

SCHEDULES

SCHEDULE 2

APPEALS UNDER SECTIONS 24 AND 25

PART 4

APPLICATION FOR SUSPENSION OF CONDITION OF NEW LICENCE OR MODIFICATION

Application for direction suspending condition of new licence

- 9 (1) Where an application is made for permission to appeal against a decision under section 15 to include a condition in a licence, an application for a direction suspending the effect of the decision may be made to the Competition Commission—
- (a) by the person who applied for permission to appeal, or
 - (b) by another person who would be entitled to appeal against the decision.
- (2) An application for a direction may be made at any time before the determination of the appeal.
- (3) The applicant must send a copy of the application to the CAA.
- (4) The CAA must—
- (a) publish the application, and
 - (b) send a copy of the application to the persons listed in sub-paragraph (5) (other than the applicant).
- (5) Those persons are—
- (a) the holder of the licence that is the subject of the application,
 - (b) any other person with a qualifying interest in the decision that is the subject of the application, and
 - (c) such bodies representing airport operators or providers of air transport services as the CAA considers appropriate.

Effect of early application for direction under paragraph 9

- 10 (1) This paragraph applies if—
- (a) an application is made under paragraph 9 for a direction suspending the effect of a decision under section 15 to include a condition in a licence,
 - (b) the application is made before the end of the period of 6 weeks beginning with the day on which the CAA published the notice of the decision to grant the licence in accordance with section 15, and
 - (c) the licence condition would have effect, but for this paragraph, before the end of the period of 10 weeks beginning with that day (“the 10 week period”).
- (2) The licence condition does not have effect during the 10 week period.

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- (3) The Competition Commission’s decision on the application under paragraph 9 must be taken before the end of the 10 week period.

Direction following application under paragraph 9

- 11 (1) The Competition Commission’s functions in relation to an application under paragraph 9 for a direction are to be carried out by an authorised member of the Commission.
- (2) An authorised member of the Competition Commission may give a direction suspending the effect of a decision under section 15 to include a condition in a licence only if—
- (a) the applicant for the direction would incur significant costs if the licence condition were to have effect from the date specified in the decision, and
 - (b) the balance of convenience does not otherwise require the licence condition to have effect from that date.
- (3) If an authorised member gives a direction suspending the effect of the decision, the licence condition does not have effect or ceases to have effect—
- (a) to the extent specified in the direction, and
 - (b) for the period specified or described in the direction.
- (4) The Competition Commission may by notice vary or withdraw a direction under this paragraph if it considers it appropriate to do so having regard to the costs and the balance of convenience referred to in sub-paragraph (2).

Application for direction suspending licence modification

- 12 (1) Where an application for permission to appeal against a decision under section 22 to modify a licence condition is made, an application for a direction suspending the effect of the decision may be made to the Competition Commission—
- (a) by the person who applied for permission to appeal, or
 - (b) by another person who would be entitled to appeal against the decision.
- (2) An application for a direction may be made at any time before the determination of the appeal.
- (3) The applicant must send a copy of the application to the CAA.
- (4) The CAA must—
- (a) publish the application, and
 - (b) send a copy of the application to the persons listed in sub-paragraph (5) (other than the applicant).
- (5) Those persons are—
- (a) the holder of the licence that is the subject of the application,
 - (b) any other person with a qualifying interest in the decision that is the subject of the application, and
 - (c) such bodies representing airport operators or providers of air transport services as the CAA considers appropriate.

Effect of early application for direction under paragraph 12

- 13 (1) This paragraph applies if—
- (a) an application is made under paragraph 12 for a direction suspending the effect of a decision under section 22 to modify a licence condition,
 - (b) the application is made before the end of the period of 6 weeks beginning with the day on which the CAA published notice of that decision in accordance with that section, and
 - (c) the modification would have effect, but for this paragraph, before the end of the period of 10 weeks beginning with that day (“the 10 week period”).
- (2) The modification does not have effect during the 10 week period.
- (3) The Competition Commission’s decision on the application under paragraph 12 must be taken before the end of the 10 week period.

Direction following application under paragraph 12

- 14 (1) The Competition Commission’s functions in relation to an application under paragraph 12 for a direction are to be carried out by an authorised member of the Commission.
- (2) An authorised member of the Competition Commission may give a direction suspending the effect of a decision under section 22 to include a condition in a licence only if—
- (a) the applicant for the direction would incur significant costs if the licence condition were to have effect from the date specified in the decision, and
 - (b) the balance of convenience does not otherwise require the licence condition to have effect from that date.
- (3) If an authorised member gives a direction suspending the effect of the decision, the licence condition does not have effect or ceases to have effect—
- (a) to the extent specified in the direction, and
 - (b) for the period specified or described in the direction.
- (4) The Competition Commission may by notice vary or withdraw a direction under this paragraph if it considers it appropriate to do so having regard to the costs and the balance of convenience referred to in sub-paragraph (2).

Publication of decisions about directions

- 15 (1) The Competition Commission must—
- (a) publish a decision on an application under paragraph 9 or 12 for a direction and the reasons for the decision, and
 - (b) send a copy of the decision and reasons to the persons listed in sub-paragraph (4).
- (2) Where paragraph 10 or 13 applies, the Competition Commission must comply with sub-paragraph (1) before the end of the 10 week period referred to in that paragraph.
- (3) The Competition Commission must—
- (a) publish any notice varying or withdrawing a direction under paragraph 11 or 14 and the reasons for the variation or withdrawal, and

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- (b) send a copy of the notice and reasons to the persons listed in sub-paragraph (4).
- (4) Those persons are—
 - (a) the holder of the licence which is the subject of the application or direction,
 - (b) if the application for the direction was made by someone other than the holder of that licence, the applicant,
 - (c) any other person with a qualifying interest in the decision that is the subject of the application,
 - (d) such bodies representing airport operators or providers of air transport services as the Commission considers appropriate, and
 - (e) the CAA.
- (5) Section 29(5) applies to the publication of a decision, notice or reasons mentioned in sub-paragraph (1) or (3) as it applies to the publication of an order containing a determination of an appeal.

Time limit for CAA to make representations

- 16 (1) This paragraph applies where the CAA wishes to make representations to the Competition Commission in relation to an application under paragraph 9 or 12 for a direction.
- (2) In a case to which paragraph 10 or 13 applies, the CAA must make the representations in writing before the end of the period of 8 weeks beginning with the day on which the CAA published the relevant notice.
- (3) In sub-paragraph (2) “the relevant notice” means—
- (a) in the case of an application under paragraph 9, the notice published in accordance with section 15 of the decision to grant the licence, and
 - (b) in the case of an application under paragraph 12, the notice published in accordance with section 22 of the decision that is the subject of the application.
- (4) In any other case—
- (a) the Competition Commission must specify a reasonable period for making representations, and
 - (b) the CAA must make the representations in writing before the end of that period.
- (5) In all cases, the CAA must send a copy of its representations to—
- (a) the holder of the licence which is the subject of the application,
 - (b) if the application was made by someone other than the holder of that licence, the applicant,
 - (c) any other person with a qualifying interest in the decision that is the subject of the application, and
 - (d) such bodies representing airport operators or providers of air transport services as the CAA considers appropriate.