
STATUTORY INSTRUMENTS

1991 No. 1672

The Civil Aviation Authority Regulations 1991

PART III

AIR TRANSPORT LICENSING

Regulation of the conduct of the Authority

15.—(1) The function of making a decision to—

- (a) grant, revoke, suspend or vary other than provisionally an air transport licence in a case where an objection has been served pursuant to regulation 20;
- (b) grant or vary other than provisionally a licence in terms other than those requested by the applicant;
- (c) refuse to grant a licence;
- (d) hold or refuse to hold a preliminary hearing; or
- (e) provisionally vary a licence where representations have been served pursuant to regulation 24(2);

is hereby prescribed for the purposes of section 7(1) of the Act.

(2) For the purposes of making any such decision as is referred to in paragraph (1)(a) to (c) of this regulation and of conducting a hearing pursuant to regulation 26(1) a quorum of the Authority shall be two members unless—

- (a) the Authority has dispensed with publication of the application or proposal in accordance with the proviso to regulation 16(3) or to regulation 17(2);
- (b) the decision is to suspend the licence in accordance with regulation 17(3);
- (c) the Authority has, in accordance with regulation 20(1), specified less than 21 days for serving an objection to or representation about the application or proposal;
- (d) the Authority has, in accordance with the proviso to regulation 25(3) given the persons having a right to be heard and whom it proposes to hear in connection with the case less than 14 days' notice of the date of the hearing; or
- (e) the persons having the right to be heard in connection with the case have consented to a quorum of the Authority being one member;

in which case the quorum shall be one member.

(3) For the purposes of making such a decision as is referred to in paragraph (1)(d) or (e) of this regulation and of conducting a preliminary hearing pursuant to regulation 24 a quorum of the Authority shall be one member.

(4) Any other decision to grant, revoke, suspend or vary an air transport licence may be made on behalf of the Authority only by a member or employee of the Authority.

(5) The functions conferred upon the Authority by sections 64 to 67 of the Act are hereby prescribed for the purposes of section 7(2) thereof.

Application for the grant, revocation, suspension or variation of licences

16.—(1) The Authority may refuse to consider an application for the grant, revocation, suspension or variation of an air transport licence unless—

- (a) subject to regulation 24, in the case of an application for the grant of a licence it has been served on the Authority not less than 6 months before the beginning of the period for which the licence is proposed to be in effect, and in any other case it has been served on the Authority not less than 6 months before the date on which it is proposed that the revocation, suspension or variation shall take effect;
- (b) in the case of an application for the grant of a licence, the application contains all the particulars specified by the Authority in accordance with section 65(1) of the Act; and
- (c) the application is accompanied by any applicable charge under section 11 of the Act.

(2) The Authority shall refuse to consider an application for the revocation, suspension or variation of an air transport licence made by a person other than the holder of the licence unless a copy of the application has been served on the holder within 24 hours after it has been served on the Authority.

(3) The Authority shall as soon as may be after an application for the grant, revocation, suspension or variation of an air transport licence has been served upon it in accordance with this regulation publish such particulars of the application as it thinks necessary for indicating the substance of the application, and shall make a copy of the application available at its principal office for inspection by any person at any reasonable time:

Provided that, except in the case of an environmental application—

- (i) the Authority may dispense with publication in any case where it is satisfied that for reasons of urgency it is desirable to do so and it is of the opinion that to do so is unlikely to prejudice the interests of any persons of a description specified in regulation 25(1);
- (ii) the Authority may dispense with publication in the case of an application—
 - (a) for the grant of a licence for not more than four flights in any one direction between the same two places;
 - (b) made by its holder for the revocation or suspension of a licence;
 - (c) for the variation of a licence if in its opinion to do so is unlikely to prejudice the interests of any persons of a description specified in regulation 25(1).

(4) If within 12 months after the date on which objections to and representations about an application for the grant, variation, suspension or revocation of an air transport licence must have been served on the Authority pursuant to regulation 20, the Authority has neither made a decision on the application nor given notice pursuant to regulation 25(3) of the date, time and place of the hearing of such application, it shall as soon as may be republish such particulars of the application as it thinks necessary for indicating the substance of the application and shall republish such particulars at 12 monthly intervals thereafter until such time as a decision has been made on the application or notice has been given as aforesaid pursuant to regulation 25(3).

