
STATUTORY INSTRUMENTS

1994 No. 426

The Airports (Northern Ireland) Order 1994

PART IV

ECONOMIC REGULATION OF AIRPORTS

References to Commission

References to Commission in relation to imposition or modification of conditions

34.—(1) Where the CAA is, by virtue of Article 31(9) required to make a reference to the Commission under this paragraph in respect of any airport, that reference shall be so framed as to require the Commission to investigate and report on—

- (a) the question as to what are the maximum amounts that should be capable of being levied by the airport operator by way of airport charges at the airport during such period of five years as the CAA may specify in the reference; and
- (b) the questions specified in paragraph (2).

(2) Those questions are—

- (a) whether the airport operator has, at any time during the relevant period, pursued—
 - (i) in relation to any airport charges levied by him at the airport; or
 - (ii) in relation to any operational activities carried on by him and relating to the airport; or
 - (iii) in relation to the granting of a right by virtue of which any operational activities relating to the airport may be carried on by any other person or persons,a course of conduct which has operated or might be expected to operate against the public interest; and
- (b) if so, whether the effects adverse to the public interest which that course of conduct has had, or might be expected to have, could be remedied or prevented by the imposition of any conditions in relation to the airport or by the modification of any conditions already in force in relation to it.

(3) Where the CAA is, by virtue of Article 32(6), authorised to make a reference to the Commission under this paragraph in respect of any airport, that reference shall be so framed as to require the Commission to investigate and report on the questions—

- (a) whether the airport operator has, at any time during the relevant period, pursued the course of conduct referred to in the CAA's notification under Article 32(6); and
- (b) if so, whether any such course of conduct has operated or might be expected to operate against the public interest; and
- (c) if so, whether the effects adverse to the public interest which that course of conduct has had, or might be expected to have, could be remedied or prevented by the imposition of any conditions in relation to the airport or by the modification of any conditions already in force in relation to it.

(4) The CAA may, at any time, by notice given to the Commission vary any reference under paragraph (3) by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receiving such a notice the Commission shall give effect to the variation.

(5) In determining for the purposes of this Article whether any particular matter has operated, or might be expected to operate, against the public interest, the Commission—

- (a) shall have regard to the objectives specified in sub-paragraphs (a) to (d) of Article 30(2); and
- (b) in the case of a matter relating to the granting of a right by virtue of which any operational activities relating to an airport may be carried on by any person or persons, shall in addition have regard to the following objective, namely the furtherance of the reasonable interests of persons granted such rights.

(6) In this Article “the relevant period”—

- (a) in relation to any reference in respect of an airport under paragraph (1), means—
 - (i) in the case of the first reference in respect of that airport under that paragraph, the period of twelve months ending with the date of the reference; and
 - (ii) in the case of any subsequent such reference, the period ending with the date of that reference and beginning with the date of the reference immediately preceding it; and
- (b) in relation to any reference in respect of an airport under paragraph (3), means the period of twelve months ending with the date of the reference.