

Air Traffic Management and Unmanned Aircraft Bill [HL]

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Before Clause 1

LORD TUNNICLIFFE

1 Insert the following new Clause—

“General duty

The Secretary of State must exercise his or her functions under this Part in accordance with the general duty under section 1 of the Transport Act 2000.”

Member’s explanatory statement

This amendment would require the Secretary of State to exercise functions in respect of airspace change proposals under this Bill in accordance with the Secretary of State’s general duty in respect of air traffic services provided for by the Transport Act 2000.

Clause 2

LORD TUNNICLIFFE

2 Page 2, line 14, leave out from “State” to end of line 15 and insert “, having regard to representations made by any person involved in airspace change under subsection (3), is satisfied that—

- (a) the direction is necessary to deliver the CAA’s airspace strategy, and
- (b) it is reasonably practicable for the person to whom the direction is addressed to comply with the direction.

(4A) A direction in respect of an airspace change proposal concerning airspace in which air traffic is managed by another person is not necessary for the purposes of subsection (4)(a) if the Secretary of State is satisfied that it is not reasonably practicable for the primary sponsor to take the steps specified in the direction.”

Member's explanatory statement

This amendment ensures the Secretary of State must, before making a direction requiring a person to progress an airspace change, consider representations from persons involved in airspace change and be satisfied that the direction is necessary to deliver the CAA's airspace strategy and is reasonably practicable to comply with.

3 Page 2, line 25, at end insert –

“() If a direction given to a person under subsection (1) is predominantly or wholly to enable the air change proposals of a third party to be completed as part of the masterplan for airspace modernisation and not an airspace change proposal of the person itself and would lead to adverse financial impacts for that person, the Secretary of State may compensate that person and may recover the cost of compensation wholly or in part from the third party.”

Member's explanatory statement

This amendment would allow compensation for adverse financial impacts.

4 Page 2, line 25, at end insert –

“() A direction given to a person under subsection (1) may provide that –

- (a) compensation is payable to any person to whom the direction was given in respect of any costs incurred by that person in complying with the direction; and
- (b) any such compensation may be recoverable from another person involved in airspace change in accordance with a direction given under section 3.”

Member's explanatory statement

This amendment would empower the Secretary of State to provide that a person who is directed to progress an airspace change be fairly compensated for doing so, and that the compensation can be recovered from another person involved in airspace change, where appropriate.

Clause 3

LORD TUNNICLIFFE

5 Page 3, line 2, leave out from “State” to end of line 3 and insert “, having regard to representations made by any person involved in airspace change under subsection (2), is satisfied that –

- (a) the direction will assist in the delivery of the CAA's airspace strategy; and
- (b) it is reasonably practicable for the person to comply with the direction.”

Member's explanatory statement

This amendment would ensure that the Secretary of State must, before making a direction requiring a person to co-operate in an airspace change, consider representations from persons involved in airspace change and be satisfied that it is reasonably practicable for the recipient of the direction to comply with it.

6 Page 3, line 11, at end insert –

“() paying compensation in respect of any costs incurred by another person involved in airspace change to whom a direction has been given in accordance with section 2.”

Member’s explanatory statement

This amendment would empower the Secretary of State to require a person involved in airspace change to compensate another person who has been directed to progress an airspace change.

7 Page 3, line 21, at end insert –

“() If a direction given to a person under subsection (1) –

- (a) is predominantly or wholly to enable the airspace change proposals of a third party to be completed as part of the masterplan for airspace modernisation,
- (b) is not intended to give effect to an airspace change proposal requested by that person, and
- (c) would lead to adverse financial impacts for that person,

the Secretary of State may compensate that person and may recover the cost of compensation wholly or in part from the third party.”

Member’s explanatory statement

This amendment would allow compensation for adverse financial impacts.

Clause 4

LORD TUNNICLIFFE

8 Page 4, line 2, leave out from “State” to end of line 3 and insert “, having regard to representations made by any person involved in airspace change under subsection (3), is satisfied that –

- (a) the direction as varied is necessary to deliver the CAA’s airspace strategy, and
- (b) it is reasonably practicable for the person to comply with the direction as varied.”

Member’s explanatory statement

This amendment would align the test for variation of a direction with that applicable to making the direction.

9 Page 4, line 6, at end insert –

“() the reasons for the Secretary of State’s decision to give a direction under section 2 or 3, or a notice of variation or revocation under subsection (2).”

Member’s explanatory statement

This amendment would require that the Secretary of State publish reasons for any directions to progress or co-operate in an airspace change proposal (or variations or revocations of such directions) made under this Part.

Clause 5

LORD TUNNICLIFFE

- 10 Page 4, line 19, after “must” insert –
- “(a) act in accordance with its general duty under section 2 of the Transport Act 2000, and
 - (b) ”

Member’s explanatory statement

This amendment would require the CAA to exercise any functions in respect of airspace change proposals under this Bill that are delegated to it by the Secretary of State in accordance with its general duty in respect of air traffic services.

After Clause 5

LORD TUNNICLIFFE

- 11 Insert the following new Clause –
- “Responsibility for CAA airspace strategy**
- (1) The Secretary of State is responsible for the implementation of the CAA’s airspace strategy.
 - (2) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, lay before each House of Parliament a statement setting out progress towards the implementation of the CAA’s airspace strategy.
 - (3) The Secretary of State must lay before Parliament a report in similar terms covering each subsequent 12-month period, within six months of that period ending.”

Member’s explanatory statement

This amendment would make the Secretary of State responsible for the implementation of the CAA’s airspace strategy, and require related reports.