(5) The Authority may direct that an application shall be treated as being such number of separate applications as it may specify in the direction, and the application shall be treated accordingly.

(6) Any person of a description specified in regulation 25(1)(b) to (d) may apply to the Authority for the variation, suspension or revocation of an air transport licence but, except as provided in regulation 18(3), no person may apply for the variation of such a schedule of terms as is mentioned in regulation 18.

Revocation, suspension or variation of licences without application being made

17.—(1) Subject to paragraph (3) of this regulation, if the Authority proposes to revoke, suspend, or vary an air transport licence (other than in pursuance of an application made to it in that regard) on the ground that it is not or is no longer satisfied as to the matters specified in paragraph (a) or (b) of section 66(3) of the Act, it shall—

- (a) serve on the holder of the licence not less than 21 days' notice of its intention to publish particulars of the proposal together with the reasons for its proposal;
- (b) consider any representations which may be made to it by the holder of the licence before the expiration of the said notice; and
- (c) as soon as may be after the expiration of the said notice or at such earlier time as the Authority and the holder of the licence may agree, publish particulars of the proposal unless it has abandoned the proposal:

Provided that the Authority may—

- (i) with the consent of the holder of the licence dispense with publication of its proposal to revoke or suspend the licence;
- (ii) dispense with publication of its proposal to vary the licence if it is satisfied that the variation is unlikely to prejudice the interests of any person of a description specified in regulation 25(1).

(2) Subject to paragraph (3) of this regulation, if the Authority proposes to revoke, suspend or vary an air transport licence on grounds other than those referred to in paragraph (1) of this regulation and otherwise than in pursuance of an application made to it in that regard, it shall publish particulars of the proposal and of the reasons for it, unless—

- (a) the Secretary of State has directed the Authority to revoke, suspend or vary the licence as proposed or the proposal is made pursuant to a direction made by the Secretary of State under regulation 29(1) to re-hear the case;
- (b) the Authority's duty under section 31(2) of the Airports Act 1986(1) (being a duty so to perform its air transport licensing functions as to secure that any traffic distribution rules in force under section 31 of the said Act are complied with) requires it to revoke, suspend or vary the licence as proposed;
- (c) except in the case of an environmental proposal, the Authority is satisfied that to dispense with publication is unlikely to prejudice the interests of any person of a description specified in regulation 25(1) and the holder of the licence consents to the proposal not being published.

(3) The Authority may suspend a licence notwithstanding that it has not complied with the requirements of paragraph (1) or (2) of this regulation if it has served on the holder of the licence not less than 6 working days' notice of its proposal to suspend the licence, together with its reasons for the proposal, and if, after considering any representations which may be made to it by the holder of the licence before the expiration of such notice it is not, or is no longer, satisfied as mentioned in section 66(3)(a) or (b) of the Act.

(4) Before reaching a decision that it has reason to believe that the holder of an air transport licence is neither a United Kingdom national nor such a body as is mentioned in section 65(3)(b) of the Act, the Authority shall:

- (a) serve on the holder of the licence not less than 21 days' notice of its intention to consider the matter; and
- (b) consider any representations which may be made to it by the holder of the licence before the expiration of the said period.

Variation of schedules of terms

18.—(1) If the Authority establishes any schedule of terms and includes in any air transport licence a term that the holder of the licence shall comply with terms set out in that schedule as varied from time to time by the Authority, the Authority may at any time propose to vary that schedule or any part thereof, and any such proposal shall for the purposes of these Regulations be treated as a proposal for the variation of every air transport licence which contains such a term as aforesaid relating to that schedule or that part of that schedule, as the case may be.

(2) When any air transport licence contains such a term as aforesaid relating to a schedule, the Authority shall publish that schedule and any variation to it in its Official Record or otherwise.

(3) An application for the variation of the schedule of terms set out in a document published by the Authority and entitled the United Kingdom Cabotage Air Passenger Tariff may be made by the holder of any air transport licence which includes a term requiring the holder of the licence to comply with that schedule of terms as varied from time to time by the Authority, and any such application shall for the purposes of these Regulations be treated as an application for the variation of every air transport licence which contains such a term as aforesaid.

