

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT AIR TRAFFIC MANAGEMENT AND
UNMANNED AIRCRAFT ACT 2021 (AIRSPACE
CHANGE DIRECTIONS) (DETERMINATION OF
TURNOVER FOR PENALTIES) REGULATIONS 2022

Wednesday 12 January 2022

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Sunday 16 January 2022

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The Committee consisted of the following Members:

Chair: † CHRISTINA REES

Abbott, Ms Diane (*Hackney North and Stoke Newington*) (Lab)

† Bacon, Mr Richard (*South Norfolk*) (Con)

Berry, Jake (*Rossendale and Darwen*) (Con)

† Blunt, Crispin (*Reigate*) (Con)

† Bridgen, Andrew (*North West Leicestershire*) (Con)

† Carden, Dan (*Liverpool, Walton*) (Lab)

† Courts, Robert (*Parliamentary Under-Secretary of State for Transport*)

† Eastwood, Mark (*Dewsbury*) (Con)

† Graham, Richard (*Gloucester*) (Con)

† Greenwood, Lilian (*Nottingham South*) (Lab)

Hillier, Dame Meg (*Hackney South and Shoreditch*) (Lab/Co-op)

† Jarvis, Dan (*Barnsley Central*) (Lab)

† Kane, Mike (*Wythenshawe and Sale East*) (Lab)

† Knight, Sir Greg (*East Yorkshire*) (Con)

† Newlands, Gavin (*Paisley and Renfrewshire North*) (SNP)

† Richards, Nicola (*West Bromwich East*) (Con)

† Solloway, Amanda (*Lord Commissioner of Her Majesty's Treasury*)

Nick Taylor, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Wednesday 12 January 2022

[CHRISTINA REES *in the Chair*]

Draft Air Traffic Management and Unmanned Aircraft Act 2021 (Airspace Change Directions) (Determination of Turnover for Penalties) Regulations 2022

9.25 am

The Chair: Before we begin, I encourage Members to wear masks when not speaking. This is in line with current Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated and when entering and leaving the room. Members should send their speaking notes by email to hansardnotes@parliament.uk. Similarly, officials in the Gallery should communicate electronically with Ministers.

The Parliamentary Under-Secretary of State for Transport (Robert Courts): I beg to move,

That the Committee has considered the draft Air Traffic Management and Unmanned Aircraft Act 2021 (Airspace Change Directions) (Determination of Turnover for Penalties) Regulations 2022.

It is a pleasure to serve under your chairmanship, Ms Rees. These regulations have a snappy title, if ever there was one. They are made under the powers conferred by the Air Traffic Management and Unmanned Aircraft Act 2021, which, for ease, I will refer to as the ATMUA Act.

The regulations are about airspace, which must be managed so that it can be used safely and efficiently. British airspace has not had substantial changes since the '50s and is an ongoing programme of work. Airspace changes can include proposals to, for example, amend airport flightpaths at lower levels, change the classification of particular airspace or alter flightpaths at higher altitudes.

In 2018, the Civil Aviation Authority published its airspace modernisation strategy, which sets out the ends, ways and means of modernising airspace. The CAA is currently consulting on a review and refresh for that strategy. The consultation opened on 10 January 2022, and I encourage all Members with an interest to contribute. The programme of airspace modernisation is under way and includes the wholesale redesign of the UK's airspace to unlock the benefits of modernisation, which will help to make journeys more environmentally friendly. It will also increase capacity, manage noise impacts, increase resilience and improve access for other airspace users.

The regulations are necessary because airspace change usually relies on individual sponsors. That might be an airport or another sponsor, such as an air navigation service provider, or ANSP. Airspace change relies on individual sponsors bringing forward their own proposals and choosing if, when and how to progress on airspace

changes. Before the passing of the ATMUA Act, if an airport or ANSP declined to participate in an airspace change proposal, neither the Department nor the Civil Aviation Authority had any means to ensure co-operation and co-ordination between different airports and airspaces. That meant that one airport or ANSP could hold up progress for everybody, so the modernisation programme, and the benefits to which I have alluded, would be delayed.