Clause 10

BARONESS VERE OF NORBITON

LORD TUNNICLIFFE

- 12 Page 9, line 25, at end insert –
- “(5A) In section 34 (investigations), for subsections (1) and (2) substitute –
- “(1) A person may make a representation to the CAA about an alleged or apprehended contravention of a section 8 duty or a licence condition.
 - (2) Where a representation is made to the CAA, the CAA may –
 - (a) consider the representation;
 - (b) investigate the alleged or apprehended contravention.””

Member's explanatory statement

This amendment provides the Civil Aviation Authority with discretion over whether to investigate alleged or apprehended contraventions of section 8 duties or licence conditions by air traffic services licence holders. This discretionary power would replace the current requirement for the CAA to investigate alleged or apprehended contraventions in certain circumstances.

After Clause 11

BARONESS VERE OF NORBITON

12A Insert the following new Clause—**“Airport slot allocation**

- (1) Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at United Kingdom airports is amended as follows.
- (2) After Article 10a insert—

*“Article 10aa***Temporary power to make regulations about airport slot allocation**

- 1 The Secretary of State may by regulations amend or modify this Regulation or the Airports Slot Allocation Regulations 2006 (S.I. 2006/2665) to make provision about the allocation of airport slots to air carriers in respect of specified periods.
- 2 The Secretary of State may make regulations under this Article only if the Secretary of State considers that as a result of severe acute respiratory syndrome coronavirus 2—
 - (a) there has been a reduction in the level of air traffic in a period compared to the corresponding period in a relevant previous year, and
 - (b) the reduction is likely to persist.
- 3 The power to make regulations under this Article may not be exercised—
 - (a) after 24 August 2024, or
 - (b) in respect of a period after the winter season following 24 August 2024.
- 4 Regulations under this Article may, in particular, make provision—
 - (a) requiring coordinators to consider slots allocated for a specified period as having been operated by the air carrier to which they were initially allocated, subject to any conditions as may be specified in the regulations being met;
 - (b) modifying Articles 8(2), 10(2) and (4) and 14(6) of this Regulation to apply for a specified period as if they contained different percentage figures, subject to any conditions as may be specified in the regulations being met;
 - (c) modifying Article 10(4) of this Regulation to apply for a specified period as if it included additional reasons on the basis of which non-utilisation of slots by an air carrier can be justified;

After Clause 11 - continued

- (d) modifying Article 14 of this Regulation to apply for a specified period as if it included a power for the coordinator to withdraw slots from an air carrier for the remainder of a scheduling period where the coordinator determines that the air carrier has ceased its operations at the airport concerned and is no longer able to operate the slots allocated to it;
 - (e) about enforcement of any provision made under this Article, including modifying for a specified period Article 14 of this Regulation or regulations 14 to 19 of the Airports Slot Allocation Regulations 2006;
 - (f) modifying for a specified period any provision of this Regulation relating to the allocation of slots to new entrants (including the definition of new entrant);
 - (g) modifying for a specified period any provision of this Regulation relating to coordination parameters.
- 5 In paragraph 2(a) “relevant previous year” means any previous year that the Secretary of State considers appropriate for the purposes of comparing levels of air traffic.”

(3) In Article 13 (regulations) –

(a) after paragraph 1 insert –

1a A statutory instrument containing regulations under Article 10aa may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”;

(b) in paragraph 2, for “Regulations” substitute “Any other regulations”.”

Member’s explanatory statement

This amendment would provide the Secretary of State with a temporary power to amend the airport slot allocation provisions in Council Regulation 95/93 and the Airports Slot Allocation Regulations 2006 where, due to coronavirus, there has been a reduction in the level of air traffic that is likely to persist.

LORD TUNNICLIFFE

13

Insert the following new Clause –

“Report on general aviation

- (1) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, lay before each House of Parliament an assessment of the impact of Part 1 and Part 2 of this Act on general aviation.
- (2) In preparing the report the Secretary of State must consult bodies including but not limited to –
 - (a) the Aircraft Owners and Pilots Association,
 - (b) the General Aviation Safety Council,
 - (c) the Light Aircraft Association,
 and summarise and respond to issues raised in that consultation.”

Member's explanatory statement

This amendment would require a report on the impact of Part 1 and Part 2 of this Act on general aviation.

After Clause 16

BARONESS RANDERSON
LORD ROSSER

14 Insert the following new Clause—

“Review of legislation relating to unmanned aircraft

- (1) Within six months of the passing of this Act, the Secretary of State must lay before Parliament a review of legislation relating to unmanned aircraft, and whether it provides sufficient protection to individuals.
- (2) The review should make reference to, but is not limited to—
 - (a) whether privacy legislation is sufficient to cover threats posed to personal privacy by unmanned aircraft;
 - (b) the merits of introducing mandatory remote identification;
 - (c) the merits of introducing mandatory geo-fencing;
 - (d) whether criminal law sufficiently protects against—
 - (i) the modification of unmanned aircraft; and
 - (ii) the weaponisation of unmanned aircraft;
 - (e) whether there should be a minimum age for the purchase and operation of unmanned aircraft, and what the appropriate age would be;
 - (f) whether the CAA's system for registering operators of unmanned aircraft ensures sufficient supervision for those who are under the age of 18 operating unmanned aircraft;
 - (g) whether a licensing requirement should be introduced for unmanned aircraft above a certain weight;
 - (h) the Government's strategy for managing risks arising from unmanned aircraft operated from overseas.
- (3) The review must make a recommendation as to whether the Government should bring forward further legislation in the light of its findings.
- (4) The Secretary of State must lay before Parliament a further review in the same terms every 12 months after the review under subsection (1).”