(4) The Authority shall maintain a list of the names and addresses of all persons who hold a licence which includes such a term as is referred to in paragraph (3) of this regulation and shall serve copies of that list on any person who so demands.

Environmental cases

19.—(1) For the purposes of this part of these Regulations, “environmental application” and “environmental proposal” mean respectively an application and a proposal for the grant or variation of an air transport licence, being a licence which authorises, or which if granted would authorise, the holder to operate—

- (a) a helicopter at a height of less than 3000 feet above the surface for the greater part of the distance which it flies over land; or
- (b) any aircraft in circumstances which, in the opinion of the Authority, will or may cause an exceptional amount of noise, vibration, pollution or other disturbance;

but do not include—

- (i) any such application or proposal which is not, in the opinion of the Authority, an application or proposal relating to a licence to operate a regular and frequent service; or
- (ii) any such proposal made by the Authority to vary a licence on the ground that it is not or is no longer satisfied as to the matters specified in paragraph (a) or (b) of section 66(3) of the Act.

(2) If the Authority receives an environmental application or makes an environmental proposal it shall designate the case as an environmental case and publish notice of the designation.

Objections and representations

20.—(1) Any person may serve on the Authority an objection to or representation about an application or proposal for the grant, revocation, suspension or variation (other than the provisional variation) of an air transport licence if he does so:

- (a) where an application or proposal is published within such period (being, subject to paragraph (2) of this regulation, not more than 21 days nor less than 7 days) as the Authority may specify when publishing the application or proposal;
- (b) where the application or proposal is not published, but he has been notified by the Authority that the application or proposal has been made and will not be published, within 3 working days after being so notified:

Provided that nothing herein shall—

- (i) permit the Authority to specify a period of less than 21 days for the service of objections or representations unless it is satisfied that for reasons of urgency it is desirable to do so;
 - (ii) permit the Authority to specify a period of less than 21 days for the service of objections or representations in a case where it has made a proposal pursuant to regulation 17, unless it has proposed to—
 - (a) revoke, suspend or vary an air transport licence in accordance with a direction given by the Secretary of State;
 - (b) vary an air transport licence for the sole reason that there is a need to allocate scarce bilateral capacity.
- (2) If the Authority receives an environmental application or makes an environmental proposal it shall specify 42 days from the date of publication of the notice of designation pursuant to regulation 19 as the period for service of objections or representations on grounds of noise, vibration, pollution or other disturbance.
- (3) Where the person making the objection or representation is the holder of an air transport licence he shall, within 24 hours after it has been served on the Authority, serve a copy of it on:
- (a) the applicant;
 - (b) any other person who is the holder of the licence to which the application or proposal relates; and
 - (c) any person whom the Authority is obliged by regulation 21 to consult in respect of the application or proposal;

and where the person making the objection or representation is not the holder of an air transport licence, the Authority shall within 7 days after the day on which the objection or representation has been served on the Authority serve a copy of it on the said persons, indicating whether the person making the objection or representation wishes to be heard pursuant to regulation 25.

(4) Upon being served as aforesaid, the applicant shall, if so required in writing by the person making the objection or representation, serve him with a copy of the application within 3 working days after being required so to do.

(5) References in this regulation to publication include references to republication pursuant to regulation 16(4), but when an application is republished, nothing in this regulation shall require a person who has served an objection to or representation about the application when it was previously published to re-serve that objection or representation.

Consultation by the Authority

21. The Authority shall not grant, refuse to grant, revoke, suspend or vary any air transport licence authorising flights to, from or within—

- (a) the Channel Islands, without consulting such person or persons in Jersey, Guernsey and Alderney as from time to time may be notified by respectively the Bailiff of Jersey, the Bailiff of Guernsey and the President of the States of Alderney to the Secretary of State for the Home Department for the receipt of communications relating to air transport licensing applications;
- (b) the Isle of Man, without consulting the Isle of Man Department of Highways, Ports and Properties; or
- (c) Gibraltar, without consulting the Secretary of State;

and subject to regulation 26(5) such consultations shall be completed before the date fixed for the hearing of the case pursuant to regulation 25:

Provided that consultation as aforesaid shall not be required in a case where—

- (i) the application or licence in question is for not more than four flights in any one direction between the same two places;
- (ii) the Authority is acting in pursuance of its duty under section 65(2) or (3) or 66(3) of the Act; or
- (iii) the Authority's duty under section 31(2) of the Airports Act 1986 requires it to refuse to grant or to revoke, suspend or vary the licence.

