
STATUTORY INSTRUMENTS

1995 No. 1054

The Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995

PART III

LICENSING PROVISIONS

Grant and refusal of licences

- (a) 6. (1) (a) Subject to sub-paragraph (b), an application for the grant of a licence shall be made in writing to the Authority and where such an application is made the Authority shall
- (i) grant a licence to the applicant in the terms requested in the application;
 - (ii) grant a licence in those terms with such modifications and subject to such conditions as the Authority thinks fit; or
 - (iii) refuse to grant a licence.
- (b) The Authority may refuse to consider an application unless it is accompanied by the charge payable under section 11 of the Act.
- (a) (2) (a) The Authority shall refuse to grant a licence in pursuance of an application if the Authority is not satisfied that the applicant is a fit person to make available flight accommodation (and in determining whether the applicant is a fit person the Authority shall have regard to his and his employees' past activities generally and, where the applicant is a body corporate, to the past activities generally of the persons appearing to the Authority to control that body, but shall not be obliged to refuse a licence on the grounds that it considers the applicant has insufficient experience in making available accommodation for the carriage of persons on flights).
- (b) The Authority may refuse to grant a licence in respect of an application if the Authority is not satisfied that the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence.
- (3) If the holder of a current licence applies for the grant of another licence in continuation of or in substitution for the current licence and his application:
- (a) contains such particulars with respect to such matters relating to his fitness, resources and financial arrangements as the Authority may have specified in respect of the holder of that licence in a notice in writing served on him not less than four months before the expiration of the term of the current licence (or in the case of a licence having a term of less than six months at the time of the grant of the licence);
 - (b) is accompanied by the charge payable under section 11 of the Act; and
 - (c) is served on the Authority not less than three months (or half the term of the current licence whichever be the less) before the expiration of the term of the current licence;

then, unless the application is withdrawn and without prejudice to the Authority's power to revoke, suspend or vary the current licence, the current licence shall not cease to be in force by reason only of the expiration of that term until the Authority gives its decision on the application.

Revocation, suspension and variation of licences

7.—(1) The holder of a licence may apply for it to be revoked, suspended or varied at any time, but may not apply for the variation of such a schedule of terms as is mentioned in regulation 10 of these Regulations.

(2) The Authority may refuse to consider any application for variation of a licence unless it is accompanied by the charge payable under section 11 of the Act.

(a) (3) (a) The Authority shall revoke, suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is no longer satisfied that the holder of the licence is a fit person to make available accommodation for the carriage of persons on flights under the authority of the licence.

(b) The Authority may revoke, suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is not or is no longer satisfied that the resources of the holder of the licence and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the activities in which he is engaged.

(4) The provisions of paragraph (3) of this regulation conferring on the Authority power to suspend a licence shall be construed as conferring on the Authority power to provide, by a notice in writing served on the holder of the licence, that the licence shall not be effective during a period specified in the notice; and while a licence is ineffective by virtue of such a notice the Authority may, by a further notice in writing served on the holder of the licence, provide that the licence shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the Authority's powers to suspend the licence again or to revoke or vary it.

Regulation of the conduct of the Authority

8.—(1) The functions conferred upon the Authority by these Regulations are hereby prescribed for purposes of section 7(2) of the Act.

(2) The function of making a decision to:

- (a) revoke, suspend or vary a licence otherwise than on the application of the holder;
- (b) grant or vary a licence in terms other than those requested by the applicant; and
- (c) refuse to grant a licence,

is hereby prescribed for the purposes of section 7(1) of the Act: and for the purpose of making any such decision, the quorum of the Authority shall be one member.

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

Procedure for determining applications etc.

9.—(1) Subject to paragraph (2) of this regulation, if it is proposed to make a decision as to a matter which is mentioned in sub-paragraph (a), (b) or (c) of regulation 8(2) of these Regulations, the Authority shall—

- (a) serve on the holder of or applicant for the licence, as the case may be, not less than 21 days' notice of the proposal to make such a decision and of the reasons for the proposal; and

(b) consider any representations he may serve on the Authority before the expiration of the said notice.

(2) The Authority may suspend a licence notwithstanding that it has not complied with the requirements of paragraph (1) of this regulation if it has served on the holder of the licence not less than 72 hours notice of its proposal to suspend the licence, and of its reasons for the proposal, and after considering any representations which may be made to it by the holder of the licence before the expiration of such notice is no longer satisfied as mentioned in regulation 7(3)(a) or (b) of these Regulations.