Happily, these regulations give the Secretary of State powers—in practice, delegated to the CAA—under sections 2 and 3 of the ATMUA Act to direct a person who is involved in airspace change, who is usually someone corporate, to progress or co-operate in an airspace change proposal, where doing so assists with progressing the CAA's airspace modernisation strategy.

Sir Greg Knight (East Yorkshire) (Con): Are there any circumstances where the refusal to follow an enforcement order could put lives at risk?

Robert Courts: That is an interesting question. I think my right hon. Friend is asking whether there is likely to be a safety impact from the refusal of an airspace provider to follow a direction. It is conceivable, but the more likely risk would be to efficiency. Our airspace has not really been amended since the 1950s, when we were dealing with very different types of aircraft in the airspace system from those that we have now. That means that we get issues such as stacking, which leads to wasted fuel. This measure provides an environmental and cost benefit. It is more about that efficiency than safety, although clearly any airspace issue conceivably has a safety impact. My right hon. Friend makes a good point.

The powers that the ATMUA Act gives to the CAA will help to deliver the advantages that I referred to: quicker, quieter and cleaner journeys, and potentially more capacity to make use of our motorways in the sky. If the directed party does not comply with a direction, the CAA can issue it with a contravention notice, which may be followed by an enforcement order. I stress that that is not the first port of call, which would of course be guidance and working closely together. The Secretary of State would first have to consider that it is a strategically important part of the airspace work. There would be guidance, a request for co-operation and directions given together. Next would be a contravention notice, and then finally an enforcement order.

If that enforcement order is contravened, there is the power to impose a financial penalty consisting of a fixed amount, not exceeding 10% of the person's turnover and/or a daily amount not exceeding 0.1% of the person's turnover. That is laid out in the ATMUA Act. These regulations set out how a person's turnover is to be determined, so that there is certainty for everybody. The regulations are intended to deal with the wide variety of persons and the different kinds of bodies involved in airspace change—for the most part, that means corporate persons. There has to be an appropriate level of penalty for non-compliance to ensure that it is both proportionate and transparent.

Under regulations 2 and 3, turnover is limited to the sum of all amounts received in the course of a person's business and excludes capital receipts and loans made by a third party. Only one year of turnover is used in the calculation, and where the most recent available turnover

does not equal 12 months, turnover is calculated on a pro rata basis. It is transparent, proportionate and intended to ensure that the person has the correct amount for the enforcement order. The regulations apply to England, Scotland, Wales and Northern Ireland. They are intended to ensure that we have effective and proportionate management of the CAA and the airspace modernisation programme risk. I commend the regulations to the Committee.

9.32 am

Mike Kane (Wythenshawe and Sale East) (Lab): It is a pleasure to serve under your chairmanship, Ms Rees. I note that I am beginning to see more of the Minister in these Committee Rooms than I actually see my wife! I will try to make amends for that in the next few days. I mean no offence to the Minister. As much as we all like him, we are back here again in Committee debating a statutory instrument; I am almost getting déjà vu.

The CAA regulates the UK's aviation sector. Its primary duty is to maintain a high standard of safety in the provision of air traffic services. That is, of course, something that we are keen to maintain. The regulations set the formula for working out what penalty should be paid by any airport operator, any air navigation service provider or any other person or body concerned with functions engaged with air navigation. I welcome them, but wish to put on record that over the past two years the aviation industry has been desperate to understand the formula used to work out what is in store for it. I appreciate that it is an ever-changing landscape—or airscape—but the impact on the sector has been huge, and I ask the Minister to consider that going forward.

The ATMUA Act gives the Minister powers to direct those concerned with air navigation to co-operate with the airspace modernisation programme. That is really important. As I have often said, we have an analogue airspace in a digital age, and it is vital that we modernise it to ensure that it is fit for the modern age. Doing so will add a sense of confidence to the aviation sector as it comes out of the pandemic and the problems it has had for the last two years.

