



# Civil Aviation Act 2012

## 2012 CHAPTER 19

### PART 1

#### AIRPORTS

### CHAPTER 1

#### REGULATION OF OPERATORS OF DOMINANT AIRPORTS

##### *Appeals against licence conditions etc*

#### **24 Appeal to [<sup>F1</sup> Competition and Markets Authority ]: conditions of new licences**

- (1) An appeal lies to the [<sup>F2</sup> Competition and Markets Authority ] against a decision by the CAA under section 15 to include, or not to include, a condition in a licence when it is granted.
- (2) An appeal may be brought under this section only by—
  - (a) the holder of the licence, or
  - (b) a provider of air transport services whose interests are materially affected by the decision.
- (3) An appeal may be brought under this section only with the permission of the [<sup>F2</sup> Competition and Markets Authority ].
- (4) An application for permission to appeal under this section may be made only by a person who, if permission is granted, will be entitled to bring the appeal.
- (5) The [<sup>F3</sup> Competition and Markets Authority ] may refuse permission to appeal under this section only on one of the following grounds—
  - (a) that the appeal is brought for reasons that are trivial or vexatious, or
  - (b) that the appeal does not have a reasonable prospect of success.

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*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 2012, Cross Heading: Appeals against licence conditions etc. (See end of Document for details)*

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#### Textual Amendments

- F1** Words in s. 24 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 141\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 24(1)(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 141\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Words in s. 24(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 141\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Commencement Information

- I1** S. 24 in force at 6.4.2013 by [S.I. 2013/589](#), [art. 2\(1\)-\(3\)](#)

## 25 Appeal to [<sup>F4</sup> Competition and Markets Authority ]: modification of licence conditions

- (1) An appeal lies to the [<sup>F5</sup> Competition and Markets Authority ] against a decision by the CAA to modify a licence condition under section 22.
- (2) An appeal may be brought under this section only by—
  - (a) the holder of the licence, or
  - (b) a provider of air transport services whose interests are materially affected by the decision.
- (3) An appeal may be brought under this section only with the permission of the [<sup>F6</sup> Competition and Markets Authority ].
- (4) An application for permission to appeal under this section may be made only by a person who, if permission is granted, will be entitled to bring the appeal.
- (5) The [<sup>F7</sup> Competition and Markets Authority ] may refuse permission to appeal under this section only on one of the following grounds—
  - (a) that the appeal is brought for reasons that are trivial or vexatious,
  - (b) that the appeal does not have a reasonable prospect of success, or
  - (c) that subsection (6) is satisfied.
- (6) This subsection is satisfied if the appeal is brought—
  - (a) against a decision that relates entirely to a matter remitted to the CAA following an earlier appeal under section 24 or this section, and
  - (b) on grounds that were considered, or could have been raised by the current applicant or a relevant connected person, as part of the earlier appeal.
- (7) In subsection (6), in relation to an applicant, “relevant connected person” means a person who was connected to the applicant at any time during the consideration of the earlier appeal by the [<sup>F8</sup> Competition and Markets Authority ].

#### Textual Amendments

- F4** Words in s. 25 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 142\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in s. 25(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 142\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F6** Words in s. 25(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 142(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 25(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 142(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Words in s. 25(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 142(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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**Commencement Information**

- I2** S. 25 in force at 6.4.2013 by S.I. 2013/589, **art. 2(1)-(3)**

## 26 When appeals may be allowed

The [<sup>F9</sup> Competition and Markets Authority ] may allow an appeal under section 24 or 25 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that an error was made in the exercise of a discretion.

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**Textual Amendments**

- F9** Words in s. 26 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 143**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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**Commencement Information**

- I3** S. 26 in force at 6.4.2013 by S.I. 2013/589, **art. 2(1)-(3)**

## 27 Determination of appeal

- (1) Where it does not allow an appeal under section 24 or 25, the [<sup>F10</sup> Competition and Markets Authority ] must confirm the decision appealed against.
- (2) Where it allows an appeal under section 24 or 25, the [<sup>F11</sup> Competition and Markets Authority ] must do one or more of the following—
  - (a) quash the decision appealed against;
  - (b) remit the matter that is the subject of the decision appealed against to the CAA for reconsideration and decision in accordance with this Chapter and any directions given by [<sup>F12</sup> the Competition and Markets Authority ];
  - (c) substitute its own decision for that of the CAA.
- (3) Where it allows only part of an appeal under section 24 or 25—
  - (a) subsection (2) applies in relation to the part of the decision appealed against in respect of which the appeal is allowed, and
  - (b) subsection (1) applies in relation to the rest of that decision.
- (4) Where the [<sup>F13</sup> Competition and Markets Authority ] substitutes its own decision for that of the CAA, [<sup>F14</sup> the Competition and Markets Authority ] may give directions to—
  - (a) the CAA, and
  - (b) the holder of the licence.

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- (5) The [<sup>F15</sup> Competition and Markets Authority ] must not give a direction under this section that requires a person to do anything that the person would not have power to do apart from the direction.
- (6) A person to whom a direction is given under this section must comply with it.
- (7) A direction given under this section to a person other than the CAA is enforceable—
  - (a) in England and Wales and Northern Ireland, as if it were an order of the High Court, and
  - (b) in Scotland, as if it were an order of the Court of Session.

