
STATUTORY INSTRUMENTS

1995 No. 1054

CIVIL AVIATION

The Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995

<i>Made</i>	- - - -	<i>10th April 1995</i>
<i>Laid before Parliament</i>		<i>18th April 1995</i>
<i>Coming into force</i>	- -	<i>10th May 1995</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 2(3), 7(1) and (2) and 71 of and paragraph 15 of Schedule 1 to the Civil Aviation Act 1982⁽¹⁾ and of all other powers enabling him in that behalf and after consultation with the Civil Aviation Authority as required by section 71(2) of that Act, and with the Council on Tribunals as required by section 8 of the Tribunals and Inquiries Act 1992⁽²⁾ hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement, interpretation and service of documents

1.—(1) These Regulations may be cited as the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 and shall come into force on 10th May 1995.

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

“the Act” means the Civil Aviation Act 1982;

“the Authority” means the Civil Aviation Authority;

“licence” means an air travel organiser’s licence granted by the Authority under these Regulations;

“publish” (except in regulation 10(2)) means publish in the Authority’s official record;

“an ATOL receipt” means a document which complies with requirements published from time to time by the Authority for such a document;

(1) 1982 c. 16; the expression “prescribed” is defined in section 105(1).
(2) 1992 c. 53.

“an ATOL confirmation invoice” means a document which complies with requirements published from time to time by the Authority for such a document;

“flight accommodation” means accommodation for the carriage of persons on flights by aircraft (whether or not registered in the United Kingdom) in any part of the world; and

“a valid ticket” means a ticket which is, without the need for any further payment but otherwise subject to its terms and conditions, valid for travel on the intended flight.

- (3) Any document to be served on any person under these Regulations may be served:
- (a) by delivering it to him;
 - (b) by leaving it at his proper address;
 - (c) by sending it by post to him at that address; or
 - (d) by sending it to him at that address by telex or by facsimile transmission or any other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received;

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

(4) For the purposes of paragraph (3) of this regulation the proper address of any person to whom or on whom any document is to be served shall, in the case of a body corporate, be the registered or principal office of that body and in any other case be the last known address of that person.

(5) 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 exclusive of that day also.

(6) In computing any period of time specified in these Regulations by reference to hours the whole of any Saturday, Sunday, Christmas Day, Good Friday or bank holiday shall be disregarded, and for that purpose any day appointed by law to be a bank holiday in any part of the United Kingdom shall be treated as a bank holiday.

Revocation of Regulations

2. The Regulations specified in the Schedule hereto are hereby revoked.

PART II

REGULATION OF PROVISION OF ACCOMMODATION IN AIRCRAFT

Who may provide flight accommodation

- 3.—(1) No person shall, in the United Kingdom, make available flight accommodation unless:
- (a) he will be the operator or reasonably believes that he will be the operator of the relevant aircraft when the flight is made (in these Regulations called “an operator”);
 - (b) he holds a licence authorising him to do so, and the terms of the licence are complied with so far as they relate to the provision of that accommodation (in these Regulations called “a licence holder”);
 - (c) he is acting as agent on behalf and with the authority of a disclosed identified principal who is a licence holder (in these Regulations called “an agent for a licence holder”);
 - (d) he is a person who is exempted by the Authority under regulation 5 from the need to hold a licence (in these Regulations called “an exempted person”); or

- (e) before accepting any payment he supplies a valid ticket in accordance with regulation 4 in respect of any flight accommodation which he makes available (in these Regulations called “a ticket provider”).
- (2) No person shall, in the United Kingdom, hold himself out as a person who may make available flight accommodation unless:
- (a) (i) he is entitled to make available that accommodation as an operator, a licence holder, an agent for a licence holder or an exempted person; or
 - (ii) he is capable of supplying a valid ticket in accordance with regulation 4 for any flight accommodation in respect of which he holds himself out as being able to make available; and
 - (b) at all times in the course of holding himself out as a person who may make available flight accommodation, he discloses the capacity in which he is entitled to make that accommodation available.

Acceptance of payment and provision of receipt

4.—(1) A person acting in his capacity as a licence holder shall not accept payment in respect of the making available of flight accommodation unless he supplies, by the specified method, to the person from whom such payment is accepted, an ATOL receipt or an ATOL confirmation invoice.

