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# THE MANAGEMENT OF TURNROUND CONTRACTORS BY AIRLINES OPERATING FROM THE UK



produced by  
Mark Snelling

Armfield Project Management Limited  
trading as Safetymark Consultancy Services  
Elm House Sydney Cottages  
Claygate Surrey KT10 0EJ  
T 01372-462277 F 01372-462288  
E enquiries@safetymark.net  
W www.safetymark.net



# HSG209 Aircraft Turnround The Law Behind the Guidance

## **Abstract**

### THE CRIMINAL HEALTH AND SAFETY LAW OF ENGLAND AND WALES RELATING TO THE MANAGEMENT OF CONTRACTORS WHEN TURNING ROUND COMMERCIAL AIRCRAFT

by Mark Snelling

A paper on the affect of the criminal health and safety law of England and Wales on the management of contractors when turning round commercial aircraft. In recent years most airlines operating from England and Wales have outsourced most, and in many cases all, of the activities that form part of the aircraft turnround to contractors. The United Kingdom Health and Safety Executive in the response to continuing poor accident figures and the continuing trend of outsourcing published HSG209 – Aircraft Turnaround to provide guidance to all involved with the turnround of aircraft on their health and safety responsibilities. The paper looks at the laws behind this guidance and attempts to identify what an airline needs to do to comply with the criminal law of England and Wales when turning round its aircraft using contractors.



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# HSG209 Aircraft Turnround

## The Law Behind the Guidance

### 1. INTRODUCTION

#### 1.1 Background

According to Richard Clifton Head of the HSE's Transport Safety Division, accident rates in the aviation industry are well above the national average for all industries, and for ground handling and airport workers, accident rates exceed even those of the construction industry and the agricultural sector. (2001, p1)

In recent years most Airlines have outsourced many of their non-core activities to third parties. Outsourcing is particularly prevalent in aircraft turnround where very few airlines turnround their own aircraft.

The HSE in response to the reported accident figures and the continuing trend of outsourcing have published HSG209 – Aircraft Turnaround to provide guidance to all involved during the preparation of aircraft for flight, on their health and safety responsibilities'.

This paper looks at the laws behind this guidance and attempts to identify what an airline needs to do to comply with the criminal law of England and Wales when turning round its aircraft using contractors.

#### 1.2 Commercial Airlines

The core business of most commercial airlines is the transporting people or cargo from to one place to another by air. However each time an aircraft arrives at it's destination in must be unloaded and prepared for its next flight. This activity is known in the industry as 'aircraft turnround'.

The turnround of an aircraft includes not only the unloading and loading of passengers, crew, baggage and/or cargo but the parking, restarting and servicing of the aircraft.

The servicing of an aircraft includes catering, cleaning, refuelling, toilet and water servicing, pre flight checks, and maintenance and de/anti icing where required.

The turnround is carried out on a stand hired to the airline for the duration of the turnround, by the airport or aerodrome.

#### 1.3 Criminal Law

The criminal law governing health and safety at work in England and Wales is a combination of the common law - decisions of judges of the higher courts, and of statute law enacted or authorised by Parliament - Acts of Parliament (Criminal Justice System Online, 2002).

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The criminal law governing health and safety at work in England and Wales comes from the following sources, listed in order of authority with the highest first, European Regulations and Directives, Acts of Parliament, Statutory Instruments and Precedents.

Legal precedent is made in every judicial decision in the higher courts. Judgements contain two elements. The first the 'ratio decidendi', or grounds for the decision, becomes a precedent and can be applied to future cases. A precedent can only be overturned by a higher court, or Parliament, which can legislate and change the law.

### 2. HEALTH AND SAFETY AT WORK ETC ACT 1974

The principal statute relating to health and safety at work is the Health and Safety at Work etc Act 1974.

#### 2.1 General duties of employers to persons other than their employees

Perhaps the most significant section of the Act for airlines who use contractors to turnround their aircraft is s. 3, General duties of employers and self-employed to persons other than their employees, which requires:

*“every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.”*

The employers duty under this act is summarized by Lord Justice Roch in R v Nelson Group Services (Maintenance) Ltd[1998] 4 All ER 331 who said:

*“if persons not in the employment of the employer are exposed to risks to their health or safety by the conduct of the employer’s undertaking, the employer will be in breach of s 3(1) and guilty of an offence under s. 33(1)(a) of the Act unless the employer can prove on the balance of probability that all that was reasonably practicable had been done by the employer or on the employer’s behalf to ensure that such persons were not exposed to such risks .”*

It would appear therefore, that if the turnround of an aircraft forms part of an airlines undertaking, an airline must, so far as is reasonably practicable, ensure that their contractors are not exposed to risk to their health and safety when working on their turnround.