LORD CRAIG OF RADLEY
LORD NASEBY
LORD CAMPBELL-SAVOURS

15 Insert the following new Clause—

“Powers relating to unmanned aircraft authorised by CAA for use in commercial operations

None of the provisions in this Part applies to operators granted operational authorisation by CAA for commercial flights by unmanned aircraft.”

Member's explanatory statement

This amendment seeks to probe the Government's response to how commercial unmanned aircraft operations should be dealt with, and seeks to avoid them being grouped for police control with other, non-commercial users.

Clause 17

BARONESS VERE OF NORBITON

- 16 Page 10, line 31, leave out "exit day" and insert "IP completion day"

Member's explanatory statement

This would change the definition of "subordinate legislation" to catch instruments made under retained direct EU legislation on or after "IP completion day". Retained direct EU legislation came into existence then and it is therefore when powers conferred by the legislation became exercisable.

Before Clause 18

LORD RANDALL OF UXBRIDGE

- 17 Insert the following new Clause—

"Prohibiting aircraft noise over designated sites

Civil aviation aircraft flying below 7,000 feet over landscapes designated as National Parks or Areas of Outstanding Natural Beauty are prohibited, except—

- (a) any civil aviation aircraft landing at or taking off from civil airports or airfields, and
- (b) civil aviation aircraft flying below 7,000 feet for safety reasons."

Clause 18

BARONESS VERE OF NORBITON

- 18 Page 11, line 14, leave out from "paragraph" to end of line 15 and insert "1(2) of Schedule 11 that make provision authorised by paragraph 1(3)(b) or (4)(b) or (c) of that Schedule."

Member's explanatory statement

This amendment would be consequential on the removal of paragraph 4 of Schedule 11, and its replacement by paragraph 1 of Schedule 11, which would result from other amendments standing in my name. It provides for the cases when draft affirmative Parliamentary procedure is to apply to the exercise of the power in paragraph 1 by regulations under the Act.

Clause 19

BARONESS VERE OF NORBITON

- 18A Page 11, line 20, after "Ireland" insert ", except that section (Airport slot allocation) (airport slot allocation) extends to England and Wales and Scotland only"

Member's explanatory statement

This amendment is consequential on the Government amendment that inserts a new Clause after Clause 11 relating to airport slot allocation. It would provide that the new Clause extends to England and Wales and Scotland only.

Clause 20

BARONESS VERE OF NORBITON

- 18B Page 11, line 25, at end insert –
“(aa) section (Airport slot allocation);”

Member's explanatory statement

This amendment is consequential on the Government amendment that inserts a new Clause after Clause 11 relating to airport slot allocation. It would provide that the new Clause would come into force on the day on which this Act is passed.

Schedule 5

LORD TUNNICLIFFE

- 19 Page 47, line 45, at end insert “, and that the contravention is serious, and
(e) it has determined that it would be proportionate to impose the penalty in respect of the contravention in question.”

Member's explanatory statement

This amendment would ensure that penalties imposed by the CAA in respect of contraventions of the licence-holder's duties under section 8 of the Transport Act 2000 or its licence are in respect only of serious contraventions and are proportionate to the contravention in question.

Schedule 6

LORD TUNNICLIFFE

- 20 Page 56, line 2, at end insert “, and
(b) in the case of an investigation under section 34, only if the CAA is satisfied that the representation to which the investigation relates provides reasonable grounds to conclude that the alleged or apprehended contravention has occurred (or is highly likely to occur) and that it has had (or is highly likely to have) a material adverse effect on the person on whose behalf the representation is made.”

Member's explanatory statement

This amendment would narrow the CAA's powers to obtain information in relation to a complaint about an alleged or apprehended contravention of the licence-holder's duties under section 8 of the Transport Act 2000.

Schedule 7

BARONESS VERE OF NORBITON

- 21 Page 62, line 11, leave out paragraph 6

Member's explanatory statement

This amendment is consequential on the amendment to Clause 10 that inserts a new subsection (5A)(which amends section 34 of the Transport Act 2000).

Schedule 8

LORD TUNNICLIFFE

22 Page 64, line 20, after “may” insert “destroy the aircraft or”

BARONESS VERE OF NORBITON

23 Page 65, line 7, leave out “or 240” and insert “, 240, 265A(2) or 265B(2)”

Member's explanatory statement

This amendment would add references to new offences created by the Air Navigation (Amendment) Order 2020.

24 Page 65, line 14, leave out “an offence under article 95 or” and insert “—
(i) an offence under article”

Member's explanatory statement

This amendment would remove a reference to an offence which is revoked by the Air Navigation (Amendment) Order 2020.

25 Page 65, line 15, after “2016” insert—
“(ii) a relevant offence under article 265B(3) of the ANO 2016, or
(iii) a relevant offence under article 265E(7) of the ANO 2016”

Member's explanatory statement

This amendment would add references to new offences created by the Air Navigation (Amendment) Order 2020.

26 Page 65, line 35, leave out from “to” to end of line 36 and insert “—
(a) an offence under any of these provisions of the ANO 2016—
(i) article 94A (certain unmanned aircraft: permission for flights over or near aerodromes);
(ii) article 239(4) (prohibited or restricted flying);
(iii) article 240 (endangering safety of an aircraft);
(iv) article 265A(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to UAS operators);
(v) article 265B(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to remote pilots);
(b) a relevant offence under article 265B(3) of the ANO 2016;
(c) a relevant offence under article 265E(7) of the ANO 2016; or
(d) a relevant prison offence.”

Member's explanatory statement

This amendment would remove the use of the defined term “relevant ANO offence” from paragraph 2(6) and instead list the offences to be covered. That list includes some new offences created by the Air Navigation (Amendment) Order 2020.