- (a) (2) (a) A person acting in his capacity as the agent of a licence holder shall not accept payment in respect of the making available of flight accommodation unless he supplies, by the specified method, to the person from whom such payment is accepted, an ATOL receipt or an ATOL confirmation invoice.
 - (b) Where such a person supplies an ATOL receipt, he shall, by the specified method, notify the licence holder on whose behalf he is acting. Such notification shall include sufficient information to enable the licence holder to issue an ATOL confirmation invoice. Upon receipt of the ATOL confirmation invoice from the licence holder, the agent shall forward it by the specified method to the person to whom he supplied the relevant ATOL receipt.
- (3) A person acting in his capacity as a ticket provider shall not accept payment in respect of the making available of flight accommodation unless he has either previously supplied, or supplies by the specified method, to the person from whom such payment is accepted, a valid ticket.
- (4) Before a payment for flight accommodation is accepted from or on behalf of a person who is not present at the time, that person shall be advised, by some appropriate means, of the name of the person accepting the payment, the capacity in which he is making available the accommodation and, if he is acting as an agent for a licence holder, the name of the licence holder and the number of the licence.

- (5) For the purposes of this regulation “the specified method” shall mean:
- (a) in the case of a document required to be given to a person from whom payment is accepted and who is present, by handing the required document to him in person at the time such payment is made; and
 - (b) in any other case, by sending the required document by first class post or by some other means no less expeditious as soon as reasonably practicable and in any event not later than the following working day.

Power to exempt

5. The Authority may by an instrument in writing exempt from the need to hold a licence any person or any class or description of persons specified in the instrument, and any such exemption may be subject to such conditions and limitations as the Authority thinks fit and may be revoked or

varied by a subsequent instrument in writing. Any instrument which specifies a class or description of persons, or which revokes or varies any such instrument, shall not come into force until it has been published.

PART III

LICENSING PROVISIONS

Grant and refusal of licences

- (a) 6. (1) (a) Subject to sub-paragraph (b), an application for the grant of a licence shall be made in writing to the Authority and where such an application is made the Authority shall
- (i) grant a licence to the applicant in the terms requested in the application;
 - (ii) grant a licence in those terms with such modifications and subject to such conditions as the Authority thinks fit; or
 - (iii) refuse to grant a licence.
- (b) The Authority may refuse to consider an application unless it is accompanied by the charge payable under section 11 of the Act.
- (a) (2) (a) The Authority shall refuse to grant a licence in pursuance of an application if the Authority is not satisfied that the applicant is a fit person to make available flight accommodation (and in determining whether the applicant is a fit person the Authority shall have regard to his and his employees' past activities generally and, where the applicant is a body corporate, to the past activities generally of the persons appearing to the Authority to control that body, but shall not be obliged to refuse a licence on the grounds that it considers the applicant has insufficient experience in making available accommodation for the carriage of persons on flights).
- (b) The Authority may refuse to grant a licence in respect of an application if the Authority is not satisfied that the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence.
- (3) If the holder of a current licence applies for the grant of another licence in continuation of or in substitution for the current licence and his application:
- (a) contains such particulars with respect to such matters relating to his fitness, resources and financial arrangements as the Authority may have specified in respect of the holder of that licence in a notice in writing served on him not less than four months before the expiration of the term of the current licence (or in the case of a licence having a term of less than six months at the time of the grant of the licence);
 - (b) is accompanied by the charge payable under section 11 of the Act; and
 - (c) is served on the Authority not less than three months (or half the term of the current licence whichever be the less) before the expiration of the term of the current licence;
- then, unless the application is withdrawn and without prejudice to the Authority's power to revoke, suspend or vary the current licence, the current licence shall not cease to be in force by reason only of the expiration of that term until the Authority gives its decision on the application.

Revocation, suspension and variation of licences

7.—(1) The holder of a licence may apply for it to be revoked, suspended or varied at any time, but may not apply for the variation of such a schedule of terms as is mentioned in regulation 10 of these Regulations.

(2) The Authority may refuse to consider any application for variation of a licence unless it is accompanied by the charge payable under section 11 of the Act.

(a) (3) (a) The Authority shall revoke, suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is no longer satisfied that the holder of the licence is a fit person to make available accommodation for the carriage of persons on flights under the authority of the licence.

(b) The Authority may revoke, suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority, after complying with the procedure prescribed in regulation 9 of these Regulations, is not or is no longer satisfied that the resources of the holder of the licence and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the activities in which he is engaged.

(4) The provisions of paragraph (3) of this regulation conferring on the Authority power to suspend a licence shall be construed as conferring on the Authority power to provide, by a notice in writing served on the holder of the licence, that the licence shall not be effective during a period specified in the notice; and while a licence is ineffective by virtue of such a notice the Authority may, by a further notice in writing served on the holder of the licence, provide that the licence shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the Authority's powers to suspend the licence again or to revoke or vary it.

Regulation of the conduct of the Authority

8.—(1) The functions conferred upon the Authority by these Regulations are hereby prescribed for purposes of section 7(2) of the Act.