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### 2.2 Undertaking

According to s 17 of the Statistics of Trade Act 1947 undertaking means:

*“any undertaking by way of trade or business, whether or not the trade or business is carried on for profit”*

Whether the turnround of an airlines aircraft form part of their undertaking must, according to Lord Hoffman in his ratio decidendi in R v. Associated Octel Co Ltd [1996] 4 All ER 846, *“in each case be a question of fact”*.

To transport people and cargo from one place to another by air, an airline must turnround the aircraft at the end of each trip. The activity is carried out in an area hired by the airline and involves the airlines aircraft. An airline cannot transport people and cargo from one place to another by air if it does not turnround its aircraft.

Lord Hoffman in his ratio decidendi in R v. Associated Octel Co Ltd [1996] 4 All ER 846 said at page 1547:

*“In most cases, the answer will be obvious. Octel’s undertaking was running a chemical plant at Ellesmere Port. Anything which constituted running the plant was part of the conduct of its undertaking.”*

He went on to say at page 1548:

*“The place where the activity takes place will in the normal case be very important; possibly decisive. But one cannot lay down rigid rules.”*

Applying Lord Hoffman’s ratio to an airline, would suggest that anything that constitutes part of the transport people and cargo from one place to another by air, including the turnround of aircraft, would be part of an airlines undertaking, particularly as the airline is, for the duration of the turnround, in control of the space where the turnround is being carried out.

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### 2.3 Contractors

R v. Associated Octel Co Ltd [1996] 4 All ER 846 is the leading authority on the statutory interpretation of Section 3 (1) of the Health and Safety at Work etc. Act 1974 as it relates to contractors. The ratio decidendi was unanimous with all five Lords in complete agreement. According to Jason Featherstone, founder of Virtual Chambers, the UK's first Internet-based specialist barristers' chambers, such unanimity gives the judgement the greatest possible weight and means that a similar case is unlikely to be heard in the foreseeable future. (Personal communication, April 24, 2002)

Lord Hoffman in his ratio decidendi in the case said at page 1549:

*“The employer is under a duty under s 3(1) to exercise control over an activity if it forms part of the conduct of his undertaking..... the question of whether an employer may leave an independent contractor to do the work as he thinks fit depends upon whether having the work done forms part of the employer’s conduct of his undertaking. If it does, he owes a duty under s 3(1) to ensure that it is done without risk—subject, of course, to reasonable practicability, which may limit the extent to which the employer can supervise the activities of a specialist independent contractor.*

It would therefore appear that Section 3(1) of the Health and Safety at Work etc Act 1974 imposes a duty on an airline:

*“to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety”:*

if the turnround of their aircraft is part of their undertaking, which following the earlier argument it would appear to be.

This duty would appear to exist whether or not they employ contractors to turnround their aircraft or not.

During the turnround of an aircraft, ‘persons not in an airlines employment who may be affected by their undertaking’, includes all contractors involved in the turnround, passengers and anybody working in the vicinity of the turnround.

The duty may also be extended to persons affected by the transport of baggage and cargo to and from the aircraft.

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### 2.4 Exposure to Risk

An employers duty under s. 3 of the Act, according to Lord Justice Steyn in Regina v. Board of Trustees of the Science Museum, page 1178, does not require there to be actual danger:

*“a possibility of danger is sufficient. The work “exposed” simply makes clear that the section is concerned with persons potentially affected by the risk.”*

An airline can therefore be found guilty of failing to discharge their duty without an accident actually occurring. It is however unlikely, except in the most serious cases, that the case would be taken to court without prior warning of the offence.

### 2.5 Reasonably practicable

As earlier discussed, the employers duty under Section 3(1) of the Health and Safety etc. Act 1974 is absolute, subject to the defence of reasonably.

The present leading authority on the meaning of “reasonably practicable” was given by Lord Justice Asquith in the ratio decidendi of Edwards v. National Coal Board [1949] 1 All ER 743. Lord Justice Asquith said:

*“Reasonably practicable” is a narrower term than “physically possible” and seems to me to imply that a computation must be made by the owner in which the quantum of risk is placed on one scale and the sacrifice involved in the measures necessary for averting the risk (whether in money, time or trouble) is placed in the other, and that, if it be shown that there is a gross disproportion between them—the risk being insignificant in relation to the sacrifice—the defendants discharge the onus on them.*

Lord Reid in his ratio decidendi in Marshall v. Gotham Co., Ltd [1954] 1 All ER 937 agreed with Lord Justice Asquith and added:

*“I think it enough to say that, if a precaution is practicable, it must be taken unless, in the whole circumstances, that would be unreasonable. And as men’s lives may be at stake it should not lightly be held that to take a practicable precaution is unreasonable”*

Assuming that the turnround of an aircraft is part of an airlines undertaking, this would appear to mean, that if there is a risk to which persons who may be affected by the turnround of an airline are exposed, the airline must ensure that the risk is adequately controlled, unless the risk is insignificant in relation to the cost and effort of controlling it.

