



Civil Aviation Act 1971

1971 CHAPTER 75

PART II

REGULATION OF CIVIL AVIATION

Regulation of carriage by air for reward

21 Restriction of unlicensed carriage by air for reward

- (1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless—
 - (a) the operator of the aircraft holds a licence granted to him by the Authority in pursuance of the following section (hereafter in this Act referred to as an "air transport licence") authorising him to operate aircraft on such flights as the flight in question ; and
 - (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.
- (2) The preceding subsection applies to any flight in any part of the world by an aircraft registered in the United Kingdom and to any flight beginning or ending in the United Kingdom by an aircraft registered in a relevant overseas territory or an associated state, except that it does not apply to—
 - (a) a flight of a description specified in an instrument made by the Authority for the purposes of this paragraph and in force in accordance with the following subsection;
 - (b) a particular flight or series of flights specified in an instrument made by the Authority for the purposes of this paragraph;
 - (c) a flight by an aircraft of which the Authority is the operator.
- (3) An instrument made in pursuance of paragraph (a) of the preceding subsection shall not come into force until it is published in the prescribed manner, and it shall be the duty of the Authority forthwith after making an instrument in pursuance of paragraph (b) of that subsection to publish the instrument in the prescribed manner ;

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and an instrument made in pursuance of paragraph (a) or (b) of that subsection may be revoked or varied by a subsequent instrument made in pursuance of that paragraph.

- (4) Where an aircraft is used for the carriage of passengers or cargo in pursuance of an arrangement made between a member of an incorporated or unincorporated body of persons and that body or another member of it, then, if by reason of relationships arising from membership of the body the carriage is not apart from this subsection carriage for reward, it shall be treated for the purposes of this section as carriage for reward.
- (5) Where an aircraft is used on a flight in contravention of subsection (1) of this section or, after an aircraft has been used in pursuance of an air transport licence on a flight to which that subsection applies, any term of the licence relating to the flight and falling to be complied with at or after the end of the flight by the operator of the aircraft or by another person who made available such accommodation as is mentioned in paragraph (b) of this subsection is contravened, then—
- (a) if before the flight began the operator of the aircraft knew or had reasonable cause to suspect that the use of the aircraft on that flight was likely to be in contravention of that subsection or, as the case may be, that the term in question was likely to be contravened, he shall be guilty of an offence under this subsection; and
 - (b) if any other person, either by negotiating a contract or otherwise howsoever, made available accommodation for the carriage of passengers or cargo on the aircraft on the flight knowing or having reasonable cause to suspect before the flight began that the accommodation was likely to be provided on an aircraft when used on a flight in contravention of the said subsection (1) or, as the case may be, that such a term as the term in question was likely to be contravened, that person shall be guilty of an offence under this subsection ;
- but a person shall not (except in pursuance of section 62(3) of this Act or the law relating to persons who aid, abet, counsel or procure the commission of offences) be guilty of an offence by virtue of paragraph (b) of this subsection in consequence of the contravention by another person of a term of a licence.
- (6) For the purpose of determining in pursuance of the preceding subsection whether an offence relating to a flight has been committed by the operator of the aircraft used on the flight it is immaterial that the relevant contravention mentioned in that subsection occurred outside the United Kingdom if when it occurred the operator was a United Kingdom national or was a body incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory or an associated state or was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom; and for the purpose of determining in pursuance of that subsection whether an offence relating to a flight has been committed by a person who made available such accommodation as is mentioned in that subsection it is immaterial that the relevant contravention there mentioned occurred outside the United Kingdom and that at any relevant time that person was not a United Kingdom national or such a body as aforesaid if any part of the negotiations resulting in the making available of the accommodation in question took place, whether by means of the post or otherwise, in the United Kingdom.
- (7) Where the Authority has reason to believe that an aircraft is intended to be used in contravention of subsection (1) of this section on a particular flight beginning in the United Kingdom or that any term of an air transport licence relating to such a flight and falling to be complied with at or after the end of the flight may not be complied with, the Authority may—

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- (a) give to the person appearing to it to be in command of the aircraft a direction that he shall not permit the aircraft to take off until the Authority has informed him that the direction is cancelled ;
- (b) whether or not it has given such a direction, detain the aircraft until the Authority is satisfied that the aircraft will not be used on the flight in contravention of the said subsection (1) or, as the case may be, that the term aforesaid will be complied with;

and a person who fails to comply with a direction given to him in pursuance of this subsection shall be guilty of an offence under this subsection.