Furnishing of information by the Authority

22. Before the date fixed for the hearing of a case pursuant to regulation 25, the Authority shall serve on any person who has the right to be heard in connection with the case or whom the Authority proposes to hear or is required to consult pursuant to regulation 21 a copy of, or a summary of, any information in the possession of the Authority which has been provided in connection with the case or which the Authority has reason to believe will be referred to at the hearing of the case:

Provided that—

- (i) the Authority shall not serve any such information which has been provided by the Secretary of State if the Secretary of State has certified to the Authority that it would not be in the public interest for it to be disclosed;
- (ii) before serving such information which has been provided by any other person (not being a person who has provided information in connection with the case but does not wish to be heard) the Authority shall consult that person and shall not serve any information which in its opinion relates to the commercial or financial affairs of the person who has provided it and cannot be disclosed to the prospective recipient without disadvantage to the person who has provided it which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted.

Preliminary Meetings

23.—(1) Before the date fixed for the hearing of a case pursuant to regulation 25, the Authority may hold a preliminary meeting to discuss the conduct of the case.

(2) The Authority shall give to every party to the case and to every person whom the Authority proposes to hear in connection with the case and to any person consulted by the Authority pursuant to regulation 21 who has responded in writing notice of the date, time and place of the preliminary meeting and any such person may attend in person or be represented by any person whom he may have authorised to represent him.

(3) Preliminary meetings shall be conducted on behalf of the Authority only by a member or employee of the Authority.

Preliminary hearings of allegations of behaviour damaging to a competitor

24.—(1) This regulation applies where the holder of any air transport licence (hereinafter in this regulation referred to as "the applicant"—

- (a) has applied to the Authority for the variation of an air transport licence held by another person (hereinafter in this regulation referred to as "the respondent" for the purpose of restraining the respondent from engaging in behaviour damaging to the applicant's business;

- (b) has included in his application a statement giving particulars of the behaviour complained of and of the extent to which the applicant's business is being or is likely to be damaged thereby;
- (c) has asked for a preliminary hearing of the application with a view to the respondent's air transport licence being provisionally varied pending a hearing pursuant to regulation 25; and
- (d) has served a copy of his application on the respondent on the same day as he has served it on the Authority.

(2) The respondent shall, within 5 working days after the date of service of the application, serve on the Authority and on the applicant any representations he may wish the Authority to take into account in determining whether to hold a preliminary hearing.

(3) The Authority shall within 10 working days after the date of service of the application notify the applicant, the respondent and any person it is obliged by regulation 21 to consult in respect of the application of the date (which shall be within 20 working days after the date of service of the application), time and place of the preliminary hearing or of the fact that it has decided not to hold a preliminary hearing.

(4) Notice of the date, time and place of a preliminary hearing shall be of such length as is reasonably practicable and shall be given by such means (whether oral or written) as the Authority thinks fit.

(5) The Authority shall hold a preliminary hearing only if, having considered the terms of the application and of any representations served on it pursuant to paragraph (2) of this regulation, it is of the opinion that—

- (a) there is prima facie evidence that the behaviour complained of by the applicant is being engaged in by the respondent and that behaviour has or is likely to have the effect of seriously damaging the business of the applicant; and
- (b) having regard to its statutory duties, its statement of policies and to the urgency of the matter such a hearing is warranted.

(6) The applicant and the respondent shall have a right to be heard at a preliminary hearing and the Authority may hear such other persons as it thinks fit.

(7) Regulations 21, 22 and 26(1), (4), (6) and (7) shall apply in relation to a preliminary hearing as they apply in relation to a hearing pursuant to regulation 25.

(8) At a preliminary hearing the applicant and the respondent shall have the same rights as a party to a case in a hearing pursuant to regulation 25 and the Authority may, to such extent as it thinks fit, permit any other person whom it decides to hear to exercise the same rights.

