

Air Passenger Duty (APD): Devolution of rates to Northern Ireland

Who is likely to be affected?

Air passengers (including business and tourists) departing from airports in Northern Ireland on direct long-haul flights; airlines and airports operating the flights (and potential new flights from Northern Ireland airports).

General description of the measure

This measure devolves air passenger duty (APD) rates to the Northern Ireland Assembly (NIA) in respect of passengers travelling from Northern Ireland on direct long-haul flights (i.e. flights to destinations in bands B, C and D).

This will grant the Northern Ireland Assembly complete fiscal autonomy to set APD rates for all direct long haul flights departing from airports in Northern Ireland. The NIA will bear the full cost of collecting and administering APD in respect of all direct long haul flights departing from airports in Northern Ireland.

Policy objective

This measure supports the Government's objective of stimulating and rebalancing the Northern Ireland economy.

Background to the measure

Budget 2011 launched a consultation on APD. The consultation, which included a question on whether APD should be devolved to Northern Ireland, closed on 17 June 2011.

The Government recognises that Northern Ireland operates in unique circumstances within the UK, sharing a land border with the Republic of Ireland where the rate of aviation duty is substantially lower.

On 27 September 2011, the Government announced a cut in APD rates for passengers travelling on direct long-haul routes departing from airports in Northern Ireland to the lower short-haul rate (currently £12 per passenger in economy and £24 for business and first class passengers), effective from 1 November 2011. Devolution of APD rates to the NIA in respect of direct long-haul flights provides a lasting solution for Northern Ireland.

Detailed proposal

Operative date

The power to set the rate to be applied to direct long haul flights departing from Northern Ireland will be devolved to the Northern Ireland Assembly at Royal Assent to the Finance Bill 2012. The rate set by the Assembly will apply to the carriage of passengers on and from a day to be appointed by order irrespective of when the ticket for the flight was booked or purchased.

Current law

Legislation defining the rates applicable to each destination band is contained in section 30 of the Finance Act 1994. Schedule 5A of the same Act lists the countries in each band.

Proposed revisions

Legislation will be included in Finance Bill 2012 to introduce section 30A into Finance Act 1994 to provide for the rates to be devolved to the Northern Ireland Assembly, and section 33A to create a register of operators with flights affected by this change.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17
	Negligible	Negligible	Negligible	Negligible	Negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2012.				
Economic impact	The macroeconomic effects are expected to be negligible.				
Impact on individuals and households	An estimated 3.75 million passengers will travel on flights departing from Northern Ireland in 2012-13. Of these, between 1 and 2 per cent will travel on flights directly to bands B, C and D.				
Equalities impacts	No different impact on protected groups is expected.				
Impact on business including civil society organisations	The exact impact of this measure will depend on the compliance process that businesses are required to perform. This is in turn dependent on the rate and administrative option chosen post devolution. We expect any one-off compliance costs and ongoing administrative burdens to be negligible.				
Operational impact (£m) (HMRC or other)	HMRC's implementation costs will vary depending on the rate and administrative option chosen post devolution.				
Other impacts	<u>Carbon assessment:</u> the policy is expected to have a negligible impact on carbon emissions, and given aviation entered the EU Emissions Trading Scheme from January 2012, any increase will be offset by emission reductions in other covered sectors.				

Monitoring and evaluation

HMRC will work with the Northern Ireland Executive to ensure effective monitoring of receipts and information collected on tax returns, as well as the wider impact of the policy.

Further advice

If you have any questions about this change, please contact Pardip Bans on 020 7270 6178 (email: Pardip.Bans@hmtreasury.gsi.gov.uk).

SCHEDULES

SCHEDULE 1

Section 1

AIR PASSENGER DUTY

PART 1

NORTHERN IRELAND LONG HAUL RATES OF DUTY FROM 1 NOVEMBER 2011 TO 31 MARCH 2012

- 1 In section 30 of FA 1994 (air passenger duty: rate of duty) after subsection (4A) insert—
 - “(4B) Subsection (4C) applies if—
 - (a) the passenger’s journey is a relevant Northern Ireland journey, and
 - (b) apart from subsection (4C), subsection (2) would not apply to the journey.
 - (4C) The applicable rate in subsection (2) applies to the journey instead of the applicable rate in subsection (3), (4) or (4A) (as the case may be).
 - (4D) A passenger’s journey is a “relevant Northern Ireland journey” —
 - (a) in the case of a journey which has only one flight, if the flight begins in Northern Ireland, and
 - (b) in any other case, if the first flight of the journey —
 - (i) begins in Northern Ireland, and
 - (ii) is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.”
- 2 In article 3 of the Air Passenger Duty (Connected Flights) Order 1994 (S.I. 1994/1821) for “section 30(6), or section 31(3),” substitute “Chapter 4 of Part 1”.
- 3 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 November 2011 but before 1 April 2012.