27 Page 65, line 37, leave out sub-paragraph (7)

Member's explanatory statement

This amendment would remove sub-paragraph (7) because the interpretation provision would be contained in the new paragraphs 4A to 4F proposed by another amendment standing in my name.

28 Page 66, line 49, after “relevant” insert “unmanned aircraft”

Member's explanatory statement

This amendment would reflect the replacement of the defined term “relevant offence” with “relevant unmanned aircraft offence” by the new paragraph 4A proposed in another amendment standing in my name.

29 Page 67, line 44, after “relevant” insert “unmanned aircraft”

Member's explanatory statement

This amendment would reflect the replacement of the defined term “relevant offence” with “relevant unmanned aircraft offence” by the new paragraph 4A proposed in another amendment standing in my name.

30 Page 68, line 2, after “relevant” insert “unmanned aircraft”

Member's explanatory statement

This amendment would reflect the replacement of the defined term “relevant offence” with “relevant unmanned aircraft offence” proposed by another amendment standing in my name.

31 Page 68, line 6, at end insert –

“Meaning of “relevant unmanned aircraft offence”

4A In this Schedule “relevant unmanned aircraft offence” means –

- (a) an offence under this Act;
- (b) any of these offences under the ANO 2016 –
 - (i) an offence under article 94A(1), 239(4), 265A(2) or 265B(2) of the ANO 2016;
 - (ii) a relevant offence under article 265B(3) of the ANO 2016;
 - (iii) a relevant offence under article 265E(7) of the ANO 2016;
- (c) an offence under any of these provisions –
 - (i) section 40C(2) or (3) of the Prison Act 1952;
 - (ii) section 34B(2) or (3) of the Prison Act (Northern Ireland) 1953;
 - (iii) section 41 or 41ZA of the Prisons (Scotland) Act 1989;
- (d) a Scottish common law prison offence.

Meaning of “relevant offence under article 265B(3) of the ANO 2016”

4B In this Schedule “relevant offence under article 265B(3) of the ANO 2016” means an offence under article 265B(3) of the ANO 2016 committed by the contravention of a relevant requirement set out or referred to in any of the following provisions of the ANO 2016 –

- (a) article 265B(5)(a), (h), (i) or (j);
- (b) article 265B(6);

Schedule 8 - continued

- (c) article 265B(7)(e), but only insofar as that requirement (to comply with authorised limitations and conditions) regulates the operation of an unmanned aircraft during flight;
- (d) article 265B(7)(f), (g) or (i);
- (e) article 265B(8), but only insofar as that requirement (conditions under which operations in the framework of the model aircraft clubs or associations may be conducted) regulates the operation of an unmanned aircraft during flight.

Meaning of “relevant offence under article 265E(7) of the ANO 2016”

4C In this Schedule “relevant offence under article 265E(7) of the ANO 2016” means an offence under article 265E(7) of the ANO 2016 committed by the contravention of a relevant requirement set out or referred to in any of the following provisions of the ANO 2016 –

- (a) article 265E(2)(a)(vi), (vii) or (viii);
- (b) article 265E(2)(b)(ix), (x) or (xi);
- (c) article 265E(5)(a);
- (d) article 265E(6).

Meaning of “relevant prison offence”

4D In this Schedule “relevant prison offence” means –

- (a) an offence under any of these provisions of the Prison Act 1952 –
 - (i) section 39 (assisting a prisoner to escape);
 - (ii) section 40B (conveyance etc of List A articles into or out of prison);
 - (iii) section 40C (conveyance etc of List B or C articles into or out of prison);
 - (iv) section 40CB (throwing articles into prison);
- (b) an offence under any of these provisions of the Prison Act (Northern Ireland) 1953 –
 - (i) section 29(1) (assisting escape from lawful custody);
 - (ii) section 33 (facilitating escape by conveying things into prison);
 - (iii) section 34A (conveyance etc of List A articles into or out of prison);
 - (iv) section 34B (conveyance etc of List B or C articles into or out of prison);
- (c) an offence under either of these provisions of the Prisons (Scotland) Act 1989 –
 - (i) section 41 (unlawful introduction of proscribed articles into a prison);
 - (ii) section 41ZA (provision to and use by prisoners of personal communication devices);
- (d) a Scottish common law prison offence.

Meaning of “Scottish common law prison offence”

4E(1) In this Schedule “Scottish common law prison offence” means –

Schedule 8 - continued

- (a) an offence at common law in Scotland committed by assisting a prisoner in a penal institution in Scotland in escaping or attempting to escape from the institution;
- (b) an offence at common law in Scotland committed by, intending to facilitate the escape of a prisoner from a penal institution in Scotland, doing any of the following things—
 - (i) bringing, throwing or otherwise conveying anything into the institution;
 - (ii) causing another person to bring, throw or otherwise convey anything into the institution;
 - (iii) giving anything to a prisoner or leaving anything in any place (whether inside or outside the institution).

(2) In this paragraph—

“penal institution” has the meaning given by section 108 of the Criminal Justice (Scotland) Act 2016;

“prisoner” means a person who is detained or imprisoned in such an institution.

Other interpretation

4F (1) In this Schedule—

“article associated with an unmanned aircraft” includes—

- (a) any component, part or product of an unmanned aircraft, and
- (b) any equipment, including an electronic device, relating to an unmanned aircraft;

“premises” includes any place and, in particular, includes—

- (a) any vehicle;
- (b) any offshore installation;
- (c) any renewable energy installation (that expression having the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004);
- (d) any tent or movable structure;

“property” includes land and buildings;

“vehicle” includes any vessel, aircraft (whether or not an unmanned aircraft) or hovercraft.

