
STATUTORY INSTRUMENTS

1986 No. 1544

CIVIL AVIATION

The Civil Aviation Authority (Economic Regulation of Airports) Regulations 1986

<i>Made</i>	- - - -	<i>4th September 1986</i>
<i>Laid before Parliament</i>		<i>10th September 1986</i>
<i>Coming into Operation</i>		<i>1st October 1986</i>

The Secretary of State for Transport, in exercise of his powers under section 7(2) of the Civil Aviation Act 1982, as extended by section 36(3) of the Airports Act 1986⁽¹⁾, and under sections 38(2), (4), (5) and (6), 41(6), 48(7) and 51(5) and (7) of the Airports Act 1986, and after consultation with the Council on Tribunals under section 10 of the Tribunals and Inquiries Act 1971, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Civil Aviation Authority (Economic Regulation of Airports) Regulations 1986 and shall come into operation on 1st October 1986.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:

“Accounts condition” means such a condition as is mentioned in section 40(2) of the Act;

“The Act” means the Airports Act 1986;

“Designated airport” means an airport designated for purposes of section 40 of the Act;

“Party to the case” has the meaning assigned to it in regulation 13(1);

“Permission to levy airport charges” means such a permission as is referred to in sections 37 and 38 of the Act;

“Subsidiary condition” has the meaning assigned to it in paragraph 1 of Schedule 1 to the Act.

(2) Any period of time specified in these Regulations by reference to days or months shall be exclusive of the first day and inclusive of the last day unless the last day falls on a Saturday, Sunday, Christmas Day, Good Friday or any day appointed by law to be a Bank Holiday in any part of the United Kingdom, in which case the time shall be reckoned exclusively of that day also.

(1) The date appointed for the coming into force of sections 36 to 51 is 1st October 1986 (S.I. 1986/1487).

Publication by the CAA

3. Any notice or other matter required by these Regulations or by section 38(2) of the Act to be published shall be published by the CAA in its official record.

Prescribed periods

4. The period prescribed for purposes of—
- (a) section 38(4) of the Act is 12 months in the case of an airport which is designated before the application is granted and 3 months in any other case;
 - (b) section 38(5) of the Act is 3 months;
 - (c) sections 41(6) and 51(5) of the Act is 1 month.

Service of documents

5.—(1) Anything required to be notified to or served on any person under these Regulations or under Part IV of the Act shall be set out in a notice in writing which may be served either:

- (a) by delivering it to that person;
- (b) by leaving it at his proper address, or
- (c) by post

and where the person is a body corporate the document may be served on the secretary of that body.

(2) For the purposes of this regulation the proper address of any person shall, in the case of a body corporate, be the registered or principal office of that body or in any other case be the last known address of the person to be served.

Regulation of the conduct of the CAA

6. The functions conferred on the CAA by Part IV of the Act are hereby prescribed for purposes of section 7(2) of the 1982 Act.

Permission to levy airport charges

7.—(1) The CAA shall as soon as may be after an application for permission to levy airport charges has been made to it publish such particulars of the application as it thinks necessary for indicating the substance of the application, and shall make a copy of the application available at its Head Office for inspection by any person at any reasonable time:

provided that nothing in this paragraph shall apply if, before the application is published, the Secretary of State has notified the CAA under section 53 of the Act that he proposes to perform in relation to the airport the CAA's functions under section 38 of the Act.

(2) Subject to regulation 14(3), where the CAA proposes to refuse to grant an application for permission to levy airport charges it shall serve on the airport operator notice of its proposal, together with a statement of the respects in which the airport operator has failed to comply with any requirement the CAA may have imposed on him pursuant to section 38(4)(b) of the Act.

(3) Subject to regulation 14(3), a decision to refuse a permission may be taken only by a member of the CAA after considering any written representations (being representations that the airport operator has complied with all requirements imposed on him pursuant to section 38(4)(b) of the Act) which the airport operator has served on the CAA within 10 days of the date of service of the notice given by the CAA pursuant to paragraph (2) of this regulation.

Mandatory accounts conditions

8.—(1) Where the CAA proposes to impose or modify an accounts condition in respect of a designated airport, it shall serve on the airport operator notice of the condition it intends to impose or of the modification, as the case may be.

(2) A decision as to the form of the accounts condition to be imposed in respect of a designated airport or of any modifications of such a condition shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within 2 months of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Mandatory conditions as to airport charges

9.—(1) Where the CAA proposes, in a reference to the Commission under section 43(1) of the Act, to specify in the reference any matters referred to in section 44(1)(a) of the Act, it shall serve on the airport operator notice of the terms in which it intends to specify those matters.

(2) A decision as to the terms in which the CAA specifies the aforesaid matters in such a reference shall be taken only by a member of the CAA after considering any written representations which the airport operator has served on the CAA within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Discretionary accounts conditions

10.—(1) Where the CAA proposes to impose or modify an accounts condition in respect of an airport which is not a designated airport, it shall serve on the airport operator notice of the condition it intends to impose or of the modification, as the case may be.

