

2003 No. 1742

CIVIL AVIATION

The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003

Made - - - - - *12th July 2003*

Laid before Parliament *16th July 2003*

Coming into force - - *6th August 2003*

The Secretary of State for Transport, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to air transport(b), in exercise of the powers conferred by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003 and shall come into force on 6th August 2003.

Interpretation

2. In this Order—

“airport operator” has the meaning given in section 82(1) of the Airports Act 1986(c);

“Annex 16” means the third edition of Volume 1, Part II of Annex 16(d) of the Convention on International Civil Aviation(e);

“balanced approach” means an approach under which there is consideration of the available measures to address the noise problem at an airport, namely the foreseeable effect of a reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions;

“city airport” means an airport listed in Schedule 1;

“civil subsonic jet aeroplane” means an aeroplane with either—

- (i) a maximum certificated take-off mass of 34,000 kilograms or more, or
- (ii) a maximum internal accommodation of more than 19 passenger seats excluding seats for crew only;

“competent authority” in relation to a relevant airport means the authority specified in regulation 4;

(a) 1972 c. 68.

(b) S.I. 1993/2661.

(c) 1986 c. 31; to which there are amendments not relevant to these Regulations.

(d) The Third Edition of Annex 16 incorporates Amendments 1-4; Amendment 5 was adopted on 19th March 1997; Amendment 6 was adopted on 26th February 1999; Amendment 7 was adopted on 29th June 2001. Amendments 5 to 7 have been referred to here because they were adopted before the passing of Directive 2002/30/EC of the European Parliament and of the Council of 26th March 2002 on the establishment of rules and procedures with regard to the introduction of noise related restrictions at Community airports (OJ L85, 28.3.02 p. 40), the requirements of which are implemented by the Regulations.

(e) The Convention on International Civil Aviation, opened for signature at Chicago on 7th December 1944, Annex 16, Volume 1, Third Edition (July 1993), which may be obtained from Airplan Flight Equipment Limited, of 1A, Ringway Trading Estate, Shadowmoss Road, Manchester, M22 5LH.

“developing country” means a country on the United Nations Development Programme list or the Organization for Economic Co-operation and Development list which is identified in the European Commission Final Report of November 2001(a);

“environmental objective”, in relation to an airport, means an objective set by a competent authority in support of one or more of the following objectives—

the promotion of the development of airport capacity in harmony with the environment, facilitating any specific noise abatement objectives at that airport,

achieving maximum environment benefit in the most cost-effective manner,

limiting or reducing the number of people significantly affected by aircraft noise;

“EPNdB” means Effective Perceived Noise in decibels;

“Lden” means day-evening-night noise indicator, which is the noise indicator for overall annoyance as further defined in Annex I of Directive 2002/49 of the European Parliament and of the Council of 25th June 2002 relating to the assessment and management of environmental noise(b);

“Lnight” means night-time noise indicator, which is the noise indicator for sleep disturbance as further defined in Annex I of Directive 2002/49 of the European Parliament and of the Council of 25th June 2002 relating to the assessment and management of environment noise;

“marginally compliant aircraft” means civil subsonic jet aeroplanes, that meet the certification limits, as laid down in Chapter 3 of Annex 16, by a cumulative margin of not more than 5 EPNdB, whereby the cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins at each of the three reference noise measurement points as defined in Chapter 3 of Annex 16;

“movement” means either a take off or a landing;

“operating restrictions” means noise related action that limits or reduces access of civil subsonic jet aeroplanes to an airport, and includes actions which are aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as limitations of a partial nature affecting the operation of civil subsonic aeroplanes according to time period;

“relevant airport” means an airport to which these Regulations apply;

“scheduling conference” means a meeting between the airport operator, aircraft operators and other interested persons at which the schedules for the relevant scheduling-period are decided; and

“scheduling-period” means either the summer or winter season as used in the schedules of air carriers.