(3) Where the Authority makes a decision as to a matter which is mentioned in sub-paragraphs (a), (b) or (c) of regulation 8(2) of these Regulations the Authority shall furnish a statement of its reasons for the decision to the applicant for the licence or, as the case may be, to the holder or former holder of it.

Variation of schedule of terms

10.—(1) If the Authority establishes any schedule of terms and includes in any licence a condition 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 licence which contains such a condition as aforesaid relating to that schedule or that part of that schedule, as the case may be.

(2) When any licence contains such a condition as aforesaid relating to a schedule the Authority shall publish that schedule and any variation of it in its official record or otherwise.

Appeal to county court or Sheriff Court

11.—(1) Subject to paragraph (2) of this regulation, an appeal shall lie to a county court from any decision of the Authority that a person is not a fit person to hold a licence and, if the court is satisfied that on the evidence submitted to the Authority it was wrong in so deciding, the court may reverse the Authority's decision and the Authority shall give effect to the court's determination.

(a) (2) (a) If the appellant resides or has his registered or principal office in Scotland the appeal shall lie to the sheriff within whose jurisdiction he resides or, as the case may be, has his registered or principal office and the appeal shall be brought within 21 days from the date of the Authority's decision, or within such further period as the sheriff may in his discretion allow.

(b) Notwithstanding any provision to the contrary in rules governing appeals to a county court in Northern Ireland, if the appellant resides or has his registered or principal office in Northern Ireland the appeal shall lie to the county court held under the County Courts (Northern Ireland) Order 1980(1) for the division in which he resides or, as the case may be, has his registered or principal office.

(3) The Authority shall be a respondent to any appeal under this regulation.

(4) For the purposes of any provision relating to the time within which an appeal may be brought, the Authority's decision shall be deemed to have been taken on the date on which the Authority furnished a statement of its reasons for the decision to the applicant for the licence or, as the case may be, the holder or former holder of it.

(5) In the case of an appeal to the sheriff—

(a) the sheriff may, if he thinks fit, and shall on the application of any party, appoint one or more persons of skill and experience in the matter to which the proceedings relate to act

(1) S.I.1980/397 (NI. 3).

as assessor, but where it is proposed to appoint any person as an assessor objection to him either personally or in respect of his qualifications may be stated by any party to the appeal and shall be considered and disposed of by the sheriff;

- (b) the assessors for each sheriffdom shall be appointed from a list of persons approved for the purposes by the sheriff principal and such a list shall be published in such manner as the sheriff principal shall direct and shall be in force for three years only, but persons entered in any such list may be again approved in any subsequent list: it shall be lawful for the sheriff principal to defer the preparation of such a list until application has been made to appoint an assessor in an appeal in one of the courts in his sheriffdom;
- (c) the sheriff before whom an appeal is heard with the assistance of an assessor shall make a note of any question submitted by him to such assessor and of the answer thereto;
- (d) an appeal shall lie on a point of law from any decision of a sheriff under this regulation to the Court of Session.

Transfer of licences

12.—(1) Subject to the provisions of this regulation, if the sole holder of a licence (being an individual) shall die the licence shall be treated from the time of his death as if it had been granted to his legal personal representative.

(2) The legal personal representative required by paragraph (1) of this regulation to be treated as the holder of the licence may apply to the Authority 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).

(3) The application shall state the grounds on which it is based and shall be served on the Authority within the period of 20 days from the day 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 Authority shall not grant an application for the transfer of a licence to any person if it would be bound under regulation 6(2)(a) of these Regulations to refuse that application if it were an application for the grant of a licence to that person, and the provisions of regulation 11 as to appeals shall apply accordingly.

(5) 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

13. If revocation or variation of a 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.

Compliance with licence and furnishing of false information

14.—(1) Without prejudice to the provisions of regulation 3(1)(b), no person shall contravene any term of a licence held by him.

(2) No person shall give, by whatever means, an indication direct or indirect that he holds a licence which he does not in fact hold.

(3) No person shall, for the purpose of obtaining for himself or another person a licence or a variation of a licence or the cancellation of the suspension of a licence, knowingly or recklessly furnish to the Authority any information which is false in a material particular.

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