PART 2

RATES OF DUTY FROM 1 APRIL 2012

- 4 (1) Section 30 of FA 1994 (air passenger duty: rate of duty) is amended as follows.
 - (2) In subsection (2) —

- (a) in paragraph (a) for “£12” substitute “£13”, and
 - (b) in paragraph (b) for “£24” substitute “£26”.
- (3) In subsection (3) –
- (a) in paragraph (a) for “£60” substitute “£65”, and
 - (b) in paragraph (b) for “£120” substitute “£130”.
- (4) In subsection (4) –
- (a) in paragraph (a) for “£75” substitute “£81”, and
 - (b) in paragraph (b) for “£150” substitute “£162”.
- (5) In subsection (4A) –
- (a) in paragraph (a) for “£85” substitute “£92”, and
 - (b) in paragraph (b) for “£170” substitute “£184”.
- (6) After subsection (4A) insert –
- “(4B) Subsection (4C) applies if –
- (a) the passenger’s journey is a relevant Northern Ireland journey, and
 - (b) apart from subsection (4C), subsection (2) would not apply to the journey.
- (4C) The applicable rate in subsection (2) applies to the journey instead of the applicable rate in subsection (3), (4) or (4A) (as the case may be).
- (4D) A passenger’s journey is a “relevant Northern Ireland journey” –
- (a) in the case of a journey which has only one flight, if the flight begins in Northern Ireland, and
 - (b) in any other case, if the first flight of the journey –
 - (i) begins in Northern Ireland, and
 - (ii) is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.”
- 5 In article 3 of the Air Passenger Duty (Connected Flights) Order 1994 (S.I. 1994/1821) for “section 30(6), or section 31(3),” substitute “Chapter 4 of Part 1”.
- 6 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 April 2012.

PART 3

DEVOLUTION OF NORTHERN IRELAND LONG HAUL RATES OF DUTY

- 7 Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.
- 8 (1) Section 30 (rate of duty) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) Subsection (1) does not apply to the carriage of a chargeable passenger to which section 30A below (Northern Ireland long haul rates of duty) applies.”
- (3) Omit subsections (4B) to (4D) (as inserted by paragraph 4(6) above).

- (4) The amendments made by this paragraph have effect in relation to the carriage of passengers beginning on or after the relevant day as defined in section 30A of FA 1994 (as inserted by paragraph 9 below).

9 After section 30 insert –

“30A Northern Ireland long haul rates of duty

- (1) This section applies to the carriage of a chargeable passenger if –
- (a) the carriage begins on or after the relevant day,
 - (b) the only flight, or the first flight, of the passenger’s journey begins at a place in Northern Ireland,
 - (c) the passenger’s journey does not end at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A, and
 - (d) if the passenger’s journey has more than one flight, the first flight is not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A.
- (2) Air passenger duty is chargeable on the carriage of the chargeable passenger at the rate determined as follows.
- (3) If the passenger’s journey ends at a place in a territory specified in Part 2 of Schedule 5A –
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
 - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (4) If the passenger’s journey ends at a place in a territory specified in Part 3 of Schedule 5A –
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
 - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (5) If the passenger’s journey ends at any other place –
- (a) if the passenger’s agreement for carriage provides for standard class travel in relation to every flight on the passenger’s journey, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph, and
 - (b) in any other case, the rate is the rate set by an Act of the Northern Ireland Assembly for the purposes of this paragraph.
- (6) The rate of £0 may be set for the purposes of any paragraph.

