persons listed in sub-paragraph (5).
- (5) The persons are –
- (a) the licence holder to whom the enforcement order was given; 25
  - (b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
  - (c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate; 30
  - (d) the Secretary of State.

*Urgent enforcement order*

- 5 (1) The CAA may give an order under this paragraph (an “urgent enforcement order”) to a licence holder if sub-paragraph (2) or (3) is satisfied. 35
- (2) This sub-paragraph is satisfied if the CAA has reasonable grounds for believing that –
- (a) the licence holder is contravening, or has contravened, a Chapter 1 requirement,
  - (b) the contravention has resulted in, or creates an immediate risk of, a serious economic or operational problem – 40
    - (i) for owners or operators of aircraft, or
    - (ii) for owners or managers of aerodromes, and
  - (c) it is appropriate to give an urgent enforcement order to prevent, remove or reduce that problem or risk. 45

- (3) This sub-paragraph is satisfied if the CAA has reasonable grounds for believing that—
- (a) the licence holder is likely to contravene a Chapter 1 requirement,
  - (b) the contravention is likely to result in, or create an immediate risk of, a problem described in sub-paragraph (2)(b), and
  - (c) it is appropriate to give the urgent enforcement order to prevent, or reduce the likelihood of, that problem or risk arising.
- (4) An urgent enforcement order must—
- (a) specify the Chapter 1 requirement and the contravention in respect of which it is given;
  - (b) require the licence holder to take any appropriate steps that are specified in the order;
  - (c) specify a reasonable period within which the steps must be taken;
  - (d) give the CAA’s reasons for giving the order.
- (5) As soon as practicable after giving an urgent enforcement order, the CAA must—
- (a) publish the order;
  - (b) send a copy of the order to—
    - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
    - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
    - (iii) the Secretary of State.
- (6) In this paragraph “appropriate steps”—
- (a) in relation to a contravention of a Chapter 1 requirement that has occurred or is occurring, means steps that the CAA has determined are appropriate—
    - (i) for complying with the requirement, and
    - (ii) for remedying the consequences of the contravention;
  - (b) in relation to a contravention of a Chapter 1 requirement that is likely to occur, means steps that the CAA has determined are appropriate for securing that the contravention does not occur.

*Urgent enforcement order: confirmation*

- 6 (1) As soon as practicable after giving an urgent enforcement order, the CAA must—
- (a) confirm the order, or
  - (b) revoke the order (see paragraph 7).
- (2) The CAA may confirm an urgent enforcement order with or without modifications.

- (3) The CAA may confirm an urgent enforcement order given in reliance on paragraph 5(2) only if it has determined that –
  - (a) the licence holder is contravening, or has contravened, a Chapter 1 requirement specified in the order in one or more of the ways specified in the order, 5
  - (b) the contravention has resulted in, or creates an immediate risk of, a problem described in paragraph 5(2)(b), and
  - (c) it is appropriate to confirm the urgent enforcement order, with any modifications, to prevent, remove or reduce that problem or risk. 10
- (4) The CAA may confirm an urgent enforcement order given in reliance on paragraph 5(3) only if –
  - (a) it has determined that paragraphs (a) to (c) of sub-paragraph (3) of this paragraph are satisfied, or
  - (b) it has determined that – 15
    - (i) the licence holder is likely to contravene a Chapter 1 requirement specified in the order in one or more of the ways specified in the order,
    - (ii) the contravention is likely to result in, or create an immediate risk of, a problem described in paragraph 5(2)(b), and 20
    - (iii) it is appropriate to confirm the urgent enforcement order, with any modifications, in order to prevent, or reduce the likelihood of, that problem or risk arising. 25
- (5) Before confirming an urgent enforcement order, the CAA must –
  - (a) publish a notice in relation to the proposal to confirm the order;
  - (b) send a copy of the notice to the licence holder to whom the order was given; 30
  - (c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).
- (6) The notice under sub-paragraph (5) must –
  - (a) state that the CAA proposes to confirm the order;
  - (b) specify any proposed modifications of the order; 35
  - (c) give the CAA's reasons for confirming the order and for any modifications;
  - (d) specify a reasonable period for making representations.
- (7) As soon as practicable after confirming an urgent enforcement order, the CAA must – 40
  - (a) publish a notice giving details of the confirmation, including any modifications of the order;
  - (b) send a copy of the notice to the persons listed in sub-paragraph (8).
- (8) Those persons are – 45
  - (a) the licence holder to whom the urgent enforcement order was given;
  - (b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;

- (c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
- (d) the Secretary of State.

*Urgent enforcement order: modification and revocation*

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|---|--|
| 7 | <ul style="list-style-type: none"> <li>(1) The CAA may – <span style="float: right;">5</span> <ul style="list-style-type: none"> <li>(a) modify an urgent enforcement order with the agreement of the licence holder to whom it was given, or</li> <li>(b) revoke an urgent enforcement order.</li> </ul> </li> <li>(2) Before modifying or revoking the order, the CAA must – <span style="float: right;">10</span> <ul style="list-style-type: none"> <li>(a) publish a notice in relation to the proposed modification or revocation;</li> <li>(b) send a copy of the notice to the licence holder;</li> <li>(c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).</li> </ul> </li> <li>(3) The notice under sub-paragraph (2) must – <span style="float: right;">15</span> <ul style="list-style-type: none"> <li>(a) state that the CAA proposes to modify or revoke the order;</li> <li>(b) specify the proposed modification (if relevant);</li> <li>(c) give the CAA’s reasons for the modification or revocation;</li> <li>(d) specify a reasonable period for making representations.</li> </ul> </li> <li>(4) As soon as practicable after modifying or revoking an urgent enforcement order, the CAA must – <span style="float: right;">20</span> <ul style="list-style-type: none"> <li>(a) publish a notice giving details of the modification or revocation;</li> <li>(b) send a copy of the notice to the persons listed in sub-paragraph (5). <span style="float: right;">25</span></li> </ul> </li> <li>(5) Those persons are –           <ul style="list-style-type: none"> <li>(a) the licence holder to whom the urgent enforcement order was given;</li> <li>(b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate; <span style="float: right;">30</span></li> <li>(c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;</li> <li>(d) the Secretary of State.</li> </ul> </li> <li>(6) Nothing in this paragraph restricts, or applies in relation to the exercise of, the CAA’s power under paragraph 6 to modify an urgent enforcement order when confirming the order. <span style="float: right;">35</span></li> </ul> |
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*Civil proceedings*