- (8) A person guilty of an offence under subsection (5) or (7) of this section shall be liable on summary conviction to a fine of an amount not exceeding £400 or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

22 Grant and refusal of air transport licences

- (1) An application for the grant of an air transport licence must be made in writing to the Authority and contain such particulars with respect to such matters as the Authority may specify in a notice published in the prescribed manner; and where an application is made for the grant of a licence the Authority shall either grant a licence to the applicant in the terms requested in the application or in those terms with such modifications as the Authority thinks fit or refuse to grant a licence.
- (2) The Authority shall refuse to grant a licence in pursuance of an application if the Authority is not satisfied that—
 - (a) the applicant is, having regard to—
 - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
 - (ii) where the applicant is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the Authority to control that body,
a fit person to operate aircraft under the authority of the licence which, apart from this subsection, the Authority considers should be granted to him in pursuance of the application ; or
 - (b) 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 business activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence which, apart from this subsection, the Authority considers should be granted to him in pursuance of the application.
- (3) If the Authority is not satisfied that an applicant for a licence is—
 - (a) a United Kingdom national; or
 - (b) a body which is incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory or an associated state and is controlled by United Kingdom nationals,

it shall refuse to grant a licence in pursuance of his application unless the Secretary of State consents to the grant of the licence ; and where the Authority proposes to refuse to grant a licence by reason only of the preceding provisions of this subsection it shall be the duty of the Authority to give the Secretary of State notice of the proposal and to postpone its decision on the application until the Secretary of State's consent is given or refused.

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- (4) Nothing in the provisions of subsections (2) and (3) of this section shall be construed as prejudicing the Authority's power in its discretion to refuse a licence otherwise than in pursuance of any of those provisions.
- (5) A licence may contain such terms as the Authority thinks fit; and (without prejudice to the generality of the Authority's power to decide those terms) the terms may—
- (a) be or include terms settled by a person other than the Authority and include provision for any of the terms to have effect with such modifications as the Authority or another person may from time to time determine; and
 - (b) include terms as to the charges which are to be made and the goods, services and other benefits which are and are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of accommodation on flights to which the licence relates.
- (6) 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 does so not later than such time before the expiration of the term of the current licence as the Authority may specify in a notice published in the prescribed manner, 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—
- (a) until the Authority gives its decision on the application;
 - (b) if in pursuance of the application the Authority decides to refuse a licence or to grant a licence otherwise than in the terms requested in the application, until the expiration of the time during which an appeal to the Secretary of State against the decision may be brought in pursuance of regulations made by virtue of section 24(6) of this Act and, if such an appeal is brought, until the appeal is determined or abandoned;
 - (c) if such an appeal against a decision to refuse a licence or to grant one otherwise than in the terms aforesaid is successful, until the date when the licence granted in consequence of the appeal comes into force.
- (7) A notice published in pursuance of subsection (1) or subsection (6) of this section may be altered or cancelled by subsequent notice published in pursuance of that subsection.

23 Revocation, suspension and variation of air transport licences

- (1) An application for the revocation, suspension or variation of an air transport licence may be made to the Authority at any time by a person of a prescribed description.
- (2) The Authority may at any time revoke, suspend or vary a licence if the Authority considers it appropriate to do so, whether or not an application with respect to the licence has been made in pursuance of the preceding subsection.
- (3) It shall be the duty of the Authority to revoke or suspend or vary a licence (whichever the Authority thinks appropriate in the circumstances) if the Authority is not or is no longer satisfied—
- (a) that the holder of the licence is, having regard to—
 - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and

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- (ii) where the holder of the licence is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the Authority to control that body,
a fit person to operate aircraft under the authority of the licence; or
- (b) 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 business activities in which he is engaged ;
- and if the Authority has reason to believe that the holder of a licence is neither a United Kingdom national nor such a body as is mentioned in paragraph (b) of subsection (3) of the preceding section it shall be the duty of the Authority to inform the Secretary of State accordingly and, if he so directs, to revoke the licence.
- (4) The provisions of subsections (2) and (3) of this section 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 in the prescribed manner on the holder of the licence, that subject to the following subsection 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 in the prescribed manner 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.
- (5) If a licence is revoked, suspended or varied by the Authority otherwise than on the application of the holder of the licence and otherwise than in consequence of a direction given in pursuance of subsection (3) of this section, the revocation, suspension or variation shall not take effect before the expiration of the period prescribed in pursuance of subsection (6) of the following section for the bringing of an appeal against the Authority's decision nor, if such an appeal is brought during that period, before the determination or abandonment of the appeal.

