

**CIVIL AVIATION (AIR TRANSPORT LICENSING)
REGULATIONS 2007**

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CIVIL AVIATION (AIR TRANSPORT LICENSING) ACT 2007

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SCHEDULE

In exercise of the powers conferred upon the Minister responsible for Transport by section 18 of the Civil Aviation (Air

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Transport Licensing) Act 2007, the following regulations are hereby made:

Citation

1 These Regulations may be cited as the Civil Aviation (Air Transport Licensing) Regulations 2007.

Interpretation

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

"Act" means the Civil Aviation (Air Transport Licensing) Act 2007;

"charter service" means an air transport service for reward, where the aircraft is at the disposal of the person or persons chartering it;

"decision date" has the meaning assigned to it in regulation 13(7)(a);

"hearing" or "preliminary hearing" means a hearing or preliminary hearing at which oral evidence or argument may be heard and "to hear" shall be construed accordingly;

"party" in relation to a case before the Panel means a person having the right to be heard pursuant to regulation 12(1);

"party" in relation to an appeal to the Minister means any of the persons specified in regulation 14(3)(c) and (d);

"scheduled service" means an air transport service for reward, operating to a published time-table and fare structure available directly to the general public;

"statement of policies" means the statement published by the Panel pursuant to section 16 of the Act;

"statutory duties" means the duties of the Panel set out in section 7 of the Act;

"transcript date" has the meaning assigned to it in regulation 13(7)(b).

(2) Any period of time specified in these Regulations by reference to days, working days or months—

(a) where such period is expressed to begin after a particular date, shall begin on the first day after that date, and shall be inclusive of the last day unless that day falls on a Saturday, Sunday or any other public holiday, in which case the period shall run to the immediately following working day; and

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(b) where such period is expressed to run to or expire before a particular date or event, the period shall be calculated to expire on the last working day before the particular date or the date of that event.

(3) In computing any period of time specified in these Regulations by reference to hours or working days the whole of any Saturday, Sunday or other public holiday shall be disregarded.

(4) For the purposes of these Regulations, a need to allocate scarce bilateral capacity arises when the Panel has been notified by the Minister that in the Minister's opinion, by virtue of any provision made by or under the terms of an air services agreement or other international agreement or arrangement applying to Bermuda or Bermudian airlines, the share of the capacity on air transport services which may be provided by Bermudian airlines within the meaning given by section 2 of the Act (whether capacity is expressed in terms of the number of passenger seats or the amount of cargo carrying space which may be offered for sale by such operators, or otherwise) will, within 6 months of the date of notification, be insufficient to enable all persons holding air transport licences (authorising them to operate such air transport services) to make available all the capacity which they plan to provide.

Service of documents

3 (1) Anything required to be served on any person under these Regulations or under the Act shall be set out in a notice in writing which may be served either—

- (a) by delivering it to that person;
- (b) by leaving it at the proper address of that person;
- (c) by sending it by prepaid registered post to the proper address of that person, in which event the notice shall be regarded as served when it first becomes available for collection; or
- (d) by sending it to that person at his proper address by facsimile or other electronic communication which produces a document containing a text of the notice, or from which such a document can be produced, in which event the notice shall be regarded as served when such communication is received;

and where the person is a body corporate the notice may be served upon the secretary of that body.

(2) For the purposes 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.

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Publication by the Panel

4 Any notice or other matter (not being a schedule of terms referred to in regulation 7) required by these Regulations, or the Act, to be published by the Panel shall, unless these Regulations or the Act provide otherwise in respect of such notice or matter, be published by the Panel in the Gazette.

Application for the grant, revocation, suspension or variation of licences

5 (1) The Panel may refuse to consider an application for the grant, revocation, suspension or variation of an air transport licence unless—

- (a) subject to regulation 11, in the case of an application for the grant of a licence it has been served on the Panel not less than 6 months before the beginning of the period for which the licence is proposed to be in effect, and in any other case it has been served on the Panel not less than 6 months before the date on which it is proposed that the revocation, suspension or variation shall take effect;
- (b) in the case of an application for the grant of a licence, the application has been made in such form and contains such particulars as the Panel may specify by publication in such manner as the Panel thinks fit; and
- (c) the application is accompanied by any applicable fee as specified in the Schedule hereto.