- (2) A reference in this Schedule to a provision of subordinate legislation (whenever the reference is passed or made) is a reference to that provision as it has effect from time to time.
- (3) Sub-paragraph (2) is subject to any contrary provision made in subordinate legislation.”

Member’s explanatory statement

This amendment would bring together all of the interpretation provision relating to paragraphs 1 to 4 of this Schedule (including some new interpretation provision) and locate it immediately after paragraph 4.

Member's explanatory statement

This amendment would update the reference to the title of article 94A to reflect the change made by the Air Navigation (Amendment) Order 2020.

33

Page 70, line 20, at end insert—

- “(v) article 265A(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to UAS operators);
- (vi) article 265B(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to remote pilots);
- (h) an offence under article 265B(3) of the Air Navigation Order 2016 committed by the contravention of a relevant requirement set out or referred to in any of the following provisions of that Order—
 - (i) article 265B(5)(a), (h), (i) or (j);
 - (ii) article 265B(6);
 - (iii) article 265B(7)(e), but only insofar as that requirement (to comply with authorised limitations and conditions) regulates the operation of an unmanned aircraft during flight;
 - (iv) article 265B(7)(f), (g) or (i);
 - (v) article 265B(8), but only insofar as that requirement (conditions under which operations in the framework of the model aircraft clubs or associations may be conducted) regulates the operation of an unmanned aircraft during flight.”

Member's explanatory statement

This amendment would add references to new offences created by the Air Navigation (Amendment) Order 2020.

34

Page 75, line 6, leave out paragraph 7

Member's explanatory statement

This amendment would remove paragraph 7 because the interpretation provision would be contained in the new paragraphs 4A to 4F proposed by another amendment standing in my name.

Schedule 9

BARONESS VERE OF NORBITON

35

Leave out Schedule 9 and insert the following new Schedule—

“SCHEDULE

UNMANNED AIRCRAFT: POWERS OF POLICE OFFICERS RELATING TO ANO 2016

Provision by remote pilots of evidence of competency

- 1 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—
 - (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was the remote pilot of the unmanned aircraft for the flight, and

Schedule 9 - continued

- (b) has reasonable grounds for suspecting that a relevant competency requirement is or was applicable as respects P and the unmanned aircraft and the flight.
- (2) The constable may require P to provide such evidence as the constable considers reasonable of P's compliance, as respects the unmanned aircraft and the flight, with a relevant competency requirement.
- (3) In this paragraph "relevant competency requirement" means a requirement imposed by, or referred to in, any of the following provisions of the ANO 2016—
 - (a) article 265B(5)(b) (open category: having the appropriate competency in the intended sub-category of flight);
 - (b) article 265B(5)(c) (open category: carrying proof of competency);
 - (c) article 265B(7)(b) (specific category: having the appropriate competency);
 - (d) article 265B(7)(c) (specific category: carrying proof of competency);
 - (e) article 265B(8) (specific category: having the appropriate competency specified in the authorisation relating to the flight);
 - (f) article 265E(2)(b)(ii) (tethered small unmanned aircraft of 250g or more: competency).
- (4) P is guilty of an offence if—
 - (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide evidence of P's compliance, as respects an unmanned aircraft and a flight, with a relevant competency requirement,
 - (b) P is or was the remote pilot of the unmanned aircraft for the flight, and
 - (c) the relevant competency requirement is or was applicable as respects P and the unmanned aircraft and the flight.
- (5) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Paragraph 10 includes a defence to the offence under this paragraph.

Provision by remote pilots of information about UAS operators

- 2 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—
 - (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was the remote pilot of the unmanned aircraft, and
 - (b) has reasonable grounds for suspecting that a relevant registration requirement is or was applicable as respects the UAS operator for the unmanned aircraft and the flight.
- (2) The constable may require P to provide such information as the constable considers reasonable as to the identity of—
 - (a) the person or persons who are or were the UAS operator for the flight, or

Schedule 9 - continued

- (b) the person or persons who made the unmanned aircraft available for use by P.
- (3) In this paragraph “relevant registration requirement” means a requirement imposed by, or referred to in, any of the following provisions of the ANO 2016—
- (a) article 265A(5)(a) (open category: registration of UAS operator);
 - (b) article 265A(5)(b) (open category: display of UAS operator’s registration number);
 - (c) article 265A(6)(a) (specific category: registration of UAS operator);
 - (d) article 265A(6)(b) (specific category: display of UAS operator’s registration number);
 - (e) article 265A(7)(a) (specific category: registration of UAS operator);
 - (f) article 265A(7)(b) (specific category: display of UAS operator’s registration number);
 - (g) article 265A(9)(a) (specific category: registration of UAS operator);
 - (h) article 265A(9)(b) (specific category: display of UAS operator’s registration number);
 - (i) article 265E(1)(a) (registration of tethered small unmanned aircraft of 250g or more);
 - (j) article 265E(1)(b) (display of registration number of tethered small unmanned aircraft of 250g or more).
- (4) P is guilty of an offence if—
- (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide, as respects a flight by an unmanned aircraft, information as to the identity of a person,
 - (b) P is or was the remote pilot of the unmanned aircraft for the flight,
 - (c) the relevant registration requirement which the constable had reasonable grounds for suspecting is or was applicable as respects the UAS operator for the unmanned aircraft and the flight is or was so applicable, and
 - (d) at the time when the constable imposed the requirement, P could have provided information of the kind which the constable required P to provide.
- (5) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Paragraph 10 includes a defence to the offence under this paragraph.

