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STATUTORY INSTRUMENTS

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**2012 No. 1017**

**The Civil Aviation (Air Travel  
Organisers' Licensing) Regulations 2012**

**PART 5**

**DECISIONS AND HEARINGS**

**CHAPTER 1**

**Licensing Procedures**

**Meaning of “the person concerned”**

**49.**—(1) In this Part, “the person concerned” means the applicant for or holder of an ATOL or accreditation which is the subject of the proceedings.

(2) In this part, “the CAA’s employee responsible for the proposal” means an employee of the CAA designated by them to consider whether an ATOL or accreditation ought to be revoked, suspended or varied and who proposes what action should be taken to the Member.

**Decisions to be made by Member**

**50.**—(1) This Part applies to the CAA’s function of making a decision to—

- (a) revoke, suspend or vary an ATOL or accreditation otherwise than on the application of the person concerned,
- (b) grant or vary an ATOL or accreditation in terms other than those requested by the applicant,
- (c) refuse to grant an ATOL or accreditation, or
- (d) provisionally vary an ATOL or accreditation.

(2) Any other decision to grant, revoke, suspend or vary an ATOL or accreditation may be made on behalf of the CAA only by a Member or by an employee of the CAA.

(3) Where this Part applies, the quorum of the CAA is one Member.

(4) Where a decision is to be made by more than one Member, references in this Part to “Member” shall include all such Members.

**Application for extension of time limit**

**51.**—(1) The CAA may extend any time limit imposed by this Part whether or not it has already expired, if—

- (a) it would not be reasonable to expect any person subject to such a limit to comply or to have complied with the time limit; or
- (b) not to extend the time limit would result in substantial injustice.

(2) Before deciding whether or not to extend the time limit the CAA must give persons entitled to attend a hearing under regulation 59 an opportunity to submit written representations.

### **Confidential information**

**52.**—(1) In this regulation, confidential information means personal data (as defined in section 1 of the Data Protection Act 1998(1)) or information which in the opinion of the CAA relates to the commercial or financial affairs of any person.

(2) The CAA must exclude from a statement of reasons or decision which it is required to publish any confidential information which cannot be disclosed without disadvantage to the person to whom it relates where, by comparison with the advantage to the public, its disclosure is unwarranted.

### **Consideration of representations**

**53.**—(1) Before making a decision specified in regulation 50(1)(a), (b) or (c), the Member must consider any representations and evidence submitted by the person concerned and the CAA's employee responsible for the proposal.

(2) The requirement to consider the representations only applies if they are provided to the CAA by the person concerned within 10 days beginning with the date of service of the notice under regulation 36 or regulation 44 or such additional period as the Member may determine in accordance with regulation 51.

(3) The Member may request further information and specify the period of time in which it must be supplied from the person concerned or the CAA employee responsible for the proposal after considering any representations and evidence submitted.

### **Statement of reasons**

**54.** Where the CAA makes a decision to—

- (a) revoke, suspend or vary an ATOL or an accreditation otherwise than on the application of the person concerned;
- (b) grant or vary an ATOL or an accreditation in terms other than those requested by the person concerned; or
- (c) refuse to grant an ATOL or an accreditation,

the CAA must supply a statement of its reasons for the decision to the person concerned.

### **Publication of Decision**

**55.** Where the CAA decides to revoke or suspend an ATOL or accreditation the decision must be published by the CAA.

## **CHAPTER 2**

### **Requirement for and conduct of hearing**

#### **Requirement to hold a hearing**

**56.**—(1) Within the time limit under regulation 53 for providing representations to the CAA, the person concerned may request a hearing.

(2) Where the person concerned requests a hearing, the Member must before making a decision, hold a hearing and consider any representations made or evidence submitted at such a hearing.

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(1) 1998 c.29.

(3) Where the person concerned does not request a hearing, the Member may hold a hearing, if the Member considers it appropriate following consideration of representations and evidence submitted under regulation 53.

### **Giving notice of hearing**

**57.**—(1) Subject to regulation 51, no hearing is to be held under this Part unless the CAA has served on the person concerned at least 7 days notice of the date, time and place of the hearing.