(2) Any person of a description specified in regulation 12(1)(b) or (c) may apply to the Panel for the variation, suspension or revocation of an air transport licence but, no person may apply for the variation of such a schedule of terms as is mentioned in regulation 7.

(3) The Panel shall refuse to consider an application for the revocation, suspension or variation of an air transport licence made by a person other than the holder of the licence unless a copy of the application has been served on the holder within 24 hours after it has been served on the Panel.

(4) The Panel shall as soon as may be after an application for the grant, revocation, suspension or variation of an air transport licence has been served upon it in accordance with this regulation publish such particulars of the application as it thinks necessary for indicating the substance of the application, and shall make a copy of the application available at the office of the Department of Civil Aviation for inspection by any person at any reasonable time:

Provided that—

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- (a) the Panel may dispense with publication in any case where it is satisfied that for reasons of urgency it is desirable to do so and it is of the opinion that to do so is unlikely to prejudice the interests of any persons of a description specified in regulation 12(1);
- (b) the Panel may dispense with publication in the case of an application—
 - (i) for the grant of a licence for not more than four flights in any one direction between the same two places;
 - (ii) made by its holder for the revocation or suspension of a licence;
 - (iii) for the variation of a licence if in its opinion to do so is unlikely to prejudice the interests of any persons of a description specified in regulation 12(1).

(5) If within 12 months after the date on which objections to and representations about an application for the grant, variation, suspension or revocation of an air transport licence must have been served on the Panel pursuant to regulation 8, the Panel has neither made a decision on the application nor given notice pursuant to regulation 12(3) of the date, time and place of the hearing of such application, it shall as soon as may be republish such particulars of the application as it thinks necessary for indicating the substance of the application and shall republish such particulars at 12 monthly intervals thereafter until such time as a decision has been made on the application or notice has been given as aforesaid pursuant to regulation 12(3).

(6) The Panel may direct that an application shall be treated as being such number of separate applications as it may specify in the direction, and the application shall be treated accordingly.

Revocation, suspension or variation of licences without application being made

6 (1) Subject to paragraph (3) of this regulation, if the Panel proposes to revoke, suspend, or vary an air transport licence (other than in pursuance of an application made to it in that regard) on the ground that it is not or is no longer satisfied as to the matters specified in section 9(3) of the Act, it shall—

- (a) serve on the holder of the licence not less than 21 days' notice of its intention to publish particulars of the proposal together with the reasons for its proposal;

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- (b) consider any representations which may be made to it by the holder of the licence before the expiration of the said notice; and
- (c) as soon as may be after the expiration of the said notice or at such earlier time as the Panel and the holder of the licence may agree, publish particulars of the proposal unless it has abandoned the proposal:

Provided that the Panel may—

- (i) with the consent of the holder of the licence dispense with publication of its proposal to revoke or suspend the licence;
- (ii) dispense with publication of its proposal to vary the licence if it is satisfied that the variation is unlikely to prejudice the interests of any person of a description specified in regulation 12(1).

(2) Subject to paragraph (3) of this regulation, if the Panel proposes to revoke, suspend or vary an air transport licence on grounds other than those referred to in paragraph (1) of this regulation and otherwise than in pursuance of an application made to it in that regard, it shall publish particulars of the proposal and of the reasons for it, unless—

- (a) the Minister has directed the Panel to revoke, suspend or vary the licence as proposed or the proposal is made pursuant to a direction made by the Minister under regulation 16(1) to re-hear the case;
- (b) the Panel is satisfied that to dispense with publication is unlikely to prejudice the interests of any person of a description specified in regulation 12(1) and the holder of the licence consents to the proposal not being published.