Provision by UAS operators of evidence of registration

- 3 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—
- (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was the UAS operator of the unmanned aircraft for the flight, and

Schedule 9 - continued

- (b) has reasonable grounds for suspecting that a relevant registration requirement is or was applicable as respects P and the unmanned aircraft and the flight.
- (2) The constable may require P to provide such evidence as the constable considers reasonable of P's compliance, as respects the unmanned aircraft and the flight, with a relevant registration requirement.
- (3) In this paragraph "relevant registration requirement" has the same meaning as in paragraph 2.
- (4) P is guilty of an offence if—
 - (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide evidence of P's compliance, as respects the flight, with a relevant registration requirement,
 - (b) P is or was the UAS operator of the unmanned aircraft for the flight, and
 - (c) the relevant registration requirement is or was applicable as respects P and the unmanned aircraft and the flight.
- (5) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Paragraph 10 includes a defence to the offence under this paragraph.

Provision by UAS operators of information about remote pilots

- 4 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—
- (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was the UAS operator of the unmanned aircraft for the flight, and
 - (b) has reasonable grounds for suspecting that a relevant competency requirement is or was applicable as respects the remote pilot for the unmanned aircraft and the flight.
- (2) The constable may require P to provide such information as the constable considers reasonable as to the identity of the person or persons who are or were the remote pilot or remote pilots of the unmanned aircraft for the flight.
 - (3) In this paragraph "relevant competency requirement" has the same meaning as in paragraph 1.
 - (4) P is guilty of an offence if—
 - (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide information as to the identity of a person,
 - (b) P is or was the UAS operator of the unmanned aircraft for the flight,
 - (c) the relevant competency requirement which the constable had reasonable grounds for suspecting is or was applicable as respects the remote pilot for the unmanned aircraft and the flight is or was so applicable, and

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(d) at the time when the constable imposed the requirement, P could have provided information of the kind which the constable required P to provide.

(5) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Paragraph 10 includes a defence to the offence under this paragraph.

Provision by remote pilots or UAS operators of other information etc

5 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable has reasonable grounds for believing that—

- (a) a flight by an unmanned aircraft is taking place or has taken place, and
- (b) P is or was the remote pilot or the UAS operator of the unmanned aircraft for the flight.

(2) The constable may require P to provide such information, documentation or evidence that is of a specified description as the constable considers reasonable.

(3) In this paragraph “specified description” means a description specified by the Secretary of State by regulations for the purposes of this paragraph.

(4) Regulations under this paragraph that specify a description of information, documentation or evidence may provide for conditions that must be met before a constable may require P to provide information, documentation or evidence that is within that description.

(5) P is guilty of an offence if—

- (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide information, documentation or evidence,
- (b) P is or was the remote pilot or the UAS operator of the unmanned aircraft for the flight, and
- (c) at the time when the constable imposed the requirement, P could have provided information, documentation or evidence of the kind which the constable required P to provide.

(6) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) Paragraph 10 includes a defence to the offence under this paragraph.

Provision of evidence of consents for certain flights

6 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—

- (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was the remote pilot or the UAS operator of the unmanned aircraft for the flight, and

(b) has reasonable grounds for suspecting that a provision of the ANO 2016 is or was being contravened unless a relevant consent is or was applicable as respects the unmanned aircraft and the flight.

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- (2) The constable may require P to provide, as respects the unmanned aircraft and the flight, such evidence as the constable considers reasonable of a relevant consent.
- (3) In this paragraph “relevant consent” means a permission, operational authorisation, LUC, authorisation or certification required by, or referred to in, any of the following provisions of the ANO 2016—
 - (a) article 94A (permission for flights over or near aerodromes);
 - (b) article 265A(1)(b) (operational authorisation, LUC with appropriate privileges, or authorisation);
 - (c) article 265A(1)(c) (certification of UAS and UAS operator);
 - (d) article 265B(1)(b) (operational authorisation, LUC with appropriate privileges, or authorisation);
 - (e) article 265B(1)(c) (certification of UAS and UAS operator);
 - (f) article 265E(3) (tethered small unmanned aircraft: permission from CAA).
- (4) P is guilty of an offence if—
 - (a) P fails to comply with a requirement imposed by a constable under this paragraph to provide, as respects a flight by an unmanned aircraft, evidence of a relevant consent,
 - (b) P is or was the remote pilot or the UAS operator of the unmanned aircraft for the flight, and
 - (c) the relevant consent is or was applicable as respects the unmanned aircraft and the flight.
- (5) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Paragraph 10 includes a defence to the offence under this paragraph.

Provision of evidence of exemptions for certain flights

- 7 (1) A constable may exercise the power conferred by this paragraph in relation to a person (P) if the constable—
 - (a) has reasonable grounds for believing that—
 - (i) a flight by an unmanned aircraft is taking place or has taken place, and
 - (ii) P is or was, as respects the flight, the remote pilot or the UAS operator of the unmanned aircraft, and
 - (b) has reasonable grounds for suspecting that a provision of the ANO 2016 is or was being contravened unless an ANO exemption is or was applicable as respects—
 - (i) a person and the unmanned aircraft and the flight, or
 - (ii) the unmanned aircraft and the flight.
- (2) The constable may require P to provide, as respects the unmanned aircraft and the flight, such evidence as the constable considers reasonable of an ANO exemption.
- (3) In this paragraph “ANO exemption” means an exemption under article 266 of the ANO 2016.

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- (4) The evidence which a constable may require a person to provide under this paragraph includes evidence of the applicability of an ANO exemption to a person, or the unmanned aircraft, as respects the flight.
- (5) P is guilty of an offence if—
 - (a) P without reasonable excuse fails to comply with a requirement imposed by a constable under this paragraph to provide, as respects P and the unmanned aircraft and the flight, or as respects the unmanned aircraft and the flight, evidence of an ANO exemption,
 - (b) P is or was the remote pilot or the UAS operator of the unmanned aircraft for the flight, and
 - (c) the ANO exemption is or was applicable as respects—
 - (i) P and the unmanned aircraft and the flight, or
 - (ii) the unmanned aircraft and the flight.
- (6) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (7) Paragraph 10 includes a defence to the offence under this paragraph.