- (7) The same rate may be set for the purposes of two or more paragraphs.
 - (8) Subsections (5) to (7) and (10) to (12) of section 30 apply for the purposes of this section as they apply for the purposes of that section.
 - (9) “The relevant day” means the day appointed as such by an order.
 - (10) Section 42(4) and (5) does not apply to an order under subsection (9).
 - (11) No paragraph of Schedule 2 or 3 to the Northern Ireland Act 1998 (excepted and reserved matters) applies to any matter in respect of which it is stated by this section that provision may be made by an Act of the Northern Ireland Assembly.
 - (12) A Bill containing provision authorised by this section may not be passed by the Northern Ireland Assembly except in pursuance of a recommendation which –
 - (a) is made by the Minister of Finance and Personnel, and
 - (b) is signified to the Assembly by the Minister or on the Minister’s behalf.
 - (13) A Bill containing provision authorised by this section may not be passed by the Northern Ireland Assembly without cross-community support (as defined in section 4(5) of the Northern Ireland Act 1998).
 - (14) “Passed”, in relation to a Bill, means passed at the final stage (at which the Bill can be passed or rejected but not amended).
 - (15) Duty paid to the Commissioners in respect of the carriage of chargeable passengers to which this section applies must be paid by the Commissioners into the Consolidated Fund of Northern Ireland.”
- 10 (1) Section 33 (registration of aircraft operators) is amended as follows.
- (2) After subsection (2) insert –

“(2A) If the Commissioners decide to keep a register under section 33A below, an operator of a chargeable aircraft does not become liable to be registered under this section just because the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.”
 - (3) In subsection (3)(b) after “passengers” insert “or, if the Commissioners have decided to keep a register under section 33A below, that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers apart from the carriage of chargeable passengers to which section 30A above applies”.
 - (4) In subsection (4) after “registered” (in both places) insert “under this section”.
 - (5) In subsection (7) after “section” insert “or section 33A below”.

11 After section 33 insert –

“33A Registration of Northern Ireland long haul aircraft operators

- (1) The Commissioners may under this section keep a register of aircraft operators.
- (2) If the Commissioners decide to keep a register under this section, the operator of a chargeable aircraft becomes liable to be registered under this section if the aircraft is used for the carriage of chargeable passengers to which section 30A above applies.
- (3) A person who has become liable to be registered under this section ceases to be so liable if the Commissioners are satisfied at any time –
 - (a) that he no longer operates any chargeable aircraft, or
 - (b) that no chargeable aircraft which he operates will be used for the carriage of chargeable passengers to which section 30A above applies.
- (4) A person who is not registered under this section and has not given notice under this subsection shall, if he becomes liable to be registered under this section at any time, give written notice of that fact to the Commissioners not later than the end of the prescribed period beginning with that time.
- (5) Notice under subsection (4) above shall be in such form, be given in such manner and contain such information as the Commissioners may direct.”

12 In section 34 (fiscal representatives) in subsection (5) –

- (a) omit “under section 33 above”, and
- (b) in paragraph (a) for “that section” substitute “section 33 or 33A above”.

13 After section 41 insert –

“41A Northern Ireland long haul rates of duty: disclosure of information

- (1) An officer of Revenue and Customs may disclose to the Secretary of State, the Treasury or the Department of Finance and Personnel in Northern Ireland any information for purposes connected with the setting of rates of duty under section 30A above, including to enable the setting of rates under that section to be taken into account for the purposes of section 58 of the Northern Ireland Act 1998 (payments by Secretary of State into Consolidated Fund of Northern Ireland).
- (2) Information disclosed under subsection (1) above may not be further disclosed without the consent of the Commissioners (which may be general or specific).
- (3) In section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) references to section 18(1) of that Act are to be read as including a reference to subsection (2) above.”

14 In section 44 of the Commissioners for Revenue and Customs Act 2005 (payment into Consolidated Fund) after subsection (2)(c) insert –

- “(ca) sums required by section 30A(15) of the Finance Act 1994 (air passenger duty: Northern Ireland long haul rates of duty) to be paid into the Consolidated Fund of Northern Ireland.”.

- 15 In column 2 of the Table in paragraph 1 of Schedule 41 to FA 2008 (penalties for failure to notify), in the entry relating to air passenger duty, after “33(4)” insert “or 33A(4)”.