#### Textual Amendments

- F10** Words in s. 27(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Words in s. 27(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(3)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** Words in s. 27(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(3)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Words in s. 27(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(4)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** Words in s. 27(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(4)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** Words in s. 27(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 144(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Commencement Information

- I4** S. 27 in force at 6.4.2013 by S.I. 2013/589, art. 2(1)-(3)

## 28 Determination of appeal: time limits

- (1) The [<sup>F16</sup> Competition and Markets Authority ] must determine an appeal under section 24 or 25 against a decision in respect of a licence within the period of 24 weeks beginning with the day on which the CAA published the relevant notice, subject to subsections (3) to (6).
- (2) In subsection (1) “the relevant notice” means—
  - (a) in the case of an appeal under section 24, the notice published in accordance with section 15 of the decision to grant the licence, and
  - (b) in the case of an appeal under section 25, the notice published in accordance with section 22 of the decision that is the subject of the appeal.
- (3) The [<sup>F17</sup> Competition and Markets Authority ] may extend the appeal period by not more than 8 weeks if it is satisfied that there are good reasons for doing so.
- (4) The [<sup>F18</sup> Competition and Markets Authority ] may only extend the appeal period once in reliance on subsection (3).
- (5) The [<sup>F19</sup> Competition and Markets Authority ] may extend the appeal period by such period as it considers appropriate if—

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- (a) there is an appeal to the Competition Appeal Tribunal under this Chapter which [F20 the Competition and Markets Authority] considers may be relevant to the appeal under section 24 or 25, and
  - (b) the appeal to the Tribunal has not been determined or withdrawn.
- (6) The [F21 Competition and Markets Authority] may extend the appeal period more than once in reliance on subsection (5).
- (7) If the [F21 Competition and Markets Authority] extends the appeal period it must—
- (a) publish a notice stating the new time limit for determining the appeal, and
  - (b) send a copy of the notice to the persons listed in subsection (8).
- (8) Those persons are—
- (a) the holder of the licence which is the subject of the appeal,
  - (b) if the appeal was brought by someone other than the holder of that licence, the appellant,
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 35(4) of Schedule 2),
  - (d) such bodies representing airport operators or providers of air transport services as the [F21 Competition and Markets Authority] considers appropriate, and
  - (e) the CAA.
- (9) The Secretary of State may by regulations modify the periods of time specified in this section.
- (10) In this section “the appeal period”, in relation to an appeal under section 24 or 25, means the period allowed for determining the appeal.

#### Textual Amendments

- F16** Words in s. 28(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F17** Words in s. 28(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18** Words in s. 28(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F19** Words in s. 28(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(3)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F20** Words in s. 28(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(3)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F21** Words in s. 28(6)-(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 145(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Commencement Information

- I5** S. 28 in force at 6.4.2013 by S.I. 2013/589, art. 2(1)-(3)

## 29 Determination of appeal: publication etc

- (1) A determination made by the [F22 Competition and Markets Authority] on an appeal under section 24 or 25—

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- (a) must be contained in an order made by [<sup>F23</sup> the Competition and Markets Authority ], and
  - (b) takes effect at the time specified in the order or determined in accordance with the order.
- (2) The order must set out the reasons for the determination.
- (3) The [<sup>F24</sup> Competition and Markets Authority ] must—
- (a) publish the order as soon as practicable after the determination is made, and
  - (b) send a copy of the order to the persons listed in subsection (4).
- (4) Those persons are—
- (a) the holder of the licence which is the subject of the appeal,
  - (b) if the appeal was brought by someone other than the holder of that licence, the appellant,
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 35(4) of Schedule 2),
  - (d) such bodies representing airport operators or providers of air transport services as the [<sup>F24</sup> Competition and Markets Authority ] considers appropriate, and
  - (e) the CAA.
- (5) The [<sup>F25</sup> Competition and Markets Authority ] may exclude from publication under subsection (3) any information which it is satisfied is—
- (a) commercial information, the disclosure of which would, or might in the [<sup>F26</sup> opinion of the Competition and Markets Authority ], significantly harm the legitimate business interests of an undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual, the disclosure of which would, or might in the [<sup>F26</sup> opinion of the Competition and Markets Authority ], significantly harm the individual's interests.
- (6) The CAA must take such steps as it considers requisite for it to comply with the order.
- (7) The steps must be taken—
- (a) if a time is specified in the order or is to be determined in accordance with the order, within that time, and
  - (b) otherwise, within a reasonable time.

#### Textual Amendments

- F22** Words in s. 29(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 146\(2\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23** Words in s. 29(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 146\(2\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24** Words in s. 29(3)(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 146\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25** Words in s. 29(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 146\(4\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** Words in s. 29(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 146\(4\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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#### Commencement Information

**I6** S. 29 in force at 6.4.2013 by [S.I. 2013/589](#), [art. 2\(1\)-\(3\)](#)

### 30 Procedure on appeals

- (1) Schedule 2 (appeals under sections 24 and 25) has effect.
- (2) In carrying out the functions listed in subsection (3) the [<sup>F27</sup> Competition and Markets Authority] must have regard to the matters in respect of which duties are imposed on the CAA by section 1.
- (3) Those functions are—
  - (a) deciding an application for permission to appeal under section 24 or 25,
  - (b) deciding an application under Schedule 2 for permission to intervene in an appeal, and
  - (c) determining an appeal under section 24 or 25, including taking decisions and giving directions described in section 27.
- [<sup>F28</sup>(4) Except where specified otherwise in Schedule 2, the functions of the Competition and Markets Authority with respect to an appeal under section 24 or 25 are to be carried out on behalf of the Competition and Markets Authority by a group constituted for the purpose, by the chair of the Competition and Markets Authority, under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

#### Textual Amendments

**F27** Words in s. 30(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 147\(2\)](#); [S.I. 2014/416](#), art. 2(1)(d) (with Sch.)

**F28** S. 30(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 147\(3\)](#); [S.I. 2014/416](#), art. 2(1)(d) (with Sch.)

#### Commencement Information

**I7** S. 30 in force at 6.4.2013 by [S.I. 2013/589](#), [art. 2\(1\)-\(3\)](#)

**Changes to legislation:**

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Heading: Appeals against licence conditions etc.