(3) The Panel may suspend an air transport licence notwithstanding that it has not complied with the requirements of paragraph (1) or (2) of this regulation if it has served on the holder of the licence not less than 6 working days' notice of its proposal to suspend the licence, together with its reasons for the proposal, and if, after considering any representations which may be made to it by the holder of the licence before the expiration of such notice it is not, or is no longer, satisfied as mentioned in section 9(3) of the Act.

(4) Before reaching a decision that it has reason to believe that the holder of an air transport licence is not a person mentioned in section 9 (4) of the Act, the Panel shall—

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- (a) serve on the holder of the licence not less than 21 days' notice of its intention to consider the matter; and
- (b) consider any representations which may be made to it by the holder of the licence before the expiration of the said period.

Variation of schedules of terms

7 (1) If the Panel establishes any schedule of terms and includes in any air transport 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 Panel, the Panel 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 air transport 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 air transport licence contains such a term as aforesaid relating to a schedule, the Panel shall publish that schedule and any variation to it, and shall give notice of such publication in the Gazette.

(3) The Panel shall maintain a list of the names and addresses of all persons who hold an air transport licence which includes such a term as is referred to in paragraph (1) of this regulation and shall serve copies of that list on any person who so demands.

Objections and representations

8 (1) Any person may serve on the Panel an objection to, or representation about, an application or proposal for the grant, revocation, suspension or variation (other than the provisional variation) of an air transport licence if he does so—

- (a) where an application or proposal is published, within such period (being, subject to paragraph (2) of this regulation, not more than 21 days nor less than 7 days) as the Panel may specify when publishing the application or proposal;
- (b) where the application or proposal is not published, but he has been notified by the Panel that the application or proposal has been made and will not be published, within 3 working days after being so notified:

Provided that nothing herein shall—

- (a) permit the Panel to specify a period of less than 21 days for the service of objections or representations unless it is satisfied that for reasons of urgency it is desirable to do so;

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- (b) permit the Panel to specify a period of less than 21 days for the service of objections or representations in a case where it has made a proposal pursuant to regulation 6, unless it has proposed to—
 - (i) revoke, suspend or vary an air transport licence in accordance with a direction given by the Minister;
 - (ii) vary an air transport licence for the sole reason that there is a need to allocate scarce bilateral capacity.

(2) Where the person making the objection or representation is the holder of an air transport licence he shall, within 24 hours after it has been served on the Panel, serve a copy of it on—

- (a) the applicant;
- (b) any other person who is the holder of the licence to which the application or proposal relates;

and where the person making the objection or representation is not the holder of an air transport licence, the Panel shall within 7 days after the day on which the objection or representation has been served on the Panel serve a copy of it on the said persons, indicating whether the person making the objection or representation wishes to be heard pursuant to regulation 12.

(3) Upon being served as aforesaid, the applicant shall, if so required in writing by the person making the objection or representation, serve him with a copy of the application within 3 working days after being required so to do.

(4) References in this regulation to publication include references to republication pursuant to regulation 5(5), but when an application is republished, nothing in this regulation shall require a person who has served an objection to or representation about the application when it was previously published to re-serve that objection or representation.

Furnishing of information by the Panel

9 Before the date fixed for the hearing of a case pursuant to regulation 12, the Panel shall serve on any person who has the right to be heard in connection with the case or whom the Panel proposes to hear a copy of, or a summary of, any information in the possession of the Panel which has been provided in connection with the case or which the Panel has reason to believe will be referred to at the hearing of the case:

Provided that—

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- (a) the Panel shall not serve any such information which has been provided by the Minister if the Minister has certified to the Panel that it would not be in the public interest for it to be disclosed;
- (b) before serving such information which has been provided by any other person (not being a person who has provided information in connection with the case but does not wish to be heard) the Panel shall consult that person and shall not serve any information which in its opinion relates to the commercial or financial affairs of the person who has provided it and cannot be disclosed to the prospective recipient without disadvantage to the person who has provided it which, by comparison with the advantage to the public and the prospective recipient of its disclosure to him, is unwarranted.

Preliminary Meetings

10 (1) Before the date fixed for the hearing of a case pursuant to regulation 12, the Panel may hold a preliminary meeting to discuss the conduct of the case.

