STATUTORY INSTRUMENTS

2015 No. 930

CIVIL AVIATION

The Aviation Security Act 1982 (Civil Penalties) Regulations 2015

Made - - - -	*25th March 2015*
Coming into force - -	*15th April 2015*

The Secretary of State makes the following Regulations in exercise of the power conferred by section 22A of the Aviation Security Act 1982(**1**).

In accordance with section 22A(7) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Aviation Security Act 1982 (Civil Penalties) Regulations 2015.

(2) These Regulations come into force on the 21st day after the day on which they are made.

(3) These Regulations cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

Interpretation

2. In these Regulations—

"the ASA 1982" means the Aviation Security Act 1982;

"inbound flight" means a flight originating outside the United Kingdom that is due to fly into the United Kingdom;

"notice of objection" has the meaning given in regulation 6;

"penalty notice" has the meaning given in regulation 5.

Penalty for failure to comply with section 11 of the ASA 1982

3.—(1) This regulation applies to a person who—

(a) is the operator of one or more aircraft registered or operating in the United Kingdom, and

(**1**) 1982 c. 36; section 22A was inserted by the Counter-Terrorism and Security Act 2015 (c.6), section 25(3) and Schedule 5, Part 2.

(b) has been required by a notice under section 11 of the ASA 1982 (power to require information) to provide information relating to an inbound flight.

(2) The Secretary of State may require the person to pay a penalty if the Secretary of State is satisfied, on a balance of probabilities, that the person—

(a) has failed to comply with a requirement imposed by the notice, or

(b) has, in providing any information so required, intentionally or recklessly made a statement that is false in a material particular.

(3) But—

(a) the Secretary of State may not require a person to pay a penalty under paragraph (2)(a) if—

(i) the person shows that there was a reasonable excuse for the failure, or

(ii) proceedings have been instituted against the person under section 11(5)(a) of the ASA 1982 in respect of the same failure;

(b) the Secretary of State may not require a person to pay a penalty under paragraph (2)(b) if proceedings have been instituted against the person under section 11(5)(b) of the ASA 1982 or under section 5 of the Perjury Act 1911(**2**) (false declarations etc, to obtain registration, etc) in respect of the same false statement.

(4) A penalty imposed under this regulation may not exceed £50,000.

(5) The penalty is payable to the Secretary of State on demand.

Penalty for failure to comply with a direction under section 12(1)(b) or 14 of the ASA 1982

4.—(1) This regulation applies to a person who—

(a) is the operator of one or more aircraft registered or operating in the United Kingdom, and

(b) has been given a direction under section 12(1)(b) (power to impose restrictions in relation to aircraft) or section 14 of the ASA 1982 (general power to direct measures to be taken) that—

(i) relates to an inbound flight, and

(ii) requires the person not to cause or permit an aircraft to fly in or into the United Kingdom unless certain things have, or have not, been done.

(2) The Secretary of State may require the person to pay a penalty if the Secretary of State is satisfied, on a balance of probabilities, that the person has failed to comply with the direction.

(3) But the Secretary of State may not require a person to pay a penalty if—

(a) the person shows that there was a reasonable excuse for the failure, or

(b) proceedings have been instituted against the person under section 12(9) or 14(7)(a) of the ASA 1982 in respect of the same failure.

(4) A penalty imposed under this regulation may not exceed £50,000.

(5) The penalty is payable to the Secretary of State on demand.

Notification of penalty decision

5.—(1) If the Secretary of State decides to require a person to pay a penalty under these Regulations, the Secretary of State must give the person a penalty notice.

(2) A penalty notice must—

(a) be in writing,

(**2**) 1911 c.6; see also the Criminal Justice Act 1948 (c.58), section 1(2) which provides for the abolition of hard labour.

(b) state the Secretary of State's reasons for deciding to require the person to pay a penalty,

(c) state the amount of the penalty,

(d) specify the date on which it is given,

(e) specify the date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,

(f) specify how a penalty must be paid,

(g) include an explanation of the steps that the person may take if the person objects to the penalty (including specifying the manner and form in which any notice of objection must be given to the Secretary of State), and

(h) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty.

(3) Section 24 of the ASA 1982 (service of documents) applies in relation to a penalty notice as it applies in relation to a notice authorised or required to be served on or given to a person under Part 2 of that Act.

Objection to penalty decision

6.—(1) The recipient of a penalty notice (the "recipient") may object to the penalty notice by giving a notice of objection to the Secretary of State.

(2) A notice of objection must—

(a) be in writing,

(b) give the reasons for the objection,

(c) be given to the Secretary of State in the manner and form specified in the penalty notice, and

(d) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given.

(3) Where the Secretary of State receives a notice of objection, the Secretary of State must consider it and—

(a) cancel the penalty,

(b) reduce the penalty,

(c) increase the penalty, or

(d) determine not to alter the penalty.

(4) After reaching a decision as to how to proceed under paragraph (3), the Secretary of State must notify the recipient of the decision in writing.

(5) A notification under paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as the Secretary of State may agree with the recipient.

(6) A notification under paragraph (4), other than one notifying the recipient that the Secretary of State has decided to cancel the penalty, must—

(a) state the amount of the penalty following the Secretary of State's consideration of the notice of objection,

(b) state the Secretary of State's reasons for the decision under paragraph (3),

(c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid,

(d) specify how the penalty must be paid,