
STATUTORY INSTRUMENTS

1995 No. 2294

CIVIL AVIATION

**The Civil Aviation Authority (Economic Regulation
of Airports) (Northern Ireland) Regulations 1995**

<i>Made</i>	- - - -	<i>1st September 1995</i>
<i>Laid before Parliament</i>		<i>11th September 1995</i>
<i>Coming into force</i>	- -	<i>2nd October 1995</i>

The Secretary of State for Transport, in exercise of the powers conferred by section 7(2) of the Civil Aviation Act 1982⁽¹⁾, as extended by article 27(3) of the Airports (Northern Ireland) Order 1994⁽²⁾, and by articles 29(2), (4), (5) and (6), 32(6), 39(7) and 42(5) and (7) of the Airports (Northern Ireland) Order 1994, and after consultation with the Council on Tribunals under section 8 of the Tribunals and Inquiries Act 1992⁽³⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Aviation Authority (Economic Regulation of Airports) (Northern Ireland) Regulations 1995 and shall come into force on 2nd October 1995.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:

“the 1982 Act” means the Civil Aviation Act 1982;

“the Order” means the Airports (Northern Ireland) Order 1994;

“accounts condition” means such a condition as is mentioned in article 31(2) of the Order;

“designated airport” means an airport designated for the purposes of article 31 of the Order;

“party to the case” has the meaning assigned to it in regulation 13(1);

“permission to levy airport charges” means such a permission as is referred to in articles 28 and 29 of the Order;

“subsidiary condition” has the meaning assigned to it in paragraph 1 of Schedule 6 to the Order.

(2) Any period of time specified in these Regulations by reference to—

(1) 1982 c. 16; the expression “prescribed” is defined in section 105(1).

(2) S.I.1994/426 (N.I. 1)

(3) 1993 c. 53.

- (a) days, shall be exclusive of the first day and inclusive of the last day, or
- (b) a month, shall be exclusive of the first day of that month and inclusive of the last day of that month,

unless, in either case, the last day falls on a Saturday, Sunday, Christmas Day, Good Friday or any day appointed by law to be a Bank Holiday in any part of the United Kingdom, in which case the time shall be reckoned exclusively of that day also.

Publication by the CAA

3. Any notice or other matter required by these Regulations or by article 29(2) of the Order to be published shall be published by the CAA in its Official Record.

Prescribed periods

- 4. The period prescribed for the purposes of—
 - (a) article 29(4) of the Order is 12 months in the case of an airport which is designated before the application is granted and 3 months in any other case;
 - (b) article 29(5) of the Order is 3 months; and
 - (c) article 32(6) and 42(5) of the Order is 1 month.

Service of documents

5.—(1) Anything required to be notified to or served on any person under these Regulations or under Part IV of the Order shall be set out in a notice in writing which may be served—

- (a) by delivering it to him;
- (b) by leaving it at his proper address;
- (c) by sending it to him at that address by post; or
- (d) by sending it to him at that address by telex or by facsimile transmission or any other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received;

and where the person is a body corporate the document may be served on the secretary of that body.

(2) For the purposes of this regulation the proper address of any person shall, in the case of a body corporate, be the registered or principal office of that body and in any other case be the last known address of the person to be served.

Regulation of the conduct of the CAA

6. The functions conferred on the CAA by Part IV of the Order are hereby prescribed for the purposes of section 7(2) of the 1982 Act.

Permission to levy airport charges

7.—(1) Subject to paragraph (2) below, the CAA shall as soon as may be after an application for permission to levy airport charges has been made to it, publish such particulars of the application as it thinks necessary for indicating the substance of the application, and shall make a copy of the application available at its Head Office for inspection by any person at any reasonable time.

(2) Paragraph (1) above shall not apply if, before the application is published, the Secretary of State has notified the CAA under article 44 of the Order that he proposes to perform in relation to the airport the CAA's functions under article 29 of the Order.