(9) Where any person whom the Authority is obliged by regulation 21 to consult in respect of the application attends the preliminary hearing the Authority shall give him opportunity at the preliminary hearing to make observations on the evidence and arguments advanced by the applicant and the respondent and by any other person whom the Authority has decided to hear: and where any such observations are made the Authority shall give the applicant, the respondent and any other person it has decided to hear opportunity at the preliminary hearing to respond to them.

(10) Within 5 working days after the end of the preliminary hearing the Authority shall notify the applicant and the respondent and any person it is obliged by regulation 21 to consult in respect of the application—

- (a) whether or not it has decided provisionally to vary the respondent's licence;
- (b) if so, the terms of the provisional variation; and
- (c) the date, time and place of the hearing to be held pursuant to regulation 25;

and shall furnish its reasons for the decision, as required by section 67(2) of the Act within 10 working days after the end of the preliminary hearing.

(11) The only decision which may be taken by the Authority after a preliminary hearing is a decision provisionally to vary or to refuse provisionally to vary the respondent's air transport licence: and if the Authority provisionally varies the respondent's licence it shall in so doing provide that the provisional variation will cease to have effect when the decision reached by the Authority following a hearing pursuant to regulation 25 takes effect.

Hearings in connection with licences

25.—(1) Before any decision to grant, refuse to grant, revoke, suspend or vary (other than provisionally) an air transport licence is made, the following persons shall have a right to be heard:

- (a) the applicant;
- (b) the holder of any air transport licence;
- (c) the holder of any air operator's certificate granted under an Air Navigation Order;
- (d) the holder of any aerodrome licence granted under an Air Navigation Order;
- (e) such persons (being persons who wish to be heard and who have served objections or representations pursuant to regulation 20 expressing the views of passengers or shippers of cargo) as appear to the Authority to be representative of those who have served such objections or representations;
- (f) here the Authority has designated the case as an environmental case pursuant to regulation 19, such persons (being persons who wish to be heard and who have served objections or representations on grounds of noise, vibration, pollution or other disturbance pursuant to regulation 20(2)) as appear to it to be representative of those who have served such objections or representations:

Provided that—

- (i) no person (other than the applicant and the holder of the licence to which the decision will relate) shall have a right to be heard unless he has served an objection or representation pursuant to regulation 20 and (unless he is a person of a description specified in subparagraph (e) or (f) of this regulation) in so doing has stated that he wishes to be heard;
- (ii) no person shall be heard before a decision is made by the Authority in a case where the Secretary of State has directed that the licence be granted, refused, revoked, suspended or varied or where the Authority's duty under section 31(2) of the Airports Act 1986 requires that the licence be refused, revoked, suspended or varied.

(2) Notwithstanding that a person does not have the right to be heard, the Authority may, if it thinks fit, hear him:

Provided that no person shall be heard pursuant to this paragraph—

- (i) unless he has served an objection or a representation pursuant to regulation 20;
- (ii) in a case where such a direction as is referred to in proviso (ii) to paragraph (1) of this regulation has been given.

(3) No hearing shall be held pursuant to this regulation unless the Authority has served on all persons having a right to be heard and whom it proposes to hear in connection with the case and on any person who has been consulted by the Authority pursuant to regulation 21 and who has responded in writing not less than 14 days' notice of the date, time and place of the hearing, and the notice shall clearly identify the application or proposal to which it relates: a similar notice shall be published not less than 7 days before the date of the hearing, and shall be exhibited in a public place in the Authority's principal office during the 7 days immediately preceding the date of the hearing:

Provided that in cases where the Authority is satisfied that for reasons of urgency it is desirable to do so, a hearing may be held without such notice having been served, published and exhibited as aforesaid if the Authority has given notice of the date, time and place of the hearing, being notice of such length and by such means (whether oral or written) as it thinks fit, to the applicant and any person of a description specified in paragraph (1) of this regulation whose interests are in the opinion of the Authority likely to be prejudiced by the granting of the application and to any person consulted by the Authority pursuant to regulation 21.

(4) Two or more cases may be heard together, if the Authority thinks fit, but a party to one case shall not on that account be deemed to be a party to any other case.

Procedure at hearings

26.—(1) Hearings shall be conducted by the Authority, sitting with such employees of the Authority acting as advisers as it thinks fit.

