
STATUTORY INSTRUMENTS

1991 No. 1672

The Civil Aviation Authority Regulations 1991

PART III

AIR TRANSPORT LICENSING

Preliminary hearings of allegations of behaviour damaging to a competitor

24.—(1) This regulation applies where the holder of any air transport licence (hereinafter in this regulation referred to as “the applicant”—

- (a) has applied to the Authority for the variation of an air transport licence held by another person (hereinafter in this regulation referred to as “the respondent” for the purpose of restraining the respondent from engaging in behaviour damaging to the applicant’s business;
- (b) has included in his application a statement giving particulars of the behaviour complained of and of the extent to which the applicant’s business is being or is likely to be damaged thereby;
- (c) has asked for a preliminary hearing of the application with a view to the respondent’s air transport licence being provisionally varied pending a hearing pursuant to regulation 25; and
- (d) has served a copy of his application on the respondent on the same day as he has served it on the Authority.

(2) The respondent shall, within 5 working days after the date of service of the application, serve on the Authority and on the applicant any representations he may wish the Authority to take into account in determining whether to hold a preliminary hearing.

(3) The Authority shall within 10 working days after the date of service of the application notify the applicant, the respondent and any person it is obliged by regulation 21 to consult in respect of the application of the date (which shall be within 20 working days after the date of service of the application), time and place of the preliminary hearing or of the fact that it has decided not to hold a preliminary hearing.

(4) Notice of the date, time and place of a preliminary hearing shall be of such length as is reasonably practicable and shall be given by such means (whether oral or written) as the Authority thinks fit.

(5) The Authority shall hold a preliminary hearing only if, having considered the terms of the application and of any representations served on it pursuant to paragraph (2) of this regulation, it is of the opinion that—

- (a) there is prima facie evidence that the behaviour complained of by the applicant is being engaged in by the respondent and that behaviour has or is likely to have the effect of seriously damaging the business of the applicant; and
- (b) having regard to its statutory duties, its statement of policies and to the urgency of the matter such a hearing is warranted.

(6) The applicant and the respondent shall have a right to be heard at a preliminary hearing and the Authority may hear such other persons as it thinks fit.

(7) Regulations 21, 22 and 26(1), (4), (6) and (7) shall apply in relation to a preliminary hearing as they apply in relation to a hearing pursuant to regulation 25.

(8) At a preliminary hearing the applicant and the respondent shall have the same rights as a party to a case in a hearing pursuant to regulation 25 and the Authority may, to such extent as it thinks fit, permit any other person whom it decides to hear to exercise the same rights.

(9) Where any person whom the Authority is obliged by regulation 21 to consult in respect of the application attends the preliminary hearing the Authority shall give him opportunity at the preliminary hearing to make observations on the evidence and arguments advanced by the applicant and the respondent and by any other person whom the Authority has decided to hear: and where any such observations are made the Authority shall give the applicant, the respondent and any other person it has decided to hear opportunity at the preliminary hearing to respond to them.

(10) Within 5 working days after the end of the preliminary hearing the Authority shall notify the applicant and the respondent and any person it is obliged by regulation 21 to consult in respect of the application—

- (a) whether or not it has decided provisionally to vary the respondent's licence;
- (b) if so, the terms of the provisional variation; and
- (c) the date, time and place of the hearing to be held pursuant to regulation 25;

and shall furnish its reasons for the decision, as required by section 67(2) of the Act within 10 working days after the end of the preliminary hearing.

(11) The only decision which may be taken by the Authority after a preliminary hearing is a decision provisionally to vary or to refuse provisionally to vary the respondent's air transport licence: and if the Authority provisionally varies the respondent's licence it shall in so doing provide that the provisional variation will cease to have effect when the decision reached by the Authority following a hearing pursuant to regulation 25 takes effect.