
STATUTORY INSTRUMENTS

1994 No. 426

The Airports (Northern Ireland) Order 1994

PART IV

ECONOMIC REGULATION OF AIRPORTS

Permissions

Airports subject to economic regulation: requirement for permission to levy airport charges

28.—(1) Where an airport is subject to economic regulation under this Part no airport charges shall be levied at the airport unless—

- (a) they are levied by the airport operator; and
- (b) a permission to levy airport charges is for the time being in force in respect of the airport.

(2) Where the annual turnover of the business carried on at an airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before the date when this Article comes into operation, then (subject to Article 44(3)) the airport shall be subject to economic regulation under this Part as from the end of the period of six months beginning with that date.

(3) Where—

- (a) an airport is not one to which paragraph (2) applies; but
- (b) the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before a date later than the date when this Article comes into operation,

the airport shall be subject to economic regulation under this Part as from the end of the period of nine months beginning with that later date.

(4) The following shall not be subject to economic regulation under this Part, namely—

- (a) any airport managed by a subsidiary of the Holding Company (within the meaning of Part V);
- (b) any airport managed by the CAA or by any subsidiary of the CAA; or
- (c) any airport for the time being exempted from economic regulation under this Part by virtue of paragraph (5).

(5) Where at any time the Department is satisfied as respects any airport which is subject to economic regulation under this Part that the annual turnover of the business carried on at the airport by the airport operator did not exceed £1 million in the case of each of the two last financial years ending before that time, it may, after consulting the CAA, determine that the airport shall cease to be subject to economic regulation under this Part as from the date of its determination.

(6) Any such determination may be made by the Department either of its own motion or on the application of the airport operator.

- (7) A determination under paragraph (5) shall not—
- (a) preclude paragraph (3) from applying to the airport in question on a subsequent occasion; or
 - (b) affect any rights or liabilities accruing by virtue of this Part before the determination is made.
- (8) Where any person levies any airport charges in contravention of paragraph (1)—
- (a) he shall not be guilty of an offence by reason only of his contravening that paragraph; but
 - (b) any airport charges so levied shall not be recoverable by him, and, in so far as they have been paid to him, shall be recoverable from him.
- (9) The Department may, by order made with the consent of the Department of Finance and Personnel, substitute for the sum for the time being specified in paragraphs (2), (3) and (5) such greater sum as may be specified in the order.
- (10) Where at the coming into operation of an order under paragraph (9) any airport is, or is due to become, subject to economic regulation under this Part in accordance with paragraph (2) or (3), that paragraph shall continue to apply to the airport notwithstanding any increase in the sum specified in that paragraph effected by the order.
- (11) Any reference in this Article to the business carried on at any airport by the airport operator shall, in a case where the person for the time being having the management of the airport has not had its management for the whole or any part of any period relevant for the purposes of this Article, be construed as including a reference to the business carried on there by any other person who had the management of the airport for the whole or any part of that period.
- (12) In this Article “annual turnover”, in relation to the business carried on at an airport by the airport operator, means the aggregate, as stated or otherwise shown in the accounts of the business, of all sums received in the course of the business during a financial year, including grants from any public body but excluding—
- (a) capital receipts; and
 - (b) loans made by any person.
- (13) In paragraph (12) “public body” means a body established by or under a statutory provision.