

[^{F1}SCHEDULE 4

Regulation 16

Conduct and procedure of the CAA for purposes of regulation 16

Textual Amendments

- F1** Schs. 3, 4 inserted (6.4.2013) by [The Operation of Air Services in the Community \(Pricing etc.\) Regulations 2013 \(S.I. 2013/486\)](#), regs. 1, **37(7)**

1.—(1) In this Schedule—

“CAA Member” means a person appointed under section 2 of the Civil Aviation Act 1982 to be a member of the CAA;

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network (within the meaning set out in section 32(1) of the Communications Act 2003);

“equivalent safety decision” means a decision of the CAA as to whether the condition in Article 13(3)(a) of the EC Regulation is satisfied;

“hearing” means a hearing at which oral evidence or argument may be heard and “to hear” is construed accordingly;

“lease approval” means an approval—

- (a) under regulation 17; or
- (b) [^{F2}under ARO.OPS.110 of Annex II of [Commission Regulation \(EU\) No 965/2012](#) of 5th October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.]

(2) Any period of time specified in this Schedule by reference to days—

- (a) where such period is expressed to begin after a particular date, is to begin on the first day after that date, and is inclusive of the last day unless that day falls on a day which is not a business day, in which case the period runs to the next business day; and
- (b) where such period is expressed to run to or expire before a particular date or event, the period is to be calculated to expire on the last business day before the particular date or the date of that event.

(3) A business day is a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971.

Textual Amendments

- F2** Words in [Sch. 4 para. 1\(1\)](#) substituted (9.1.2019) by [The Operation of Air Services \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1392\)](#), reg. 1(3), **Sch. 1 para. 17**

2. A notice or other document required to be served by the CAA under this Schedule must be served in accordance with paragraph 3.

3.—(1) A notice or other document is served on a person in accordance with this paragraph if it is set out in writing and—

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- (a) is delivered personally to a person specified in sub-paragraph (2); or
 - (b) is delivered by posting or transmitting the notice or document by means of electronic communication to, or leaving it at, an address for service set out in sub-paragraph (3) appropriate to the method of communication addressed to the person specified in sub-paragraph (2).
- (2) The person to whom the notice or document should be addressed or delivered is—
- (a) for an individual, that person;
 - (b) for a body corporate, a director, secretary, chief executive, treasurer, manager or other similar officer of the body corporate;
 - (c) for a limited liability partnership, any designated member as defined by section 18 of the Limited Liability Partnerships Act 2000;
 - (d) for a partnership, a partner or any person having control or management of the business;
 - (e) for an unincorporated body or association, the proprietor or a person concerned in the management or control of the body or association.
- (3) Any notice or document may be sent to one of the following addresses as appropriate—
- (a) in the case of an individual, that person’s usual or last known place of business, employment or residence;
 - (b) in the case of a body corporate, its principal or registered office or its principal place of business;
 - (c) in the case of a limited liability partnership, the address of its principal or registered office;
 - (d) in the case of a partnership or an unincorporated body or association, its principal office or principal place of business;
 - (e) in any case, an electronic address which the person on whom the notice or document is to be served has held out as an address at which that person can be contacted.
- (4) An “electronic address” includes a fax number and an email address.
- 4.** A decision or proposal to grant, refuse to grant, revoke, suspend or vary a lease approval or an equivalent safety decision may be made on behalf of the CAA by a CAA employee unless paragraph 7 applies.
- 5.** If a CAA employee—
- (a) refuses an application for a lease approval,
 - (b) grants an approval but in terms other than those requested by the applicant, or
 - (c) makes an equivalent safety decision against the applicant,
- the CAA must serve on the applicant a notice stating the reasons for the decision, and the applicant may within 14 days after the date of service of that notice request that the case be reviewed by CAA Members.
- 6.** If a CAA employee proposes to revoke, suspend or vary a lease approval, the CAA must serve on the approval holder notice of the proposal together with the reasons for it, and the approval holder may within 14 days after the date of service of that notice, serve on the CAA a request that the case be decided by CAA Members.
- 7.** Where a request for a decision by the CAA Members has been served on the CAA under paragraph 5 or 6, the decision must be made by at least two CAA Members who were not involved in the original decision or proposal made by the CAA employee.
- 8.** Before making a decision the CAA Members must consider—
- (a) any brief supplied by the CAA employee responsible for the proposal or decision; and

- (b) any representations by the applicant or approval holder, served on the CAA Members within 21 days after the date of service of the notice under paragraphs 5 or 6 or such additional period as the CAA Members may determine.

9. Within 21 days after the date of service of the notice under paragraphs 5 or 6 the applicant or approval holder may request a hearing.

10. If the applicant or the approval holder has requested a hearing under paragraph 9, the CAA Members must before making a decision, conduct a hearing and consider any representations made or evidence submitted at such a hearing.

11.—(1) All hearings must be in public except—

- (a) where the CAA is satisfied that a private hearing is required—
 - (i) in the interests of morals, public order or national security in a democratic society,
 - (ii) in the interests of juveniles or the protection of the private life of the parties, or
 - (iii) to the extent strictly necessary in the opinion of the CAA in special circumstances if publicity would prejudice the interests of justice; or
- (b) where the applicant or the approval holder has requested in writing that the hearing be in private and the CAA is satisfied that there is no important public interest consideration that calls for the public to be present.

(2) The CAA may decide under sub-paragraph (1) that part only of the hearing is to be in private or that information about the proceedings before the CAA, the names and identifying characteristics of persons concerned in the proceedings or specified evidence given in the proceedings must not be made public or disclosed to a party or parties.

(3) The following persons are entitled to attend a hearing, whether or not it is in private—

- (a) a member of the Administrative Justice and Tribunals Council or of the Scottish Committee of that Council; and
- (b) any person whom the CAA, with the consent of the applicant or the approval holder permits to attend the hearing.

12.—(1) The CAA must serve on all persons having a right to be heard and all person whom the CAA proposes to hear at least 14 days' notice of the date, time and place of the hearing.

(2) The notice must clearly identify the matter to which it relates.

(3) A similar notice must be published not less than 7 days before the date of the hearing on the CAA's website.

(4) On the day of a hearing, a similar notice must be posted in a visible and accessible place at the venue where the hearing is scheduled to take place.

13. The applicant or approval holder and the CAA employee who made the decision or proposal to be reviewed have a right to be heard at the hearing.

14. At the hearing every person with a right to be heard may appear in person or be represented by any other person whom they have authorised to represent them and may produce oral and written evidence and the person with a right to be heard or their representative may examine any other person being heard and any witness produced by that person.

15. The CAA Members conducting a hearing may sit with such technical assessors to advise them as they may appoint, but the CAA Members must not appoint as an assessor any person who participated in the decision or proposal or the development of any notice or decision which is to be the subject of the hearing.

16. When the CAA makes a decision it must—

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- (a) serve notice of the decision and a statement of its reasons for the decision on the applicant or approval holder; and
- (b) publish the decision and a statement of its reasons for the decision.

17. Paragraphs 5 and 6 do not apply where the CAA refuses to grant an approval or grants an approval in terms other than those requested by the applicant or proposes to vary, suspend or revoke an approval pursuant to a direction given by the Secretary of State under section 6 of the Civil Aviation Act 1982 (Secretary of State's directions in national interest, etc.).]

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)