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Such controls can be implemented by either the contractor, or the airline, but the duty remains with the airline to ensure that the risks are controlled if the activity forms part of their undertaking.

The only clear limitation on the extent of what is reasonably practicable when employing a contractor is given by Lord Hoffman in his ratio decidendi in R v. Associated Octel Co Ltd [1996] 4 All ER 846. Lord Hoffman said at page 1549:

*“the question of whether an employer may leave an independent contractor to do the work as he thinks fit depends upon whether having the work done forms part of the employer’s conduct of his undertaking. If it does, he owes a duty under s 3(1) to ensure that it is done without risk—subject, of course, to reasonable practicability, which may limit the extent to which the employer can supervise the activities of a specialist independent contractor.”*

The key words would appear to be *“may limit the extent to which the employer can supervise the activities of a specialist independent contractor”*.

The statement only refers to the supervision of a contractor and appears to suggest that the employer’s duty to supervise a contractor may be limited:

- a) if the activity is of such specialist nature that the employer would be unable to understand the activity sufficiently to allow them to supervise the contractors work in such a way as to control the risks;
- b) if the contractor is working in such a way that they are operating independently of other parts of the employers undertaking.

We would suggest that neither case apply to any extent to contractors turning round an aircraft for an airline.

What appears to be clear however, is that it is only the duty to supervise that may be limited, not the duty to ensure that persons affected by the airlines undertaking are not exposed to risk.

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### 2.6 Approved Codes of Practice

Evidence of a breach of duty may be demonstrated by a failure to meet the standards set out in an Approved Code of Practice (ACOP).

ACOPs made under s. 17 of the Health and Safety at Work etc. Act 1974 may be used as evidence when relevant to the breach of duty, if it is proved:

*“that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant .....that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.”*

An employer must therefore demonstrate that they are either complying with the ACOP or achieving the same, or better, standard by other means.

### 2.7 The Burden of Proof

What ever an airline chooses to do to comply with their duties under s. 3 of the Health and Safety at Work etc Act 1974, s. 40 of the same Act puts the onus upon the accused in any proceedings for an offence to:

*“prove.....that it was .....not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.”*

When deciding what is reasonably practicable it is perhaps important to consider that in the United Kingdom, the accident rate in the Standard Industrial Classification which includes ground handlers and airport workers, is well above the national average and exceeds those of the construction industry. (Clifton 2000)

It is also worth noting, that as most proceedings for an offence under any relevant statutory provision are instituted by an Health and Safety Executive (HSE) Inspector it would seem prudent for an employer to consider written guidance given by the Health and Safety Commission or HSE when considering what is reasonably practicable, even though this guidance cannot be used in court to demonstrate that an employer did not do what was reasonably practicable.

For an airline, such guidance is given by the Health and Safety Executive in HSG209, Aircraft Turnaround, a guide for airport and aerodrome operators, airlines and service providers on achieving control, co-operation and co-ordination.

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### 2.8 Offences

Having looked at employer's duties under the Health and Safety at Work etc Act 1974 and the relevant statutory provisions it is important to understand the consequences of failure which are set out in s. 33 of the Act.

Section 33(1) makes it .....*"an offence for a person: -*

- a) *to fail to discharge a duty to which he is subject by virtue of sections 2 to 7 (of the of the Health and Safety at Work etc. Act 1974);*
- b) *to contravene section 8 or 9 (of the of the Health and Safety at Work etc. Act 1974);*
- c) *to contravene any health and safety regulations ... or any requirement or prohibition imposed under any such regulations"*

Section 33(1) goes on to say that a person guilty of an offence under the subsection shall be liable to a fine. The size of a fine being dependant on the failure or contravention, but in the most severe cases is not limited.

### 2.9 Individual Liability

The duties described so far fall upon the employer. Section 37 of the Health and Safety at Work etc Act 1974 allows:

*"Where an offence under any of the relevant statutory provisions committed by a body corporate*

*is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity,*

*he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly."*

This has a particular impact for managers working for International Airlines operating in England and Wales, particularly where they are responsible for the local implementation of company health and safety rules.

