

1979 No. 514

CIVIL AVIATION

**The Civil Aviation Authority (Fifth Amendment)
Regulations 1979**

Made - - - - 2nd May 1979

**To be Laid before Parliament*

Coming into Operation 30th May 1979

The Secretary of State in exercise of his powers under sections 5(2), 24(3) and 24(6) of the Civil Aviation Act 1971(a) and all other powers enabling him in that behalf, and after consultation with the Council on Tribunals under section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Regulations:—

1. These Regulations may be cited as the Civil Aviation Authority (Fifth Amendment) Regulations 1979 and shall come into operation on 30th May 1979.

2. The Civil Aviation Authority Regulations 1972(c) shall be further amended as follows:—

(1) in regulation 7(2) the word “signed” shall be deleted;

(2) for regulation 8(1) there shall be substituted the following:—

“(1) Subject to paragraph (2) of this regulation, if the Authority proposes to revoke, suspend or vary an air transport licence (otherwise than in pursuance of an application made to it in that regard) on the ground that it is not or is no longer satisfied as to the matters specified in paragraph (a) or (b) of section 23(3) of the Act, it shall:

(a) serve on the holder of the licence not less than 21 days’ notice of its intention to publish particulars of the proposal together with the reasons for its proposal;

(b) consider any representations which may be made to it by the holder of the licence before the expiration of the said notice; and

(c) as soon as may be after the expiration of the said notice or at such earlier time as the Authority and the holder of the licence may agree, publish particulars of the proposal unless it has abandoned the proposal:

Provided that the Authority may:

(i) with the consent of the holder of the licence, dispense with publication of its proposal to revoke or suspend the licence;

(a) 1971 c. 75.

(b) 1971 c. 62.

(c) S.I. 1972/178; relevant amending instrument is S.I. 1976/1026.

*This instrument was laid before Parliament on 9th May 1979

(ii) dispense with publication of its proposal to vary the licence if it is satisfied that the variation is unlikely to prejudice the interests of any persons of a description specified in regulation 14(1) of these Regulations.

(1A) Subject to paragraph (2) of this regulation, if the Authority proposes to revoke, suspend or vary an air transport licence on grounds other than those referred to in paragraph (1) of this regulation and otherwise than in pursuance of an application made to it in that regard or of a direction (including a direction under regulation 16(10) of these Regulations to re-hear a case) given by the Secretary of State, it shall publish particulars of the proposal and of the reasons for it:

Provided that the Authority may with the consent of the holder of the licence, dispense with publication of its proposal to revoke, suspend or vary the licence if it is satisfied that to dispense with publication is unlikely to prejudice the interests of any persons of a description specified in regulation 14(1) of these Regulations.”;

(3) In regulation 8(2) for “paragraph (1) of this regulation” there shall be substituted “paragraph (1) or (1A) of this regulation”;

(4) for regulation 10(1) there shall be substituted the following:—

“(1) Any person may serve on the Authority an objection to or representation about an application or proposal for the grant, revocation, suspension or variation of an air transport licence if he does so:

(a) where the application or proposal is published, within such period (being not more than 21 days nor less than 7 days) as the Authority may specify when publishing the application or proposal;

(b) where the application or proposal is not published, but he has been notified by the Authority that the application or proposal has been made and will not be published, within 72 hours of his being so notified:

Provided that nothing herein shall:

(i) permit the Authority to specify a period of less than 21 days for the service of objections or representations unless it is satisfied that for reasons of urgency it is desirable to do so;

(ii) permit the Authority to specify a period of less than 21 days for the service of objections or representations in a case where it has proposed to revoke, suspend or vary an air transport licence otherwise than in pursuance of an application made to it in that regard or of a direction given by the Secretary of State.”;

(5) in regulation 11 before “such consultations” there shall be inserted “subject to regulation 14(8A) of these Regulations”;