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| 8 | <ul style="list-style-type: none"> <li>(1) A licence holder who is given an enforcement order must comply with it (unless it is revoked).</li> <li>(2) The obligation to comply with an enforcement order is a duty owed to every person who may be affected by a contravention of a requirement of the order. <span style="float: right;">40</span></li> </ul> |
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- (3) A licence holder who is given an urgent enforcement order must comply with it, whether or not it has been confirmed (unless it is revoked).
- (4) The obligation to comply with an urgent enforcement order that has been confirmed is a duty owed to every person who may be affected by a contravention of a requirement of the order. 5
- (5) Where a duty is owed to a person under sub-paragraph (2) or (4), the following are actionable by the person –
  - (a) a breach of the duty that causes the person to sustain loss or damage; 10
  - (b) an act that –
    - (i) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and
    - (ii) is done entirely or partly for achieving that result. 15
- (6) In proceedings brought against a licence holder by virtue of sub-paragraph (5), it is a defence for the licence holder to show that it took all reasonable steps and exercised all due diligence to avoid contravening the requirements of the order.
- (7) The CAA may enforce the duties under sub-paragraphs (1) and (3) – 20
  - (a) in civil proceedings for an injunction,
  - (b) in civil proceedings in Scotland for an interdict or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or 25
  - (c) in civil proceedings for any other appropriate remedy or relief.
- (8) Enforcement of a duty under sub-paragraph (1) or (3) by the CAA does not prejudice any rights a person may have by virtue of sub-paragraph (5). 30

*Penalty for contravention of licence condition*

- 9 (1) The CAA may impose a penalty on a licence holder if –
  - (a) it has given the licence holder a contravention notice (and has not withdrawn it),
  - (b) the representation period has ended, 35
  - (c) it has considered any representations made about the matters in the contravention notice before the end of that period (and not withdrawn), and
  - (d) it has determined that the licence holder is contravening, or has contravened, a Chapter 1 requirement specified in the notice in one or more of the ways specified in the notice. 40
- (2) If the contravention notice specifies more than one contravention, the CAA may impose a separate penalty under this paragraph for each contravention. 45

- (3) If the contravention notice specifies more than one period of contravention, the CAA may impose a separate penalty under this paragraph for each period.

*Penalty for contravention of order*

- 10 The CAA may impose a penalty on a licence holder if it has determined that the licence holder is contravening, or has contravened, a requirement of – 5
- (a) an enforcement order, or
  - (b) an urgent enforcement order that has been confirmed.

*Procedure before imposing penalty* 10

- 11 (1) Before imposing a penalty on a licence holder under paragraph 9 or 10 the CAA must –
- (a) give the licence holder a notice about the proposed penalty;
  - (b) publish the notice as soon as practicable; 15
  - (c) send a copy of the notice to the persons listed in sub-paragraph (3);
  - (d) consider any representations made about the proposed penalty in the period specified in the notice (and not withdrawn). 20
- (2) A notice under sub-paragraph (1) must –
- (a) state that the CAA proposes to impose a penalty;
  - (b) state the proposed amount of the penalty;
  - (c) specify the relevant Chapter 1 requirement;
  - (d) specify the act or omission that the CAA has determined constitutes a contravention of the requirement. 25
- (3) The persons are –
- (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
  - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate; 30
  - (c) the Secretary of State.
- (4) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), a notice must specify –
- (a) the day on which daily amounts would begin to accumulate; 35
  - (b) the day on which, or the circumstances in which, they would cease to accumulate.
- (5) The period specified in a notice under sub-paragraph (1) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the licence holder. 40
- (6) Before varying the proposed amount of a penalty, the CAA must –

- (a) give the licence holder on whom the penalty is to be imposed a notice about the proposed variation;
  - (b) publish the notice as soon as practicable;
  - (c) send a copy of the notice to the persons listed in sub-paragraph (3); 5
  - (d) consider any representations made about the proposed variation in the period specified in the notice (and not withdrawn).
- (7) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), the reference in sub-paragraph (6) to varying the proposed amount includes – 10
- (a) varying the day on which daily amounts would begin to accumulate;
  - (b) varying the day on which, or the circumstances in which, they would cease to accumulate. 15
- (8) The notice under sub-paragraph (6) must –
- (a) specify the proposed variation;
  - (b) give the CAA’s reasons for the proposed variation.
- (9) The period specified in a notice under sub-paragraph (6) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the licence holder. 20
- (10) The CAA may withdraw a notice under sub-paragraph (1) or (6) at any time by giving notice to the licence holder on whom it proposed to impose the penalty. 25
- (11) As soon as practicable after giving a notice under sub-paragraph (10), the CAA must –
- (a) publish the notice;
  - (b) send a copy of the notice to the persons listed in sub-paragraph (3). 30

*Procedure after imposing a penalty*

- 12 (1) As soon as practicable after imposing a penalty under paragraph 9 or 10 the CAA must –
- (a) give a notice to the licence holder on whom the penalty is imposed; 35
  - (b) publish the notice;
  - (c) send a copy of the notice to the persons listed in sub-paragraph (3).
- (2) The notice must – 40
- (a) state that the CAA has imposed a penalty;
  - (b) state the amount of the penalty;
  - (c) specify the relevant Chapter 1 requirement;
  - (d) specify the act or omission that the CAA has determined constitutes a contravention of the requirement;

- (e) specify a reasonable period within which the penalty must be paid or reasonable periods within which different portions of the penalty must be paid.
- (3) The persons are –
- (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate; 5
  - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
  - (c) the Secretary of State.
- (4) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), the notice must specify – 10
- (a) the day on which the daily amounts begin to accumulate;
  - (b) the day on which, or the circumstances in which, they cease to accumulate.
- (5) As soon as practicable after daily amounts cease to accumulate, the CAA must – 15
- (a) give a notice to the licence holder on whom the penalty was imposed confirming the day on which they ceased to accumulate;
  - (b) publish the notice; 20
  - (c) send a copy of the notice to the persons listed in subparagraph (3).