Application

3. These Regulations shall apply to city airports and to any other civil airports which are within the United Kingdom and have more than 50,000 movements of civil subsonic jet aeroplanes per calendar year, taking into consideration the average of the last three calendar years before the application of the rules contained in these Regulations to the airport in question.

Competent authorities

4.—(1) In the case of a relevant airport that is designated for the purposes of section 78 of the Civil Aviation Act 1982(c), the Secretary of State shall be the competent authority in respect of all matters provided for by notice under that section and the airport operator shall be the competent authority in respect of all other matters for the purposes of these Regulations.

(2) In the case of a relevant airport not so designated the competent authority for the purposes of these Regulations shall be the airport operator.

(a) EC Final report dated November 2001 (Annex 2 pp. 54-57) Study on the impact on developing nations from the effects of European Community aircraft noise legislation, published by the Transport Research Laboratory. (TRL Limited), of Old Wokingham Road, Crowthorne, Berkshire, RG45 6AU.

(b) OJ L189, 18.7.02, p. 12.

(c) 1982 c. 16 to which there are amendments not relevant to these Regulations.

General Rules

- 5.—(1) The competent authority for a relevant airport—
- (a) shall for the purposes of dealing with noise problems at that airport adopt a balanced approach;
 - (b) may consider economic incentives as a noise management measure;
 - (c) shall not impose a measure or a combination of measures which are more restrictive than is necessary to achieve the environmental objective established for the airport by that authority in accordance with paragraph (4);
 - (d) shall not discriminate on grounds of the nationality or the identity of the air carrier or the aircraft manufacturer.

(2) When considering operating restrictions as a means to reduce or limit the aeroplane noise at a relevant airport, the competent authority shall take into account the likely costs and benefits of the various measures available as well as airport-specific characteristics.

(3) When adopting operating restrictions at a relevant airport based on an aircraft's noise performance, the competent authority shall base those restrictions on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Annex 16.

(4) Before adopting any measures under these Regulations to deal with noise problems at a relevant airport the competent authority shall establish and publish an environmental objective for that airport.

Rules on assessment

6.—(1) When considering a decision on operating restrictions at a relevant airport the competent authority shall take into account the matters specified in Schedule 2 to these Regulations in so far as it is appropriate and possible to do so in respect of the operating restrictions concerned and of the characteristics of the airport.

(2) Where an airport project is subject to an environmental impact assessment under Council Directive 85/337 of 27th June 1985 on the assessment of the effects of certain public and private projects on the environment^(a) and that assessment has so far as possible taken into account the matters specified in Schedule 2 to these Regulations, the assessment shall be considered as meeting the requirements of paragraph (1).

(3) In a case where—

- (a) operating restrictions were established at an airport before 28th March 2002 and continue in existence, or
- (b) the competent authority determines that technical changes to operating restrictions of a partial nature are minor and do not have any significant cost implications for the airline operators, and have been introduced at an airport after 28th March 2002,

the competent authority shall not be required to apply the provisions of paragraph (1).

Rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aircraft

7.—(1) If the assessment of all available measures, including operating restrictions of a partial nature, carried out in relation to a relevant airport in conformity with the requirements of regulation 6(1) demonstrates that the achievement of any environmental objective for that airport requires it, the competent authority for that airport shall introduce the following operating restrictions aimed at the withdrawal of marginally compliant aircraft:

- (a) Six months from the date of the decision to introduce an operating restriction, no services over and above those operated in the corresponding period of the previous year shall be allowed with marginally compliant aircraft at that airport; and
- (b) Twelve months from the date of the decision to introduce operating restrictions, the competent authority may require each aircraft operator to reduce the number of movements of his marginally compliant aircraft at that airport by an annual rate of not more than 20% of the total number of movements of his marginally compliant aircraft at the time of the introduction of operating restrictions.

(a) OJ L 175, 5.7.1985 p. 40 (as amended by Council Directive 97/11/EC OJ L73, 14.3.1997, p. 5).

