

*This Statutory Instrument has been amended by S.I.1993/100 and is being issued free of charge to all known recipients of S.I. 1992/2994.*

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## STATUTORY INSTRUMENTS

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# 1992 No. 2994

## CIVIL AVIATION

### The Air Fares Regulations 1992

<i>Made</i>	- - - -	<i>1st December 1992</i>
<i>Laid before Parliament</i>		<i>4th December 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State for Transport, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to matters relating to fares and rates for air services for carriage wholly within the Community, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

1. These Regulations may be cited as the Air Fares Regulations 1992 and shall come into force on 1st January 1993.

2.—(1) In these Regulations—

“the CAA” means the Civil Aviation Authority; and

“the Council Regulation” means Council Regulation 2409/92 on fares and rates for air services<sup>(3)</sup>.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in the Council Regulation.

3. Save as provided in regulation 4 below the Secretary of State shall be the competent authority for the purposes of the Council Regulation.

4.—(1) The CAA shall perform the functions relating to the filing of air fares that are set out in paragraph 2 of article 5 of the Council Regulation.

(2) The requirements of the CAA made pursuant to the said paragraph shall be published by the CAA in its Official Record.

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(1) S.I. 1992/1711.

(2) 1972 c. 68.

(3) O.J. No. L240 of 24 August 1992, page 15.

**5.** Where the Secretary of State imposes a requirement pursuant to paragraph 3 of article 5 of the Council Regulation notice of that requirement shall be given to the CAA and the CAA shall publish that requirement in its Official Record.

**6.** It shall be the duty of the CAA to give notice to the Secretary of State with reasons if it considers that in relation to an air fare the conditions specified in paragraph 1(a) or 1(b) of article 6 of the Council Regulation obtain which would make the powers conferred by those provisions exercisable by the Secretary of State and that, in its opinion, the air fare should be withdrawn or stopped as the case may be.

**7.** An air carrier which, without reasonable excuse, fails to inform the general public, on request, of its air fares and standard cargo rates shall be guilty of an offence.

**8.—(1)** This regulation applies to—

- (a) a Community air carrier; and
- (b) any person authorised to act on behalf of a Community air carrier to file or, as the case may be, to charge air fares.

**(2)** Any person to whom this regulation applies who, without reasonable excuse—

- (a) fails to file air fares in accordance with requirements imposed by virtue of paragraph 2 or 3 of article 5 of the Council Regulation;
- (b) charges an air fare which the Secretary of State has instructed that carrier to withdraw by virtue of paragraph 3 of article 6 of the Council Regulation, save where that fare is under examination pursuant to article 7 of that Regulation;
- (c) fails to abstain from further fare decreases contrary to an instruction from the Secretary of State given by virtue of paragraph 3 of article 6 of the Council Regulation, save where that fare is under examination pursuant to article 7 of that Regulation;
- (d) charges an air fare which is not permitted to be in force by virtue of paragraph 3 of article 7 of the Council Regulation;
- (e) charges an air fare contrary to a decision of the Commission made pursuant to paragraph 4 or 6 of article 7 of the Council Regulation, save where that decision is under examination by the Council or the Council have taken a different decision; or
- (f) charges an air fare contrary to a decision of the Council made pursuant to paragraph 8 of article 7 of the Council Regulation;

shall be guilty of an offence.

**9.** A person guilty of an offence under regulation 7 or 8 above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

**10.** For the purposes of determining in pursuance of regulation 7 or 8(2)(b) to (f) above whether an offence relating to informing the general public of air fares or standard cargo rates or to the charging of an air fare or failure to abstain from further fare decreases has been committed by a person it is immaterial that the contravention mentioned in that regulation occurred outside the United Kingdom if when it occurred that person—

- (a) was a United Kingdom national,
- (b) was a body incorporated under the law of any part of the United Kingdom, or
- (c) was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom.

**11.**—(1) Where an offence under regulation 7 or 8 above has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a Scottish partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**12.**—(1) Subject to paragraph (2) below, summary proceedings for an offence under these Regulations may be commenced in Scotland within a period of 6 months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to his knowledge.

(2) No such proceedings shall be commenced by virtue of this regulation more than 3 years after the commission of the offence.

(3) 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.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(5) Subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975 (date of commencement of proceedings)<sup>(4)</sup> shall apply for the purposes of this regulation as it applies for the purposes of that section.

Signed by authority of the Secretary of State for Transport

1st December 1992

*Caithness*  
Minister of State,  
Department of Transport

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(4) 1975 c. 21.

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for implementing the Community obligations of the United Kingdom provided for in Council Regulation 2409/92 on fares and rates for air services and matters arising out of or related thereto.

Save as provided in the Regulations the Secretary of State is specified as the competent authority for the purposes of the Council Regulation (regulation 3).

The Civil Aviation Authority (the CAA) is given the functions relating to the filing of air fares that are set out in article 5.2 of the Council Regulation (regulation 4).

The CAA is obliged to give notice to the Secretary of State of cases where air fares appear to be excessively high or unduly low (regulation 6).

A number of offences are created namely, failure by a carrier to inform the general public on request of its air fares and cargo rates and failure by a carrier or its agent to file air fares or to refrain from charging air fares that the carrier is obliged to withdraw and failure by a carrier or its agent to abstain from fare decreases when required to do so (regulations 7 and 8).