*Amount of penalty*

- 13 (1) The amount of a penalty imposed on a person under paragraph 9 or 10 must be the amount that the CAA determines to be – 25
- (a) appropriate, and
  - (b) proportionate to the contravention for which it is imposed.
- (2) The penalty may consist of either or both of the following –
- (a) a fixed amount (see paragraph 14);
  - (b) a daily amount (see paragraph 15). 30
- (3) In determining the amount of a penalty, the CAA must have regard, in particular, to –
- (a) any representations made to it in a period specified in a notice proposing to give a penalty under paragraph 11(1) or (6) (and not withdrawn); 35
  - (b) any steps taken by the licence holder on whom the penalty is to be imposed towards complying with the Chapter 1 requirement specified in the notice under paragraph 11(1);
  - (c) any steps taken by that licence holder towards remedying the consequences of the contravention of the requirement. 40

*Amount of penalty: fixed amount*

- 14 (1) A penalty imposed on a licence holder under paragraph 9 or 10 for a contravention may not consist of or include a fixed amount exceeding 10% of the licence holder's qualifying turnover for the qualifying period. 45

- (2) A licence holder’s qualifying turnover is the licence holder’s turnover from its provision of air traffic services.
- (3) The qualifying period is the last regulatory year ending on or before the day on which the notice proposing the penalty is given under paragraph 11(1) (“the notice day”), except in the cases described in sub-paragraph (4). 5
- (4) Those cases are –
  - (a) where a licence holder was not authorised to provide air traffic services in respect of a managed area throughout the last regulatory year that ends on or before the notice day; 10
  - (b) where there is no regulatory year or the last regulatory year ended more than 12 months before the notice day;
  - (c) where a licence holder has not provided the CAA with accounts prepared in accordance with the licence for the last regulatory year that ends on or before the notice day. 15
- (5) In those cases –
  - (a) if the licence holder was authorised to provide air traffic services in respect of a managed area on the notice day, the qualifying period is the year ending with the notice day (or, if shorter, the period ending with the notice day during which the licence holder was authorised to provide such services in respect of such an area); 20
  - (b) otherwise, the qualifying period is the year ending with the last day before the notice day on which the licence holder was authorised to provide air traffic services in respect of a managed area (or, if shorter, the period ending with the notice day during which the licence holder was authorised to provide such services in respect of such an area). 25
- (6) A licence holder’s qualifying turnover for a qualifying period is to be taken to be the qualifying turnover for that period as reported in accounts that the licence holder is required to prepare by a licence condition, unless regulations under sub-paragraph (7) provide otherwise. 30
- (7) The Secretary of State may by regulations – 35
  - (a) amend or otherwise modify the definition of qualifying turnover;
  - (b) make provision about how a licence holder’s qualifying turnover for a qualifying period is to be calculated.
- (8) The regulations may in particular – 40
  - (a) make provision about cases in which turnover is or is not to be treated as qualifying turnover for a qualifying period;
  - (b) provide that a licence holder’s qualifying turnover for a qualifying period is to be taken to be the qualifying turnover reported in accounts specified or described in the regulations; 45
  - (c) provide that a licence holder’s qualifying turnover is to be calculated entirely or partly using accounting rules specified or described in the regulations.

- (9) In this paragraph “regulatory year”, in relation to a licence holder, means a year for which the licence holder was required to prepare accounts by a licence condition for air traffic services provided in respect of a managed area.

*Amount of penalty: daily amount* 5

- 15 (1) In relation to a penalty under paragraph 9 or 10, a daily amount is an amount payable where the contravention in respect of which the penalty is imposed continues after it is imposed.
- (2) A penalty under paragraph 9 may not consist of or include a daily amount unless that contravention has been continuous since the end of the representation period for the contravention notice in which the contravention was specified. 10
- (3) A daily amount must not exceed 0.1% of the licence holder’s qualifying turnover for the qualifying period.
- (4) A daily amount is payable in respect of each day in a period specified by the CAA in the notice under paragraph 12 stating that it has imposed the penalty. 15
- (5) A specified period during which daily amounts accumulate must be the period that the CAA considers appropriate, subject to sub-paragraphs (6) and (7). 20
- (6) The period must begin after the day on which the CAA gives the notice under paragraph 12.
- (7) The period must end before—
- (a) the day on which the contravention specified in the notice under paragraph 12 ceases, or
  - (b) if more than one contravention is specified in that notice, the day on which the last of those contraventions ceases.
- (8) In this paragraph “qualifying turnover” and “qualifying period” have the same meaning as in paragraph 14. 25

*Use of powers under Competition Act 1998* 30

- 16 (1) Before exercising a power listed in sub-paragraph (3), the CAA must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (2) The CAA must not exercise such a power to the extent that it considers it would be more appropriate to proceed under that Act. 35
- (3) Those powers are—
- (a) the power to give a contravention notice under paragraph 1;
  - (b) the power to give an enforcement order under paragraph 3; 40
  - (c) the power to give and confirm an urgent enforcement order under paragraphs 5 and 6;
  - (d) the power to impose penalties under paragraphs 9 and 10.

PART 2

APPEALS AGAINST ORDERS AND PENALTIES

*Appeals against enforcement orders and urgent enforcement orders*

- 17 (1) A licence holder may appeal to the Competition Appeal Tribunal (referred to in this Schedule as “the Tribunal”) against – 5
- (a) an enforcement order given to the licence holder, or
  - (b) an urgent enforcement order given to the licence holder that has been confirmed.
- (2) The appeal may be against one or more of the following – 10
- (a) a decision to give the order or, in the case of an urgent enforcement order, to confirm the order;
  - (b) a decision as to the steps specified in the order;
  - (c) a decision as to the period allowed for taking those steps.
- (3) The making of an appeal under this paragraph against an enforcement order suspends the effect of the order until the appeal is decided or withdrawn, unless the Tribunal orders otherwise. 15
- (4) The making of an appeal under this paragraph against an urgent enforcement order does not suspend the effect of the order, unless the Tribunal orders otherwise.