(2) Subject to the rules on assessment in regulation 6, the competent authority at a city airport may introduce measures which are more stringent in terms of the definition of marginally compliant aircraft provided that these measures do not affect civil subsonic jet aeroplanes that comply, either through original certification or recertification, with the noise standards in Chapter 4 of Annex 16.

Exemption for aircraft registered in developing countries

8. A marginally compliant aircraft registered in a developing country shall for a period of 10 years from the 28th March 2002 be exempted from any operating restrictions introduced at a relevant airport by the competent authority under regulation 7 provided that such an aircraft—

- (a) had—
 - (i) been granted noise certification to the standards specified in Chapter 3 of Annex 16; and
 - (ii) been used at that airport between 1st January 1996 and 31st December 2001; and
- (b) was between 1st January 1996 and 31st December 2001 on the register of the same developing country as the one with which it is currently registered and continues to be operated by a person established in that country.

Exemption for aircraft operations of an exceptional nature

9. The competent authority for a relevant airport may, in individual cases, authorise a marginally compliant aircraft to land at and take off from that airport, as part of an individual operation, where operating restrictions have been introduced by that authority under these Regulations which would otherwise preclude it, if it appears to him that—

- (a) the individual operation is of such an exceptional nature that it would be unreasonable to withhold a temporary exemption under this regulation; or
- (b) the aircraft operation is a non-revenue flight for the purpose of alteration, repair or maintenance.

Consultation and Transparency

10. The competent authority for a relevant airport shall consult interested parties on the application of regulations 6 and 7 to that airport allowing a reasonable time in each case for their opinions to be taken fully into account before it reaches its decision.

Prior notice

11.—(1) The competent authority for a relevant airport shall, where he intends to introduce any new operating restrictions at that airport, in accordance with the time limits prescribed in paragraph (2), publish this intention by way of public notice to all interested parties, as well as his explanation of the reasons for introducing those operating restrictions taking into account the appropriate elements of the balanced approach.

- (2) The prescribed periods for publication of a notice under paragraph (1) are—
 - (a) in the case of a measure under regulation 7(1)(a) six months before it comes into force, or two months before the scheduling conference for the relevant scheduling period (whichever is the earlier);
 - (b) in the case of a measure under regulation 7(1)(b) or 7(2) twelve months before it comes into force, or two months before the scheduling conference for the relevant scheduling period (whichever is the earlier).

Right of Appeal

- 12. Every person affected by—
 - (a) a determination made by a competent authority under regulation 6(3)(b) or
 - (b) a decision made by a competent authority to introduce operating restrictions or measures under regulation 7,

shall have a right of appeal to arbitration by an independent arbitrator, agreed between the parties; or, in the absence of such agreement, to an arbitrator appointed by the President of the Chartered Institute of Arbitrators^(a) on the application of either party. Any such right shall be exercisable within three months of the publication of the determination or decision by the competent authority. The decision of the arbitrator shall be final and binding on the parties.

Provision of information

13. An airport operator that is a competent authority shall, in response to a request made by the Secretary of State, supply to him such information as he may require in order to enable him to comply with the United Kingdom's obligations under Article 14 of Directive 2002/30/EC of the European Parliament and of the Council of 26th March 2002 on the establishment of rules and procedures with regard to the introduction of noise related restrictions at Community airports^(b).

Signed by authority of the Secretary of State for Transport

12th July 2003

Tony McNulty,
Parliamentary Under-Secretary of State,
Department for Transport

(a) The address of the Chartered Institute of Arbitrators is: International Arbitration & Mediation Centre, 12, Bloomsbury Square, London, WC1A 2LP.
(b) OJ L85, 28.3.02, p. 40.

SCHEDULE 1

Regulation 2

List of City Airports

Belfast City

London City

SCHEDULE 2

Regulation 6

Matters to be taken into account when considering operating restrictions at a relevant airport

1. Current Inventory.

1.1 A description of the airport including information about its capacity, location, surroundings, air traffic volume and mix and runway mix.

1.2 A description of the environmental objectives for the airport and the national context.

1.3 Details of noise contours for the current and previous years—including an assessment of the number of people affected by aircraft noise. Description of the computational method used to develop the contours.

