

1972 No. 223

CIVIL AVIATION

**The Civil Aviation (Air Travel Organisers' Licensing)
Regulations 1972**

<i>Made</i> - - - - -	17th February 1972
<i>Laid before Parliament</i> - -	1st March 1972
<i>Coming into Operation</i>	
<i>for all purposes except that of regulation 2(1), (2) and (5)</i>	1st May 1972
<i>for the purposes of regulation 2(1), (2) and (5) - - -</i>	1st April 1973

The Secretary of State, in exercise of his powers under sections 1(3), 5(1) and (2) and 26 of and paragraph 16 of Schedule 1 to the Civil Aviation Act 1971(a) and of all other powers enabling him in that behalf and after consultation with the Civil Aviation Authority as required by section 26(2) of that Act, and with the Council on Tribunals as required by section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Regulations:

Citation commencement and interpretation

1.—(1) These Regulations may be cited as the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1972 and shall come into operation—

 for all purposes except that of regulation 2(1), (2) and (5), on 1st May 1972;

 for purposes of regulation 2(1), (2) and (5) on 1st April 1973.

(2) In these Regulations unless the context otherwise requires—

 “the Act” means the Civil Aviation Act 1971;

 “broker” means a person who as agent makes available accommodation on flights by aircraft to another person to enable him to carry on such activities as are mentioned in regulation 2(1)(a) or (b) of these Regulations;

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

 “publish” (except in regulations 6(4) and 7(2)) means publish in the Authority's official record.

 (a) 1971 c. 75.

(b) 1971 c. 62.

(3) Any document to be served on any person under these Regulations may be served either—

- (a) by delivering it to that person; or
- (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 upon the secretary of that body.

(4) For the purposes of paragraph (3) 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 and in any other case be the last known address of the person to be served.

(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 exclusively 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.

(7) The Interpretation Act 1889(a) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Regulation of provision of accommodation in aircraft

2.—(1) Subject to paragraphs (2) and (3) of this regulation, no person shall, in the United Kingdom—

- (a) make available, as a principal or an agent, accommodation for the carriage of persons on flights by aircraft (whether or not registered in the United Kingdom) in any part of the world; or
- (b) hold himself out as a person who, either as a principal or an agent, or without disclosing his capacity, may make such accommodation available

unless—

- (i) he is the operator of the relevant aircraft, or
- (ii) 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.

(2) Nothing in paragraph (1) of this regulation shall require a person to hold a licence by reason only of the fact that he—

- (a) being an operator of aircraft for the carriage of persons for reward, makes available, or holds himself out as a person who may make available, such accommodation, having reason to believe that at the time of the flight he will be the operator of the aircraft on which the accommodation is made available;

- (b) not being a broker, makes available, or holds himself out as a person who may make available, such accommodation as agent acting on behalf and with the authority of—
- (i) the holder of a licence,
 - (ii) such a person as is mentioned in subparagraph (a) of this paragraph, or
 - (iii) a person who is exempted by the Authority under paragraph (3) of this regulation from the need to hold a licence.

(3) 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.

(4) An instrument made in pursuance of paragraph (3) of this regulation which specifies a class or description of persons shall not come into force until it has been published.

(5) A person who contravenes the provisions of paragraph (1) of this regulation shall be guilty of an offence and 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 2 years or both.

Grant and refusal of licences

3.—(1) An application for the grant of a licence must be made in writing to the Authority and where such an application is made 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:

Provided that the Authority may refuse to consider an application unless it is accompanied by the fee payable under section 9 of the Act and has been served on the Authority not less than 6 months before the beginning of the period for which the licence is proposed to be in effect.

(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 a fit person to make available accommodation for the carriage of persons on flights (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); 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 activities in which he is engaged (if any) and in which he may be expected to engage if he is granted the licence.

(3) 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 include terms as to the minimum charges which are to be made and the goods, services and other benefits which are or are not to be furnished by any person whatsoever under or in connection with any contract which includes provision for the making available of the accommodation to which the licence relates.

(4) 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 3 months (or in the case of a licence for a term of 3 months or less, half the term of the licence) 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

4.—(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 7 of these Regulations.