*Appeals against modifications or revocations of existing orders* 20

- 18 (1) A person may appeal to the Tribunal against –
- (a) a decision to modify or revoke an enforcement order, or
  - (b) a decision to modify or revoke an urgent enforcement order that has been confirmed.
- (2) An appeal under this paragraph may be made only by a person – 25
- (a) who is not the person to whom the order was given, but
  - (b) who appears to the Tribunal to have sufficient interest in the decision.
- (3) The making of an appeal under this paragraph against a modification or revocation of an order suspends the modification or revocation until the appeal is decided or withdrawn, unless the Tribunal orders otherwise. 30

*Appeals against penalties*

- 19 (1) A licence holder may appeal to the Tribunal against a penalty imposed on the licence holder under paragraph 9 or 10. 35
- (2) The appeal may be against one or more of the following –
- (a) a decision to impose the penalty;
  - (b) a decision as to the amount of the penalty;
  - (c) in the case of a penalty calculated entirely or partly by reference to a daily amount, a decision as to the period during which the daily amounts accumulate; 40

- (d) a decision as to the period allowed for payment of the penalty.
- (3) Where a licence holder appeals under this paragraph against a penalty, the CAA may not require the licence holder to pay the penalty until the appeal is decided or withdrawn. 5

*Decisions on appeal*

- 20 (1) The Tribunal may allow an appeal under paragraph 17, 18 or 19 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; 10
- (b) that the decision was wrong in law;
- (c) that an error was made in the exercise of a discretion.
- (2) It may –
- (a) confirm or set aside the order, modification, revocation or penalty; 15
- (b) give the CAA any directions it considers appropriate, including directions about the time within which the CAA must act.
- (3) It may not direct the CAA to do anything that the CAA would not have the power to do apart from the direction. 20
- (4) When deciding an appeal under paragraph 17, 18 or 19 (including giving directions) the Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 2.

*Further appeals*

- 21 (1) An appeal lies to the appropriate court on a point of law arising from a decision of the Tribunal under paragraph 20, including a direction. 25
- (2) An appeal under this paragraph may be brought by a party to the proceedings before the Tribunal.
- (3) An appeal may not be brought without the permission of – 30
- (a) the Tribunal, or
- (b) the appropriate court.
- (4) “The appropriate court” –
- (a) in the case of an appeal from proceedings in England and Wales or Northern Ireland, means the Court of Appeal; 35
- (b) in the case of an appeal from proceedings in Scotland, means the Court of Session.

PART 3

INTERPRETATION

- 22 References in this Schedule to remedying the consequences of a contravention of a Chapter 1 requirement include paying an amount to a person – 40

- (a) by way of compensation for loss or damage suffered by the person, or
- (b) in respect of annoyance, inconvenience or anxiety suffered by the person.”

SCHEDULE 4

Section 17

5

NEW SCHEDULE C1 TO THE TRANSPORT ACT 2000

This Schedule sets out the new Schedule C1 to the Transport Act 2000, to be inserted after Schedule B1 to that Act (inserted by section 17 above) –

“SCHEDULE C1

INFORMATION

10

PART 1

POWER TO OBTAIN INFORMATION

*Power to obtain information*

- 1 (1) The CAA may by notice require a person to provide –
  - (a) information, or 15
  - (b) a document that is in the person’s custody or under the person’s control.
- (2) In this Schedule “document” means anything in which information is recorded.
- (3) The CAA may give a notice under this section only in respect of information or documents that it reasonably requires for the purpose of carrying out its functions under section 34 or Schedule B1. 20
- (4) The notice may require the information or document to be provided –
  - (a) at a time and place specified in the notice;
  - (b) in a form and manner specified in the notice. 25
- (5) The notice may not require a person to provide information or documents that the person could not be compelled to provide in evidence in civil proceedings before the appropriate court. 30
- (6) In this paragraph, “appropriate court” –
  - (a) in relation to England and Wales and Northern Ireland, means the High Court;
  - (b) in relation to Scotland, means the Court of Session.

PART 2

ENFORCEMENT: INFORMATION

*Enforcement of information notice*

- |   |  |    |
|---|--|----|
| 2 | <p>(1) If a person fails to comply with a notice under section 25 without reasonable excuse, the CAA may do either or both of the following –</p> <p style="margin-left: 20px;">(a) impose a penalty on the person;</p> <p style="margin-left: 20px;">(b) enforce the duty to comply with the notice in civil proceedings for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988.</p> | 5  |
|   | <p>(2) The amount of the penalty must be the amount that the CAA determines to be –</p> <p style="margin-left: 20px;">(a) appropriate, and</p> <p style="margin-left: 20px;">(b) proportionate to the failure in respect of which it is imposed.</p>   | 10 |
|   | <p>(3) A penalty may consist of either or both of the following –</p> <p style="margin-left: 20px;">(a) a fixed amount;</p> <p style="margin-left: 20px;">(b) an amount payable in respect of each day in a period specified by the CAA (a “daily amount”).</p>  | 15 |
|   | <p>(4) A fixed amount must not exceed £2,000,000.</p>  |    |
|   | <p>(5) A daily amount must not exceed £100,000.</p>  |    |
|   | <p>(6) A specified period during which daily amounts accumulate must be the period that the CAA considers appropriate, subject to subparagraphs (7) and (8).</p>   | 20 |
|   | <p>(7) The period must begin after the day on which the CAA gives the notice under paragraph 5 stating that it has imposed the penalty.</p>  |    |
|   | <p>(8) The period must end before the day on which the person provides the information or documents specified in the notice under paragraph 1.</p>   | 25 |
|   | <p>(9) The Secretary of State may by regulations replace the amount for the time being specified in sub-paragraph (4) or (5).</p>  | 30 |

*Penalty for providing false information*

- |   |   |    |
|---|---|----|
| 3 | <p>(1) The CAA may impose a penalty on a person where it is satisfied beyond reasonable doubt that the person, in giving information to the CAA, has committed an offence under section 101 (making of false statements etc).</p> | 35 |
|   | <p>(2) Where a penalty is imposed on a person under this paragraph by the CAA, that person may not at any time be convicted of the offence under section 101 in respect of the act or omission giving rise to the penalty.</p>    | 40 |

- (3) The amount of a penalty imposed on a person under this section must be the amount that the CAA determines to be –
  - (a) appropriate, and
  - (b) proportionate to the action in respect of which it is imposed.