(3) Subject to regulation 14(3), where the CAA proposes to refuse to grant an application for permission to levy airport charges it shall serve on the airport operator notice of its proposal, together with a statement of the respects in which the airport operator has failed to comply with any requirement the CAA may have imposed on him pursuant to article 29(4)(b) of the Order.

(4) Subject to regulation 14(3), a decision to refuse a permission may be taken only by a member of the CAA after considering any written representations (being representations that the airport operator has complied with all requirements imposed on him pursuant to article 29(4)(b) of the Order) which the airport operator has served on the CAA within 10 days of the date of service of the notice given by the CAA pursuant to paragraph (3) above.

Mandatory accounts conditions

8.—(1) Where the CAA proposes to impose or modify an accounts condition in respect of a designated airport, it shall serve on the airport operator notice of the condition it intends to impose or of the modification, as the case may be.

(2) A decision as to the form of the accounts condition to be imposed in respect of a designated airport or of any modifications of such a condition shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within 2 months of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

Mandatory conditions as to airport charges

9.—(1) Where the CAA proposes, in a reference to the Commission under article 34(1) of the Order, to specify in the reference any matters referred to in article 35(1)(a) of the Order, it shall serve on the airport operator notice of the terms in which it intends to specify those matters.

(2) A decision as to the terms in which the CAA specifies the aforesaid matters in such a reference shall be taken only by a member of the CAA after considering any written representations which the airport operator has served on the CAA within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

Discretionary accounts conditions

10.—(1) Where the CAA proposes to impose or modify an accounts condition in respect of an airport which is not a designated airport, it shall serve on the airport operator notice of the condition it intends to impose or of the modification, as the case may be.

(2) A decision whether to impose an accounts condition in respect of an airport which is not a designated airport and, if so, as to the form of the condition to be imposed or of any modification of such a condition, shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within 2 months of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

Other discretionary conditions

11.—(1) If it appears to the CAA that an airport operator may be pursuing one of the courses of conduct specified in article 32(3) of the Order, it shall carry out an investigation with a view to establishing whether the airport operator is pursuing such a course of conduct.

(2) Before carrying out an investigation the CAA shall—

- (a) give to the airport operator notice of the proposed investigation and of the reasons for it;
- (b) arrange for notice of the proposed investigation, together with an indication of the matters to be investigated, to be published in such manner as the CAA considers most suitable for

bringing the proposed investigation to the attention of other persons who, in the opinion of the CAA, would be affected by or be likely to have an interest in the investigation.

(3) As soon as practicable after the completion of the investigation, the CAA shall, in such manner as it considers appropriate, publish a report stating whether, in its opinion, the airport operator is pursuing one of the courses of conduct specified in article 32(3) of the Order, and, if so, the condition which it considers appropriate for the purposes of remedying or preventing what it considers are the adverse effects of that course of conduct.

(4) A decision as to the form and content of the report shall be taken only by a member of the CAA after considering the representations made to the CAA in the course of its investigation.

(5) Where the CAA proposes to impose a condition in relation to an airport pursuant to article 32(2) of the Order or to modify such a condition, and has served notice on the airport operator pursuant to article 32(6) or 42(5), as the case may be, a decision whether to make a reference to the Commission in respect of the airport under article 34(3) of the Order shall be made only by a member of the CAA after considering any objections which the airport operator has served on or made to the CAA within the period prescribed for the purposes of article 32(6) or 42(5) of the Order.

(6) Where it appears to the CAA that an airport operator is pursuing a course of conduct specified in article 32(3)(b) of the Order which has resulted in the adoption by any other person of a practice which does any of the things specified in sub-paragraph (i) or (ii) of the said article 32(3)(b), it shall at the same time as it serves notice on the airport operator pursuant to article 32(6) or 42(5) of the Order serve a copy of that notice on that other person: and any written or oral representations made by that person within the period prescribed for the purposes of article 32(6) or 42(5) of the Order shall be taken into consideration by the CAA in deciding, pursuant to paragraph (5) above, whether to make a reference to the Commission in respect of the airport.