(2) The function of making a decision to:

- (a) revoke, suspend or vary a licence otherwise than on the application of the holder;
- (b) grant or vary a licence in terms other than those requested by the applicant; and
- (c) refuse to grant a licence,

is hereby prescribed for the purposes of section 7(1) of the Act: and for the purpose of making any such decision, the quorum of the Authority shall be one member.

(3) Any other decision to grant, revoke, suspend or vary a licence may be made on behalf of the Authority only by a member or employee of the Authority.

Procedure for determining applications etc.

9.—(1) Subject to paragraph (2) of this regulation, if it is proposed to make a decision as to a matter which is mentioned in sub-paragraph (a), (b) or (c) of regulation 8(2) of these Regulations, the Authority shall—

- (a) serve on the holder of or applicant for the licence, as the case may be, not less than 21 days' notice of the proposal to make such a decision and of the reasons for the proposal; and
- (b) consider any representations he may serve on the Authority before the expiration of the said notice.

(2) The Authority may suspend a licence notwithstanding that it has not complied with the requirements of paragraph (1) of this regulation if it has served on the holder of the licence not less than 72 hours notice of its proposal to suspend the licence, and of its reasons for the proposal, and after considering any representations which may be made to it by the holder of the licence before the expiration of such notice is no longer satisfied as mentioned in regulation 7(3)(a) or (b) of these Regulations.

(3) Where the Authority makes a decision as to a matter which is mentioned in sub-paragraphs (a), (b) or (c) of regulation 8(2) of these Regulations the Authority shall furnish a statement of its reasons for the decision to the applicant for the licence or, as the case may be, to the holder or former holder of it.

Variation of schedule of terms

10.—(1) If the Authority establishes any schedule of terms and includes in any licence a condition that the holder of the licence shall comply with terms set out in that schedule as varied from time to time by the Authority, the Authority may at any time propose to vary that schedule or any part thereof and any such proposal shall for the purposes of these Regulations be treated as a proposal for the variation of every licence which contains such a condition as aforesaid relating to that schedule or that part of that schedule, as the case may be.

(2) When any licence contains such a condition as aforesaid relating to a schedule the Authority shall publish that schedule and any variation of it in its official record or otherwise.

Appeal to county court or Sheriff Court

11.—(1) Subject to paragraph (2) of this regulation, an appeal shall lie to a county court from any decision of the Authority that a person is not a fit person to hold a licence and, if the court is satisfied that on the evidence submitted to the Authority it was wrong in so deciding, the court may reverse the Authority's decision and the Authority shall give effect to the court's determination.

(a) (2) (a) If the appellant resides or has his registered or principal office in Scotland the appeal shall lie to the sheriff within whose jurisdiction he resides or, as the case may be, has his registered or principal office and the appeal shall be brought within 21 days from the date of the Authority's decision, or within such further period as the sheriff may in his discretion allow.

(b) Notwithstanding any provision to the contrary in rules governing appeals to a county court in Northern Ireland, if the appellant resides or has his registered or principal office in Northern Ireland the appeal shall lie to the county court held under the County Courts (Northern Ireland) Order 1980(3) for the division in which he resides or, as the case may be, has his registered or principal office.

(3) The Authority shall be a respondent to any appeal under this regulation.

(4) For the purposes of any provision relating to the time within which an appeal may be brought, the Authority's decision shall be deemed to have been taken on the date on which the Authority furnished a statement of its reasons for the decision to the applicant for the licence or, as the case may be, the holder or former holder of it.

(5) In the case of an appeal to the sheriff—

(a) the sheriff may, if he thinks fit, and shall on the application of any party, appoint one or more persons of skill and experience in the matter to which the proceedings relate to act as assessor, but where it is proposed to appoint any person as an assessor objection to him either personally or in respect of his qualifications may be stated by any party to the appeal and shall be considered and disposed of by the sheriff;

- (b) the assessors for each sheriffdom shall be appointed from a list of persons approved for the purposes by the sheriff principal and such a list shall be published in such manner as the sheriff principal shall direct and shall be in force for three years only, but persons entered in any such list may be again approved in any subsequent list: it shall be lawful for the sheriff principal to defer the preparation of such a list until application has been made to appoint an assessor in an appeal in one of the courts in his sheriffdom;
- (c) the sheriff before whom an appeal is heard with the assistance of an assessor shall make a note of any question submitted by him to such assessor and of the answer thereto;
- (d) an appeal shall lie on a point of law from any decision of a sheriff under this regulation to the Court of Session.

Transfer of licences

12.—(1) Subject to the provisions of this regulation, if the sole holder of a licence (being an individual) shall die the licence shall be treated from the time of his death as if it had been granted to his legal personal representative.