(2) A decision whether to impose an accounts condition in respect of an airport which is not a designated airport and, if so, as to the form of the condition to be imposed or of any modification of such a condition, shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within 2 months of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Other discretionary conditions

11.—(1) If it appears to the CAA that an airport operator may be pursuing one of the courses of conduct specified in section 41(3) of the Act, it shall carry out an investigation with a view to establishing whether the airport operator is pursuing such a course of conduct.

(2) Before carrying out an investigation the CAA shall—

- (a) give to the airport operator notice of the proposed investigation and of the reasons for it;
- (b) arrange for notice of the proposed investigation, together with an indication of the matters to be investigated, to be published in such manner as the CAA considers most suitable for bringing the proposed investigation to the attention of other persons who, in the opinion of the CAA, would be affected by or be likely to have an interest in the investigation.

(3) As soon as practicable after the completion of the investigation, the CAA shall, in such manner as it considers appropriate, publish a report stating whether, in its opinion, the airport operator is pursuing one of the courses of conduct specified in section 41(3) of the Act, and if so, the condition which it considers appropriate for the purpose of remedying or preventing what it considers are the adverse effects of that course of conduct.

(4) A decision as to the form and content of the report shall be taken only by a member of the CAA after considering the representations made to the CAA in the course of its investigation.

(5) Where the CAA proposes to impose a condition in relation to an airport pursuant to section 41(2) of the Act or to modify such a condition, and has served notice on the airport operator pursuant to section 41(6) or 51(5), as the case may be, a decision whether to make a reference to the Commission in respect of the airport under section 43(3) of the Act shall be made only by a member of the CAA after considering any objections which the airport operator has served on or made to the CAA within the period prescribed for purposes of section 41(6) or 51(5) of the Act.

(6) Where it appears to the CAA that an airport operator is pursuing a course of conduct specified in section 41(3)(b) of the Act which has resulted in the adoption by any other person of a practice which does any of the things specified in sub-paragraph (i) or (ii) of the said section 41(3)(b), it shall at the same time as it serves notice on the airport operator pursuant to section 41(6) or 51(5) of the Act serve a copy of that notice on that other person: and any written or oral representations made by that person within the period prescribed for purposes of section 41(6) or 51(5) of the Act shall be taken into consideration by the CAA in deciding, pursuant to paragraph (5) of this regulation, whether to make a reference to the Commission in respect of the airport.

(7) Where the CAA, in a reference to the Commission under section 43(3) of the Act or in a variation of that reference, specifies any of the matters referred to in section 44(1)(b) of the Act, it shall not include any matter which has not been notified to the airport operator pursuant to section 41(6) or 51(5) of the Act:

Provided that a condition notified pursuant to section 41(6) or a modification of a condition notified pursuant to section 51(5) may be modified in the light of representations made to the CAA by the airport operator or a person referred to in paragraph (6) of this regulation.

Imposition or modification of conditions following Commission's Report

12.—(1) Where the CAA has received a report made by the Commission and is required by sections 40(3), (4) or 46 of the Act to impose or modify a condition in relation to an airport, it shall publish notice of the conditions or modifications it intends to impose: and insofar as the proposed conditions or modifications do not accord with the recommendations made by the Commission as to what the conditions or modifications should be, the notice shall include a statement of the CAA's reasons for not implementing the Commission's report.

(2) The notice shall be published in such manner as the CAA considers most suitable for bringing it to the attention of the airport operator and other persons who, in the opinion of the CAA, would be affected by or be likely to have an interest in the proposed conditions or modifications.

(3) A decision as to the form of the conditions or modifications to be imposed shall be taken only by a member of the CAA after considering any written representations served on the CAA within 30 days of the date of publication of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Enforcement of conditions

13.—(1) Where the CAA has investigated a complaint pursuant to section 48(1) of the Act, it shall notify the complainant and the airport operator concerned (who are hereinafter in this regulation referred to as the parties to the case) of its findings and of the action it proposes to take or, as the case may be, of the fact that it proposes to take no action under section 48 of the Act.

(2) If neither party to the case asks to be heard within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation, the CAA shall take the proposed action or shall take no further action, as the case may be.

(3) If within 21 days of the date of service of such notice, either party to the case asks to be heard, the CAA shall serve on both parties 21 days' notice of the date, time and place of the hearing.

(4) Before the date fixed for the hearing, the CAA shall serve on both parties to the case a copy of, or a summary of, any information in the possession of the CAA which has been provided in connection with the CAA's investigation of the complaint or in connection with the case or which the CAA has reason to believe will be referred to at the hearing of the case:

Provided that:

- (i) the CAA shall not serve any such information which has been provided by the Secretary of State if the Secretary of State has certified to the CAA that it would not be in the public interest for it to be disclosed;
- (ii) before serving such information, the CAA shall consult the person who has provided it and shall not serve any information which in its opinion relates to the commercial or financial affairs of that person and cannot be disclosed to the prospective recipient without disadvantage to the person who has provided it which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted.

