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STATUTORY INSTRUMENTS

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**1994 No. 426**

**The Airports (Northern Ireland) Order 1994**

**PART IV**

**ECONOMIC REGULATION OF AIRPORTS**

*Permissions*

**Airports subject to economic regulation: requirement for permission to levy airport charges**

**28.**—(1) Where an airport is subject to economic regulation under this Part no airport charges shall be levied at the airport unless—

- (a) they are levied by the airport operator; and
- (b) a permission to levy airport charges is for the time being in force in respect of the airport.

(2) Where the annual turnover of the business carried on at an airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before the date when this Article comes into operation, then (subject to Article 44(3)) the airport shall be subject to economic regulation under this Part as from the end of the period of six months beginning with that date.

(3) Where—

- (a) an airport is not one to which paragraph (2) applies; but
- (b) the annual turnover of the business carried on at the airport by the airport operator exceeded £1 million in the case of at least two of the last three financial years ending before a date later than the date when this Article comes into operation,

the airport shall be subject to economic regulation under this Part as from the end of the period of nine months beginning with that later date.

(4) The following shall not be subject to economic regulation under this Part, namely—

- (a) any airport managed by a subsidiary of the Holding Company (within the meaning of Part V);
- (b) any airport managed by the CAA or by any subsidiary of the CAA; or
- (c) any airport for the time being exempted from economic regulation under this Part by virtue of paragraph (5).

(5) Where at any time the Department is satisfied as respects any airport which is subject to economic regulation under this Part that the annual turnover of the business carried on at the airport by the airport operator did not exceed £1 million in the case of each of the two last financial years ending before that time, it may, after consulting the CAA, determine that the airport shall cease to be subject to economic regulation under this Part as from the date of its determination.

(6) Any such determination may be made by the Department either of its own motion or on the application of the airport operator.

- (7) A determination under paragraph (5) shall not—
- (a) preclude paragraph (3) from applying to the airport in question on a subsequent occasion; or
  - (b) affect any rights or liabilities accruing by virtue of this Part before the determination is made.
- (8) Where any person levies any airport charges in contravention of paragraph (1)—
- (a) he shall not be guilty of an offence by reason only of his contravening that paragraph; but
  - (b) any airport charges so levied shall not be recoverable by him, and, in so far as they have been paid to him, shall be recoverable from him.
- (9) The Department may, by order made with the consent of the Department of Finance and Personnel, substitute for the sum for the time being specified in paragraphs (2), (3) and (5) such greater sum as may be specified in the order.
- (10) Where at the coming into operation of an order under paragraph (9) any airport is, or is due to become, subject to economic regulation under this Part in accordance with paragraph (2) or (3), that paragraph shall continue to apply to the airport notwithstanding any increase in the sum specified in that paragraph effected by the order.
- (11) Any reference in this Article to the business carried on at any airport by the airport operator shall, in a case where the person for the time being having the management of the airport has not had its management for the whole or any part of any period relevant for the purposes of this Article, be construed as including a reference to the business carried on there by any other person who had the management of the airport for the whole or any part of that period.
- (12) In this Article “annual turnover”, in relation to the business carried on at an airport by the airport operator, means the aggregate, as stated or otherwise shown in the accounts of the business, of all sums received in the course of the business during a financial year, including grants from any public body but excluding—
- (a) capital receipts; and
  - (b) loans made by any person.
- (13) In paragraph (12) “public body” means a body established by or under a statutory provision.

### **Grant or refusal of permissions**

**29.**—(1) Where an airport is by virtue of Article 28(2) or (3) due to become subject to economic regulation under this Part at the end of the period of either six or nine months referred to in that provision, the airport operator may, at any time after the beginning of that period, make an application to the CAA for the grant in respect of the airport of a permission to levy airport charges.

- (2) Any such application—
- (a) must be in writing and contain such particulars with respect to such matters as the CAA may specify in a notice published in the prescribed manner; and
  - (b) must be accompanied by such fee as may be specified in a scheme or regulations made under section 11 of the 1982 Act.
- (3) Where an application is made in relation to an airport by the airport operator in accordance with this Article, then, as from the date of the application or the date when the airport becomes subject to economic regulation under this Part (whichever is the later) there shall, by virtue of this paragraph, be deemed for all purposes to be a permission in force under this Part in respect of the airport until such time as—
- (a) the CAA grants a permission in pursuance of the application; or
  - (b) the airport operator is notified by the CAA that it has refused the application.

(4) Where—

- (a) any such application has been so made by an airport operator; and
- (b) he has complied with any requirement to produce any documents, or to furnish any accounts, estimates, returns or other information, to the CAA which the CAA may have imposed on him under this Part for the purpose of enabling it to determine whether, and (if so) what, conditions should be imposed under this Part in relation to the airport in question,

the CAA shall grant the application within such period as may be prescribed.

(5) Where—

- (a) any such application has been so made by an airport operator; but
- (b) he has failed to comply with any such requirement as is mentioned in paragraph (4)(b) within such time as may have been allowed for the purpose,

the CAA may, if it thinks fit, allow him further time (not exceeding such period as may be prescribed) to comply with the requirement; and if he has still not complied with it when that further time expires the CAA shall refuse the application.

(6) The grant or refusal of an application made by an airport operator under this Article shall be notified to him in such manner as may be prescribed.

(7) Any permission granted under this Article in respect of an airport shall come into force on whichever is the later of the following dates, namely—

- (a) the date when it is granted; and
- (b) the date when the airport becomes subject to economic regulation under this Part,

and shall remain in force unless and until it is revoked in pursuance of Article 40(9) or the airport ceases to be subject to economic regulation under this Part by virtue of a determination of the Department under Article 28(5) (and shall so remain in force notwithstanding any change of airport operator).