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## STATUTORY INSTRUMENTS

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# 1994 No. 426

## The Airports (Northern Ireland) Order 1994

### PART IV

#### ECONOMIC REGULATION OF AIRPORTS

##### *Conditions*

##### **Mandatory conditions in case of designated airports**

**31.**—(1) Where an airport is designated for the purposes of this Article by an order made by the Department, then (subject to paragraph (9))—

- (a) if the airport is so designated at the time when a permission under this Part is granted in respect of it under Article 29(4), the CAA shall, at the time of granting the permission, impose in relation to the airport such conditions as to accounts and airport charges as are mentioned in paragraphs (2) and (3); and
- (b) if the airport is so designated at any later time, the CAA shall impose any such conditions in relation to the airport within the period of nine months beginning with the date of the designation.

(2) The conditions as to accounts referred to in paragraph (1) are—

- (a) such conditions as the CAA considers appropriate to secure that the accounts of the airport operator disclose—
  - (i) any subsidy furnished (whether by the making of loans on non-commercial terms or otherwise) by any person or body to the airport operator in connection with his business so far as consisting of the carrying on of operational activities relating to the airport, and the identity of any such person or authority;
  - (ii) any subsidy so furnished to that business by the airport operator out of funds attributable to any other activities carried on by him;
  - (iii) the aggregate income and expenditure of the airport operator attributable to the levying by him of airport charges at the airport;
  - (iv) the aggregate income and expenditure of the airport operator attributable to operational activities relating to the airport (whether carried on by the airport operator or any other person) being income and expenditure which are taken into account by him in fixing airport charges; and
  - (v) where the airport operator has for the time being the management of two or more airports, the aggregate income and expenditure of the airport operator attributable to the business carried on by him at each of those airports; and
- (b) where the accounts of the airport operator are not required to be delivered to the registrar of companies in accordance with the Companies Order, such conditions as the CAA considers appropriate with respect to the publication of those accounts;

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and the reference in sub-paragraph (a) to the accounts of the airport operator shall be read as referring to accounts delivered to the registrar of companies in accordance with that Order or published in pursuance of sub-paragraph (b).

(3) The conditions as to airport charges referred to in paragraph (1) are such conditions as the CAA considers appropriate for regulating the maximum amounts that may be levied by the airport operator by way of airport charges at the airport during the period of five years beginning with such date as may be specified by the CAA when imposing the conditions, being a date falling not later than the end of the period of twelve months beginning with the date when the conditions are imposed.

(4) Subject to paragraph (9), the CAA shall—

- (a) at the end of the period of five years specified in paragraph (3); and
- (b) at the end of each succeeding period of five years,

make such modifications in the conditions imposed in pursuance of paragraph (3) (as they are for the time being in force) as it thinks appropriate for regulating during the succeeding period of five years the maximum amounts that may be levied by the airport operator by way of airport charges at the airport; and any reference in this Part to the making of modifications in any such conditions includes a reference to the making of a modification whose effect is merely to extend the application of a particular condition or conditions for a further period of five years.

(5) Without prejudice to the generality of paragraphs (3) and (4), conditions imposed or modified in pursuance of those provisions—

- (a) may provide—
  - (i) for an overall limit on the amount that may be levied by the airport operator by way of all airport charges at the airport; or
  - (ii) for limits to apply to particular categories of charges; or
  - (iii) for a combination of any such limits;
- (b) may operate to restrict increases in any such charges, or to require reductions in them, whether by reference to any formula or otherwise;
- (c) may provide for different limits to apply in relation to different periods of time falling within the period of five years for which the conditions are in force.

(6) Except with the agreement of the airport operator concerned, conditions imposed in pursuance of paragraph (3) shall not be modified by the CAA otherwise than in pursuance of paragraph (4).

(7) The CAA may, if it thinks fit and after consultation with the airport operator concerned, determine, at any time during any period of five years for which conditions under paragraph (3) are in force in accordance with the preceding provisions of this Article, that that period shall be extended by such period (not exceeding twelve months) as may be specified in its determination; and in any such case any reference in this Part to that period shall be read as a reference to that period as extended by virtue of this paragraph.

(8) Where the CAA makes any such determination in the case of conditions providing for different limits to apply in relation to different periods of time, any limit applying in relation to the last of those periods shall apply also in relation to the additional period for which the conditions are to remain in force in accordance with the determination, unless the CAA and the airport operator concerned agree that some other limit shall apply instead.

(9) Before imposing any conditions in pursuance of paragraph (3), or making any modifications in pursuance of paragraph (4), in relation to any airport, the CAA shall, unless the Department otherwise directs, make a reference to the Commission in respect of the airport under Article 34(1).

(10) The Department may by order under this Article either designate particular airports for the purposes of this Article or designate any class of airports for those purposes; and any such class

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may be framed by reference to annual turnover, as defined in the order, or by reference to any other matter whatever.

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