PART 4

OTHER PROVISION

- 16 Chapter 4 of Part 1 of FA 1994 (air passenger duty) is amended as follows.
- 17 In section 28 (introduction to air passenger duty) for subsection (3) substitute –
- “(3) Sections 29 and 29A below set out how to determine if an aircraft is a chargeable aircraft for the purposes of this Chapter.”
- 18 (1) Section 29 (chargeable aircraft) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) For the purposes of this Chapter an aircraft is a chargeable aircraft if –
- (a) it is a fixed-wing aircraft designed or adapted to carry persons in addition to the flight crew,
 - (b) its authorised take-off weight is not less than 5.7 tonnes, and
 - (c) it is fuelled by kerosene (as defined in section 1(8) of the Hydrocarbon Oil Duties Act 1979).”
- (3) In subsection (2) for “ten” (wherever occurring) substitute “5.7”.
- (4) Omit subsection (3).
- 19 After section 29 insert –
- “29A Chargeable aircraft: exceptions**
- (1) This section applies for the purposes of this Chapter.
 - (2) An aircraft is not a chargeable aircraft whenever its operation falls within an exemption set out in sub-paragraph (b), (c), (f) or (g) under the category of activity “Aviation” in Annex I to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 (as amended by Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008).
 - (3) Those exemptions are to be read in accordance with paragraphs 2.2 to 2.5 of the Annex to Commission Decision 2009/450/EC of 8 June 2009.
 - (4) An aircraft is not a chargeable aircraft whenever it is being operated under a public service obligation imposed under Article 16 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 (common rules for the operation of air services).”
- 20 In section 30 (rate of duty) before subsection (5) insert –
- “(4E) In relation to the carriage of a chargeable passenger on an aircraft to which subsection (4F) applies –

- (a) if the rate which (apart from this subsection) would apply is the rate in subsection (2)(a) or (b), a rate equal to twice the rate in subsection (2)(b) is to apply instead,
 - (b) if the rate which (apart from this subsection) would apply is the rate in subsection (3)(a) or (b), a rate equal to twice the rate in subsection (3)(b) is to apply instead,
 - (c) if the rate which (apart from this subsection) would apply is the rate in subsection (4)(a) or (b), a rate equal to twice the rate in subsection (4)(b) is to apply instead, and
 - (d) if the rate which (apart from this subsection) would apply is the rate in subsection (4A)(a) or (b), a rate equal to twice the rate in subsection (4A)(b) is to apply instead.
- (4F) This subsection applies to an aircraft if—
- (a) its authorised take-off weight is not less than 20 tonnes, but
 - (b) it is not authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants).
- (4G) In subsection (4F)(a) “take-off weight” is to be read in accordance with section 29(2) but as if “20” were substituted for “5.7” wherever occurring.
- (4H) For the purposes of subsection (4F)(b) an aircraft is authorised to seat more than 18 persons (excluding members of the flight crew and cabin attendants) if—
- (a) there is a certificate of airworthiness (as defined in section 29(4)) in force in respect of the aircraft showing that the maximum number of persons who may be seated on the aircraft (excluding members of the flight crew and cabin attendants) is more than 18, or
 - (b) the Commissioners are satisfied that the aircraft is designed or adapted to seat more than 18 persons (excluding members of the flight crew and cabin attendants) or the aircraft belongs to a class or description of aircraft in respect of which the Commissioners are so satisfied.”
- 21 In section 30A (as inserted by paragraph 9 above) after subsection (7) insert—
- “(7A) In relation to the carriage of a chargeable passenger on an aircraft to which section 30(4F) applies—
- (a) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (3)(a) or (b), a rate equal to twice the rate set for the purposes of subsection (3)(b) is to apply instead,
 - (b) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (4)(a) or (b), a rate equal to twice the rate set for the purposes of subsection (4)(b) is to apply instead, and
 - (c) if the rate which (apart from this subsection) would apply is the rate set for the purposes of subsection (5)(a) or (b), a rate equal to twice the rate set for the purposes of subsection (5)(b) is to apply instead.”
- 22 (1) Section 43 (interpretation) is amended as follows.

- (2) In subsection (1) for the definition of “passenger” substitute –
 ““passenger”, in relation to any aircraft, means any person carried on the aircraft other than –
 (a) a member of the flight crew,
 (b) a cabin attendant, or
 (c) a person who is not carried for reward and who satisfies such other requirements as may be prescribed.”

- (3) After subsection (1) insert –

“(1A) The agreements and arrangements covered by the definition of “agreement for carriage” in subsection (1) include informal agreements or arrangements between, for example, members of a family or friends.”