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### 3. **MANAGEMENT OF HEALTH & SAFETY AT WORK REGULATIONS 1999 S.I. 1999/1877**

Of the Regulations that apply to health and safety at work, the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 has the most significant implications on airlines who use contractors to turnround their aircraft.

Regulation 29 of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 revokes the Management of Health and Safety at Work Regulations 1992 S.I. 1992/2051, the Management of Health and Safety at Work (Amendment) Regulations 1994 S.I. 194/2865, the Health and Safety (Young Persons) Regulations 1997 S.I. 1997/135 and Part III of the Fire Precautions (Workplace) Regulations 1997 S.I. 1997/1840.

The Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 are particularly significant in that they place a number of absolute duties on employers. These duties relate not only to their employees but those affected by their undertaking. Therefore if the turnround of an aircraft is part of an airlines undertaking, as it would appear to be, an airline must comply with the requirements of the relevant Regulations.

#### 3.1 **Risk Assessment**

Regulation 3 of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 require an employer to:

*“make a suitable and sufficient assessment of the risks to the health and safety of persons not in their employment arising out of or in connection with the conduct by him of his undertaking for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions [and by Part II of the Fire Precautions (Workplace) Regulations 1997];*

This is an absolute duty and must be carried out for all risks to which persons not employed by the airline may be exposed, and arises out of, or in connection with, the conduct of the airlines undertaking. As discussed earlier this includes all contractors involved in the turnround, passengers and anybody working in the vicinity of the turnround.

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The ACOP to Regulation 3 requires at paragraph 16 that:

*“Where employees of different employers work in the same workplace, their respective employers may have to co-operate to produce an overall risk assessment.”*

This means that an airline will need to co-operate with all contractors involved in the turnround of their aircraft, when carrying out an overall assessment of the risks involved in the operation.

### 3.2 Health and Safety Arrangements

Regulation 5 of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 require an employer to:

*“make, give effect to, and if they employ five or more employees, record such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures identified by the assessment of risk”.*

Regulation 5 and its associated Approved Code of Practice (ACOP) gives detail to what arrangements an airline must make and give effect to, when employing a contractor to carry out work that forms part of their undertaking. The duty is once again absolute, the extent of the duty subject to the caveat *“as are appropriate”*.

The ACOP to Regulation 5 at paragraph 32 sets standards for what is appropriate:

*“The management system adopted will need to reflect the complexity of the organisation’s activities and working environment.”*

Of particular relevance to the turnround of aircraft is the section of the ACOP to Regulation 5 entitled control. It states at paragraph 35 that

*“establishing control includes:*

- a) *clarifying health and safety responsibilities and ensuring that the activities of everyone are well co-ordinated;*
- b) *ensuring everyone with responsibilities understands clearly what they have to do to discharge their responsibilities, and ensure they have the time and resources to discharge them effectively;*

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- c) *setting standards to judge the performance of those with responsibilities and ensure they meet them. It is important to reward good performance as well as to take action to improve poor performance; and*
- d) *ensuring adequate and appropriate supervision, particularly for those who are learning and who are new to a job.”*

The ACOP also sets standards for monitoring. Monitoring according to the ACOP at paragraph 36 (a) includes:

*“having a plan and making adequate routine inspections and checks to ensure that preventive and protective measures are in place and effective.”*

### **3.3 Co-operation and co-ordination**

Regulation 11 of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 requires:

*“Where two or more employers share a workplace (whether on a temporary or a permanent basis) each such employer shall -*

- a) *co-operate with the other employers concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997;*
- b) *(taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997 with the measures the other employers concerned are taking to comply with the requirements and prohibitions imposed upon them by that legislation; and*
- c) *take all reasonable steps to inform the other employers concerned of the risks to their employees' health and safety arising out of or in connection with the conduct by him of his undertaking.”*



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The ACOP to Regulation 11 at paragraph 67 states:

*“To meet the requirements of these Regulations [the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877], such as carrying out a risk assessment under regulation 3 and establishing procedures to follow serious and dangerous situations under regulation 8, it is necessary to cover the whole workplace to be fully effective. When the workplace is occupied by more than one employer, this will require some degree of co-ordination and co-operation. All employers and self-employed people involved should satisfy themselves that the arrangements adopted are adequate.”*

The ACOP goes on to say at paragraph 68 that:

*“Where a particular employer controls the workplace, others should assist the controlling employer in assessing the shared risks and co-ordinating any necessary measures.”*

Perhaps most notably the guidance to this regulations states at paragraph 69 that:

*“This regulation does not extend to the relationship between a host employer and a contractor, which will be covered by regulation 12.”*

The guidance at paragraph 71 further clarifies the distinction between the applicability of regulation 11 and regulation 12 by stating:

*“Where there is no controlling employer, the employers and self-employed people present will need to agree any joint arrangements needed to meet the requirements of the Regulations, such as appointing a health and safety coordinator.”*

If it is accepted as suggested earlier in this paper that the turnaround of the aircraft forms part of an airlines undertaking, in circumstances where the airlines rent the ramp for the turnaround it could be argued that airline is the host (or controlling) employer and this regulation does not apply to companies involved in the turnaround of an aircraft.

