

CIVIL AVIATION ACT 2006

Introduction

1. At the annual meeting in Manchester last year we reported on the Civil Aviation Bill then before Parliament¹. The Bill finally received Royal Assent on 8th November 2006. It implements a number of important commitments in the *Future of Air Transport* White Paper concerned with sustainable aviation and the protection of passenger interests.
2. This paper summarises the main provisions of the new Act and describes the Department of Transport's plans for Airport Consultative Committee to be involved in monitoring its implementation at airports.

Provisions of the Act

3. The new Act:
 - clarifies and strengthens the measures available to airports for dealing with aircraft noise. This includes a greater ability to introduce and enforce noise amelioration measures beyond airport boundaries and an ability to take economic measures to reflect aircraft straying from routes designed to minimise noise. [See paras 3.10 to 3.27 of the White Paper²]
 - provides explicit powers for airports to set charges which reflect local emissions from aircraft. The Secretary of State also has powers to direct airports to levy such charges. [See paras 3.28 to 3.31 of the White Paper³]
 - provides powers for a levy to replenish the Air Travel Trust Fund, the purpose of which is to benefit customers of failed tour operators. This removes the need for the Government guarantee in place since 1992, and ensures the Government meets its obligations under EU law.
 - authorises local authority airport companies to undertake specified activities - such as making their expertise available to other airports and taking part in joint ventures - which are at present outside their powers. It thus makes a modest contribution to enabling local authority airports to compete on a more level playing field with privately owned airports.
 - enables the Civil Aviation Authority to recoup the costs of its Aviation Health Unit - which offers advice to air passengers, the aviation industry and to Government - by a levy from the aviation industry. This will save the taxpayer approximately £200,000 a year.
 - removes airlines' previous right of appeal to the Secretary of State in aviation route licensing cases decided by the Civil Aviation Authority thereby eliminating a layer of bureaucracy and speeding up the process.
 - clarifies the responsibilities of airport managers and police in relation to the protection and policing of airports which have been designated by the Secretary

¹ <http://www.ukaccs.info/06almfiles/06civavbill.doc>

² <http://www.dft.gov.uk/about/strategy/whitepapers/air/chapter3environmentalimpacts>

³ <http://www.dft.gov.uk/about/strategy/whitepapers/air/chapter3environmentalimpacts>

of State under section 25 of the Aviation Security Act 1982. This provision was added as an amendment to the Bill in November 2005.

The full text of the Act can be seen on the OPSI website⁴. For a whole range of further information on the Act visit the Department of Transport's website⁵

Role of Airport Consultative Committees

4. On page 32 of the Department's December 2006 *Progress Report on the White Paper*⁶ it is recommended:

“that airport consultative committees monitor how well the new powers in the Civil Aviation Act 2006 are being implemented by airports”

5. There is no detail and at a liaison meeting with the Department on 8th March 2007 there was a discussion as what they were expecting from consultative committees in performing this monitoring role. The Department's current intention is to consult Committees in spring 2008 as to how airports are using the new powers. The Department expects to write shortly to Committees to clarify what they have in mind. The Secretariat will continue to liaise with the Department's officials on this.
6. Meanwhile, it is clear that the new powers in the Act for airports – described in more detail in the Annex to this paper - are important ones in terms of the local environment and the quality of life of those who live in the vicinity and Committees will be interested to ensure that airports make good use of them. The action needed will vary from airport to airport but at a minimum Committees will want to check with airports on a regular basis on what measures are proposed using the new powers. Committees may also want to comment on the detail of such measures and, perhaps, to make suggestions for new controls where they seem to be necessary.
7. An aspect of particular interest to Committees is in respect of the ability of airport operators to impose penalties on airlines in cases where aircraft do not achieve a continuous descent approach (CDA)⁷ procedure. The DfT, in a recent letter to the Gatwick Area Conservation Campaign, has confirmed that, in line with the advice of the DfT's Aircraft Noise Monitoring Advisory Committee (ANMAC) that it should not set requirements for arriving aircraft in the interests of safety, it does not intend to make CDA a mandatory requirement at the three London designated airports. It will therefore not be possible for these airports to use the power in the new Section 78B of the Civil Aviation Act to impose penalty charges on airlines whose aircraft do not achieve CDA. However, non-designated airports do have the power to set such penalties if CDA is set as a mandatory operating requirement. However, given the number of operating conditions that can affect achievement of a CDA, airports will have a number of factors to consider before imposing a penalty
8. It will also be noted that airport operators are required to use the monies received from fines to take forward projects/initiatives for the benefit of persons who live in the immediate area around the airport. This is another area in which committees might like to take an interest. At a number of airports there are already well tested arrangements for the use of such funds, often involving an independent community trust with charitable status – see for example the website of the Gatwick Airport Community Trust⁸. It is known that similar trusts operate at Birmingham and Manchester.

