

Annex F: Guidelines on Dispensations

This guidance reflects the updates made in July 2014 and was published alongside the government's decision on the current night flights regime. Whilst this guidance is not intended to cover every conceivable situation which might arise, it was intended to provide greater clarity on the use of dispensations by covering situations that had arisen before the current regime.

Department for Transport Guidelines on Flights Which May Be Given Dispensation from the Night Restrictions

Under Section 78(5)(f) of the Civil Aviation Act 1982, the Secretary of State may by a notice given in the prescribed manner to the person managing an aerodrome determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded from the restrictions made under section 78(3). These may include night flight restrictions.

In addition, the Secretary of State has the power under Section 78 (4) of the Civil Aviation Act 1982 to specify in a notice circumstances in which movements may be disregarded by the airport managers or a person authorised by the airport manager from the restrictions made under Section 78(3). That person shall then determine whether a particular occasion or series of occasions on which aircraft take off or land at the aerodrome should be disregarded from the night restrictions due to these circumstances. It shall be the duty of the person managing the aerodrome or the person authorised by an airport manager to notify the Secretary of State in writing within one week of every such occasion occurring.

A: Section 78(5)(f) Dispensations under a notice given by the Secretary of State

As a general principle, dispensations issued under Section 78(5)(f) are used in relation to state matters, where dispensations are required as a result of a government decision, or where the circumstances are so exceptional that the airport's operations become an issue of national interest (e.g. in the case of prolonged closure of the airport).

1 Flights involving VIPs

Flights would include:

- Senior members of the Royal Family;
- UK government ministers and Service Chiefs of Staff;
- Senior members of foreign Royal Families, Heads of State, and senior ministers or Service Chiefs of Staff on an official visit or business where the person is being met by a government representative; (status to be checked with the FCO or MoD when in doubt); but repositioning flights preceding or following the use of that aircraft for carriage of a VIP will not be disregarded and therefore not allowed if the aircraft is

classified as QC/8, QC/16, consistent with the ban on these types of aircraft in the night period.

For the avoidance of doubt, VIPs for this purpose would not include businessmen on private jets, or 'celebrities' from the world of show business or sport.

2 Relief Flights

These would include flights carrying cargoes such as medical supplies required urgently for the relief of suffering during a period of emergency, as for example, during a refugee crisis or following an earthquake. They would exclude medical or other supplies intended for humanitarian purposes where there is no particular urgency. It would also not include the carriage of the media and their associated equipment to trouble spots.

3 Military Aircraft War/Hostilities

Movements by military aircraft should not take place at night in peacetime unless the aircraft has been classified for night operation or special approval has been given by the Department for Transport in exceptional circumstances such as security from escalated threats. Dispensations have been given in the past for troop movements through Heathrow where there has been an outbreak of war or similar hostilities and this requires contingency arrangements. Dispensations would not be appropriate once airlines have had time to assess the situation and make alternative arrangements.

4 Exceptional Circumstances

In the past the Secretary of State has provided dispensations in exceptional circumstances to enable flights during the night quota period and to allow aerodromes to recover from prolonged disruption. Examples include the periods following the Volcanic Ash Crisis in 2010 and following the severe prolonged winter weather in December 2010. Dispensations will be considered in similar exceptional circumstances

5 Changes to Airspace arrangements as a result of Government Decisions

Where there is a temporary change in airspace as a result of government decisions with consequences for airline schedules, dispensations would be granted so as to protect airports/airlines from financial consequences of matters wholly beyond their control. Past examples have included a flypast for the Queen's Jubilee Celebrations and Olympic Celebrations where scheduled flights due to land or depart during the day were pushed into the night quota period.

B: Section 78 (4) –Dispensations under a notice granted by the Airport Manager or a person authorised by him:

As a general principle, dispensations issued under Section 78(4) should be used when they relate to operational matters affecting a small number of flights and the airport manager is better placed to take the decision.

1 Emergencies

Flights involving emergencies (other than those constituting "relief flights" as described in paragraph 2 of Section A above) where there is an immediate danger to life or health, whether human or animal.

2 Widespread and Prolonged Air Traffic Disruption

Disruption to air traffic is intended to cover disruption affecting air traffic flow such as strikes by Air Traffic Controllers or from political difficulties abroad or ATC computer problems. It would also cover disruptions to air traffic from strong winds, snow and ice and fog resulting in low visibility procedures. Unscheduled landings in the night period arising from diversions from other airports due to weather conditions provided an aircraft had taken off unaware that its intended destination was unavailable would also be covered. Problems arising from snow and ice should not in themselves constitute sufficient reason for dispensations, especially for departures, when the likelihood of adverse weather conditions should be taken into account in operations planning (but see government exemption because of exceptionally severe weather above).

3 Delays as a Result of Disruption leading to Serious Hardship and Congestion at the Airfield or Terminal

Delays would cover disruption to air traffic as set out under (2) above. It would also cover emergencies such as the fire to an aircraft on the ground at Heathrow in July 2013, which led to severe terminal disruption or disruption caused by any hijacking activity. It would not cover strikes by baggage handlers which is within the control of the airport or normally delays arising from additional security checks which should be taken into account when planning operations. Disruptions are not abnormal and we believe that adequate provision should be made within the airport's night restrictions and operational measures such as at Heathrow under Tactically Enhanced Arrivals Measures to help mitigate disruption and facilitate recovery and the need for dispensations. Operational difficulties cannot be predicted precisely but experience indicates they can be expected to occur.

Airport managers must use their own judgement as to what constitutes serious hardship or suffering for the purposes of the above. Serious hardship or suffering is intended to cover cases where passengers are subjected to long delays when the terminal buildings are overcrowded and their facilities strained and insufficient hotel accommodation is available. Only the minimum number of flights required to reduce overcrowding to a tolerable level should be disregarded. Mere inconvenience to passengers does not constitute hardship for these purposes. The same considerations should apply if serious hardship at an originating airport is to be a reason for disregarding a landing. Delayed cargo flights (other than those carrying animals and meeting one of the criteria above) and extra night shuttle flights to meet demand may not be disregarded for reasons of serious hardship and congestion and all such movements must count against the movements limit and the noise quota according to their QC classification. Dispensations would not be appropriate when aircraft operators have reasonable time to rearrange their schedules and accordingly would fall outside the scope of these Section 78(4) dispensations. All dispensations in times of air traffic disruption (whether ATC, political crisis, weather related etc.) are NET; i.e. any movements scheduled for the night period but which do not occur (or occur in the daytime) because of that disruption, must be offset against this, with only the excess counting as dispensations from the movements limits and the noise quotas

To Note: Monitoring

All dispensations granted by the airport will be subject to monitoring.

Testing and Calibration of Instrument Landing Systems

Airborne safety calibration checks of the Instrument Landing Systems (ILS) used by arriving aircraft at the three London airports are carried out on behalf of the Civil Aviation Authority usually twice a year and generally at night. Normally the aircraft used for this purpose are exempt from the night restrictions (i.e. they are classified QC/0). However, any landings and take offs for the purpose of testing the ILS or other navigation equipment, by aircraft classified QC/0.5 or above, are not given dispensations and would count against the movement limits and noise quotas. Such flights should fall outside the scope of this suggested dispensation.

Issued by Department for Transport in July 2014