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*Penalty for destroying documents etc.*

- 4 (1) The CAA may impose a penalty on a person if the person intentionally alters, suppresses or destroys a document that the person is required to produce by a notice under paragraph 1.
- (2) The reference in sub-paragraph (1) to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in a legible format.
- (3) The amount of a penalty imposed on a person under this section must be the amount that the CAA determines to be –
  - (a) appropriate, and
  - (b) proportionate to the action in respect of which it is imposed.

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*Procedure before imposing a penalty*

- 5 (1) Before imposing a penalty on a person under paragraph 2, 3 or 4, the CAA must –
  - (a) give the person a notice about the proposed penalty;
  - (b) publish the notice as soon as practicable;
  - (c) send a copy of the notice to the persons listed in sub-paragraph (4);
  - (d) consider any representations made about the proposed penalty in the period specified in the notice (and not withdrawn).
- (2) The notice under sub-paragraph (1) must –
  - (a) state that the CAA proposes to impose a penalty;
  - (b) state the proposed amount of the penalty;
  - (c) give the CAA's reasons for imposing the penalty.
- (3) In the case of a penalty under paragraph 2 calculated entirely or partly by reference to a daily amount, the notice under sub-paragraph (1) must specify –
  - (a) the day on which daily amounts would begin to accumulate;
  - (b) the day on which, or the circumstances in which, they would cease to accumulate.
- (4) The persons are –
  - (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
  - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
  - (c) the Secretary of State.

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- (5) The period specified in the notice under sub-paragraph (1) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the person.
- (6) Before varying the proposed amount of a penalty, the CAA must— 5
- (a) give the person on whom the penalty is to be imposed a notice about the proposed variation;
  - (b) publish the notice as soon as practicable;
  - (c) send a copy of the notice as soon as practicable to the persons listed in sub-paragraph (4); 10
  - (d) consider any representations made about the proposed variation in the period specified in the notice (and not withdrawn).
- (7) In the case of a penalty under paragraph 2 calculated entirely or partly by reference to a daily amount, the reference in sub-paragraph (6) to varying the proposed amount of the penalty includes a reference to— 15
- (a) varying the day on which daily amounts would begin to accumulate, and
  - (b) varying the day on which, or circumstances in which, they would cease to accumulate. 20
- (8) The notice under sub-paragraph (6) must—
- (a) specify the proposed variation;
  - (b) give the CAA’s reasons for the proposed variation.
- (9) The period specified in the notice under sub-paragraph (6) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the person. 25
- (10) The CAA may withdraw a notice under sub-paragraph (1) or (6) at any time by giving notice to the person on whom it is proposed to impose the penalty. 30
- (11) As soon as practicable after giving a notice under sub-paragraph (10), the CAA must—
- (a) publish the notice;
  - (b) send a copy of the notice to the persons listed in sub-paragraph (4). 35

*Procedure after imposing penalty*

- 6 (1) As soon as practicable after imposing a penalty on a person under paragraph 2, 3 or 4, the CAA must—
- (a) give a notice to the person on whom the penalty is imposed; 40
  - (b) publish the notice;
  - (c) send a copy of the notice to the persons listed in sub-paragraph (4).
- (2) The notice must— 45
- (a) state that the CAA has imposed the penalty;
  - (b) state the amount of the penalty;

- (c) give the CAA’s reasons for imposing the penalty;
  - (d) specify a reasonable period within which the penalty must be paid or reasonable periods within which different portions of the penalty must be paid.
- (3) In the case of a penalty under paragraph 2 calculated entirely or partly by reference to a daily amount, the notice must specify – 5
- (a) the day on which the daily amounts begin to accumulate;
  - (b) the day on which, or circumstances in which, they cease to accumulate.
- (4) The persons are – 10
- (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
  - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
  - (c) the Secretary of State. 15
- (5) As soon as practicable after daily amounts cease to accumulate, the CAA must –
- (a) give a notice to the person on whom the penalty was imposed confirming the day on which they ceased to accumulate; 20
  - (b) send a copy of the notice to the persons listed in subparagraph (4).

### PART 3

#### APPEALS AGAINST PENALTIES: INFORMATION

- Appeals against penalties* 25
- 7 (1) A person may appeal to the Competition Appeal Tribunal against a penalty imposed on the person under paragraph 2, 3 or 4.
- (2) The appeal may be against one or more of the following –
- (a) a decision to impose a penalty;
  - (b) a decision as to the amount of the penalty; 30
  - (c) in the case of a penalty calculated entirely or partly by reference to a daily amount, a decision as to the period during which daily amounts accumulate;
  - (d) a decision as to the period allowed for payment of the penalty. 35
- (3) Where a person appeals under this paragraph against a penalty, the CAA may not require the person to pay the penalty until the appeal is decided or withdrawn.
- (4) In any appeal where the commission of an offence under section 101 is an issue requiring determination, the CAA must prove that offence according to the same burden and standard of proof as in a criminal prosecution. 40

*Decisions on appeal*

- 8 (1) The Competition Appeal Tribunal may allow an appeal under paragraph 7 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds – 5
- (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.
- (2) It may – 10
- (a) confirm or set aside the penalty;
  - (b) give the CAA any directions that it considers appropriate, including directions about the time within which the CAA must act.
- (3) It may not direct the CAA to do anything that the CAA would not have the power to do apart from the direction. 15
- (4) When deciding an appeal under paragraph 7 (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 2.

*Further appeals* 20

- 9 (1) An appeal lies to the appropriate court on a point of law arising from a decision of the Competition Appeal Tribunal under paragraph 8, including a direction.
- (2) An appeal under this paragraph may be brought by a party to the proceedings before the Competition Appeal Tribunal. 25
- (3) An appeal may not be brought under this paragraph without the permission of –
- (a) the Competition Appeal Tribunal, or
  - (b) the appropriate court.
- (4) “The appropriate court” – 30
- (a) in the case of an appeal from proceedings in England and Wales or Northern Ireland, means the Court of Appeal;
  - (b) in the case of an appeal from proceedings in Scotland, means the Court of Session.”

