
STATUTORY INSTRUMENTS

2012 No. 1017

**The Civil Aviation (Air Travel
Organisers' Licensing) Regulations 2012**

PART 5

DECISIONS AND HEARINGS

CHAPTER 2

Requirement for and conduct of hearing

Requirement to hold a hearing

56.—(1) Within the time limit under regulation 53 for providing representations to the CAA, the person concerned may request a hearing.

(2) Where the person concerned requests a hearing, the Member must before making a decision, hold a hearing and consider any representations made or evidence submitted at such a hearing.

(3) Where the person concerned does not request a hearing, the Member may hold a hearing, if the Member considers it appropriate following consideration of representations and evidence submitted under regulation 53.

Giving notice of hearing

57.—(1) Subject to regulation 51, no hearing is to be held under this Part unless the CAA has served on the person concerned at least 7 days notice of the date, time and place of the hearing.

(2) The notice must clearly identify the matter to which it relates.

(3) The notice must be published at least 7 days before the date of the hearing unless the hearing is to be held in private.

(4) On the day of the hearing, the notice must be exhibited in a visible and accessible place at the venue where the hearing is scheduled to take place unless the hearing is to be held in private.

Expedited hearing

58.—(1) If the CAA is satisfied that for reasons of urgency it is desirable to do so, a hearing may be held without notice having been served, published and exhibited in accordance with regulation 57.

(2) In such a case, the CAA must give notice of the date, time and place of the hearing, being notice of such length and by such means as it thinks fit, to the applicant, the ATOL holder or accredited body.

Entitlement to attend and be heard

59. The person concerned and the CAA's employee who has made the proposal under regulation 36 or regulation 44 to be determined have a right to attend and be heard at the hearing.

Absence of party

60. Where the CAA is required to hold a hearing under this Part, the hearing may proceed in the absence of the person concerned or that person's representative and the CAA must consider any representations made or evidence submitted by any person entitled to attend who is in attendance.

Technical assessors

61. The Member conducting a hearing may appoint a technical assessor, so long as that assessor did not participate in the application or proposal which is the subject of the hearing, to provide advice and assistance.

Right to be represented, produce evidence and examine other persons

62.—(1) At a hearing every person with a right to be heard may appear in person or be represented by any other person who they have authorised to represent them.

(2) A person with a right to be heard or their representative may—

- (a) produce oral and written evidence; and
- (b) examine the other persons being heard, and any witness produced by such persons.

Hearings in public or in private

63.—(1) All hearings must be in public unless—

- (a) the CAA is satisfied that a private hearing is required—
 - (i) in the interests of morals, public order or national security in a democratic society,
 - (ii) the interests of juveniles or the protection of the private lives of the parties, or
 - (iii) to the extent strictly necessary in the opinion of the CAA in special circumstances if publicity would prejudice the interests of justice; or
- (b) where the person concerned has requested in writing that the hearing be in private and the CAA is satisfied that there is no important public interest consideration that calls for the public to be present.

(2) The CAA may decide under paragraph (1) that part only of the hearing is to be in private or that information about the proceedings before the CAA, the names and identifying characteristics of persons concerned in the proceedings or specified evidence given in the proceedings must not be made public or disclosed to the person concerned.

(3) Any person who the CAA, with the consent of the person concerned or their representative, permits to attend the hearing may attend a hearing, whether or not it is in private.

Procedure at hearing

64.—(1) At the beginning of any hearing the CAA must explain the manner and order of proceeding, having regard to any applicable burden and standard of proof and rules of evidence.

(2) The CAA may conduct the hearing in the manner it considers most suitable—

- (a) to the clarification of the issues before it; and
- (b) to enable the CAA, with the assistance of the person concerned (or their representative) and the CAA employee responsible for the proposal, to deal with the case fairly and justly;

seeking to avoid, where appropriate, formality and inflexibility in its proceedings.

(3) The CAA may consider evidence of any fact which seems to the CAA to be relevant even if the evidence would be inadmissible in proceedings before a court of law.

Provision of transcripts

65.—(1) All the proceedings at a hearing in accordance with this Part must be recorded in writing.

(2) Subject to paragraphs (3), (4) and (5), a copy of the transcript of the proceedings must be made available to any person on request, unless a decision has been taken to hold the hearing in private, in which case a transcript must only be made available to those present at the hearing.

(3) If part of the hearing is held in private, a copy of the transcript of that part of the proceedings must only be supplied to persons present during that part.

(4) The CAA is entitled to require payment of a reasonable fee before supplying a copy of any transcript.

(5) The CAA is not required to supply an electronic recording or transcript of the proceedings at any time more than one year after it has published or notified its decision.

Exclusions

66. Nothing in this Part prevents the CAA from provisionally varying an ATOL in accordance with regulation 38 or an accreditation in accordance with regulation 46.