(2) The legal personal representative required by paragraph (1) of this regulation to be treated as the holder of the licence may apply to the Authority for the transfer of the licence to any person entitled to a beneficial interest in the deceased's estate (including himself in his personal capacity if he is in that capacity entitled to such an interest).

(3) The application shall state the grounds on which it is based and shall be served on the Authority within the period of 20 days from the day on which the applicant first became entitled to make it; and if no application as aforesaid is made within that period the licence shall cease at the expiration of that period to be treated as if granted to a person other than the person to whom it was granted.

(4) The Authority shall not grant an application for the transfer of a licence to any person if it would be bound under regulation 6(2)(a) of these Regulations to refuse that application if it were an application for the grant of a licence to that person, and the provisions of regulation 11 as to appeals shall apply accordingly.

(5) For the purposes of this regulation "legal personal representative" means a person constituted executor, administrator or other representative of a deceased person by probate, administration or other instrument.

Surrender of licences

13. If revocation or variation of a licence has taken effect, the Authority may require any person who has the licence in his possession or control to surrender it for cancellation or variation, as the case may be.

Compliance with licence and furnishing of false information

14.—(1) Without prejudice to the provisions of regulation 3(1)(b), no person shall contravene any term of a licence held by him.

(2) No person shall give, by whatever means, an indication direct or indirect that he holds a licence which he does not in fact hold.

(3) No person shall, for the purpose of obtaining for himself or another person a licence or a variation of a licence or the cancellation of the suspension of a licence, knowingly or recklessly furnish to the Authority any information which is false in a material particular.

PART IV

OFFENCES AND PENALTIES

Offences and penalties

15.—(1) Any person who fails, without reasonable cause, to comply with any requirement of the Authority pursuant to regulation 13 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.

(2) A person who contravenes the provisions of regulations 3, 4 or 14 shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding the statutory maximum or on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years or both.

- (a) (3) (a) Subject to sub-paragraph (b), summary proceedings for an offence under these Regulations may be commenced in Scotland within a period of six months from the date on which evidence sufficient in the opinion of the Procurator Fiscal to warrant proceedings came to his knowledge.
- (b) No such proceedings shall be commenced by virtue of this regulation more than three years after the commission of the offence.
- (c) For the purposes of this regulation, a certificate signed by or on behalf of the Procurator Fiscal and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (d) Section 331(3) of the Criminal Procedure (Scotland) Act 1975 (date of commencement of proceedings)⁽⁴⁾ shall apply for the purposes of this regulation as it applies for the purposes of that section.

⁽⁴⁾ 1975 c. 21.

SCHEDULE

Regulation 2

Revocations

<i>Regulations revoked</i>	<i>References</i>
The Civil Aviation (Air Travel Organisers' Licensing) Regulations 1972	1972/223
The Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 1974	1974/1802
The Civil Aviation (Air Travel Organisers' Licensing) (Second Amendment) Regulations 1975	1975/1049
The Civil Aviation (Air Travel Organisers' Licensing) (Third Amendment) Regulations 1979	1979/5
The Civil Aviation (Air Travel Organisers' Licensing) (Fourth Amendment) Regulations 1981	1981/314

Signed by authority of the Secretary of State for Transport

Department of Transport
10th April 1995

Goschen
Parliamentary Under Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1972, as amended.

In addition to some minor and drafting amendments the following changes are made:

(1) The only categories of person who may, in the United Kingdom, make available flight accommodation, and hold themselves out as being entitled to do so, are set out in regulation 3. Those categories have been extended to include any person who is capable of supplying a valid ticket for the relevant flight and who, before accepting any payment, supplies such a ticket (regulation 3).

(2) All persons holding themselves out as being entitled to make available flight accommodation are required to disclose the capacity in which they are so entitled and if acting as agent for the holder of an Air Travel Organiser's Licence to identify their principal (regulation 3).

(3) New provisions relating to the acceptance of payment and provision of receipts have been introduced (regulation 4). The contravention of those requirements is an offence in respect of which the penalties are set out in regulation 15(2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) Regulation 9(1)(b) of the 1972 Regulations (which provided that on the transfer of the business, or the relevant part thereof, of an ATOL holder, the licence would in the circumstances specified be treated as if it had been granted to the transferee) has been omitted.

(5) The fine payable on summary conviction for failing to surrender a licence when requested to do so by the Authority pursuant to regulation 13 has been increased to an amount not exceeding Level 3 on the standard scale (regulation 15(1)).

(6) The fine payable on summary conviction for contravening regulations 3 (see above) and 14 (failure to comply with the terms of a licence and furnishing false information) has been increased to an amount not exceeding the statutory maximum (regulation 15(2)).