(2) The Panel shall give to every party to the case and to every person whom the Panel proposes to hear in connection with the case notice of the date, time and place of the preliminary meeting and any such person may attend in person or be represented by any person whom he may have authorised to represent him.

(3) Preliminary meetings may, with the consent of the other members of the Panel, be conducted on behalf of the Panel by the Director of Civil Aviation.

Preliminary hearings of allegations of behaviour damaging to a competitor

11 (1) This regulation applies where the holder of any air transport licence (hereinafter in this regulation referred to as "the applicant")—

- (a) has applied to the Panel for the variation of an air transport licence held by another person (hereinafter in this regulation referred to as "the respondent") for the purpose of restraining the respondent from engaging in behaviour damaging to the applicant's business;
- (b) has included in his application a statement giving particulars of the behaviour complained of and of the extent to which the applicant's business is being or is likely to be damaged thereby;

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- (c) has asked for a preliminary hearing of the application with a view to the respondent's air transport licence being provisionally varied pending a hearing pursuant to regulation 12; and
 - (d) has served a copy of his application on the respondent on the same day as he has served it on the Panel.
- (2) The respondent shall, within 5 working days after the date of service of the application, serve on the Panel and on the applicant any representations he may wish the Panel to take into account in determining whether to hold a preliminary hearing.
- (3) The Panel shall within 10 working days after the date of service of the application notify the applicant and the respondent of the date (which shall be within 20 working days after the date of service of the application), time and place of the preliminary hearing or of the fact that it has decided not to hold a preliminary hearing.
- (4) Notice of the date, time and place of a preliminary hearing shall be of such length as is reasonably practicable and shall be given by such means (whether oral or written) as the Panel thinks fit.
- (5) The Panel shall hold a preliminary hearing only if, having considered the terms of the application and of any representations served on it pursuant to paragraph (2) of this regulation, it is of the opinion that—
- (a) there is prima facie evidence that the behaviour complained of by the applicant is being engaged in by the respondent and that behaviour has or is likely to have the effect of seriously damaging the business of the applicant; and
 - (b) having regard to its statutory duties, its statement of policies and to the urgency of the matter such a hearing is warranted.
- (6) The applicant and the respondent shall have a right to be heard at a preliminary hearing and the Panel may hear such other persons as it thinks fit.
- (7) Regulations 9, 13(1), (4), (5) and (6) shall apply in relation to a preliminary hearing as they apply in relation to a hearing pursuant to regulation 12.
- (8) At a preliminary hearing the applicant and the respondent shall have the same rights as a party to a case in a hearing pursuant to regulation 12 and the Panel may, to such extent as it thinks fit, permit any other person whom it decides to hear to exercise the same rights.

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(9) Within 5 working days after the end of the preliminary hearing the Panel shall notify the applicant and the respondent in respect of the application—

- (a) whether or not it has decided provisionally to vary the respondent's air transport licence;
- (b) if so, the terms of the provisional variation; and
- (c) the date, time and place of the hearing to be held pursuant to regulation 12;

and shall furnish its reasons for the decision, as required by section 11 of the Act within 10 working days after the end of the preliminary hearing.

(10) The only decision which may be taken by the Panel after a preliminary hearing is a decision provisionally to vary or to refuse provisionally to vary the respondent's air transport licence; and if the Panel provisionally varies the respondent's licence it shall in so doing provide that the provisional variation will cease to have effect when the decision reached by the Panel following a hearing pursuant to regulation 12 takes effect.

Hearings in connection with air transport licences

12 (1) Before any decision to grant, refuse to grant, revoke, suspend or vary (other than provisionally) an air transport licence is made, the following persons shall have a right to be heard—

- (a) the applicant;
- (b) the holder of an air transport licence;
- (c) the holder of an air operator's certificate granted by the Director of Civil Aviation under an Air Navigation (Overseas Territories) Order;
- (d) such persons (being persons who wish to be heard and who have served objections or representations pursuant to regulation 8 expressing the views of passengers or shippers of cargo) as appear to the Panel to be representative of those who have served such objections or representations:

Provided that no person (other than the applicant and the holder of the licence to which the decision will relate) shall have a right to be heard unless he has served an objection or representation pursuant to regulation 8 and (unless he is a person of a description specified in subparagraph (d) of this regulation) in so doing has stated that he wishes to be heard.