- 23 The amendments made by this Part of this Schedule have effect in relation to the carriage of passengers beginning on or after 1 April 2013.

EXPLANATORY NOTE

AIR PASSENGER DUTY

SUMMARY

1. Schedule 1 provides for APD rate increases. It also extends the scope of APD to private jets by reducing the de minimis weight limit below which aircraft were not subject to APD from 10 tonnes to 5.7 tonnes. In addition, it gives statutory effect to the rate reduction applied, since 1 November 2011, to certain flights departing from Northern Ireland, and provides for the long term devolution of these rates.

DETAILS OF THE SCHEDULE

2. Part 1 gives statutory effect to the rate reduction applied to certain flights departing from Northern Ireland for the period 1 November 2011 to 31 March 2012.
3. Paragraph 1 inserts new subsections (4B) to (4D) into section 30 of Finance Act 1994.
4. New subsection (4B) provides that new subsection (4C) applies to certain 'relevant journeys' from Northern Ireland.
5. New subsection (4C) specifies the rate to be applied to these journeys.
6. New subsection (4D) defines a 'relevant journey' as one which departs from Northern Ireland and, in the case of a journey that involves more than one flight, provides that the second or onward flight must not begin within the UK or any territory in Part 1 of Schedule 5A .
7. Paragraph 2 makes consequential changes to the Air Passenger Duty (Connected Flights) Order 1994.
8. Paragraph 3 gives effect to this change to flights departing from Northern Ireland on or after 1 November 2011 but before 1 April 2012.
9. Part 2 of the Schedule provides for the increase in the APD rates to be applied to each destination band.
10. Paragraph 4 amends section 30. It sets out the rates for the destination bands and inserts new subsections (4B) to (4D). These new subsections provide for the new reduced rates for passengers on flights from Northern Ireland that are 'relevant journeys' as defined in subsection (4D), with effect from 1 April 2012.

11. Paragraph 5 makes consequential changes to the Air Passenger Duty (Connected Flights) Order 1994.
12. Paragraph 6 gives effect to these changes to the carriage of passengers from 1 April 2012.
13. Part 3 of the Schedule devolves direct long haul rates to Northern Ireland.
14. Paragraph 7 introduces amendments to Finance Act 1994.
15. Paragraph 8 amends section 30 of the Act. It inserts new subsection (1A) to disapply rates specified in subsection (2) to (4A) in instances where new section 30A (Northern Ireland direct long haul rates of duty) apply. It also omits subsections (4B) to (4D) inserted by paragraph 4(6), which provide for the rates for relevant flights from Northern Ireland for the period from 1 November 2011 to 31 March 2012, and provides for these changes to take effect in relation to the carriage of passengers beginning on or after the relevant day as defined by new section 30A.
16. Paragraph 9 inserts new section 30A which provides that the rates for certain flights may be set by the Northern Ireland Assembly.
17. New subsection (1) applies the rates from the relevant day to flights where a passenger's journey begins from a place in Northern Ireland which does not end in the UK or any territory specified in Part 1 of Schedule 5A and, where there is more than one flight to that journey, the first flight is not followed by a connected flight beginning in the UK or any other territory specified in Part 1 of Schedule 5A.
18. New subsections (2) to (7) defines what rates are to be devolved and specifies that rates may be set to £0
19. New subsections (8) to (10) apply certain current APD provisions to new section 30A. They also define the 'relevant day' to be the day appointed by Order and make consequential changes to section 42(4) and (5) of the Finance Act 1994.
20. New subsection (11) to (14) sets out some of the legislative detail concerning the process under which the Northern Ireland Assembly may vary the devolved rates.
21. New subsection (15) provides that any duty relating to devolved APD paid to the Commissioners be paid into the Consolidated Fund of Northern Ireland.
22. Paragraph 10 (1) to (5) inserts new subsection 2(A) in to section 33 which provides that aircraft operators only operating routes from

