
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [2009/12/EC](#) of the European Parliament and of the Council of the European Union of 11th March 2009 on airport charges (“the Airport Charges Directive”).

Part 1 contains preliminary provisions. Regulation 2 requires the Secretary of State to review the operation and effect of these Regulations (but not the provisions inserted by Parts 7 and 8) and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke or amend the Regulations.

Part 2 includes provision to establish which are the “regulated airports”, being those airports in respect of which the Regulations are primarily relevant.

Part 3 sets out a framework and a timetable for the provision of information by and between those who manage regulated airports (“regulated airport operators”) and those persons, such as airlines, who are responsible for the carriage of passengers, mail or freight by air to or from the airport. Regulation 7 imposes a requirement on a regulated airport operator to undertake an annual information gathering exercise prior to a consultation process. Regulation 8 imposes a requirement on a regulated airport operator to hold a consultation annually on its airport charges and the associated quality of services provided. Regulation 9 imposes an obligation on a regulated airport operator to hold consultations on the same matters when it proposes a change to charges or services. These consultation obligations may be satisfied simultaneously. Regulations 10 to 12 contain exceptions from the obligations to provide information and consult which would otherwise arise under Part 3.

Part 4 contains rules relating to the process of and basis for setting airport charges. Regulation 15 provides the basis for allocating services and facilities for which there is more demand than can be supplied.

Part 5, with Schedule 1, provides for the imposition of penalties by the CAA for failures by airport users to provide information in the context of the annual consultation on airport charges.

Part 6 contains provision relating to the breach and enforcement of obligations placed on airport operators by these Regulations. Regulation 21 enables the CAA to require, by means of a compliance order, an airport operator to take steps to meet obligations placed on it by the Regulations or to remedy losses arising from a breach. Regulation 22 has the effect that such orders have an equivalent status to orders which may be imposed by the CAA under existing legislation in relation to the broader economic regulation of airports.

Part 7 provides for a mandatory procedure whereby the CAA examines whether airport operators in Great Britain have or are likely to acquire substantial market power. The Secretary of State must designate an airport for the purposes of section 40 of the Airports Act 1986 where this is warranted on the basis of the CAA's examination. An automatic consequence of designation under the 1986 Act is that airport charges are to be determined or capped by the CAA. Part 8 contains equivalent provision for Northern Ireland for which there is separate legislation and where designation decisions are the responsibility of the Department for Regional Development. Part 9 contains miscellaneous provision. The CAA has been nominated as the independent supervisory authority for the purposes of the Airport Charges Directive and in order to provide it with the necessary independence, regulation 29 has the effect that the CAA may not own, operate or manage an airport.

A full impact assessment of the effect that the instrument will have on the costs of business and the voluntary sector has been produced and a copy placed in the library of both Houses of

Changes to legislation: *There are currently no known outstanding effects for the The Airport Charges Regulations 2011. (See end of Document for details)*

Parliament. Copies may be obtained from the Department for Transport, 33 Horseferry Road, London SW1P 4DR. Alternatively, a copy is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk

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