STATUTORY INSTRUMENTS

1961 No. 408

CIVIL AVIATION

The Air Operators' Certificates Regulations, 1961

Made - - - - 8*th March*, 1961
Coming into Operation 20*th March*, 1961

The Minister of Aviation, in exercise of the power conferred on him by Article 3A of the Air Navigation Order, 1960(a), as amended by the Air Navigation (Amendment) Order, 1960(b), and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act, 1958(c), as applied by the Tribunals and Inquiries (Air Operators' Certificates) Order, 1961(d), to persons appointed under paragraph (7) of the said Article 3A, hereby makes the following Regulations:—

Citation and Operation

1. These Regulations may be cited as the Air Operators' Certificates Regulations, 1961, and shall come into operation on the 20th day of March, 1961.

Interpretation and Supplementary

2.—(1) In these Regulations—

"The appointed person" means the person appointed under paragraph (7) of Article 3A of the Order;

"Certificate" means an air operator's certificate granted under the Order;

"Director" includes a deputy to the Director;

"The Order" means the Air Navigation Order, 1960, as amended by the Air Navigation (Amendment) Order, 1960;

"Scottish appeal" means an appeal under paragraph (7) of Article 3A of the Order which, in accordance with that paragraph, is an appeal to a person to be appointed by the Lord President of the Court of Session;

"Northern Irish Appeal" means an appeal under paragraph (7) of Article 3A of the Order, which, in accordance with that paragraph, is an appeal to a person to be appointed by the Lord Chief Justice of Northern Ireland.

(2) Expressions used in these Regulations shall, unless the context otherwise requires, have the same respective meanings as in the Order.

(3) For the purposes of these Regulations, a document may be served on any person other than the Minister by sending it by post in a letter addressed to that person at his usual or last known place of abode or place of business.

(4) The Interpretation Act, 1889(e), applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament.

(a) S.I. 1960/972 (1960 I, p. 599). (b) S.I. 1960/2410 (1960 I, p. 680). (c) 6 & 7 Eliz. 2. c. 66.
(d) S.I. 1961/153 (*See* p. 267 of this Pt.) (e) 52 & 53 Vict. c. 63.

Prescribed notice of proposal to suspend, revoke or vary an air operator's certificate

3. The notice referred to in paragraph (5) of Article 3A of the Order shall be served on the holder of the certificate not less than one month before the date on which the Director proposes to suspend, revoke or vary the certificate, as the case may be.

Period prescribed for giving reasons

4. The period prescribed for the purposes of paragraph (6) of Article 3A of the Order shall be the period of fourteen days beginning on the day on which the Director serves notice of his decision on the applicant for or holder of the certificate, as the case may be.

Notice of appeal

5.—(1) If the applicant for or holder of a certificate is aggrieved by a decision of the Director as to the application or certificate, he may at any time before the expiration of the period of twenty-eight days beginning with the day on which he has been served by the Director with notice of that decision, serve on the Minister written notice that he wishes to appeal against that decision.

(2) The Notice of Appeal shall state concisely the grounds on which the appeal is based. A copy of the Notice of Appeal shall, at the same time as it is served on the Minister, be served, in the case of a Scottish appeal on the Crown Agent, in the case of a Northern Irish appeal on the Chief Crown Solicitor for Northern Ireland, (for transmission to the solicitor representing the Director) and in any other case on the Treasury Solicitor at 35, Old Queen Street, London, S.W.1, and the appellant shall inform the Crown Agent, the Chief Crown Solicitor for Northern Ireland or the Treasury Solicitor, as the case may be, whether or not he proposes to be legally represented at the hearing of the appeal and of the name and address of the Solicitor, if any, acting for him, or of any other person who will be representing him at the appeal.

Determination of the appeal

6.—(1) The Minister shall forthwith refer the appeal to the appointed person, who shall hear the appellant and the Director.

(2) The hearing shall be held in public unless the appointed person determines, in relation to the whole or part of the case, that it is to be held in private because of exceptional circumstances.

(3) The appointed person shall fix the time and place for the hearing.

(4) The appellant and the Director may appear in person or be represented by any other person whom he may have authorised to represent him.

(5) The Crown Agent, the Chief Crown Solicitor for Northern Ireland, or the Treasury Solicitor, as the case may be, may prepare a statement of the grounds upon which the Director intends to rely to support his decision at the hearing of the appeal, and shall forward any such statement to the appointed person and to the appellant. The statement shall be delivered within twenty-eight days of the delivery of the Notice of Appeal. At the hearing the Director may give evidence himself and may produce other evidence, either oral or documentary, in support of his decision.

(6) The appellant shall have the right to examine the Director and any witnesses produced by him, and the Director shall have the right to examine the appellant, if he gives evidence, and any other person who gives evidence for the appellant.

(7) If either the appellant or the Director at any time before the date fixed for the hearing desire to obtain any directions or any preliminary or interlocutory order as to the procedure, application for the same may be made to the appointed person and the party making such application shall at the same time give notice of such application to the other party to the appeal.

(8) The appointed person shall make such Order as he thinks proper with respect to the application or certificate which is the subject of the appeal, and the Director shall forthwith give effect to that order. The appointed person shall furnish the appellant, the Director and the Minister with the reasons for his decision.

Costs (non-Scottish and non-Northern Irish Appeals)

7.—(1) The appointed person determining an appeal other than a Scottish or Northern Irish appeal may, if he thinks fit, order the appellant or the Director to pay, respectively, to the Minister or the appellant the whole or part of the costs incurred by him in connection with the appeal, such costs in default of agreement to be taxed on a party and party basis by the Supreme Court Taxing Office.

(2) Any sum payable by virtue of an order under this Regulation shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of that court; and, subject to county court rules, an application for an order of the county court under this Regulation may be made ex parte.

(3) The powers of the county court under this Regulation may be exercised by the Registrar.

Expenses (Scottish Appeals)

8.—(1) The person determining a Scottish appeal shall have the like power to award expenses as if he were an arbiter under a submission and the appellant and the Director were parties to the submission.

(2) Any award of expenses by the person determining a Scottish appeal may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.

Costs (Northern Irish Appeals)

9.—(1) The appointed person determining a Northern Irish appeal may, if he thinks fit, order the appellant or the Director to pay, respectively, to the Minister or the appellant the whole or part of the costs incurred by him in connection with the appeal, such costs in default of agreement to be taxed on a party and party basis by the Taxing Master of the Supreme Court of Justice of Northern Ireland.

(2) Any costs so ordered to be paid may, in default of payment, be recoverable by action against the person ordered to pay them.

Dated this 8th day of March, 1961.

Michael Custance,
A Deputy Secretary
of the Ministry of Aviation.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make provision for appeals from decisions of the Director of Aviation Safety as to Air Operators' Certificates, which are certificates required under section 1 (2) (*a*) of the Civil Aviation (Licensing) Act, 1960, and the Air Navigation Order, 1960, as amended. They also prescribe the notice to be given to the holder of an Air Operator's Certificate by the Director of Aviation Safety before he suspends, revokes or varies the certificate otherwise than on the application of the holder.