- Northern Ireland as specified in new section 30A are not required to register under the provisions of section 33 (but instead will need to register under the provisions of new section 33A). It also makes consequential changes to reflect new section 33A.
23. Paragraph 11 inserts new section 33A which provides that the Commissioners may keep a register of aircraft operators operating routes from Northern Ireland as specified in new section 30A, and require such operators to notify to the Commissioners their liability register by a prescribed time.
 24. Paragraph 12 makes consequential amendments to section 34(5) to reflect the insertion of new section 33A.
 25. Paragraph 13 inserts new section 41A which provides that HMRC may disclose the Secretary of State, HM Treasury or the Department of Finance and Personnel in Northern Ireland information relating to the setting of rates for direct long haul flights from Northern Ireland. It also provides that such information may not be further disclosed without the consent of the Commissioners of HMRC, and also applies penalties in the event of wrongful disclosure.
 26. Paragraph 14 makes consequential amendments to the Commissioners for Revenue and Customs Act 2005 to reflect changes introduced by new section 30A (15), concerning payments into the Northern Ireland Consolidated Fund.
 27. Paragraph 15 makes consequential amendments to Schedule 41 to Finance Act 2008 to include new section 33A within the failure to notify penalty provisions.
 28. Part 4 of the Schedule provides for the extension of APD to passengers in smaller aircraft by reducing the de minimis weight limit below which aircraft are not chargeable aircraft for APD from the current 10 tonnes to 5.7 tonnes. It also amends the definition of a chargeable passenger and provides for new rates for the carriage of chargeable passengers on certain aircraft.
 29. Paragraph 16 introduces amendments to the Finance Act 1994.
 30. Paragraph 17 substitutes section 28(3) to apply sections 29 and 29A for determining whether an aircraft is a chargeable aircraft for the purposes of APD.
 31. Paragraph 18(1) to (4) amends section 29. It redefines a "chargeable aircraft" and extends the scope of APD to smaller aircraft by reducing the former 10 tonne de minimis weight limit to 5.7 tonnes. It also removes the reference to an authorised seating capacity and restricts

the scope of APD to aircraft fuelled by kerosene (aviation turbine fuel) only.

32. Paragraph 19 inserts a new section 29A, which extends exceptions to APD to aircraft whose operation falls within the activities listed in sub-paragraphs (b), (c), (f) and (g) under Annex I to Directive 2003/97/EC (as amended by Directive 2008/101/EC) which establishes a scheme for greenhouse gas emission allowance trading. These activities (which are further defined in paragraphs 2.2 to 2.5 of the Annex to Commission Decision 2009/450/EC of 8 June) are military, police, customs, search and rescue operations, humanitarian and research and training operations. It also extends the exception to flights operated under a public service obligation.
33. Paragraph 20 inserts new subsections (4E) to (4H) into section 30.
34. New subsection (4E) provides for new rates to be applied to the carriage of chargeable passengers on certain aircraft.
35. New subsection (4F) defines these aircraft as being of an authorised take-off weight of not less than 20 tonnes, and with an authorised seating capacity of not more than 18 (excluding members of the flight crew and cabin attendants).
36. New subsection (4H) provides that an aircraft's authorised seating capacity is considered to be more than 18 (and consequently not liable to the rate set out in new subsection (4F)) if there is a certificate of airworthiness in effect showing this, or if the Commissioners are satisfied that the aircraft has been designed or adapted to seat more than 18 (excluding flight and cabin attendants).
37. Paragraph 21 inserts new subsection (7A) into new section 30A and provides for how the rates to be devolved and detailed in subsections (4) to (6) are to apply to aircraft defined in section 30(4F) (ie aircraft with an authorised take-off weight or not less than 20 tonnes, and with an authorised seating capacity of not more than 18).
38. Paragraph 22 amends section 43(1). Previously this section placed outside the scope of APD passengers not carried for reward if the operator was not an air transport undertaking (i.e. an aircraft operator whose main business was not carrying passenger for hire or reward). The change now brings these passengers into the scope of APD, and brings the exclusions in line with those for air transport undertakings where these are restricted to flight and cabin crew. It also excludes certain passengers not carried for reward who perform specific services or duties. These specific services and duties are prescribed in regulation 12 of the Air Passenger Duty Regulations 1994. Furthermore it inserts new subsection (1A) which extends the term

'agreement for carriage' to also include informal arrangements and agreements, such as those between friends and family members.

39. Paragraph 23 provides that the amendments made by Part 4 of the Schedule shall not apply to the carriage of chargeable passengers until 1 April 2013.