The Minister is right to say that this issue is about not just safety, but the environment as well. I grew up under the flightpath of Manchester airport in Wythenshawe in my constituency. I remember in the '70s and the 80's the BAC One-Elevens, the Tridents and the Concorde. I even saw the space shuttle do a low pass on a jumbo jet. We could not hear ourselves think. Fortunately, in this country we have an industry—with Rolls-Royce and all the other providers—that has improved our aircraft to the nth degree to make them of lower emissions and lower noise. We have to keep that going. We are the third-largest aviation sector on the planet, and we need to keep that up.

Previously, one single airport declining to take part in the programme could delay the whole programme, meaning that others in the sector could not benefit from the opportunities afforded by the scheme. The powers afforded under this statutory instrument would enable the Secretary of State to direct co-operation or eventually impose financial penalties, which I am pleased to see are proportionate to the turnover from the previous year of the business concerned. As I have previously said, income and turnover have been much lower than average due to

the pandemic, so it is right to apply this formula. I am also pleased that financial penalties will be a last resort. Let us do this by carrot, rather than stick.

I note that rather than a full consultation there has been an agreement on the wider policy framework. I am keen to be kept up to date with reviews on the monitoring of these new powers and penalties. The Opposition are happy to support the regulations.

9.36 am

Gavin Newlands (Paisley and Renfrewshire North) (SNP): Apologies, Ms Rees, for missing the start of the Minister's speech. I will not detain the Committee too long. The Minister knows how strong my views on airspace modernisation are, because I have challenged the Government on issues such as the fact that the Airspace Change Organising Group is not on the Jet Zero Council. I agree with many of the remarks of the Labour Front-Bench spokesperson, the hon. Member for Wythenshawe and Sale East. This is a proportionate measure, so we will not be opposing it.

My only question is on the 10% of turnover. Turnover at the moment is being used to pay off debt for a lot of these airports. Will there be further, bridging support for these companies over the next two to three years?

9.37 am

Robert Courts: I thank hon. Members for their points. I am particularly grateful to the hon. Member for Wythenshawe and Sale East for having placed this debate in its historic context. He is right that we are on a scale of aviation history here. He referred to some of the iconic aircraft of the past; he is right to draw attention to the fact that the average aircraft flying today may look similar to what was flying around when he and I were younger, but they are approximately twice as efficient and half as polluting, and that progress is continuing.

The airspace work that we are doing is critical. I know that the hon. Members for Wythenshawe and Sale East and for Paisley and Renfrewshire North both feel strongly about it, and they are right to. The transition from an analogue to a digital airspace age, as the hon. Member for Wythenshawe and Sale East rightly put it, is a critical part of bringing our aviation industry into the 21st century. There are many reasons why we need to do this: efficiency, the environment and noise levels. It is important that we remember the historic context in which we are operating.

The hon. Member for Wythenshawe and Sale East asks me to be aware of the effect that the last couple of very difficult years have had on the sector. I am acutely aware of how difficult it has been, as are the Government, which is why I was keen to say that these penalties will be used as a last resort. There are many other steps that we would go through before, but it is right that we have penalties to use if need be.

The Government have recently provided £5.5 million of support to the future airspace implementation plan to help bring the process along. We will continue to work with the sector to see what support might be required and how we can best help. The hon. Member for Wythenshawe and Sale East asks if he can be kept in the loop. I am, of course, happy to involve him and all hon. Members in progress on airspace.

[Robert Courts]

I agree with the hon. Member for Paisley and Renfrewshire North that airspace modernisation is critical. He asks me to consider what the aviation industry may need. I refer again to the future airspace implementation plan money that we have already provided. In the last week, we have changed some of the travel rules, and that will help to get the aviation industry flying again,

which is exactly what we all want. It will lead us to better times ahead. I will, of course, continue to monitor this programme and the sector as a whole. If we can help, we will endeavour to do so.

Question put and agreed to.

9.40 am

Committee rose.