(2) At a hearing every party to a case may appear in person or be represented by any other person whom he may have authorised to represent him, and may produce oral and written evidence and may examine any other party to that case, any person whom the Authority hears pursuant to regulation 25(2) and any witnesses produced by any such party or person: the Authority may, to such extent as it thinks fit, permit any person heard by it pursuant to regulation 25(2) to exercise at the hearing the rights set out in this paragraph of a party to the case.

(3) Any person who has served an objection or representation pursuant to regulation 20 but who does not wish to be heard, may make a written submission which he shall serve on the Authority not less than 3 working days before the date fixed for the hearing of the case.

(4) Every hearing shall be held in public unless the Authority shall otherwise decide in relation to the whole or part of a particular case, but nothing in this regulation shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such.

(5) Where any person consulted by the Authority pursuant to regulation 21 has responded in writing and that person or a person acting on behalf of that person attends the hearing the Authority shall give him opportunity at the hearing to make observations on the evidence and arguments advanced by the parties to the case and by any persons heard by the Authority pursuant to regulation 25(2), and where any such observations are made the Authority shall give the parties to the case, and any person heard pursuant to regulation 25(2), opportunity at the hearing to respond to them.

(6) The failure of the Authority or of any person to give notice or publish any particulars in the time or manner provided for in the Act or in these Regulations or any other procedural irregularity shall not invalidate the action taken by the Authority; and the Authority may, and shall if it considers that any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by the giving of notice or otherwise.

(7) All the proceedings at a hearing of the Authority in connection with a case shall be recorded by a shorthand writer or by some other means, and if any person requests a record of the proceedings the Authority shall cause a mechanical recording or transcript of the shorthand or other record to be made available for purchase by that person at a reasonable price:

Provided that—

- (a) the Authority shall not be required to make available a mechanical recording or transcript of the record of the proceedings at any time after the expiry of one year from the day of publication of its decision of the case; and
- (b) a mechanical recording or transcript of the record of proceedings conducted otherwise than in public shall only be required to be made available for purchase by any party to the case or by any other person heard by the Authority at those proceedings.

(8) When the Authority provides to a person having a right of appeal pursuant to regulation 27(1)

- (a) notification in writing of its decision of the case, the notification shall specify a date, being not less than 3 working days after the date on which a copy of the notification was available for collection by or despatch to that person (which date is hereinafter referred to as “the decision date”;
- (b) a mechanical recording or transcript of the record of proceedings in the case pursuant to a request made by that person within 7 days after the decision date, the recording or transcript shall be accompanied by a statement specifying a date, being not less than 3 working days after the date on which the recording or transcript was available for collection by or despatch to that person (which date is hereinafter referred to as “the transcript date”;

and the Authority shall as soon as may be thereafter publish the decision date and the transcript date.

Appeals to the Secretary of State

27.—(1) Every party to a case before the Authority (not being a person having a right to be heard by virtue only of regulation 25(1)(e) or (f)) shall have a right of appeal to the Secretary of State in accordance with the provisions of this regulation from the Authority’s decision with respect to an air transport licence or an application for a licence.

(2) An appeal to the Secretary of State shall be made by a notice signed by or on behalf of the appellant and clearly identifying the case to which it relates and stating the grounds on which the appeal is based and the arguments on which the appellant relies.

(3) The appellant shall serve the notice of appeal on:

- (a) the Secretary of State;
- (b) the Authority;
- (c) each of the parties to the case before the Authority;
- (d) each person whom, pursuant to regulation 25(2), the Authority had decided to exercise its discretion to hear in connection with the case, whether that person was heard or not; and
- (e) any person consulted by the Authority, pursuant to regulation 21, in connection with the case.

(4) Subject to paragraph (9) of this regulation, the notice of appeal shall be served within 21 days after the decision date or, if the appellant has made such a request as is referred to in regulation 26(8) and has within 24 hours after making his request to the Authority served notice on each of the persons referred to in paragraph (3)(a), (c), (d) and (e) of this regulation that he has done so, not later than 21 days from the transcript date.

(5) Any person having the right to appeal against a decision of the Authority may require it to furnish him with the names and addresses of the persons of the description specified in paragraph (3) (c), (d) or (e) of this regulation.

