STATUTORY INSTRUMENTS

1975 No. 1196

CIVIL AVIATION

The Civil Aviation (Air Travel Organisers' Licensing) (Reserve Fund) Regulations 1975

Laid before Parliament in draft

Made - - - - 22*nd July* 1975

Coming into Operation 23*rd July* 1975

The Secretary of State, in exercise of his powers under sections 5(1) and (2) and 26 of the Civil Aviation Act 1971**(a)** and Section 4 of the Air Travel Reserve Fund Act 1975**(b)** and of all other powers enabling him in that behalf and after consultation with the Civil Aviation Authority as required by those Acts and with the Council on Tribunals as required by section 10 of the Tribunals and Inquiries Act 1971**(c)** hereby makes the following Regulations:—

1. These Regulations may be cited as the Civil Aviation (Air Travel Organisers' Licensing) (Reserve Fund) Regulations 1975 and shall come into operation on the day after they are made.

2. The Interpretation Act 1889**(d)** shall apply for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament.

3.—(1) In these Regulations—

"broker" means a person who as agent makes available accommodation on flights by aircraft to another person to enable that other person to carry on the activities of—

(*a*) making available, as a principal or an agent, accommodation for the carriage of persons on flights by aircraft (whether or not registered in the United Kingdom) in any part of the world; or

(*b*) holding himself out as a person who, either as a principal or an agent, or without disclosing his capacity, may make such accommodation available;

"contribution period" means, in relation to the holder of a licence, such period or periods not exceeding 6 months, as may be specified in the licence as constituting contribution periods;

(a) 1971 c. 75. **(b)** 1975 c. 36.
(c) 1971 c. 62. **(d)** 1889 c. 63.

"a licence to which these Regulations apply" means an air travel organiser's licence authorising the holder to make available, otherwise than as a broker, accommodation for the carriage of persons on overseas flights;

"turnover" in relation to an applicant for or holder of a licence means the total amount of the sums paid or payable by his customers in respect of services, accommodation or facilities provided under overseas air travel contracts to which Section 2 of the Air Travel Reserve Fund Act 1975 applies for persons for whom he has provided accommodation on overseas flights under the authority of a licence.

(2) Any document to be served on any person under these Regulations may be served either—

(*a*) by delivering it to that person; or

(*b*) by leaving it at his proper address; or

(*c*) by post,

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

(3) For the purposes of paragraph (2) 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.

(4) Any period of time specified in these Regulations by reference to days or months shall be exclusive of the first day and inclusive of the last day, unless the last day falls on a Saturday, Sunday, Christmas Day, Good Friday or any day appointed by law to be a bank holiday in any part of the United Kingdom, in which case the time shall be reckoned exclusively of that day also.

4.—(1) Subject to paragraph (7) of this Regulation, every holder of a licence to which these Regulations apply shall make a contribution to the Fund of an amount equal to 1 per cent of his turnover during each contribution period beginning before 1st April 1976 and 2 per cent of his turnover during each contribution period beginning on or after 1st April 1976.

(2) Every holder of a licence to which these Regulations apply shall, not more than one month after the end of each contribution period, furnish to the Authority particulars of his turnover during that period and those particulars shall be certified as correct by auditors appointed by the holder of the licence and approved by the Authority.

(3) Contributions required by paragraph (1) of this Regulation (after deduction of the amount of any provisional payment made pursuant to paragraph (4) of this Regulation) shall be paid to the Authority not more than six weeks after the end of the contribution period to which they relate.