Power to inspect unmanned aircraft in connection with other powers

- 8 (1) A constable may require a person in possession of an unmanned aircraft to allow the constable to inspect it if the constable considers that the inspection would assist the constable in deciding whether a power conferred by any of paragraphs 1 to 7 is exercisable.
- (2) A constable may if necessary use reasonable force for the purpose of exercising the power conferred by this paragraph.
- (3) A person who fails to comply with a requirement imposed under this paragraph is guilty of an offence.
- (4) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence of providing false or misleading information etc

- 9 (1) A person commits an offence if—
 - (a) anything that the person provides under this Schedule is false or misleading in a material respect, and
 - (b) the person either—
 - (i) knows that it is false or misleading, or
 - (ii) is reckless as to whether it is false or misleading.
- (2) A person who is guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provision of information etc at a police station

- 10 (1) A person (P) may comply with a requirement imposed by a constable under any of paragraphs 1 to 7 by providing what the constable required at a police station specified by P at the time when the constable imposed the requirement (the “nominated police station”)—
 - (a) within seven days beginning with the day after which the constable imposed the requirement, or

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- (b) if it is not reasonably practicable to do so within that seven day period, as soon after the end of that period as is reasonably practicable.
- (2) It is a defence for a person charged with an offence under any of paragraphs 1 to 7 in respect of a failure to comply with a requirement imposed by a constable to prove that it was not reasonably practicable to provide what the constable required at the nominated police station before the day on which the proceedings were commenced.
- (3) For that purpose, the proceedings against a person for an offence are commenced when—
 - (a) in the case of proceedings in England and Wales—
 - (i) an information is laid for the offence,
 - (ii) the person is charged with the offence under Part 4 of the Police and Criminal Evidence Act 1984, or
 - (iii) a written charge is issued against the person for the offence under section 29 of the Criminal Justice Act 2003;
 - (b) in the case of proceedings in Scotland, a complaint is served on the person in respect of the offence;
 - (c) in the case of proceedings in Northern Ireland—
 - (i) a summons or warrant is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981 in respect of the person and the offence,
 - (ii) a summons is issued under section 93 of the Justice Act (Northern Ireland) 2015 in respect of the person and the offence, or
 - (iii) the person is charged with the offence after being taken into custody without a warrant.

Interpretation

- 11 (1) In this Schedule the following expressions have the same meanings as in the ANO 2016 (see Schedule 1 to the ANO 2016)—
 - “remote pilot”;
 - “UAS operator”.
- (2) A reference in this Schedule to a provision of subordinate legislation (whenever the reference is passed or made) is a reference to that provision as it has effect from time to time.
- (3) Sub-paragraph (2) is subject to any contrary provision made in subordinate legislation.”

Member's explanatory statement

This amendment would replace Schedule 9 with a new Schedule. A new regulatory regime for unmanned aircraft under Commission Implementing Regulation (EU) 2019/947 has come into effect. The police powers in Schedule 9 now need to relate to that regime. Since this amendment was originally tabled, paragraph 7 has been altered (by the addition of paragraph (5)(c)).

Schedule 10

BARONESS VERE OF NORBITON

36 Page 81, line 40, leave out from beginning to “this” in line 2 on page 82 and insert –

“(3) After article 265F of the ANO 2016 insert –

“Fixed penalty offences

265G. In the case of an offence under any provision of”

Member’s explanatory statement

The Air Navigation (Amendment) Order 2020 includes provision adding into the ANO 2016 new provisions which provide for offences. This amendment would move the new provision made by paragraph 2(3) so that it comes after those new offences.

Schedule 11

BARONESS VERE OF NORBITON

37 Page 88, line 31, leave out from second “make” to end of line 8 on page 89 and insert “any amendment of this Act which is authorised by sub-paragraph (3) or (4).

- (2) The Secretary of State may by regulations make any amendment of this Act which is authorised by sub-paragraph (3) or (4).
- (3) The Order in Council or regulations may make such amendments of Schedule 8 as the appropriate authority considers appropriate for or in connection with –
 - (a) maintaining the effect of a provision of that Schedule in a case where it would otherwise cease to be effective because of provision made in any relevant subordinate legislation; or
 - (b) extending a provision of that Schedule to apply to an offence relating to unmanned aircraft under relevant subordinate legislation to which the provision does not already apply.
- (4) The Order in Council or regulations may make such amendments of section 13 and Schedule 9 as the appropriate authority considers appropriate for or in connection with –
 - (a) maintaining the effect of a provision of that section or Schedule in a case where it would otherwise cease to be effective because of provision made in any relevant subordinate legislation;
 - (b) extending a provision of that section or Schedule to apply to an offence relating to unmanned aircraft under relevant subordinate legislation to which the provision does not already apply; or
 - (c) conferring, in consequence of provision made in any relevant subordinate legislation, a police power that corresponds to a power conferred by Schedule 9 as enacted.
- (5) For the purposes of sub-paragraph (4)(c) each of the following police powers “corresponds to a power conferred by Schedule 9 as enacted” –
 - (a) a power to require a person who the constable has reasonable grounds for believing is or was the remote pilot of an unmanned aircraft for a flight (“A”) –

