
STATUTORY INSTRUMENTS

2011 No. 2491

The Airport Charges Regulations 2011

PART 6

Breach of obligations by airport operators

Breach of obligations: duties owed to third parties

19.—(1) The obligation to comply with any requirement imposed on an airport operator by these Regulations is a duty owed to any person who may be affected by a contravention of that requirement.

(2) Where a duty is owed by virtue of paragraph (1), the following are actionable by a person—

- (a) any breach of the duty which causes that person to sustain loss or damage, and
- (b) any act which, by inducing a breach of that duty or interfering with its performance, causes that person to sustain loss or damage and which is done wholly or partly for the purpose of achieving that result.

(3) In any proceedings brought against any person in pursuance of paragraph (2)(a) in relation to an obligation arising under Part 3 of these Regulations it shall be a defence for that person to prove that he or she took all reasonable steps and exercised all due diligence to avoid contravening the obligation.

Breach of obligations: investigations

20.—(1) The CAA may investigate whether an airport operator is failing, or has failed, to comply with an obligation imposed on it by or under these Regulations.

(2) The CAA must investigate whether an airport operator is failing to comply or has failed to comply with an obligation imposed on it by or under these Regulations if it receives a complaint about such a failure from a person mentioned in paragraph (3).

(3) Those persons are—

- (a) a person on whom any airport charges have been levied by the airport operator at the airport (whether actually paid by that person or not), or
- (b) another airport operator who claims that the business carried on by the operator has been or is being materially harmed by the alleged failure to comply with the obligation in question.

(4) Paragraph (2) does not apply if the CAA considers that the complaint is frivolous.

Compliance orders

21.—(1) Paragraph (2) applies if the CAA is satisfied that—

- (a) an airport operator is failing to comply with an obligation imposed on it by or under these Regulations, or
- (b) an airport operator has failed to comply with such an obligation and is likely to do so again.

(2) The CAA may give the airport operator an order requiring it to take the appropriate steps specified in the order.

(3) In paragraph (2) “the appropriate steps”, in relation to a failure to comply with an obligation, means the steps that the CAA considers appropriate for the purpose of—

- (a) securing compliance with the obligation, and
- (b) remedying any loss or damage sustained, or injustice suffered, by any person in consequence of the failure to comply with that obligation.

(4) Paragraph (5) applies if the CAA is satisfied that an airport operator has failed to comply with any obligation placed on it by or under these Regulations (but not that the operator is for the time being failing to comply with it or is likely again to fail to comply with it).

(5) The CAA may give the airport operator an order requiring it to take the appropriate steps specified in the order for the purpose of remedying any loss or damage sustained, or injustice suffered, by any person in consequence of the failure to comply with that obligation.

(6) An order under paragraph (2) or (5)—

- (a) must require the airport operator concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified,
- (b) is to take effect in respect of any requirement (according to the terms of the order) either as soon as a copy of it is served on the airport operator or at such later time as may be specified in it by the CAA, and
- (c) may be revoked by the CAA at any time.

(7) A copy of an order under this regulation must be served by the CAA on the airport operator.

Validity and enforcement of compliance orders

22.—(1) Section 49 of the 1986 Act (validity and effect of compliance orders) has effect in relation to an order under regulation 21(2) or (5) as if—

- (a) the order were a compliance order under section 48(3)(a) or (5) of that Act, and
- (b) the references in subsections (1) and (2) of that section to section 48 of that Act were references to regulation 21 of these Regulations.

(2) Article 40 of the 1994 Order (validity and effect of compliance orders) has effect in relation to an order under regulation 21(2) or (5) as if—

- (a) the order were a compliance order under Article 39(3)(a) or (5) of that Order, and
- (b) the references in paragraphs (1) and (2) of that article to Article 39 of that Order were references to regulation 21 of these Regulations.