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(2) Notwithstanding that a person does not have the right to be heard, the Panel may, if it thinks fit, hear him provided he has served an objection or a representation pursuant to regulation 8.

(3) No hearing shall be held pursuant to this regulation unless the Panel has served on all persons having a right to be heard and whom it proposes to hear in connection with the case not less than 14 days' notice of the date, time and place of the hearing, and the notice shall clearly identify the application or proposal to which it relates; and a similar notice shall be published in the Gazette not less than 7 days before the date of the hearing:

Provided that in cases where the Panel is satisfied that for reasons of urgency it is desirable to do so, a hearing may be held without such notice having been served and published as aforesaid if the Panel has given notice of the date, time and place of the hearing, being notice of such length and by such means (whether oral or written) as it thinks fit, to the applicant and any person of a description specified in paragraph (1) of this regulation whose interests are in the opinion of the Panel likely to be prejudiced by the granting of the application.

(4) Two or more cases may be heard together, if the Panel thinks fit, but a party to one case shall not on that account be deemed to be a party to any other case.

Procedure at hearings

13 (1) Hearings shall be conducted by the Panel, sitting with such advisers as it thinks fit.

(2) At a hearing every party to a case may appear in person or be represented by any other person whom he may have authorised to represent him, and may produce oral and written evidence and may examine any other party to that case, any person whom the Panel hears pursuant to regulation 12(2) and any witnesses produced by any such party or person; and the Panel may, to such extent as it thinks fit, permit any person heard by it pursuant to regulation 12(2) to exercise at the hearing the rights set out in this paragraph of a party to the case.

(3) Any person who has served an objection or representation pursuant to regulation 8 but who does not wish to be heard, may make a written submission which he shall serve on the Panel not less than 3 working days before the date fixed for the hearing of the case.

(4) Every hearing shall be held in public unless the Panel shall otherwise decide in relation to the whole or part of a particular case.

(5) The failure of the Panel or of any person to give notice or publish any particulars in the time or manner provided for in the Act or in these Regulations or any other procedural irregularity shall not invalidate the action taken by the Panel; and the Panel may, and shall if

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it considers that any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by the giving of notice or otherwise.

(6) All the proceedings at a hearing of the Panel in connection with a case shall be recorded by a shorthand writer or by some other means, and if any person requests a record of the proceedings the Panel shall cause a mechanical recording or transcript of the shorthand or other record to be made available for purchase by that person at a reasonable price:

Provided that—

(a) the Panel shall not be required to make available a mechanical recording or transcript of the record of the proceedings at any time after the expiry of one year from the day of publication of its decision of the case; and

(b) a mechanical recording or transcript of the record of proceedings conducted otherwise than in public shall only be required to be made available for purchase by any party to the case or by any other person heard by the Panel at those proceedings.

(7) When the Panel provides to a person having a right of appeal pursuant to regulation 14(1)—

(a) notification in writing of its decision of the case, the notification shall specify a date, being not less than 3 working days after the date on which a copy of the notification was available for collection by or despatch to that person (which date is hereinafter referred to as "the decision date");

(b) a mechanical recording or transcript of the record of proceedings in the case pursuant to a request made by that person within 7 days after the decision date, the recording or transcript shall be accompanied by a statement specifying a date, being not less than 3 working days after the date on which the recording or transcript was available for collection by or despatch to that person (which date is hereinafter referred to as "the transcript date");

and the Panel shall as soon as may be thereafter publish the decision date and the transcript date.

Appeals to the Minister

14 (1) Every party to a case before the Panel (not being a person having a right to be heard by virtue only of regulation 12(1)(d)) shall have a right of appeal to the Minister in accordance with the provisions of this

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regulation from the Panel's decision with respect to an air transport licence or an application for a licence.