⁴ <http://www.opsi.gov.uk/acts/acts2006/20060034.htm>

⁵ <http://www.dft.gov.uk/about/strategy/whitepapers/air/cab/civilaviationbill>

⁶ At the end of Chapter 3 - *Local Environmental Challenges* – [click here](#)

⁷ CDA requires an aircraft to descend from (say) 6000 feet altitude to intercept the ILS glideslope without using level flight. The noise benefit arises from reduced thrust and the higher altitude of the aircraft and is substantial – typically 5 dBA (SEL)

⁸ <http://www.gact.org.uk/>

9. This is, perhaps, an area where it might be helpful for committees to compare notes and, if so, members might like to ask the Secretariat to gather information on a periodic basis for collation and circulation to all members.

Footnote

10. It is perhaps interesting to note that during the Commons stages of the Bill amendments were tabled to make the local authority responsible for setting up airport consultative committees rather than the airport operator. These were resisted by the Government and were not successful.

**Secretariat
May 2007**

Provisions of the Act for monitoring by Airport Consultative Committees

Aerodrome Charges: Noise and Emissions

1. The Act revises section 38 of the Civil Aviation Act 1982 to allow airport operators to fix its landing charges by reference to:
 - The noise caused by an aircraft or the inconvenience resulting from that noise
 - The amount or nature of emissions produced by an aircraft or the air pollution resulting from its emissions
 - The effect of an aircraft on noise or air pollution in the vicinity of the aerodrome
 - Failure of an airline to comply with noise or emissions limits.
2. The new provision set out the purposes for which charges can be made namely:
 - To encourage the use of quieter aircraft and reduce inconvenience from aircraft noise
 - To encourage the use of aircraft which produce lower emissions
 - To control noise and air pollution in the vicinity of aerodromes.
 - To promote compliance with noise and emissions limits.
3. The Secretary of State has the power to direct particular aerodromes to make use of these powers.

Regulation of aircraft noise at designated airports⁹

4. The Act gives the Secretary of State explicit powers to make restrictions which would avoid, limit or mitigate the effect of noise and vibration either generally or in any particular area, for example, arising from use of a particular runway. This would allow noise to be moved from one area to another, even if it does not limit or mitigate the total amount of noise suffered generally. Local residents would thus enjoy predictable periods of relief from aircraft noise. Requiring aircraft to take off or land in a particular direction at a given time might also reduce the numbers of people subjected to the most severe aircraft noise.

Noise Control and Penalty Schemes

5. The Act gives the operator of non-designated airports powers similar to those available to the Secretary of State at designated airports to regulate the noise and vibration from aircraft. The airport operator at such airports is required to consult aircraft operators which use the airport before making or amending a noise control scheme.
6. All airport operators now have explicit powers to levy financial penalties on airlines in respect of any breach of the noise abatement requirements imposed by the Secretary of State (in the case of designated airports) or the airport operator. These requirements may include departure noise limits, track keeping and compliance with continuous descent approach (CDA).

⁹ The airports currently designated for the purposes of s.78 of the Civil Aviation Act 1982 are Heathrow, Gatwick and Stansted

7. All airport operators are required to use the monies received from penalties to take forward projects/initiatives for the benefit of persons who live in the immediate area around the airport.