Schedule 11 - *continued*

- (i) to provide information, documentation or other evidence relating to A's compliance with any requirement relating to A's competency to be the remote pilot of the unmanned aircraft for the flight;
 - (ii) to provide information relating to the identity of a person who is or was the UAS operator of the unmanned aircraft, or made the unmanned aircraft available to A, for the flight;
 - (iii) to provide information, documentation or other evidence relating to the existence of a consent which is or was required for the flight; or
 - (iv) to provide information, documentation or other evidence relating to the application to the flight of an exemption from a requirement which would otherwise be applicable to the flight;
- (b) a power to require a person who the constable has reasonable grounds for believing is or was the UAS operator of an unmanned aircraft for a flight ("B") –
- (i) to provide information, documentation or other evidence relating to B's compliance, as respects the flight, with any requirement relating to registration of B as the UAS operator of the unmanned aircraft;
 - (ii) to provide information, documentation or other evidence relating to B's compliance, as respects the flight, with any requirement relating to registration of the unmanned aircraft;
 - (iii) to provide information relating to the identity of a person who is or was the remote pilot of the unmanned aircraft for the flight;
 - (iv) to provide information, documentation or other evidence relating to the existence of a consent which is or was required for the flight;
 - (v) to provide information, documentation or other evidence relating to the application to the flight of an exemption from a requirement which would otherwise be applicable to the flight;
- (c) a power to require a person who is in possession of an unmanned aircraft to allow the constable to inspect it –
- (i) if the constable considers that the inspection would assist the constable in deciding whether any other power conferred by Schedule 9 is exercisable;
 - (ii) for the purpose of checking whether a requirement to display any number, mark or information on the unmanned aircraft is being complied with.
- (6) The provision that may be made under sub-paragraph (4)(c) in connection with conferring a police power includes –
- (a) provision authorising a constable to use reasonable force in the exercise of the power;
 - (b) provision for a person to be guilty of an offence if the person –
 - (i) does not comply with a requirement imposed by a constable in the exercise of the power, or
 - (ii) knowingly or recklessly provides a constable exercising the power with information, documentation or evidence that is false or misleading in a material respect.

Schedule 11 - continued

(7) In this paragraph—

“appropriate authority” means—

- (a) Her Majesty, in relation to an Air Navigation Order;
- (b) the Secretary of State, in relation to regulations;

“relevant subordinate legislation” means—

- (a) an Air Navigation Order;
- (b) regulations made under paragraph 3 of this Schedule;
- (c) regulations made under Article 57 or 58 of the UK Basic Regulation;
- (d) regulations made under Article 15 of the UK Implementing Regulation;

“remote pilot”, in relation to an unmanned aircraft, means a person (however described) conducting the flight of the unmanned aircraft (including a person who is a remote pilot within the meaning of the ANO 2016 – see Schedule 1 to the ANO 2016);

“UAS operator”, in relation to an unmanned aircraft, means a person (however described) who is the operator of the unmanned aircraft (including a person who is a UAS operator within the meaning of the ANO 2016 – see Schedule 1 to the ANO 2016).”

Member’s explanatory statement

This amendment would introduce a single power in place of the powers currently in paragraphs 1 and 4. That single power would be wider than the current Bill powers insofar as it can be used to amend Schedule 9. It would allow the police powers there to be replaced with new powers of the same kind (eg. if the regulatory regime relating to unmanned aircraft is replaced).

- 38 Page 89, line 14, leave out from “makes” to end of line 16 and insert “, under paragraph 1(1) of Schedule 11 to the Air Traffic Management and Unmanned Aircraft Act 2020, provision authorised by paragraph 1(3)(b) or (4)(b) or (c) of that Schedule;”.

Member’s explanatory statement

This amendment would be consequential on the changes to paragraph 1 of Schedule 11 made by the amendment standing in my name. It provides for the cases when draft affirmative Parliamentary procedure is to apply to the exercise of the power in paragraph 1 in an Air Navigation Order.

- 39 Page 90, line 14, leave out sub-paragraph (7)

Member’s explanatory statement

This amendment would leave out sub-paragraph (7), because an equivalent power is already available under paragraph 10 of Schedule 8 to the European Union (Withdrawal) Act 2018.

- 40 Page 90, line 19, leave out from “Regulation” to end of line 20 and insert “or provision made under that Regulation;
(b) the UK Implementing Regulation or provision made under that Regulation;

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(c) regulations made under Article 57 or 58 of the UK Basic Regulation.”

Member’s explanatory statement

This amendment would allow for the creation of offences or civil penalties to enforce compliance with requirements imposed by regulations made under the UK Delegated or Implementing Regulation or regulations made under Article 57 or 58 of the UK Basic Regulation.

41 Page 90, line 22, leave out paragraph 4

Member’s explanatory statement

The amendment would remove paragraph 4 because it is replaced by paragraph 1 as amended by the amendment standing in my name.

42 Page 91, line 5, at end insert –

““UK Basic Regulation” means Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91;”

Member’s explanatory statement

This amendment inserts the definition of “UK Basic Regulation”.

43 Page 91, line 11, at end insert –

“and a reference to the UK Basic Regulation, the UK Delegated Regulation or the UK Implementing Regulation is to that Regulation as it forms part of domestic law on and after IP completion day and as amended from time to time.”

Member’s explanatory statement

This amendment ensures that references to these three instruments will be “ambulatory” – that is, the references will catch any amendments made to those instruments in their “domesticated” form as retained EU law.

In the Title

BARONESS VERE OF NORBITON

44 Line 2, after “2000” insert “and about airport slot allocation”

Member’s explanatory statement

This amendment is consequential on the Government amendment that inserts a new Clause after Clause 11 relating to airport slot allocation. It would amend the long title of the Bill to additionally include a reference to airport slot allocation.

Air Traffic Management and Unmanned Aircraft Bill [HL]

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

18 January 2021