(2) The notice must clearly identify the matter to which it relates.

(3) The notice must be published at least 7 days before the date of the hearing unless the hearing is to be held in private.

(4) On the day of the hearing, the notice must be exhibited in a visible and accessible place at the venue where the hearing is scheduled to take place unless the hearing is to be held in private.

### **Expedited hearing**

**58.**—(1) If the CAA is satisfied that for reasons of urgency it is desirable to do so, a hearing may be held without notice having been served, published and exhibited in accordance with regulation 57.

(2) In such a case, the CAA must give notice of the date, time and place of the hearing, being notice of such length and by such means as it thinks fit, to the applicant, the ATOL holder or accredited body.

### **Entitlement to attend and be heard**

**59.** The person concerned and the CAA's employee who has made the proposal under regulation 36 or regulation 44 to be determined have a right to attend and be heard at the hearing.

### **Absence of party**

**60.** Where the CAA is required to hold a hearing under this Part, the hearing may proceed in the absence of the person concerned or that person's representative and the CAA must consider any representations made or evidence submitted by any person entitled to attend who is in attendance.

### **Technical assessors**

**61.** The Member conducting a hearing may appoint a technical assessor, so long as that assessor did not participate in the application or proposal which is the subject of the hearing, to provide advice and assistance.

### **Right to be represented, produce evidence and examine other persons**

**62.**—(1) At a hearing every person with a right to be heard may appear in person or be represented by any other person who they have authorised to represent them.

(2) A person with a right to be heard or their representative may—

- (a) produce oral and written evidence; and
- (b) examine the other persons being heard, and any witness produced by such persons.

### **Hearings in public or in private**

**63.**—(1) All hearings must be in public unless—

- (a) the CAA is satisfied that a private hearing is required—

- (i) in the interests of morals, public order or national security in a democratic society,
  - (ii) the interests of juveniles or the protection of the private lives of the parties, or
  - (iii) to the extent strictly necessary in the opinion of the CAA in special circumstances if publicity would prejudice the interests of justice; or
- (b) where the person concerned has requested in writing that the hearing be in private and the CAA is satisfied that there is no important public interest consideration that calls for the public to be present.
- (2) The CAA may decide under paragraph (1) that part only of the hearing is to be in private or that information about the proceedings before the CAA, the names and identifying characteristics of persons concerned in the proceedings or specified evidence given in the proceedings must not be made public or disclosed to the person concerned.
- (3) Any person who the CAA, with the consent of the person concerned or their representative, permits to attend the hearing may attend a hearing, whether or not it is in private.

### **Procedure at hearing**

- 64.**—(1) At the beginning of any hearing the CAA must explain the manner and order of proceeding, having regard to any applicable burden and standard of proof and rules of evidence.
- (2) The CAA may conduct the hearing in the manner it considers most suitable—
- (a) to the clarification of the issues before it; and
  - (b) to enable the CAA, with the assistance of the person concerned (or their representative) and the CAA employee responsible for the proposal, to deal with the case fairly and justly; seeking to avoid, where appropriate, formality and inflexibility in its proceedings.
- (3) The CAA may consider evidence of any fact which seems to the CAA to be relevant even if the evidence would be inadmissible in proceedings before a court of law.

### **Provision of transcripts**

- 65.**—(1) All the proceedings at a hearing in accordance with this Part must be recorded in writing.
- (2) Subject to paragraphs (3), (4) and (5), a copy of the transcript of the proceedings must be made available to any person on request, unless a decision has been taken to hold the hearing in private, in which case a transcript must only be made available to those present at the hearing.
- (3) If part of the hearing is held in private, a copy of the transcript of that part of the proceedings must only be supplied to persons present during that part.
- (4) The CAA is entitled to require payment of a reasonable fee before supplying a copy of any transcript.
- (5) The CAA is not required to supply an electronic recording or transcript of the proceedings at any time more than one year after it has published or notified its decision.

### **Exclusions**

- 66.** Nothing in this Part prevents the CAA from provisionally varying an ATOL in accordance with regulation 38 or an accreditation in accordance with regulation 46.