(7) Subject to paragraph (8) below, where the CAA, in a reference to the Commission under article 34(3) of the Order or in a variation of that reference, specifies any of the matters referred to in article 35(1)(b) of the Order, it shall not include any matter which has not been notified to the airport operator pursuant to article 32(6) or 42(5) of the Order.

(8) A condition notified pursuant to article 32(6) of the Order or a modification of a condition notified pursuant to article 32(5) of the Order may be modified in the light of representations made to the CAA by the airport operator or a person referred to in paragraph (6) above.

Imposition or modification of conditions following Commission's Report

12.—(1) Where the CAA has received a report made by the Commission and is required by articles 31(3), (4) or 37 of the Order to impose or modify a condition in relation to an airport, it shall publish notice of the conditions or modifications it intends to impose: and insofar as the proposed conditions or modifications do not accord with the recommendations made by the Commission as to what the conditions or modifications should be, the notice shall include a statement of the CAA's reasons for not implementing the Commission's report.

(2) The notice shall be published in such manner as the CAA considers most suitable for bringing it to the attention of the airport operator and other persons who, in the opinion of the CAA, would be affected by or be likely to have an interest in the proposed conditions or modifications.

(3) A decision as to the form of the conditions or modifications to be imposed shall be taken only by a member of the CAA after considering any written representations served on the CAA within 30 days of the date of publication of the notice given by the CAA pursuant to paragraph (1) above.

Enforcement of conditions

13.—(1) Where the CAA has investigated a complaint pursuant to article 39(1) of the Order, it shall notify the complainant and the airport operator concerned (who are hereinafter in this regulation

referred to as “the parties to the case”) of its findings and of the action it proposes to take or, as the case may be, of the fact that it proposes to take no action under article 39 of the Order.

(2) If neither party to the case asks to be heard within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) above, the CAA shall take the proposed action or shall take no further action, as the case may be.

(3) If within 21 days of the date of service of such notice, either party to the case asks to be heard, the CAA shall serve on both parties not less than 21 days' notice of the date, time and place of the hearing.

(4) Subject to paragraphs (5) and (6) below, before the date fixed for the hearing, the CAA shall serve on both parties to the case a copy of, or a summary of, any information in the possession of the CAA which has been provided in connection with the CAA's investigation of the complaint or in connection with the case or which the CAA has reason to believe will be referred to at the hearing of the case.

(5) The CAA shall not serve any information referred to in paragraph (4) above which has been provided by the Secretary of State if the Secretary of State has certified to the CAA that it would not be in the public interest for it to be disclosed.

(6) Before serving any information referred to in paragraph (4) above, the CAA shall consult the person who has provided it and shall not serve any information which in its opinion relates to the commercial or financial affairs of that person and cannot be disclosed to the prospective recipient without disadvantage to the person who has provided it which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted.

(7) A hearing shall be conducted by two members of the CAA (unless the parties to the case agree to the hearing being conducted by one member) sitting with such employees of the CAA as the CAA thinks fit.

(8) At a hearing, each party to the case may appear in person or be represented by any other person whom he may have authorised to represent him and may produce oral and written evidence and may examine the other party to the case and any witnesses produced by the other party.

(9) Every hearing shall be held in private but nothing in this regulation shall prevent a member of the Council on Tribunals from attending a hearing in his capacity as such.

(10) All the proceedings at a hearing shall be recorded by a shorthand writer or by some other means, and if either party requests a record of the proceedings within one year from the day the CAA issues its decision of the case, the CAA shall cause a mechanical recording or transcript of the shorthand or other record to be made available for purchase by that person at a reasonable price.

