



# Transport Act 2000

## 2000 CHAPTER 38

### PART I

#### AIR TRAFFIC

### CHAPTER I

#### AIR TRAFFIC SERVICES

#### *<sup>F1</sup>Appeal against modification of licence conditions*

#### Textual Amendments

- F1** Ss. 19A-19F and cross-heading inserted (29.6.2021) by [Air Traffic Management and Unmanned Aircraft Act 2021 \(c. 12\)](#), s. 21(3)-(7), [Sch. 3](#); S.I. 2021/748, reg. 2(f)

#### **19A Appeal to Competition and Markets Authority**

- (1) An appeal lies to the CMA against a decision by the CAA to modify a licence condition under section 11(1).
- (2) An appeal may be brought under this section only by—
  - (a) the licence holder,
  - (b) an owner or operator of an aircraft whose interests are materially affected by the decision, or
  - (c) an owner or manager of a prescribed aerodrome whose interests are materially affected by the decision.
- (3) “Prescribed aerodrome” means an aerodrome of a description prescribed by regulations made by the Secretary of State.
- (4) An appeal may be brought under this section only with the permission of the CMA.

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- (5) An application for permission to appeal under this section may be made only by a person who, if permission is granted, will be entitled to bring the appeal.
- (6) The CMA may refuse permission to appeal under this section only on one of the following grounds—
  - (a) that the appeal is brought for reasons that are trivial or vexatious;
  - (b) that the appeal does not have a reasonable prospect of success;
  - (c) that subsection (7) is satisfied.
- (7) This subsection is satisfied if the appeal is brought—
  - (a) against a decision that relates entirely to a matter remitted to the CAA following an earlier appeal under this section, and
  - (b) on grounds that were considered, or could have been raised by the current applicant or a relevant connected person, as part of the earlier appeal.
- (8) In subsection (7) “relevant connected person”, in relation to an applicant, means a person who was connected to the applicant at any time during the consideration of the earlier appeal by the CMA.

## **19B When appeals may be allowed**

The CMA may allow an appeal under section 19A only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that an error was made in the exercise of a discretion.

## **19C Determination of appeal**

- (1) Where it does not allow an appeal under section 19A, the CMA must confirm the decision appealed against.
- (2) Where it allows an appeal under section 19A, the CMA must do one or more of the following—
  - (a) quash the decision appealed against;
  - (b) remit the matter that is the subject of the decision appealed against to the CAA for reconsideration and decision in accordance with this Chapter and any directions given by the CMA;
  - (c) substitute its own decision for that of the CAA.
- (3) Where it allows only part of an appeal under section 19A—
  - (a) subsection (2) applies in relation to the part of the decision appealed against in respect of which the appeal is allowed, and
  - (b) subsection (1) applies in respect of the rest of that decision.
- (4) Where the CMA substitutes its own decision for that of the CAA, the CMA may give directions to—
  - (a) the CAA, and
  - (b) the licence holder.

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- (5) The CMA must not give a direction under this section that requires a person to do anything that the person would not have the power to do apart from the direction.
- (6) A direction given by the CMA under this section to a person other than the CAA is enforceable—
  - (a) in England and Wales and Northern Ireland, as if it were an order of the High Court;
  - (b) in Scotland, as if it were an order of the Court of Session.

#### **19D Determination of appeal: time limits**

- (1) The CMA must determine an appeal under section 19A within the period of 24 weeks beginning with the day on which the CAA published, in accordance with section 11A, the notice of the decision that is the subject of the appeal.

This is subject to subsections (2) to (5).

