
STATUTORY INSTRUMENTS

1998 No. 2918

CIVIL AVIATION

The Airports (Groundhandling) (Amendment) Regulations 1998

Made - - - - *24th November 1998*
Laid before Parliament *3rd December 1998*
Coming into force - - *31st December 1998*

The Secretary of State for the Environment, Transport and the Regions, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to air transport, in exercise of the powers conferred by that section, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1. These Regulations may be cited as the Airports (Groundhandling) (Amendment) Regulations 1998 and shall come into force on 31st December 1998.

2. The Airports (Groundhandling) Regulations 1997⁽³⁾ shall be amended in accordance with the following provisions of these Regulations.

3. In regulation 2—

- (a) in paragraph (1), in the definition of “supplier of groundhandling services”, for the words “and 27(1)(b)” there shall be substituted the words “and 26(1)(b)”, and
- (b) paragraph (3) shall be omitted.

4. For regulation 13, there shall be substituted the following regulation—

“13.—(1) This regulation applies where the CAA has made a determination pursuant to regulation 10(1) or regulation 11(1) or where it has made a determination pursuant to regulation 11(13) which renews a determination made pursuant to regulation 11(1).

(2) The managing body of an airport may—

- (a) itself provide groundhandling services without being subject to the selection procedure laid down in regulation 12, and
- (b) authorise another person to provide groundhandling services at the airport concerned without submitting that person to the said procedure where—
 - (i) it controls that person directly or indirectly, or

(1) S.I. 1993/2661.
(2) 1972 c. 68.
(3) S.I. 1997/2389.

(ii) that person controls it directly or indirectly.

(3) Where the managing body of an airport or a person authorised by that body provides groundhandling services pursuant to paragraph (2) above, that managing body or authorised person shall be one of the number of suppliers specified in accordance with regulation 10(2)(c) or regulation 11(3)(c), as the case may be.”.

5. In regulation 14, for paragraph (4), there shall be substituted the following paragraphs—

“(4) On its own proposal or on an application made to it by—

- (a) the managing body of the airport concerned,
- (b) the person for whom has been reserved the management of the centralised infrastructures in question, where that person is not the managing body of the airport concerned,
- (c) a supplier of groundhandling services, or
- (d) an airport user,

the CAA may vary from time to time or revoke a determination made pursuant to paragraph (1) above.

(5) Where an application is made pursuant to paragraph (1) above or where an application or proposal is made pursuant to paragraph (4) above, the provisions of Schedule 1 to these Regulations, in so far as they relate to such applications, or, as the case may be, proposals, shall apply.”.

6. For regulation 21, there shall be substituted the following regulation—

“**21.**—(1) The functions of the CAA to which this paragraph applies shall not be performed by any person other than a member of the CAA.

(2) The functions of the CAA to which paragraph (1) applies are—

- (a) making, varying, revoking or renewing a determination following an application to which Schedule 1 to these Regulations applies where an objection has been served pursuant to paragraph 10 of that Schedule;
- (b) making, varying, revoking or renewing a determination pursuant to these Regulations in terms other than those requested by the applicant;
- (c) refusing to make, vary, revoke or renew a determination pursuant to these Regulations;
- (d) selecting a supplier of groundhandling services pursuant to regulation 12(7)(b);
- (e) prohibiting a supplier of groundhandling services or an airport user from supplying groundhandling services or, as the case may be, self-handling pursuant to regulation 15(1);
- (f) revoking an appointment of an independent examiner pursuant to regulation 18(2);
- (g) determining an appeal to the CAA made pursuant to Part I of Schedule 2 to these Regulations.

(3) Any other function which the CAA is required to perform under these Regulations may be performed only by a member or an employee of the CAA.”.

7. In regulation 24(2), for the words “the statutory maximum”, there shall be substituted the words “level 5 on the standard scale”.

8. After regulation 26, there shall be added the following regulation—

“Miscellaneous

27.—(1) Section 4 of the Civil Aviation Act 1982⁽⁴⁾ shall not apply in relation to the performance by the CAA of its functions under these Regulations.

(2) Nothing contained in either Part IV of the Airports Act 1986⁽⁵⁾ or Part IV of the Airports (Northern Ireland) Order 1994⁽⁶⁾, and nothing which is done under either of those Parts, shall prejudice or affect the operation of the provisions contained in these Regulations.”.

9. In Schedule 1—

- (a) in paragraph 1(a), the words “, subject to paragraph 3 below,” shall be omitted;
- (b) in paragraph 3, after the words “and (13), 14(1)” there shall be inserted the words “and (4)”;
- (c) after paragraph 5, there shall be inserted the following paragraph—

“**5A.** Where, pursuant to regulation 14(4), the CAA proposes to revoke or vary a determination made pursuant to regulation 14(1), it shall serve on—

- (a) the managing body of the airport concerned, and
- (b) the person for whom has been reserved the management of the centralised infrastructures in question, where that person is not the managing body of the airport concerned,

notice of the proposal together with the reasons for it.”;

- (d) in paragraph 7, after the words “paragraph 5”, there shall be inserted the words “or paragraph 5A”;
- (e) for paragraph 11, there shall be substituted the following paragraph—

“**11.**—(1) Before the date fixed for the hearing of an application pursuant to paragraph 12 below, and subject to sub-paragraphs (2) and (3) below, the CAA shall serve on any person who has the right to be heard in connection with the application or whom the CAA proposes to hear a copy of, or a summary of, any information in the possession of the CAA which has been provided in connection with the application or which the CAA has reason to believe will be referred to at the hearing of the application.