1.4 A description of measures to reduce aircraft noise already implemented: for example, information on land use planning and management; noise insulation programmes; operating procedures such as PANS-OPS; operation restrictions such as noise limits, night flying restrictions; noise charges; preferential runway use, noise preferred routes/track-keeping, and noise monitoring.

2. Forecast without new measures.

2.1 Descriptions of airport developments (if any) already approved and in the programme, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.

2.2 In case of airport capacity extension, the benefits of making that additional capacity available.

2.3 A description of effect on noise climate without further measures.

2.4 Forecast noise contours—including an assessment of the number of people likely to be affected by aircraft noise—distinguish between established residential areas and newly constructed residential areas.

2.5 Evaluation of the consequences and possible costs of not taking action to lessen the impact of increased noise—if it is expected to occur.

3. Assessment of additional measures.

3.1 Outline of additional measures available as part of the different options mentioned in regulation 5(1) and in particular an indication of the main reasons for their selection. Description of those measures chosen for further analysis and fuller information on the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.

3.2 Assessment of the cost/effectiveness or cost/benefit of the introduction of specific measures, taking account of the socio-economic effects of the measures on the users of the airport: operators (passenger and freight); travellers and local communities.

3.3 An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.4 Reasons for selection of the preferred option.

3.5 A non-technical summary.

4. Relation with the Directive of the European Parliament and of the Council on the assessment and management of environmental noise of 25th June 2002.

4.1 When and where noise maps or action plans have been prepared under the terms of the said Directive of 25th June 2002 these will be used for providing the information required in this Schedule.

4.2 The assessment of noise exposure (i.e. establishment of noise contours and number of people affected) shall be carried out using at least the common noise indicators Lden and Lnight, where available.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement into UK law the provisions of Directive 2002/30 of the European Parliament and of the Council^(a), on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at UK airports.

They apply to city airports (listed in Schedule 1 to the Regulations) and to other civil airports within the United Kingdom which have more than 50,000 take-offs or landings of civil subsonic jet aeroplanes per calendar year (taking into consideration the average of the last three calendar years before the application of the Regulations to the airport in question).

The ‘competent authority’ will be the airport operator, except where the airport is designated under section 78 of the Civil Aviation Act 1982. In such cases the competent authority will be the Secretary of State in respect of all matters provided for by notice under that section; the airport operator will be the competent authority in respect of all other matters for the purposes of the Regulations. The competent authority is required, when addressing noise problems at the airport, to publish an environmental objective for the airport. In dealing with the problems he must adopt a balanced approach which may also include economic incentives, but which shall not impose measures which are more restrictive than necessary to achieve the environmental objective, and shall not discriminate on grounds of the nationality or identity of the air carrier or manufacturer; the balanced approach may also include operating restrictions. Where operating restrictions are proposed to reduce or limit aeroplane noise, these must be based on the certification procedure under Annex 16 of the Third Edition of July 1993 of the Convention on International Civil Aviation, incorporating amendments 1 to 7 of that document.

The Regulations lay down rules of assessment applicable prior to any decision to impose operating restrictions. Where operating restrictions are found to be necessary they are to be aimed at the withdrawal of aircraft which comply with the certification standard in Chapter 3 of the Third Edition of Annex 16 of the Convention on International Civil Aviation (ICAO) by a cumulative margin of not more than 5 effective perceived noise decibels. Competent authorities at city airports may impose more stringent definitions of marginally compliant aircraft, if necessary, provided that they do not affect aircraft which comply with the noise standards in Chapter 4 of the ICAO document.

There is provision, in certain circumstances, for exemptions for aircraft registered in developing countries and also for aircraft operations of an exceptional nature.

(a) OJ L85, 28.3.02, p. 40.

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**The Aerodromes (Noise Restrictions) (Rules and
Procedures) Regulations 2003**

£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1742 8/2003 131006 19585

ISBN 0-11-047026-5



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