(6) Subject to paragraph (9) of this regulation, any party to the appeal (other than the appellant) and any person who has been served with notice of the appeal pursuant to paragraph 3(e) of this regulation may within 14 days after service thereof serve on the Secretary of State a submission giving reasons why the Authority’s decision should or should not be upheld and shall within such period serve copies of any such submission on the Authority, the appellant and the persons who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation.

(7) Subject to paragraph (9) of this regulation, within 28 days after receiving notice of an appeal, the Authority shall serve on the Secretary of State any submission it may wish to make in connection with the appeal, including, if it thinks fit, an amplification and explanation of the reasons for its decision, and shall, within such period, serve copies of any such submission on the appellant and

on the persons who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation.

(8) Subject to paragraph (9) of this regulation, within 14 days after the expiry of the period of 28 days referred to in the preceding paragraph of this regulation, the appellant may serve on the Secretary of State a reply to any submission made pursuant to paragraph (6) or (7) of this regulation and shall within such period serve copies of any such reply on the Authority and on the persons who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation.

(9) Where a case has come before the Authority solely because of a need to allocate scarce bilateral capacity, the references in paragraph (4) to 21 days shall be taken as references to 5 working days, the reference in paragraph (6) to 14 days shall be taken as a reference to 5 working days, the reference in paragraph (7) to 28 days shall be taken as a reference to 8 working days and in paragraph (8) for the words “within 14 days after the expiry of the period of 28 days” there shall be substituted “within 4 working days after the expiry of the period of 8 working days”.

(10) Before deciding an appeal the Secretary of State may—

- (a) ask the appellant, any other person who has made a submission pursuant to the preceding paragraphs of this regulation, or the Authority, to amplify or explain any point made by them or to answer any other question, the answer to which appears to the Secretary of State necessary to enable him to determine the appeal, and the Secretary of State shall as the case may be give the appellant, the other parties to the appeal and the Authority an opportunity of replying to such amplification, explanation or answer;
- (b) obtain from the Authority any information which is in the possession of the Authority but which, pursuant to paragraph (ii) of the proviso to regulation 22 the Authority did not furnish to any person having the right to be heard by the Authority in connection with the case: the Secretary of State shall give the Authority and the person who provided the information to the Authority an opportunity of making written submissions in connection with any information so obtained: a copy of any submission of the Authority made pursuant to this subparagraph shall be served only on the person who provided the information to the Authority and a copy of any submission of that person or body made pursuant to this subparagraph shall be served only on the Authority.

(11) In the appeal proceedings no person may submit to the Secretary of State evidence which was not before the Authority when it decided the case.

Appeal from decisions after preliminary hearings of allegations of behaviour damaging to a competitor

28.—(1) Regulation 27 shall apply in relation to appeals from decisions of the Authority after preliminary hearings of allegations of behaviour damaging to a competitor as it applies in relation to any other case but with the modifications herein set out.

(2) Those modifications are—

- (a) in paragraph (1) the reference to every party shall be taken as a reference to the applicant and the respondent;
- (b) in paragraph (3) the reference in subparagraph (c) to each of the parties shall be taken as a reference to the applicant or respondent, as the case may be, and the reference in subparagraph (d) to regulation 25(2) shall be taken as a reference to regulation 24(6);
- (c) in paragraph (4) the first reference to 21 days shall be taken as a reference to 5 working days and the reference to the decision date shall be taken as a reference to the date upon which the Authority furnished reasons for its decision; and all the subsequent words in that paragraph (which relate to a request for a transcript and a time from the transcript date) shall be deleted;

- (d) in paragraph (6) the reference to 14 days shall be taken as a reference to 5 working days;
- (e) in paragraph (7) the reference to 28 days shall be taken as a reference to 8 working days;
- (f) in paragraph (8) for “within 14 days after the expiry of the period of 28 days” there shall be substituted “within 4 working days after the expiry of the period of 8 working days”.

Decisions on appeals

29.—(1) The Secretary of State may if he thinks fit uphold the decision of the Authority or direct it to re-hear the case which is the subject of the appeal or to reverse or vary its decision.

(2) The Secretary of State shall notify the Authority, the appellant and the persons who have been served with the notice of appeal pursuant to regulation 27(3) of his decision and of the reasons for it and the Authority shall publish the Secretary of State’s notification.

