
STATUTORY INSTRUMENTS

1994 No. 426

The Airports (Northern Ireland) Order 1994

PART IV

ECONOMIC REGULATION OF AIRPORTS

Enforcement of conditions

Validity and effect of compliance orders

40.—(1) If an airport operator is aggrieved by any compliance order applying to him by virtue of Article 39 and desires to question the validity of the order on the ground—

- (a) that the order is not within the powers of that Article; or
- (b) where any regulations under section 7(2) of the 1982 Act provide for regulating the procedure to be followed by the CAA in the performance of its functions under Article 39, that any requirement of those regulations has not been complied with in relation to the order,

he may, within 42 days from the date of service on him of a copy of the order, make an application to the High Court under this Article.

(2) On any such application the High Court may, if satisfied—

- (a) that the compliance order is not within the powers of Article 39; or
- (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as is mentioned in paragraph (1)(b),

quash the order or any provision of the order.

(3) Except as provided by this Article, the validity of a compliance order shall not be questioned in any legal proceedings whatever.

(4) No criminal proceedings shall, by virtue of the making of a compliance order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

(5) The obligation to comply with a compliance order is a duty owed to any person who may be affected by a contravention of it.

(6) Where a duty is owed by virtue of paragraph (5) to any person—

- (a) any breach of the duty which causes that person to sustain loss or damage; and
- (b) any act which, by inducing a breach of that duty or interfering with its performance, causes that person to sustain loss or damage and which is done wholly or partly for the purpose of achieving that result,

shall be actionable at the suit or instance of that person.

(7) In any proceedings brought against any person in pursuance of paragraph (6)(a), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(8) Without prejudice to any right which any person may have by virtue of paragraph (6) (a) to bring civil proceedings in respect of any contravention or apprehended contravention of a compliance order, the CAA may enforce compliance with any such order by civil proceedings for an injunction or for any other appropriate relief.

(9) Where it appears to the CAA that an airport operator has contravened a compliance order and is unlikely to comply with it in the immediate future the CAA may, instead of proceeding under paragraph (8), revoke the permission for the time being in force under this Part in respect of the airport to which the contravention relates.

(10) Where any such permission is revoked by reason of an airport operator's contravention of a compliance order, then (notwithstanding Article 29(4)) a permission shall not again be granted under this Part in respect of the airport in question so long as he remains the airport operator unless it appears to the CAA that, if the CAA were to impose in relation to the airport any condition corresponding to the one whose breach gave rise to the making of the compliance order, he would comply with that condition.

(11) In this Article—

“act”, in relation to any person, includes any failure to do an act which he is under a duty to do and “done” shall be construed accordingly;

“compliance order” means an order under Article 39(3)(a) or (5);

“contravention”, in relation to a compliance order, includes any failure to comply with it.