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Whether Regulation 11 applies to companies involved in the turnaround of an aircraft where the ramp is rented by the handling agent on behalf of the airline is open to debate. However given the requirements of Regulation 5 of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 and paragraph 35 of the ACOP to Regulation 5 it could be argued that the duty to co-operate and co-ordinate will always exist who ever is the host employer. The only difference is whether process is set out and controlled by the airline or achieved by mutual agreement and cooperation. Best practice would suggest that who ever is legally in control the best results are achieved mutual agreement and cooperation.

### 3.4 Persons working in host employers' undertakings

Regulation 12 (1) of the Management of Health and Safety at Work Regulations 1999 S.I. 1999/1877 require an employer to:

*“ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with comprehensible information on -*

- a) *the risks to those employees' health and safety arising out of or in connection with the conduct by that first-mentioned employer or by that self-employed person of his undertaking; and*
- b) *the measures taken by that first-mentioned employer or by that self-employed person in compliance with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997 in so far as the said requirements and prohibitions relate to those employees.”*

Regulation 12 (3) requires every employer to:

*“ensure that any person working in his undertaking who is not his employee and every self-employed person (not being an employer) shall ensure that any person working in his undertaking is provided with appropriate instructions and comprehensible information regarding any risks to that person's health and safety which arise out of the conduct by that employer or self-employed person of his undertaking.*



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Regulation 12 (4) requires every employer to:

- a) *ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with sufficient information to enable that second-mentioned employer to identify any person nominated by that first mentioned employer .....to implement evacuation procedures as far as those employees are concerned; and*
- b) *take all reasonable steps to ensure that any employees from an outside undertaking who are working in his undertaking receive sufficient information to enable them to identify any person nominated by him ..... to implement evacuation procedures as far as they are concerned.*

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### 4. CONCLUSION

When the Approved Code of Practice that accompanies the Management and Health and Safety at Work Regulations 1999 S.I. 1999/1877 is compared against the guidance given by the Health and Safety Executive in HSG209, a guide for airport and aerodrome operators, airlines and service providers on achieving control, co-operation and co-ordination, the similarity is immediately apparent. The guidance states:

*“You should co-ordinate and control their (your contractors) performance through a combination of:*

- a) *appointing a supervisor to control the turnround;*
- b) *agreeing and writing down a plan of how and when each part of the turnround will be carried out;*
- c) *undertaking joint risk assessments of the turnround process;*
- d) *agreeing performance standards on health and safety.”* (HSE, 2000)

The key difference would appear to be that the guidance requires the airline to appoint *“a supervisor to control the turnround”*, the approved code of practice requires that control is established by *“adequate and appropriate supervision.”*

It would therefore be up to an airline to demonstrate that they had established:

*“adequate and appropriate supervision”*

or had made and given effect to equivalent, or better:

*“arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective, .....control,.....of the preventative and protective measures.”*

With the exception the guidance given in HSG209 about supervision, it would appear to be very difficult for an airline to set standards lower than those given in HSG209 and demonstrate that they have met or exceeded the standards set out in the ACOP to the Management of Health and safety at Work Regulations 1999 S.I. 1999/1877 and thereby conducted their undertaking as required by s. 3 of the Health and Safety at Work etc Act 1974:

*“in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.”*



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### 5. REFERENCES

CLIFTON, R  
2001  
Managing Health and Safety on the Ground in  
Aviation Safety Conference 2001 London  
London  
IBC Global Conferences

CRIMINAL JUSTICE SYSTEM ONLINE  
2002  
Criminal Legislation [online]  
London  
UK Government Cabinet Office  
Available from: -  
[http://www.criminal-justice-system.gov.uk/legal/criminal\\_legislation.htm](http://www.criminal-justice-system.gov.uk/legal/criminal_legislation.htm)  
[Accessed 24<sup>th</sup> July 2002]

HEALTH AND SAFETY EXECUTIVE  
2000  
Aircraft Turnround – A guide for airport and aerodrome operators, airlines and  
service providers on achieving control, co-operation and co-ordination  
Norwich  
HMSO  
HSG 209

HEALTH AND SAFETY COMMISSION  
2002  
The health and safety system in Great Britain  
Norwich  
HMSO