24 Supplementary provisions relating to air transport licensing

- (1) Regulations may make provision as to the circumstances in which an air transport licence shall or may be transferred or treated as if granted to a person other than the person to whom it was granted.
- (2) If the Secretary of State considers that it may be expedient for him to give guidance or different guidance to the Authority in pursuance of section 3(2) of this Act and that until he has decided whether to do so the Authority ought not to perform one or more of the functions conferred on it by section 22 or 23 of this Act, he may give the Authority a direction requiring that in any case or class of case specified in the direction the Authority shall not perform any of those functions which is so specified until the Secretary of State cancels the direction; and if the Authority considers that it may be expedient for the Secretary of State to give such guidance or different guidance and that until he has decided whether to do so the Authority ought not to perform one or more of the functions aforesaid, the Authority may request the Secretary of State to consider whether to give such guidance or different guidance and may postpone the performance of the function in question in any case or class of case until such time as the Secretary of State may determine.
- (3) Where the Authority takes a decision to grant, refuse to grant, vary, suspend or revoke a licence it shall be the duty of the Authority, subject to the following subsection, to furnish a statement of its reasons for the decision to the applicant for the licence or,

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as the case may be, to the holder or former holder of it and to any other person who in accordance with regulations has entered an objection in the case or requested such a statement, so however that no statement of reasons need be furnished in pursuance of this subsection in a case in which no such objection has been entered and no such request has been made and the decision is taken in pursuance of, and is in the terms requested in, an application for the grant of a licence or an application by the holder of a licence for the variation, suspension or revocation of it.

- (4) If the Authority has reason to believe that the furnishing of a statement of reasons in pursuance of the preceding subsection might be contrary to the interests of national security or might affect adversely the relations of the United Kingdom with any other country or territory, it shall be the duty of the Authority to give notice of the case to the Secretary of State and, if he so directs, to refrain from furnishing the statement in question or to exclude from the statement such matter as is specified in the direction; and the Authority may refrain from furnishing a statement of reasons in pursuance of the preceding subsection to a person who is an applicant for or holder or former holder of a licence or has in accordance with regulations entered an objection in the case or requested such a statement (hereafter in this subsection referred to as a "relevant person") or may exclude matter from a statement furnished in pursuance of that subsection to a relevant person if the Authority considers it necessary to do so for the purpose of withholding from the relevant person information which in the opinion of the Authority 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.
- (5) The Authority may publish in such manner as it thinks fit particulars of, and of its reasons for, any decision taken by it with respect to a licence or an application for a licence.
- (6) The Secretary of State shall make regulations—
- (a) conferring on persons of prescribed descriptions a right to appeal to the Secretary of State from any decision of the Authority with respect to or to an application for a licence;
 - (b) authorising the Secretary of State on such an appeal to direct the Authority to reverse or vary the decision in question and in consequence to do or refrain from doing such other things as may be specified in the direction; and
 - (c) containing such provisions as the Secretary of State thinks fit with respect to such an appeal, which (without prejudice to the generality of the preceding provisions of this paragraph) may include provisions as to—
 - (i) the time within which an appeal must be brought,
 - (ii) the persons in addition to the appellant who are to be parties to an appeal, and
 - (iii) the liability of any of the parties in respect of costs or expenses incurred in connection with an appeal;

and the Secretary of State shall, when considering whether to give a direction in pursuance of regulations made by virtue of paragraph (b) of this subsection and when considering the terms of any such direction, have regard in particular to the duties imposed on the Authority by section 3 of this Act.

- (7) A person who, for the purpose of obtaining for himself or another person either a licence or a variation of a licence or the cancellation of the suspension of a licence, knowingly or recklessly furnishes to the Authority or the Secretary of State any

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information which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding £400 and on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

25 Transitional provisions as to air service licences

- (1) An air service licence in force immediately before the appointed day shall be deemed on and after that day to be an air transport licence and may be revoked, suspended or varied accordingly.
- (2) Any application for an air service licence (except such an application as is mentioned in the following subsection) and any appeal to the Secretary of State from a decision in respect of such a licence shall, if it is pending immediately before the appointed day, abate on that day; and where by virtue of this subsection an application abates or an appeal against a refusal to grant an air service licence abates, it shall be the duty of the Secretary of State to pay out of money provided by Parliament, to the person who was the applicant for the licence in question, a sum equal to the fees paid by that person to the Air Transport Licensing Board in respect of the application.
- (3) An application for an air service licence which is pending immediately before the appointed day and as to which no proceedings by way of an oral hearing before the said Board have taken place before that day shall be deemed to be an application for an air transport licence duly made to the Authority on that day; and the Secretary of State may give directions to the Authority containing such supplemental and such further transitional provisions as he considers appropriate for the purposes of this subsection.
- (4) In this section—
 - “ air service licence ” means a licence under section 2 of the Civil Aviation (Licensing) Act 1960; and
 - “ the appointed day ” means such day as the Secretary of State may by order appoint for the purposes of this section.