(3) Where the Secretary of State directs the Authority to re-hear a case he shall at the same time notify the Authority and persons referred to in paragraph (2) of this regulation whether the Authority’s decision is to have effect pending the further decision of the Authority.

- (a) (4) (a) Subject to paragraph (5) of this regulation, in determining an appeal the Secretary of State may, if he thinks fit, order the appellant to pay to any other party thereto either a specified sum in respect of the costs incurred by him in connection with the appeal, or the taxed amount of those costs or any part thereof;
- (b) any costs required by an order under the foregoing subparagraph to be taxed may be taxed in the county court on such scale as may be directed by the order;
- (c) any sum payable by virtue of an order under subparagraph (a) of this paragraph shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of that court;
- (d) the powers of the county court under the foregoing provisions of this paragraph may be exercised by the District Judge, or in Northern Ireland by the clerk of the Crown and Peace.

- (a) (5) (a) In determining an appeal where the appellant resides or has his registered or principal office in Scotland the Secretary of State may, if he thinks fit, order the appellant to pay to any other party thereto either a specified sum in respect of the expenses incurred by him in connection with the appeal, or the taxed amount of those expenses or any part thereof;
- (b) any expenses required by an order under the foregoing subparagraph to be taxed may be taxed by the Auditor of the Court of Session on such a scale as may be directed by the order;
- (c) any award of expenses by the Secretary of State under the foregoing provisions of this paragraph may be enforced in like manner as a recorded decree arbitral.

(6) An appeal to the Secretary of State shall not preclude him from consulting the competent authorities of any country or territory outside the United Kingdom for the purposes of section 6(2) (a) to (d) of the Act (which relates to national security, relations with other countries and territories and similar matters) notwithstanding that the consultation may relate to matters affecting the appeal.

(7) The failure of any person (other than the appellant in serving notice of appeal on the Secretary of State within the time prescribed in regulation 27(4)) to serve any notice, submission or reply, or copies thereof or to furnish any particulars in the time or manner provided for in the Act or in these Regulations or any other procedural irregularity shall not invalidate the decision of the Secretary of State; and the Secretary of State may, and shall if he considers that any person may have been prejudiced, take such steps as he thinks fit before deciding the appeal to cure the irregularity.

Transfer of licences

30.—(1) Subject to the provisions of this regulation—

- (a) if the sole holder of an air transport licence (being an individual) shall die, the licence shall be treated from the time of his death as if it had then been granted to his legal personal representative;
- (b) if in connection with the reconstruction of any body corporate or the amalgamation of any bodies corporate the whole of the business of the holder of a licence (being a body corporate), or such part thereof as includes the provision of carriage by air for reward of passengers or cargo, is transferred or sold to another body corporate, the licence shall be treated, from the date of the transfer or sale of the whole or the relevant part of the business, as if it had been granted to that other body corporate.

(2) The person required by paragraph (1) of this regulation to be treated as the holder of the licence may apply to the Authority—

- (a) if he is the legal personal representative of an individual licence holder who has died, for the transfer of the licence to any person entitled to a beneficial interest in the deceased's estate (including himself in his personal capacity if he is in that capacity entitled to such an interest); and
- (b) in any other case, for the substitution of his own name in the licence for the name of the person by whom the licence was held.

(3) The application shall state the grounds on which it is based and shall be served on the Authority within 21 days after the date on which the applicant first became entitled to make it; and if no application as aforesaid is made within that period the licence shall cease at the expiration of that period to be treated as if granted to a person other than the person to whom it was granted.

(4) The application shall, for the purposes of these Regulations be treated as if it were an application for the variation of the licence, and the provisions of regulations 27 and 29 as to appeals shall apply accordingly.

(5) The Authority shall not grant an application for the transfer of a licence to, or the substitution of the name of, any person if it would be bound under section 65(2) or (3) of the Act to refuse that application if it were an application for the grant of a licence to that person.

(6) For the purposes of this regulation “legal personal representative” means a person constituted executor, administrator or other representative of a deceased person by probate, administration or other instrument.

Surrender of licences

31. If revocation or variation of an air transport licence has taken effect, the Authority may require any person who has the licence in his possession or control to surrender it for cancellation or variation, as the case may be and any person who fails, without reasonable cause, to comply with any such requirement, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.