(2) An appeal to the Minister shall be made by a notice signed by or on behalf of the appellant and clearly identifying the case to which it relates and stating the grounds on which the appeal is based and the arguments on which the appellant relies.

(3) The appellant shall serve the notice of appeal on—

(a) the Minister;

(b) the Panel;

(c) each of the parties to the case before the Panel;

(d) each person whom, pursuant to regulation 12(2), the Panel had decided to exercise its discretion to hear in connection with the case, whether that person was heard or not.

(4) Subject to paragraph (9) of this regulation, the notice of appeal shall be served within 21 days after the decision date or, if the appellant has made such a request as is referred to in regulation 13(7)(b) and has within 24 hours after making his request to the Panel served notice on each of the persons referred to in paragraphs (3)(a), (c) and (d) of this regulation that he has done so, not later than 21 days from the transcript date.

(5) Any person having the right to appeal against a decision of the Panel may require it to furnish him with the names and addresses of the persons of the description specified in paragraph (3)(c) or (d) of this regulation.

(6) Subject to paragraph (9) of this regulation, any party to the appeal (other than the appellant) may within 14 days after service thereof serve on the Minister a submission giving reasons why the Panel's decision should or should not be upheld and shall within such period serve copies of any such submission on the Panel, the appellant and the persons who have been served with notice of the appeal pursuant to paragraph (3)(c) and (d) of this regulation.

(7) Subject to paragraph (9) of this regulation, within 28 days after receiving notice of an appeal, the Panel shall serve on the Minister any submission it may wish to make in connection with the appeal, including, if it thinks fit, an amplification and explanation of the reasons for its decision, and shall, within such period, serve copies of any such submission on the appellant and on the persons who have been served with notice of the appeal pursuant to paragraph (3)(c) and (d) of this regulation.

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(8) Subject to paragraph (9) of this regulation, within 14 days after the expiry of the period of 28 days referred to in the preceding paragraph of this regulation, the appellant may serve on the Minister a reply to any submission made pursuant to paragraph (6) or (7) of this regulation and shall within such period serve copies of any such reply on the Panel and on the persons who have been served with notice of the appeal pursuant to paragraph (3)(c) and (d) of this regulation.

(9) Where a case has come before the Panel solely because of a need to allocate scarce bilateral capacity, the references in paragraph (4) to 21 days shall be taken as references to 5 working days, the reference in paragraph (6) to 14 days shall be taken as a reference to 5 working days, the reference in paragraph (7) to 28 days shall be taken as a reference to 8 working days and in paragraph (8) for the words "within 14 days after the expiry of the period of 28 days" there shall be substituted "within 4 working days after the expiry of the period of 8 working days".

(10) Before deciding an appeal the Minister may—

(a) ask the appellant, any other person who has made a submission pursuant to the preceding paragraphs of this regulation, or the Panel, to amplify or explain any point made by them or to answer any other question, the answer to which appears to the Minister necessary to enable him to determine the appeal, and the Minister shall as the case may be give the appellant, the other parties to the appeal and the Panel an opportunity of replying to such amplification, explanation or answer;

(b) obtain from the Panel any information which is in the possession of the Panel but which, pursuant to paragraph (b) of the proviso to regulation 9, the Panel did not furnish to any person having the right to be heard by the Panel in connection with the case; and the Minister shall give the Panel and the person who provided the information to the Panel an opportunity of making written submissions in connection with any information so obtained; and a copy of any submission of the Panel made pursuant to this subparagraph shall be served only on the person who provided the information to the Panel; and a copy of any submission of that person or body made pursuant to this subparagraph shall be served only on the Panel.

(11) In the appeal proceedings no person may submit to the Minister evidence which was not before the Panel when it decided the case.

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**Appeal from decisions after preliminary hearings of allegations of
behaviour damaging to a competitor**

15 (1) Regulation 14 shall apply in relation to appeals from decisions of the Panel after preliminary hearings of allegations of behaviour damaging to a competitor as it applies in relation to any other case but with the modifications herein set out.