SCHEDULE 5

Section 24

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AUTOMATED VEHICLES: LIABILITY OF INSURERS ETC

	<i>Prescription and Limitation (Scotland) Act 1973 (c. 52)</i>	5
1	In section 17 of the Prescription and Limitation (Scotland) Act 1973 (actions in respect of personal injuries not resulting in death), after subsection (1) insert –	
	“(1A) This section does not apply to an action of damages in respect of personal injuries to which section 18ZA applies.”	10
2	In section 18 of that Act (actions where death has resulted from personal injuries), after subsection (1) insert –	
	“(1A) This section does not apply to an action of damages in respect of personal injuries or death to which section 18ZA applies.”	
3	After that section insert –	15
	<b>“18ZA Actions under section 2 of the Vehicle Technology and Aviation Act 2017</b>	
	(1) This section applies to an action of damages under section 2 of the Vehicle Technology and Aviation Act 2017 (liability of insurers etc where accident caused by automated vehicle).	20
	(2) An action may not be brought after the expiry of the period of 3 years beginning with the date of the accident mentioned in subsection (1) or (as the case may be) subsection (2) of that section.	
	(3) In the computation of the period specified in subsection (2) above any time during which the person who sustained the injuries was under legal disability by reason of nonage or unsoundness of mind is to be disregarded.	25
	(4) If a person injured in the accident dies before the expiry of the period mentioned in subsection (2) above, an action may not be brought after the expiry of the period of 3 years beginning with the date of death of the person.	30
	(5) Where an action has not been brought before the expiry of the period mentioned in subsection (2) above and the person subsequently dies in consequence of injuries sustained in the accident, an action may not be brought in respect of those injuries or that death.	35
	(6) Subsection (7) applies if a person injured in the accident dies and the person seeking to bring the action is a relative of the deceased.	
	(7) In the computation of the period specified in subsection (4) above any time during which the relative was under legal disability by reason of nonage or unsoundness of mind is to be disregarded.	40

- (8) In this section “relative” has the same meaning as in the Damages (Scotland) Act 2011.

**18ZB Section 18ZA: extension of limitation periods**

- (1) Subsection (2) applies where a person would be entitled, but for section 18ZA, to bring an action other than one in which the damages claimed are confined to damages for loss of or damage to property. 5
- (2) The court may, if it seems to it equitable to do so, allow the person to bring the action despite that section.

**18ZC Actions under section 5 of the Vehicle Technology and Aviation Act 2017** 10

- (1) Subsection (2) applies where, by virtue of section 5 of the Vehicle Technology and Aviation Act 2017 (right of insurer etc to claim against person responsible for accident), an insurer or vehicle owner becomes entitled to bring an action against any person.
- (2) The action may not be brought after the expiry of the period of 2 years beginning with the date on which the right of action accrued (under subsection (5) of that section).” 15

4 In section 19CA of that Act (interruption of limitation period: arbitration), in subsection (1), after “18(2),” insert “18ZA(2) or (4), 18ZC(2),”.

5 In section 19F of that Act (extension of limitation periods: cross-border mediation), in subsection (1), after “18,” insert “18ZA, 18ZC,”. 20

6 In Schedule 1 to that Act (obligations affected by prescriptive periods of 5 years under section 6), in paragraph 2, after sub-paragraph (g) insert—

- “(ga) to any obligation to make reparation arising from liability under section 2 of the Vehicle Technology and Aviation Act 2017 (liability of insurer etc. where accident caused by automated vehicle);”.
- 25

*Limitation Act 1980 (c. 58)*

7 In section 9 of the Limitation Act 1980 (time limit for actions for sums recoverable by statute), in subsection (2), after “section 10” insert “or 10A”. 30

8 After section 10 of that Act insert—

**“10A Special time limit for actions by insurers etc in respect of automated vehicles**

- (1) Where by virtue of section 5 of the Vehicle Technology and Aviation Act 2017 an insurer or vehicle owner becomes entitled to bring an action against any person, the action shall not be brought after the expiration of two years from the date on which the right of action accrued (under subsection (5) of that section). 35
- (2) An action referred to in subsection (1) shall be one to which sections 32, 33A and 35 of this Act apply, but otherwise Parts 2 and 3 of this Act (except sections 37 and 38) shall not apply for the purposes of this section.” 40

9 In the italic heading before section 11 of that Act, after “personal injuries or death” insert “etc”.

- 10 After section 11A of that Act insert –
- “11B Actions against insurers etc of automated vehicles**
- (1) None of the time limits given in the preceding provisions of this Act shall apply to an action for damages under section 2 of the Vehicle Technology and Aviation Act 2017 (liability of insurer etc where accident caused by automated vehicle).  
But this subsection does not affect the application of section 5A of this Act. 5
- (2) An action for damages against an insurer under subsection (1) of section 2 of the Vehicle Technology and Aviation Act 2017 (including an action by an insured person under a contract of insurance in respect of the insurer’s obligations under that section) shall not be brought after the expiration of the period of three years from the date of the accident referred to in that subsection. 10
- (3) An action for damages against the owner of a vehicle under subsection (2) of that section shall not be brought after the expiration of the period of three years from the date of the accident referred to in that subsection. 15
- (4) If a person injured in the accident dies before the expiration of the period mentioned in subsection (2) or (3) above, the period applicable as respects the cause of action surviving for the benefit of the person’s estate by virtue of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 shall be three years from the date of death.” 20
- 11 In section 12 of that Act (special time limit for actions under Fatal Accidents legislation), in subsection (1), for “or 11A” substitute “, 11A or 11B”. 25
- 12 In section 28 of that Act (extension of limitation period in case of disability), in subsection (6), after “section 11” insert “, 11B”. 30
- 13 (1) Section 32 of that Act (postponement of limitation period in case of concealment etc) is amended as follows. 30
- (2) In subsection (1), for “and (4A)” substitute “, (4A) and (4B)”.
- (3) After subsection (4A) insert –
- “(4B) Subsection (1) above shall not apply in relation to the time limit prescribed by section 11B(2) or (3) of this Act or in relation to that time limit as applied by virtue of section 12(1) of this Act.” 35
- 14 (1) Section 33 of that Act (discretionary exclusion of time limit) is amended as follows.
- (2) In subsection (1), in paragraph (a), for “or 11A” substitute “, 11A, 11B”.
- (3) After subsection (1A) insert –
- “(1B) Where the damages claimed are confined to damages for loss of or damage to any property, the court shall not under this section disapply any provision in its application to an action under section 2 of the Vehicle Technology and Aviation Act 2017.” 40

- (4) In subsections (2) and (4), for “or subsection (4) of section 11A” substitute “, 11A(4) or 11B(2) or (3)”.
- (5) In subsection (3)(b), after “section 11A” insert “, by section 11B”.
- (6) In subsection (8), for “or 11A” substitute “, 11A or 11B”.