(6) in regulation 12, for the proviso there shall be substituted the following:—

“Provided that—

- (i) the Authority shall not furnish any such information which has been provided by the Secretary of State if the Secretary of State has certified to the Authority that it would not be in the public interest for it to be disclosed;
 - (ii) before furnishing such information which has been provided by any other person or body (not being a person or body who has furnished information in connection with the case but does not wish to be heard), the Authority shall consult that person or body and shall not furnish any information which in its opinion relates to the commercial or financial affairs of the person or body who has provided it and cannot be disclosed to the prospective recipient without disadvantage to the person or body who has provided it which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted.”;
- (7) in regulation 13(2) for “entered an objection or made a representation” there shall be substituted “served an objection or representation”;
- (8) in proviso (i) to regulation 14(3) for “entered an objection or made a representation” there shall be substituted “served an objection or representation” and the words “and in so doing has stated that he wishes to be heard” shall be deleted;
- (9) after regulation 14(7) there shall be inserted the following new paragraph:—

“(7A) Any person who has served an objection or representation pursuant to regulation 10 of these Regulations but who does not wish to be heard, may make a written submission which he shall serve on the Authority not less than 72 hours before the date fixed for the hearing of the case.”;
- (10) after regulation 14(8) there shall be inserted the following new paragraph:—

“(8A) Where any person or body consulted by the Authority pursuant to regulation 11 of these Regulations has responded in writing and a representative of that person or body has attended the whole or part of the hearing, the Authority shall, immediately after hearing the evidence and arguments advanced by the parties to the case and by any person heard by the Authority pursuant to paragraph (3) of this regulation, give that representative an opportunity to say whether he considers that any facts or issues have been raised for the first time at the hearing or in documents submitted since the completion of the consultation. If the Authority considers that any new facts or issues have been so raised it shall, before reaching its decision:—

 - (a) consider any representations on those new facts or issues which that person or body may serve on it within 10 days (or such lesser period as the Authority may specify in a case which it considers to be of compelling urgency);

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- (b) inform the parties to the case and any person heard by the Authority pursuant to paragraph (3) of this regulation of any such representations;
- (c) if so requested by any party to the case or any such person, reconvene the hearing and consider any response which any such party or person may make to the representations.”;
- (11) in regulation 16(6), for “and shall within such period serve copies of any such submission on the Authority and the appellant” there shall be substituted “and shall within such period serve copies of any such submission on the Authority, the appellant and the persons and bodies who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation”;
- (12) in regulation 16(7), for “and shall, within such period, serve copies of any such submission on the appellant” there shall be substituted “and shall within such period serve copies of any such submission on the appellant and on the persons and bodies who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation”;
- (13) at the end of regulation 16(8) there shall be inserted “and shall within such period serve copies of any such submission on the Authority and on the persons and bodies who have been served with notice of the appeal pursuant to paragraph (3)(c), (d) and (e) of this regulation”.

Stanley Clinton Davis,
Parliamentary Under-Secretary of State,
Department of Trade.

2nd May 1979.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Civil Aviation Authority Regulations 1972. In addition to some minor amendments, the following changes are made:—

- (1) The Civil Aviation Authority is no longer required to give the holder of an air transport licence notice of its intention to publish a proposal to revoke, suspend or vary that licence except in cases where the reason for the proposal is that the Authority is no longer satisfied as to the fitness or financial position of the licence holder (Regulation 2(2) and (3)).
- (2) In cases of urgency, the period for submitting objections and representations in respect of an application to grant, revoke, suspend or vary an air transport licence may be reduced to 7 days from the date of publication of the application. Previously 21 days was allowed in all cases unless publication was dispensed with altogether (Regulation 2(4)).
- (3) Information furnished to the Authority by the Secretary of State in connection with an air transport licensing case is no longer to be disclosed by the Authority to the parties if the Secretary of State certifies that disclosure would not be in the public interest (Regulation 2(6)).
- (4) The Civil Aviation Authority is no longer precluded from deciding to hear a person who does not have a right to be heard in an air transport licensing case merely by reason of the fact that in serving his objection or representation he has omitted to state that he wishes to be heard (Regulation 2(8)).
- (5) Any person who has served an objection or representation in an air transport licensing case may make a written submission, if he does not wish to be heard. Any information which he furnishes must be disclosed to the parties to the case (Regulation 2(6) and (9)).
- (6) The Channel Islands Air Advisory Council, the Isle of Man Airports Board and the Secretary of State, in relation to Gibraltar, may now make further representations in an air transport licensing case if new facts or issues are raised after the completion of the consultations conducted under Regulation 11. The parties to the case have a right to respond to any such additional representations (Regulations 2(10)).
- (7) All appeal submissions now have to be copied to all interested parties (Regulation 2(11), (12) and (13)).

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