(5) Hearings shall be conducted by two members of the CAA (unless the parties to the case agree to the hearing being conducted by one member) sitting with such employees of the CAA as the CAA thinks fit.

(6) At a hearing, each party to the case may appear in person or be represented by any other person whom he may have authorised to represent him and may produce oral and written evidence and may examine the other party to the case and any witnesses produced by the other party.

(7) Every hearing shall be held in private, but nothing in this regulation shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such.

(8) All the proceedings at a hearing shall be recorded by a shorthand writer or by some other means, and if either party requests a record of the proceedings within one year from the day the CAA issues its decision of the case, the CAA shall cause a mechanical recording or transcript of the shorthand or other record to be made available for purchase by that person at a reasonable price.

(9) The member or members of the CAA who have heard the case shall decide whether the airport operator is failing to comply or has failed to comply with any condition in contravention of section 39(1) of the Act, and if so what action to take under section 48 of the Act. A copy of the decision and of the reasons for it shall be served on the parties to the case:

Provided that the CAA may refrain from furnishing a statement of its reasons to any party to the case or may exclude matter from a statement if it considers it necessary to do so for the purpose of withholding from the relevant person information which in the opinion of the CAA relates to the commercial or financial affairs of another person and cannot be disclosed to the relevant person without disadvantage to the other person which, by comparison with the advantage to the public and the relevant person of its disclosure to him, is unwarranted.

Enforcement of compliance orders

14.—(1) Where the CAA, pursuant to section 49(9) of the Act, proposes to revoke a permission to levy airport charges, it shall serve on the airport operator notice of its proposal, together with a statement of the respects in which it appears to the CAA that the airport operator has contravened a compliance order and of the grounds on which it appears to the CAA that he is unlikely to comply with it in the immediate future.

(2) A decision to revoke a permission may be taken only by two members of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within two months of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

(3) Where an airport is managed by the same airport operator as managed it when a permission to levy airport charges was revoked, a decision again to grant a permission shall be taken only by two Members of the CAA after considering any written or oral representations served on or made to the CAA by the airport operator. If after considering any such representations it is decided not to grant a permission, the CAA shall serve on the airport operator a statement of its reasons for thinking that, if any condition corresponding to the one whose breach gave rise to the compliance order were imposed, he would not comply with it.

Breach of accounts condition

15.—(1) Where the CAA, pursuant to section 50(3) of the Act, proposes to impose a condition with respect to the publication of any matter to whose non-disclosure a contravention of an accounts condition relates, it shall serve on the airport operator notice of the condition it intends to impose.

(2) A decision whether to impose such a condition and, if so, as to the form of the condition to be imposed, shall be taken only by a member of the CAA after considering any written representations which the airport operator has served on the CAA within 21 days of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Supplementary provisions relating to conditions

16.—(1) Where the CAA proposes to extend the period during which a condition is to remain in force, it shall serve notice of its proposal, and of the reasons for it, on the airport operator.

(2) A decision whether to extend the period during which a condition is to remain in force shall be taken only by a member of the CAA after considering any written or oral representations which the airport operator has served on or made to the CAA within two months of the date of service of the notice given by the CAA pursuant to paragraph (1) of this regulation.

Associated companies of airport operators

17. Where pursuant to section 55 of and Schedule 1 to the Act the CAA proposes to impose or imposes or has imposed and not revoked subsidiary conditions in respect of an airport, these Regulations shall apply as if references to conditions included references to subsidiary conditions and references to the airport operator included, in relation to action taken by the CAA in respect of subsidiary conditions, references to any associated company of the airport operator to which a subsidiary condition relates or would relate if it were imposed.

Procedural irregularities

18. The failure of the CAA to give notice or publish any particulars in the time or manner provided for in the Act or in these Regulations or any other procedural irregularity shall not invalidate the action taken by the CAA; and the CAA may, and shall if it considers any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by the giving of notice or otherwise.

Directions by the Secretary of State

19. Nothing in these Regulations shall apply where the CAA does a particular thing or refrains from doing a particular thing pursuant to a direction given by the Secretary of State under section 6 of the 1982 Act.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

Signed by authority of the Secretary of State.

4th September 1986

Caithness
Parliamentary Under Secretary of State
Department of Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

EXPLANATORY NOTE

These Regulations prescribe:—

1. procedures to be followed by the Civil Aviation Authority in exercising its functions in relation to the economic regulation of airports under Part IV of the Airports Act 1986 (regulations 6 to 19);
2. the manner in which notices are to be published by the CAA (regulation 3);
3. the periods within which the CAA is required to grant an application for permission to levy airport charges, an airport operator may be allowed to comply with a requirement to produce documents and an airport operator may object to a proposal to impose a discretionary condition in respect of an airport (regulation 4);
4. the manner in which documents are to be served under the Regulations and under Part IV of the Act (regulation 5).