*Road Traffic Act 1988 (c. 52)*

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- 15 In section 143 of the Road Traffic Act 1988 (users of motor vehicles to be insured or secured against third-party risks), after subsection (1) insert –

- “(1A) In the application of this Part to automated vehicles –
- (a) subsection (1) above has effect with the omission of the words “or such a security in respect of third party risks” in paragraphs (a) and (b);
- (b) this Part has effect with the omission of sections 146 and 147(2);
- (c) any other references to a security or certificate of security in this Act are to be ignored.”

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15

- 16 In section 144 of that Act (exceptions from requirement of third-party insurance etc), in subsection (1), after “does not apply to a vehicle” insert “, other than an automated vehicle,”.

- 17 (1) Section 145 of that Act (requirements in respect of policies of insurance) is amended as follows.

20

- (2) After subsection (3) insert –

- “(3A) In the case of an automated vehicle, the policy must also provide for the insurer’s obligations to an insured person under section 2(1) of the Vehicle Technology and Aviation Act 2017 (liability of insurers etc where accident caused by automated vehicle) to be obligations under the policy.

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In this subsection “insured person” means a person who is covered under the policy for using the vehicle on a road or public place in Great Britain.”

- (3) At the end of subsection (4) insert –

30

“Paragraph (a) does not apply where the vehicle in question is an automated vehicle.”

- 18 In section 161 of that Act (interpretation), in subsection (1), at the appropriate place insert –

““automated vehicle” means a means a vehicle listed by the Secretary of State under section 1 of the Vehicle Technology and Aviation Act 2017,”.

35

- 19 In section 162 of that Act (index to Part 6), at the appropriate place in the table insert –

“Automated vehicle section 161(1)”.

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PART 2

AIR TRAFFIC SERVICES

*Transport Act 2000 (c. 38)*

- 20 (1) Section 7 of the Transport Act 2000 (licences: provisions) is amended as follows. 5
- (2) Omit subsection (5).
- (3) After subsection (6) insert –
- “(6A) A licence condition may include provision for its modification only if it specifies or describes – 10
- (a) the circumstances in which it may be modified,
- (b) the types of modification that may be made, and
- (c) the period or periods in which it may be modified.
- (6B) If a licence condition includes such a provision, it may be modified in accordance with that provision or in accordance with the provision made by this Chapter about modifying licence conditions. 15
- (6C) A term of a licence may be modified only in accordance with the provision made by this Chapter about modifying terms of a licence.”
- 21 (1) Section 10 of that Act (breach of duties or conditions) is amended as follows.
- (2) In subsection (1), in paragraph (b), for “condition of a licence” substitute “licence condition”. 20
- (3) In subsection (2), for paragraph (b) substitute –
- “(b) the power to give a contravention notice;
- (c) the power to give an enforcement order or an urgent enforcement order, a duty to comply with the order and a power to bring proceedings in respect of the duty; 25
- (d) the power to impose a penalty under paragraph 9 or 10 of Schedule B1.”
- 22 In section 19 of that Act (modification by order under other enactments), in subsection (1), for “conditions of a licence” substitute “licence conditions”.
- 23 (1) Section 28 of that Act (power to make air traffic administration order) is amended as follows. 30
- (2) In subsection (4), for paragraph (b) substitute –
- “(b) no notice of withdrawal or revocation has been given under paragraph 1(8), 4(2) or 7(2) of Schedule B1 in relation to the contravention or apprehended contravention, and”. 35
- (3) In subsection (5) –
- (a) in paragraph (a), for “a final or provisional order”, substitute “an enforcement order or an urgent enforcement order”;
- (b) in paragraph (b), for “proceedings under section 23”, substitute “an appeal under section 19A”. 40

- 
- (4) For subsection (7) substitute –
- “(7) In subsections (4) and (5) –
- “section 8 duty” means a duty imposed on a licence holder by section 8;
- “licence condition” means a condition of a licence holder’s licence.” 5
- 24 In section 30 of that Act (petitions and orders: supplementary), in subsection (3)(b), for “section 20 above” substitute “Schedule B1 to this Act”.
- 25 In section 34 of that Act (investigations), in subsection (1), for “condition of a licence” substitute “licence condition”. 10
- 26 (1) Section 35 of that Act (register) is amended as follows.
- (2) In subsection (3), in paragraph (c), for “the conditions of a licence” substitute “licence conditions”.
- (3) In that subsection, for paragraph (g) substitute –
- “(g) the terms of every contravention notice; 15
- (h) the terms of every withdrawal of a contravention notice;
- (i) the terms of every enforcement order;
- (j) the terms of every urgent enforcement order that has been confirmed;
- (k) the terms of every modification or revocation of an enforcement order or urgent enforcement order.” 20
- 27 (1) Section 40 of that Act (interpretation) is amended as follows.
- (2) In subsection (1), after paragraph (a) insert –
- “(aa) air transport service;
- (ab) the CMA; 25
- (ac) contravention;
- (ad) contravention notice;
- (ae) enforcement order;”.
- (3) In that subsection omit paragraph (b).
- (4) In that subsection, after paragraph (d) insert – 30
- “(da) licence condition;”.
- (5) In that subsection, after paragraph (h) insert –
- “(i) notice;
- (j) publication;
- (k) representation; 35
- (l) term of licence;
- (m) urgent enforcement order.”
- (6) For subsection (6) substitute –
- “(6) A licence condition is a provision of a licence which is expressed as a condition. 40
- (6A) A term of a licence is a provision of a licence which is not a licence condition.”