- (2) The CMA may extend the appeal period by not more than 12 weeks if satisfied that there are good reasons for doing so.
- (3) The CMA may extend the appeal period only once in reliance on subsection (2).
- (4) The CMA may extend the appeal period by any period that it considers appropriate if—
  - (a) there is an appeal to the Competition Appeal Tribunal under this Chapter which the CMA considers may be relevant to the appeal under section 19A, and
  - (b) the appeal to the Tribunal has not been determined or withdrawn.
- (5) The CMA may extend the appeal period more than once in reliance on subsection (4).
- (6) If the CMA extends the appeal period it must—
  - (a) publish a notice stating the new time limit for determining the appeal;
  - (b) send a copy of the notice to the persons listed in subsection (7).
- (7) Those persons are—
  - (a) the holder of the licence that is the subject of the appeal;
  - (b) if the appeal was brought by someone other than the licence holder, the appellant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 27(3) of Schedule A1);
  - (d) any owners or operators of aircraft that the CMA considers appropriate;
  - (e) any owners or managers of prescribed aerodromes (within the meaning given in section 19A(3)) that the CMA considers appropriate;
  - (f) the CAA.
- (8) The Secretary of State may by regulations modify the periods of time specified in this section.
- (9) In this section “appeal period”, in relation to an appeal under section 19A, means the period allowed for determining the appeal.

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## **19E Determination of appeal: publication etc**

- (1) A determination made by the CMA on an appeal under section 19A—
  - (a) must be contained in an order made by the CMA, and
  - (b) takes effect at the time specified in the order or determined in accordance with the order.
- (2) The order must set out the reasons for the determination.
- (3) The CMA must—
  - (a) publish the order as soon as practicable after the determination is made;
  - (b) send a copy of the order to the persons listed in subsection (4).
- (4) Those persons are—
  - (a) the holder of the licence that is the subject of the appeal;
  - (b) if the appeal is brought by a person other than the licence holder, the appellant;
  - (c) any other person with a qualifying interest in the decision that is the subject of the appeal (see paragraph 27(3) of Schedule A1);
  - (d) any owners or operators of aircraft that the CMA considers appropriate;
  - (e) any owners or managers of prescribed aerodromes (within the meaning given in section 19A(3)) that the CMA considers appropriate;
  - (f) the CAA.
- (5) The CMA may exclude from publication under subsection (3) any information that it is satisfied is—
  - (a) commercial information the disclosure of which would or might, in the opinion of the CMA, significantly harm the legitimate business interests of an undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual the disclosure of which would or might, in the opinion of the CMA, significantly harm the individual's interests.
- (6) The CAA must take any steps that it considers necessary for it to comply with the order.
- (7) The steps must be taken—
  - (a) if a time is specified in the order or is to be determined in accordance with the order, within that time;
  - (b) otherwise, within a reasonable time.

## **19F Procedure on appeals**

- (1) Schedule A1 makes further provision in respect of appeals under section 19A.
- (2) In carrying out the functions listed in subsection (3), the CMA must have regard to the matters in respect of which duties are imposed on the CAA by section 2.
- (3) Those functions are—
  - (a) deciding an application for permission to appeal under section 19A;
  - (b) deciding an application under Schedule A1 for permission to intervene in an appeal;
  - (c) determining an appeal under section 19A, including taking decisions and giving directions described in section 19C.

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- (4) Except where Schedule A1 provides otherwise, the functions of the CMA with respect to an appeal under section 19A are to be carried out on behalf of the CMA by a group constituted for the purpose, by the chair of the CMA, under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 146(1)(defn.)(a)(b) by [2000 c. 38 s. 274 Sch. 31 Pt. 2](#)
- s. 19(2)(aa) inserted by [S.I. 2019/93, Sch. 1 para. 9\(1C\)\(b\)](#) (as inserted) by [S.I. 2019/1245 reg. 25](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 131A(2)(a) words omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(i\)](#)
- s. 131A(2)(b) omitted by [2017 c. 21 Sch. 2 para. 13\(a\)\(ii\)](#)
- s. 131A(4) omitted by [2017 c. 21 Sch. 2 para. 13\(b\)](#)
- s. 131A(5)(b) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(i\)](#)
- s. 131A(5)(c) words omitted by [2017 c. 21 Sch. 2 para. 13\(c\)\(ii\)](#)
- s. 132B(1)(a) omitted by [2017 c. 21 Sch. 2 para. 19](#)
- [Sch. 16 para. 34\(4\)\(a\)para. 34\(4\)\(b\)\(c\)](#) repealed by [2005 c. 14 Sch. 13 Pt. 1](#)