(2) Before serving any information provided by a supplier the CAA shall consult that supplier.

(3) If, having consulted the supplier, the CAA is of the opinion that both—

- (i) the information concerned relates to the commercial or financial affairs of the supplier, and
- (ii) the supplier would be more prejudiced if the information were disclosed than would be the public or the prospective recipient if the information were not disclosed,

then the CAA shall not serve the information.

(4) In this paragraph, “supplier” means a person who has provided to the CAA information in connection with an application to which the provisions of this Schedule apply.”;

(4) 1982 c. 16.

(5) 1986 c. 31.

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

- (f) in paragraph 14(b), after the words “regulation 10(8)”, there shall be inserted the words “or regulation 14(4)”.

10. Part I of Schedule 2 shall be amended as follows—

- (a) for paragraph 2, there shall be substituted the following paragraph—

“**2.** The appellant shall serve the notice of appeal on—

- (a) the CAA, and
- (b) the managing body of the airport concerned, and
- (c) in the case of an appeal against a decision of the managing body of an airport made pursuant to regulation 12(7)(a), the persons named in the notice published by the CAA pursuant to regulation 12(15) as the persons selected to supply groundhandling services, and
- (d) in the case of an appeal against a decision or individual measure taken, pursuant to regulation 16, by the public authority or other body controlling the airport, that authority or body.”;

- (b) for paragraphs 4 and 5 there shall be substituted the following paragraphs—

“**4.—(1)** Where a notice of appeal is served on the CAA pursuant to paragraph 2(a) above, the CAA shall serve on each of the parties to the appeal a notice requiring each such party within 7 days after receiving the notice from the CAA to inform the CAA whether he requires an oral hearing of the appeal.

(2) If any person on whom a notice is served by the CAA pursuant to paragraph 4(1) above informs the CAA that he requires an oral hearing, then—

- (a) the CAA shall immediately serve on each of the parties to the appeal a notice stating that there will be an oral hearing, and
- (b) paragraph 5A below shall not apply.

(3) If no person informs the CAA within the period of 7 days referred to in paragraph 4(1) above that he requires an oral hearing, then the CAA shall serve on each of the parties to the appeal a notice stating that the appeal will be conducted by written representation, in which case paragraph 5A below shall apply.

(4) No oral hearing of an appeal shall be held pursuant to this paragraph unless the CAA has served on each of the parties to the appeal not less than 14 days' notice of the date, time and place of the hearing, and the notice shall clearly identify the appeal to which it relates; a similar notice shall be published not less than 7 days before the date of the hearing and shall be exhibited in a public place in the CAA's principal office during the 7 days immediately preceding the date of the hearing.

5.—(1) Hearings of appeals shall be conducted by the CAA, sitting with such employees of the CAA acting as advisers as it thinks fit.

(2) At a hearing each of the parties to the appeal 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 any other party to the appeal and any witnesses produced by any such party.

(3) Every hearing shall be held in public unless the CAA otherwise decides in relation to the whole or part of a particular appeal, but nothing in this sub-paragraph shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such.

(4) Subject to sub-paragraphs (5) and (6) below, all the proceedings at a hearing of the CAA in connection with the appeal shall be recorded by a shorthand writer or by some other means, and if any person requests a record of the proceedings 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.

(5) The CAA shall not be required to make available a mechanical recording or transcript of the record of the proceedings at any time after the expiry of one year from the day of publication of its decision on the appeal.

(6) A mechanical recording or transcript of the record of proceedings conducted otherwise than in public shall only be required to be made available for purchase by each of the parties to the appeal.

5A.—(1) Where a person receives a notice of appeal pursuant to paragraph 2(b), 2(c) or 2(d) above, that person shall, within 14 days after receiving a notice pursuant to paragraph 4(3) above,—

- (a) serve on the CAA any submission which that person may wish to make in connection with the appeal, and
- (b) serve on each of the other parties to the appeal a copy of that submission.

(2) Within 14 days after receiving a copy of the submission referred to in paragraph 5A(1) above, each of the other parties to the appeal—

- (a) shall serve on the CAA any reply he may wish to make to any such submission, and
- (b) shall serve on all other parties to the appeal a copy of any such reply.”;

(c) in paragraph 6—

- (i) for the words “the appellant or the person who took the decision or individual measure concerned” there shall be substituted the words “any of the parties to the appeal”, and
- (ii) for the words “the appellant, or as the case may be, that person” there shall be substituted the words “the other parties to the appeal”;

(d) for paragraph 9 there shall be substituted the following paragraph—

“9. The CAA shall notify each of the parties to the appeal of its determination and the reasons for it.”;

(e) after paragraph 11, there shall be added the following paragraph—

“12. In this Part of this Schedule “parties to the appeal” means—

- (a) the appellant, and
- (b) the persons (other than the CAA) on whom a notice of appeal is served in accordance with paragraph 2 above.”.