(4) Subject to paragraph (7) of this Regulation, the Authority may refuse to issue a licence to which these Regulations apply unless the applicant has made a provisional payment of such amount as the Authority may require in respect of contributions which may thereafter become due under paragraph (3) of this Regulation and may include a term in any such licence requiring the holder to make such provisional payments:

Provided that:

(i) provisional payments shall not be required under this paragraph of this Regulation except in relation to contribution periods beginning during the currency of the licence; and

(ii) the amount of the provisional payments required under this paragraph of this Regulation in relation to any contribution period shall not exceed the contribution which would become due under paragraph (3) of this Regulation if the applicant for, or holder of the licence, as the case may be, achieved during that period the turnover estimated in respect of him: and for purposes of this paragraph of this Regulation turnover shall be estimated by the Authority after consideration of any estimate made by the applicant for or holder of the licence, as the case may be, and any representations made by him justifying that estimate; and

(iii) the Authority shall not, pursuant to this paragraph of this Regulation, require a provisional payment to be made in respect of any contribution period more than 15 days before the date on which that contribution period begins.

(5) Where the amount of any such provisional payment made by any person in respect of any contribution period exceeds the amount due from him under paragraph (3) of this Regulation in respect of that period, the Authority shall, not more than six weeks after the end of that contribution period or two weeks after the person concerned has complied with paragraph (2) of this Regulation, whichever is the later, either repay to him the amount of the excess or credit that amount towards any provisional payment due from him in respect of the next contribution period.

(6) Any person who contravenes the provisions of this Regulation or any term included in a licence pursuant to paragraph (4) of this Regulation shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding £400 or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

(7) No contribution shall be payable pursuant to this Regulation—

(*a*) before 1st September 1975, or

(*b*) in respect of a contribution period beginning before 1st September 1975.

5.—(1) Except in cases where the Authority accepts the estimate of his turnover made by an applicant for or holder of a licence, the function of estimating the turnover of any applicant for or holder of a licence is hereby prescribed for purposes of sections 5(1) and (2) of the Civil Aviation Act 1971: and for purposes of making any such estimate, a quorum of the Authority shall be one member.

(2) Where the Authority proposes not to accept the estimate of turnover made by the applicant for or holder of a licence—

(*a*) the Authority shall serve on the applicant for or holder of the licence, as the case may be, notice of its proposal not to accept his estimate and of the reasons for the proposal;

(*b*) the recipient of the notice may, within 14 days from the date of service of the notice, serve on the Authority representations with respect to the proposal;

(*c*) the Authority shall, before estimating the turnover of the recipient of the notice, take into account any representations made by him in accordance with subparagraph (*b*) of this paragraph of this Regulation.

(3) Where the Authority does not accept the estimate of turnover made by an applicant for or holder of a licence it shall be the duty of the Authority to serve on him notice of its estimate of his turnover together with a statement of its reasons for not accepting his estimate.

Eric Deakins,
Parliamentary Under-Secretary of State,
Department of Trade.

22nd July 1975.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations require holders of air travel organiser's licences granted under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1972 to make contributions to the Air Travel Reserve Fund established pursuant to the Air Travel Reserve Fund Act 1975. Until 1st April 1976 the amount of a licence holder's contributions for each contribution period will be 1 per cent of his turnover during that period. Thereafter it will be 2 per cent of his turnover (Regulation 4(1)). Contributions will be payable six weeks after the end of each contribution period (Regulation 4(3)). Contribution periods will be specified in licences and the first period will not begin before 1st September 1975 (Regulations 3(1) and 4(7)).

The Regulations also empower the Civil Aviation Authority to require applicants for and holders of air travel organiser's licences to make provisional payments in respect of contributions which may thereafter become due from them. A provisional payment can be required only in respect of contribution periods beginning during the currency of the licence; it must not exceed the amount which would be due if the person concerned achieved his estimated turnover during the contribution period to which the payment relates, and it cannot be required more than fifteen days before the beginning of that contribution period (Regulation 4(4)). The procedure for estimating turnover is prescribed (Regulation 5). No provisional payments will be payable before 1st September 1975 (Regulation 4(7)).

If the amount of the provisional payment made in respect of a contribution period exceeds the contribution payable in respect of that period, the Authority must repay the excess or credit it towards any provisional payment due in respect of the next contribution period (Regulation 4(5)).

Failure to pay contributions or provisional payments is an offence (Regulation 4(6)).

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