(2) Those modifications are—

- (a) in paragraph (1) the reference to every party shall be taken as a reference to the applicant and the respondent;
- (b) in paragraph (3) the reference in subparagraph (c) to each of the parties shall be taken as a reference to the applicant or respondent, as the case may be, and the reference in subparagraph (d) to regulation 12(2) shall be taken as a reference to regulation 11(6);
- (c) in paragraph (4) the first reference to 21 days shall be taken as a reference to 5 working days and the reference to the decision date shall be taken as a reference to the date upon which the Panel furnished reasons for its decision; and all the subsequent words in that paragraph (which relate to a request for a transcript and a time from the transcript date) shall be deleted;
- (d) in paragraph (6) the reference to 14 days shall be taken as a reference to 5 working days;
- (e) in paragraph (7) the reference to 28 days shall be taken as a reference to 8 working days;
- (f) in paragraph (8) for "within 14 days after the expiry of the period of 28 days" there shall be substituted "within 4 working days after the expiry of the period of 8 working days".

Decisions on appeals

16 (1) The Minister may if he thinks fit uphold the decision of the Panel or direct it to re-hear the case which is the subject of the appeal or to reverse or vary its decision.

(2) The Minister shall notify the Panel, the appellant and the persons who have been served with the notice of appeal pursuant to regulation 14(3) of his decision and of the reasons for it and the Panel shall publish the Minister's notification in such manner as it thinks fit and shall give notice of such publication in the Gazette.

(3) Where the Minister directs the Panel to re-hear a case he shall at the same time notify the Panel and persons referred to in

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paragraph (2) of this regulation whether the Panel's decision is to have effect pending the further decision of the Panel.

(4) In determining an appeal the Minister may, if he thinks fit, order the appellant to pay to any other party thereto a specified sum in respect of costs incurred by the other party in connection with the appeal.

(5) The failure of any person (other than the appellant in serving notice of appeal on the Minister within the time prescribed in regulation 14(4)) to serve any notice, submission or reply, or copies thereof or to furnish any particulars in the time or manner provided for in the Act or in these Regulations or any other procedural irregularity shall not invalidate the decision of the Minister; and the Minister may, and shall if he considers that any person may have been prejudiced, take such steps as he thinks fit before deciding the appeal to cure the irregularity.

Transfer of licences

17 (1) Subject to the provisions of this regulation—

(a) if the sole holder of an air transport licence (being an individual) dies, the licence shall be treated from the time of his death as if it had then 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 provision of carriage by air for reward of passengers or cargo, 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 air transport licence may apply to the Panel—

(a) if he is the legal personal representative of an individual licence holder who has 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

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(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 Panel within 21 days after the date on which the applicant first became entitled to make it; and if no application as aforesaid is made within that period the air transport 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 application shall, for the purposes of these Regulations be treated as if it were an application for the variation of the air transport licence, and the provisions of regulations 14 and 16 as to appeals shall apply accordingly.

(5) The Panel shall not grant an application for the transfer of an air transport licence to, or the substitution of the name of, any person if it would be bound under section 9 (3) or (4) of the Act to refuse that application if it were an application for the grant of a licence to that person.

(6) 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

18 If revocation or variation of an air transport licence has taken effect, the Panel 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 \$20,000.

Revocation

19 The Air Transport (Licensing) Regulations 1950 are revoked.

**SCHEDULE
(FEES)**

1 Subject to paragraph 2, the fee to be paid under regulation 5 in respect of the grant of an air transport licence (in this Schedule referred to as the "application fee") for a scheduled service shall be \$3000.

2 No application fee shall be payable in respect of an application for an air transport licence—

(a) by an airline which has its principal place of business in the United Kingdom or any territory, other than

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Bermuda, for whose foreign relations Her Majesty's Government in the United Kingdom is responsible; or

(b) to operate only charter services.

3 Where an application fee is paid to the Panel in respect of the grant of an air transport licence, no refund of the fee, or any part of the fee, shall be made—

(a) to the applicant, whether or not the licence is granted; or

(b) to the licence holder, upon revocation, suspension or surrender of the licence, or otherwise.

Made this 10th day of December, 2007

Premier