11. Part II of Schedule 2 shall be amended as follows—

(a) in paragraph 1, after the word “determination”, there shall be inserted the words “or decision”;

(b) for paragraph 2, there shall be substituted the following paragraph—

“2. The appellant shall serve the notice of appeal on—

- (a) the Secretary of State, and
- (b) the CAA, and

- (c) where it is not the appellant, the managing body of the airport concerned, and
 - (d) in the case of an appeal against a determination of the CAA made pursuant to regulation 9(1), the persons named in the notice published by the CAA pursuant to paragraph 15 of Schedule 1 to these Regulations as the persons selected to exercise the right to self-handle in relation to the airside services to which the determination relates, and
 - (e) in the case of an appeal against a decision of the CAA taken pursuant to regulation 12(7)(b), the persons named in the notice published by the CAA pursuant to regulation 12(15) as the persons selected to supply groundhandling services.”;
- (c) in paragraph 3, for the words “the determination concerned” to “notice of the decision” inclusive, there shall be substituted the words “the determination or decision concerned”;
- (d) for paragraph 4 there shall be substituted the following paragraph—
- “4.—**(1) Where a person receives a notice of appeal pursuant to paragraph 2(b), 2(c), 2(d) or 2(e) above, that person shall, within 14 days after receiving such notice—
- (a) serve on the Secretary of State any submission which that person may wish to make in connection with the appeal, and
 - (b) serve on each of the other parties to the appeal a copy of that submission.
- (2) Within 14 days after receiving a copy of the submission referred to in paragraph 4(1) above, each of the other parties to the appeal—
- (a) shall serve on the Secretary of State any reply he may wish to make to any such submission, and
 - (b) shall serve on all other parties to the appeal a copy of any such reply.”;
- (e) paragraph 5 shall be omitted;
- (f) in paragraph 6—
- (i) for the words “the appellant or any person described in paragraph 2 above” there shall be substituted the words “any of the parties to the appeal”, and
 - (ii) for the words “the appellant or, as the case may be, any such person” there shall be substituted the words “the other parties to the appeal”;
- (g) in paragraph 9, for the words “the appellant, the CAA and, where it is not the appellant, the managing body of the airport concerned” there shall be substituted the words “each of the parties to the appeal”;
- (h) after paragraph 11, there shall be added the following paragraph—
- “12.** In this Part of this Schedule “parties to the appeal” means—
- (a) the appellant, and
 - (b) the persons (other than the Secretary of State) on whom a notice of appeal is served in accordance with paragraph 2 above.”.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

24th November 1998

Glenda Jackson
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

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 amend the Airports (Groundhandling) Regulations 1997, [S.I. 1997/2389](#), (“the 1997 Regulations”) which implement Council Directive 96/67 EC of 15th October 1996 on access to the groundhandling market at Community airports (O.J. No. L 272, 25.10.96, p. 36). The amendments make drafting and procedural changes. The principal provisions are as follows–

1. Regulation 13 of the 1997 Regulations is replaced by a new regulation which provides for the circumstances in which a managing body of an airport or a person authorised by that body shall be included in the limited number of suppliers of groundhandling services specified in accordance with regulations 10(2)(c) or 11(3)(c) of the 1997 Regulations. (Regulation 4.)

2. Regulation 14 of the 1997 Regulations (reservation of centralised infrastructures) is amended to enable the CAA to vary or revoke a determination made pursuant to regulation 14(1). (Regulation 5.)

3. Regulation 21 of the 1997 Regulations is replaced by a new regulation which describes those functions of the CAA under the 1997 regulations which may only be performed by a member of the CAA. (Regulation 6.)

4. A new regulation, regulation 27, is added, first, to make clear that nothing contained in or done under Part IV of the Airports Act 1986 or Part IV of the Airports (Northern Ireland) Order 1994 shall prejudice or affect the operation of the 1997 Regulations and, secondly, to re-enact regulation 21(2) of the 1997 Regulations. (Regulation 8.)

5. Schedule 1 is amended, first, as a consequence of the amendment to regulation 14 of the 1997 Regulations, and secondly, to enable the CAA to withhold certain information provided in connection with an application to which the provisions of that Schedule apply. (Regulation 9.)

6. Part I of Schedule 2 of the 1997 Regulations is amended to provide, amongst other things, for an oral appeal to be held by the CAA following a decision made pursuant to regulations 7, 12 or 16 of the 1997 Regulations. (Regulation 10.)

7. Part II of Schedule 2 of the 1997 Regulations is amended to provide, amongst other things, for the appellant in an appeal against a decision of the CAA under regulation 12(7)(b), relating to the selection of the supplier of groundhandling services, to serve notice of appeal on the person so selected. (Regulation 11.)