(11) Subject to paragraph (12) below, the member or members of the CAA who have heard the case shall decide whether the airport operator is failing to comply or has failed to comply with any condition in contravention of article 30(1) of the Order, and, if so, what action to take under article 39 of the Order. A copy of the decision and of the reasons for it shall be served on the parties to the case.

(12) The CAA may refrain from furnishing a statement of its reasons to any party to the case or may exclude matter from a statement if it considers it necessary to do so for the purpose of withholding from the relevant person information which in the opinion of the CAA relates to the commercial or financial affairs of another person and cannot be disclosed to the relevant person without disadvantage to the other person which, by comparison with the advantage to the public and the relevant person of its disclosure to him, is unwarranted.

Enforcement of compliance orders

14.—(1) Where the CAA, pursuant to article 40(9) of the Order, proposes to revoke a permission to levy airport charges, it shall serve on the airport operator notice of its proposal, together with a statement of the respects in which it appears to the CAA that the airport operator has contravened a

compliance order and of the grounds on which it appears to the CAA that he is unlikely to comply with it in the immediate future.

(2) A decision to revoke a permission may be taken only by two members of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within two months of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

(3) Where an airport is managed by the same airport operator as managed it when a permission to levy airport charges was revoked, a decision again to grant a permission shall be taken only by two members of the CAA after considering any written or oral representations served on or made to the CAA by the airport operator. If after considering any such representations it is decided not to grant a permission, the CAA shall serve on the airport operator a statement of its reasons for thinking that, if any condition corresponding to the one whose breach gave rise to the compliance order were imposed, he would not comply with it.

Breach of accounts condition

15.—(1) Where the CAA proposes to impose a condition pursuant to article 41(3) of the Order, it shall serve on the airport operator notice of the condition it intends to impose.

(2) A decision whether to impose such a condition and, if so, as to the form of the condition to be imposed, shall be taken only by a member of the CAA after considering any written representations which the airport operator has served on the CAA within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

Supplementary provisions relating to conditions

16.—(1) Where the CAA proposes to extend the period during which a condition is to remain in force, it shall serve notice of its proposal, and of the reasons for it, on the airport operator.

(2) A decision whether to extend the period during which a condition is to remain in force shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within two months of the date of service of the notice given by the CAA pursuant to paragraph (1) above.

Associated companies of airport operators

17. Where pursuant to article 46 of and Schedule 6 to the Order the CAA proposes to impose or has imposed and not revoked subsidiary conditions in respect of an airport, these Regulations shall apply as if references to conditions included references to subsidiary conditions and references to the airport operator included, in relation to action taken by the CAA in respect of subsidiary conditions, references to any associated company of the airport operator to which a subsidiary condition relates or would relate if it were imposed.

Procedural irregularities

18. The failure of the CAA to give notice or publish any particulars in the time or manner provided for in the Order or in these Regulations or any other procedural irregularity shall not invalidate the action taken by the CAA; and the CAA may, and shall if it considers any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by the giving of notice or otherwise.

Directions by the Secretary of State

19. Nothing in these Regulations shall apply where the CAA does a particular thing or refrains from doing a particular thing pursuant to a direction given by the Secretary of State under section 6 of the 1982 Act.

Signed by authority of the Secretary of State for Transport

1st September 1995

Goschen
Parliamentary Under Secretary of State,
Department of Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations prescribe:

1. Procedures to be followed by the Civil Aviation Authority in exercising its functions in relation to the economic regulation of airports under Part IV of the Airports (Northern Ireland) Order 1994 (regulations 6 to 19);
2. the manner in which notices are to be published by the CAA (regulation 3);
3. the periods within which (a) the CAA is required to grant an application for permission to levy airport charges; (b) an airport operator may be allowed to comply with a requirement to produce documents; and (c) an airport operator may object to a proposal to impose a discretionary condition in respect of an airport; (regulation 4) and
4. the manner in which documents are to be served under the Regulations and under Part IV of the Order (regulation 5).