- (7) After subsection (7) insert –
- “(8) “Air transport service” and “user”, in relation to such services, have the meaning given in section 69(1) of the Civil Aviation Act 2012 (air transport services).
  - (9) “The CMA” is the Competition and Markets Authority. 5
  - (10) References in this Chapter to a notice are to a notice in writing.
  - (11) Where a person is required to publish something by this Chapter, the person must publish it in whatever form and manner the person considers appropriate for bringing it to the attention of persons likely to be affected by it. 10
  - (12) A representation includes an objection.
  - (13) A contravention includes a failure to comply, and related expressions are to be read accordingly.
  - (14) A contravention notice is a notice under paragraph 1 of Schedule B1.
  - (15) An enforcement order is an order under paragraph 3 of Schedule B1. 15
  - (16) An urgent enforcement order is an order under paragraph 5 of Schedule B1.”
- 28 After section 40 of that Act insert –
- “40A Connected persons**
- (1) For the purposes of this Chapter one person is connected to another if they are group undertakings in relation to each other. 20
  - (2) “Group undertaking” has the same meaning as in the Companies Acts (see section 1161 of the Companies Act 2006).
  - (3) The Secretary of State may by regulations make provision about when one person is connected with another for the purposes of this Part, including provision amending or otherwise modifying subsections (1) and (2).” 25
- 29 (1) Section 103 of that Act (order and regulations) is amended as follows.
- (2) In subsection (5) –
    - (a) before “51” insert “11, 19A, 40A,”; 30
    - (b) after “94” insert “, paragraph 14 of Schedule B1 or paragraph 2 of Schedule C1”.
  - (3) In subsection (6), after “51” insert “, and no regulations are to be made under section 11, 19A or 40A, paragraph 14 of Schedule B1 or paragraph 2 of Schedule C1,”. 35
  - (4) In subsection (9), after “section 6” insert “or 11”.
- Enterprise and Regulatory Reform Act 2013 (c. 24)*
- 30 In Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Competition and Markets Authority), in paragraph 48(4)(c), after subparagraph (iib) insert – 40
- “(iic) Schedule A1 to the Transport Act 2000;”.

PART 3

VEHICLE TESTING: AMENDMENTS RELATING TO SECTION 21

*Road Traffic (Foreign Vehicles) Act 1972 (c. 27)*

- 31 In section 2 of the Road Traffic (Foreign Vehicles) Act 1972 (provisions supplementary to section 1), in subsection (3B), for “72A” substitute “72(8)”. 5
- 32 In section 7 of that Act (interpretation), in subsection (1), for the definition of “official testing station” substitute –
- ““official testing station” means –
- (a) a station maintained by the Secretary of State for inspections under section 1(6)(a) of this Act, or 10
- (b) premises designated under section 65B of the Road Traffic Act 1988 for such inspections.”

*Public Passenger Vehicles Act 1981 (c. 14)*

- 33 (1) Section 8 of the Public Passenger Vehicles Act 1981 (powers of, and facilities for, inspection of public service vehicles) is amended as follows. 15
- (2) In subsection (3) omit the words after paragraph (c).
- (3) After that subsection insert –
- “(4) Subsection (3)(b) does not apply to inspections that are listed procedures within the meaning of section 65B of the Road Traffic Act 1988 (power to designate premises for vehicle testing).” 20
- 34 In section 82 of that Act (general interpretation provisions), in subsection (1) omit the definition of “official PSV testing station”.

*Road Traffic Act 1988 (c. 52)*

- 35 In section 46 of the Road Traffic Act 1988 (regulations under section 45), in subsection (1)(ja), for “section 8(3)(b) of the Public Passenger Vehicles Act 1981” substitute “section 65B of this Act”. 25
- 36 In section 51 of that Act (particular aspects of regulations under section 49), in subsection (1)(ka), for “section 52(2)(b)” substitute “section 65B of this Act”.
- 37 In section 52 (supplementary provisions about tests, etc, of goods vehicles), in subsection (2) – 30
- (a) at the end of paragraph (a) insert “and”;
- (b) omit paragraph (b).
- 38 In section 61 (regulations for the purposes of sections 54 to 60), in subsection (2)(a), for the words after “under section 52, 62 or” substitute “72A of this Act or designated under section 65B of this Act”. 35
- 39 (1) Section 69A (prohibitions conditional on inspection etc) is amended as follows.
- (2) In subsection (1), for “an official PSV testing station within the meaning of the Public Passenger Vehicles Act 1981” substitute “an official testing station specified in the direction”. 40

- (3) In subsection (2), after “an official testing station” insert “specified in the direction”.
- (4) After subsection (4) insert –
- “(5) In this section “official testing station” means –
- (a) a station maintained by the Secretary of State for inspections under subsection (1) or subsection (2) above (as appropriate), or
- (b) premises designated under section 65B of this Act for such inspections.”
- 40 (1) Section 72A of that Act (official testing stations) is amended as follows. 10
- (2) For the heading substitute “Testing stations provided by Secretary of State”.
- (3) Omit “(in this Part of this Act referred to as “official testing stations”)”.
- 41 In section 85 (interpretation of Part 2), in subsection (1) omit the definition of “official testing station”.
- 42 In section 86 (index to Part 2) omit the entry for “official testing station”. 15

*Vehicle Excise and Registration Act 1994 (c. 22)*

- 43 (1) Section 28A of the Vehicles Excise and Registration Act 1994 (power of constables etc to require production of registration documents) is amended as follows.
- (2) In subsection (9), for “a testing station provided under section 52(2) of the Road Traffic Act 1988” substitute “an official testing station”. 20
- (3) After that subsection insert –
- “(9A) In subsection (9) “official testing station” means –
- (a) a station maintained by the Secretary of State for inspections of goods vehicles under –
- (i) regulations made under section 49 of the Road Traffic Act 1988, or
- (ii) section 50 of that Act, or
- (b) premises designated under section 65B of that Act.”
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# Vehicle Technology and Aviation Bill

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## B I L L

To make provision about automated vehicles, electric vehicles, vehicle testing and civil aviation; to create an offence of shining or directing a laser at a vehicle; and to make provision about fees for courses offered as an alternative to prosecution for road traffic offences.

*Presented by Secretary Chris Grayling  
supported by  
the Prime Minister,  
the Chancellor of the Exchequer,  
Secretary Amber Rudd,  
Secretary Elizabeth Truss,  
Secretary Greg Clark and  
Secretary David Mundell.*

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*Ordered, by The House of Commons,  
to be Printed, 22nd February 2017.*

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