BACKGROUND NOTE

Part 1 of Schedule 1 - Northern Ireland direct long haul rates of duty from 1 November 2011 to 31 March 2012

40. This rate reduction was introduced in recognition of the unique position of Northern Ireland's airports, and means that the carriage of passengers on certain flights taking off from an airport in Northern Ireland will attract the short haul rate of APD.
41. These flights are those where the journey is direct to long haul destinations or, in a case where there are one or more flights involved, the first connection is made in a long haul destination. For these purposes long haul destinations are those not listed in Part 1 of Schedule 5A.
42. Only these journeys will benefit from the rate reduction irrespective of the passenger's final destination. For example:
- Belfast - Newark - Reduction will apply
 - Belfast - Newark - Chicago = Reduction will apply
 - Belfast - Heathrow - Sydney = Reduction will not apply
 - Heathrow - Belfast - Newark = Reduction will not apply.
43. This rate reduction applies to flights that take off from Northern Ireland for the period beginning on or after 1 November 2011 to 31 March 2012.

Part 2 of Schedule 1 - Rates of duty from 1 April 2012

44. As announced at Budget 2011, APD rates are now to be increased annually and in line with inflation. These increases, which also take into account the increase deferred from April 2011, apply to the carriage of chargeable passengers on chargeable flights taking off from UK airports from 1 April 2012, irrespective of when the flight was actually booked or purchased.

Part 3 of Schedule 1 - Devolution of Northern Ireland direct long haul rates of duty.

45. On 27 September 2011, at the same time that it announced the reduction in APD rates for passengers on direct long haul flights from Northern Ireland, the Government announced that, in order to provide a more lasting solution, aspects of APD would be devolved to Northern Ireland. Part 3 of Schedule 1 includes changes which devolve to the Northern Ireland Assembly the rate of APD to be applied to passengers on direct long haul flights that take off from Northern Ireland, on or after a day to be appointed by order.
46. Part 3 also makes provision for the setting up and maintenance of a separate register of aircraft operators with routes from Northern Ireland. The Commissioners may keep a register of aircraft operators operating routes from Northern Ireland, and if they do, operators currently registered for APD with routes that begin in Northern Ireland will need to register a second time and will need to account for APD on their Northern Ireland routes separately from their other routes. Operators who only operate routes that begin in Northern Ireland will only be required to register on the Northern Ireland register.
47. In addition, to allow for more effective management of the tax, Part 3 introduces provisions for HMRC to disclose information to the Secretary of State, the Treasury or the Department of Finance and Personnel in Northern Ireland. It specifies that the information to be shared is to be related to the duty on direct long haul flights from Northern Ireland and that this information is not to be disclosed further without the consent of the Commissioners of HMRC. It also provides that penalties may be applied in the event of wrongful disclosure of this information.

Part 4 of Schedule 1 - Other Provisions.

48. At Budget 2011 the Chancellor announced that, instead of replacing air passenger duty with a per plane tax, the Government had instead decided to extend the scope of APD to private jets and consulted on how this could be done.
49. There is no ready definition of a private jet, so, in order to extend the scope of APD to private jets, changes to the de minimis weight limit for APD are needed in order to bring smaller aircraft (including private jets) within the scope of the tax.
50. In recognition of the fact that private jets may be customised to provide exceptional standards of luxury travel, new rates of APD will be introduced to apply to these aircraft. These aircraft are to be

defined on the basis of weight and seating capacity, so that large aircraft with an authorised weight or more than 20 tonnes and authorised to seat fewer than 19 passengers will attract new rates of APD.

51. Changes are also required to the definition of a passenger. Under the current APD structure, exemptions apply to passengers who are not carried for reward. As private jet passengers are often carried for no reward or fare (for example, an aircraft owner may be flown in their own private jet) changes to the definition of a passenger are required.
52. Equally private jet passengers are not always flown as part of a formal arrangement or agreement, but instead may be flown as part of an informal agreement such as the type that may exist between family members or friends. In order to ensure that these types of passengers are included in the scope of APD, the interpretation of 'agreement for carriage' will be amended.
53. Part 3 of Schedule 1 also includes changes to reflect the devolution of direct long haul APD rates to the Northern Ireland Assembly and provides that the new rates to be applied for carriage on aircraft considered to provide exceptional standards of luxury travel (as defined by weight and seating capacity – see para 50 above) are to be twice those to be applied to non standard class travel.
54. These changes apply to flights that take off on or after 1 April 2013.