(2) The Authority may refuse to consider any such application unless it is accompanied by the fee payable under section 9 of the Act and has been served on the Authority not less than 6 months before the date on which it is proposed that the revocation, suspension or variation, as the case may be, shall take effect.

(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, after complying with the procedure prescribed in regulation 6 of these Regulations, is no longer satisfied—

- (a) 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; 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 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

5.—(1) The functions conferred upon the Authority by these Regulations are hereby prescribed for purposes of section 5(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;
- (c) refuse to grant a licence,

is hereby prescribed for the purposes of section 5(1) of the Act: and for the purpose of making any such decision, a 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.

6.—(1) Subject to paragraph (2) of this regulation, if it is proposed to make a decision as to a matter which is mentioned in subparagraphs (a), (b) or (c) of regulation 5(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;
- (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 4(3)(a) or (b) of these Regulations.

(3) Where the Authority makes a decision as to a matter which is mentioned in subparagraphs (a), (b) or (c) of regulation 5(2) of these Regulations it shall be the duty of the Authority to 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.

(4) The Authority may publish in its official record or otherwise particulars of, and of its reasons for, any decision taken by it with respect to a licence or an application for a licence.

Variation of schedules of terms

7.—(1) If the Authority establishes any schedule of terms and includes in any licence a term 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 term as aforesaid relating to that schedule or that part of that schedule, as the case may be.

(2) When any licence contains such a term 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's court

8.—(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.

(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 Act (Northern Ireland) 1959(a) 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 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 qualification 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.

(a) 1959 c. 25 (N.I.).

Transfer of licences

9.—(1) Subject to the provisions of this regulation—

- (a) 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;
- (b) if in connection with the reconstruction of any body corporate or the amalgamation of any bodies corporate the whole of the business of the holder of a licence (being a body corporate) or such part thereof as includes the making available of accommodation for the carriage of persons on flights, is transferred or sold to another body corporate, the licence shall be treated, from the date of the transfer or sale of the whole or the relevant part of the business, as if it had been granted to that other body corporate.

(2) The person required by paragraph (1) of this regulation to be treated as the holder of the licence may apply to the Authority—

- (a) if he is the legal personal representative of an individual licence holder who had died, 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), and
- (b) in any other case, for the substitution of his own name in the licence for the name of the person by whom the licence was held.

(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, or the substitution of the name of, any person if it would be bound under regulation 3(2) 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 8 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

10. 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, and any person who fails, without reasonable cause, to comply with any such requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

Furnishing of false information

11. 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 and any person who contravenes this regulation 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.

17th February 1972.

Michael Noble,
Minister for Trade,
Department of Trade and Industry.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations require a person to hold an air travel organiser's licence if in the United Kingdom whether as principal or agent he makes available or holds himself out as a person who may make available accommodation for the carriage of persons on aircraft (regulation 2(1)). This does not apply to the operator of the aircraft, agents described in regulation 2(2)(b) or persons exempted by the Civil Aviation Authority from the need to hold a licence (regulations 2(2) and (3)). Any person who is in breach of the requirement to hold a licence or who fails to comply with the terms of a licence is guilty of an offence (regulation 2(5)).

Air travel organiser's licences are to be granted by the Civil Aviation Authority who must refuse a licence unless satisfied that the applicant is a fit person to make available accommodation on aircraft and has adequate resources for discharging his obligations (regulation 3(2)). The Regulations prescribe the procedure to be followed by the Authority in connection with the grant, refusal, revocation, suspension or variation of licences (regulations 3, 4, 6 and 7). They also provide that any decision to revoke, suspend or vary a licence other than on the application of the holder, to grant or vary a licence in terms other than those requested by the applicant or to refuse to grant a licence shall be taken by the Authority and not by any other persons on its behalf (regulation 5(2)).

The Regulations provide for an appeal to the county court or in Scotland to the sheriff's court against any decision of the Authority that a person is not fit to hold a licence (regulation 8). The Regulations also contain provisions relating to transfer and surrender of licences (regulations 9 and 10) and provide penalties for furnishing false information (regulation 11).

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