

# S.I. No. 325/1993 - Air Navigation (Air Operator Certificates) Order, 1993.

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S.I. No. 325 of 1993.

AIR NAVIGATION (AIR OPERATOR CERTIFICATES) ORDER, 1993.

I, BRIAN COWEN, Minister for Transport, Energy and Communications, in exercise of the powers conferred on me by sections 5, 9 and 11 of the Air Navigation and Transport Act, 1946 (No. 23 of 1946) (as amended by section 9 of the Air Navigation and Transport Act, 1950 (No. 4 of 1950)), and the Tourism, Transport and Communications (Alteration of Name of Department and Title of Minister) Order, 1993 (S.I. No. 17 of 1993), hereby order as follows:

1. This Order may be cited as the Air Navigation (Air Operator Certificates) Order, 1993, and shall come into operation on the 1st day of December, 1993.

2. In this Order—

"air service" means a flight or a series of flights by one or more aircraft carrying passengers, cargo or mail;

"maximum total weight authorised", in relation to an aircraft, means the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world in the most favourable circumstances in accordance with the certificate of airworthiness in force in respect of the aircraft;

"the Minister" means the Minister for Transport, Energy and Communications;

"operator" means an undertaking engaged in or offering to engage in an aircraft operation and who or which, in relation to any particular aircraft, has at the relevant time responsibility for the management of that aircraft;

"type", in relation to an aircraft, means the make and model of that aircraft;

"undertaking" means any natural person, any legal person, whether profit-making or not, or any official body whether having its own legal personality or not.

3. (1) Subject to paragraphs (2) and (3) of this Article, an air service or air services shall not be operated by an undertaking established in the State unless the undertaking operating the air service or air services is the holder of an air operator's certificate.

(2) Paragraph (1) of this Article shall not apply to the following air services:

( a ) air services operated for any purpose other than trade or business (including the trade or business of the person operating the service), and

( b ) air services consisting of non-scheduled flights to, from or within the territory of the State by aircraft not exceeding 30,000 lbs (13,620 kgs) maximum total weight authorised and not operated for the carriage of passengers, cargo or mail for reward.

(3) The Minister may, in addition to the air services referred to in paragraph (2) of this Article, specify other categories of air services to which paragraph (1) of this Article shall not apply.

4. (1) ( a ) Subject to sub-paragraph ( b ) of this paragraph, where the Minister is satisfied, on application to him by an undertaking, that the undertaking:—

(i) is eligible for the grant of an operating licence or a Class B authorisation within the meaning of the Air Navigation and Transport Act, 1965 (Section 8) Regulations, 1993 ( S.I. No. 323 of 1993 ) or the (Section 8) (No. 2) Regulations, 1993 ( S.I. No. 324 of 1993 ), and

(ii) possess the necessary technical and operational competency for the safe operation of an air service or air services whether generally or of a particular class or description to which the application relates, he may, on receipt of the appropriate fee referred to in Article 6 of this Order, grant to that undertaking an air operator's certificate in the form specified in Schedule 1 to this Order (or in a form to the like effect) in respect of the operation, upon and subject to such conditions as may be specified in the certificate (including conditions relating to the type, number and registration of the aircraft and the geographical location and duration of the operation) by that undertaking of such air service or services.

( b ) The Minister may, on application to him by the holder of an air operator's certificate and on receipt of the appropriate fee referred to in Article 6 of this Order, renew or amend the certificate so as to extend its application to additional aircraft of the type or types to which the certificate applies or aircraft of another type or category where he is satisfied that the undertaking possesses the requisite technical and operational competency for the safe operation of the aircraft in question, and the Minister may either record the amendment on the certificate or replace the certificate with a new certificate incorporating the amendment.

( c ) Without prejudice to the generality of subparagraphs ( a ) and ( b ) of this paragraph, the Minister, in deciding whether to grant an air operator's certificate under the said subparagraph ( a ) or whether to renew or amend any such certificate under the said subparagraph ( b ) shall have regard to the safety record of the undertaking concerned and to any contravention by that undertaking of section 13 (duty of operator of aircraft to comply with directions by Minister in relation to security and safety of aircraft), section 14 (duty of operator of aircraft to report to Minister on measures taken in compliance with section 13) or section 18 (duty not to obstruct inspection of aircraft, etc., by an authorised person) of the Air Navigation and Transport Act, 1988 (No. 15 of 1988), or any other provision of the Air Navigation and Transport Acts, 1936 to 1988, or any instruments made thereunder, or of any requirement of Council Regulation (EEC) No. 3922/91 of 16 December 1991.<sup>1</sup>

<sup>1</sup>O.J. No. L373, 31/12/91, pp. 4-7.

(2) Every application for the grant, renewal or amendment of an air operator's certificate shall be in such form and contain such supporting information as the Minister may require, whether generally or in the circumstances of the particular case.

(3) An air operator's certificate (including one granted under paragraph (1) ( b ) of this Article) shall remain in force for such period as may be specified therein and shall then expire unless renewed.

5. The Minister may direct that, for the purposes of this Order, different models of the same make of aircraft, or variants of the same model, may be treated as different types of aircraft, except that, for the purposes of Schedule 2 to this Order, those makes and models of aircraft which are encompassed by a single type certificate issued by the state of manufacture of the aircraft shall be considered as the same type of aircraft.

6. There shall be charged for any inspection carried out for the purpose of the grant, renewal or amendment of an air operator's certificate—

( a ) the appropriate fee specified in Schedule 2 to this Order, or

( b ) a fee of an amount equal to the estimated cost of the inspection,

whichever is the greater.

7. (1) The Minister may, if he thinks fit, suspend or amend any air operator's certificate granted under Article 4 of this Order pending an inquiry or consideration of any representations made to him in respect of that suspension or amendment.

(2) The Minister may, on sufficient ground being shown to his satisfaction after due inquiry, at any time revoke, suspend or amend any air operator's certificate.

(3) A suspension or amendment under this Article shall remain in force for such period as the Minister may specify and a period so specified may be enlarged or reduced by the Minister.

(4) The Minister shall give notice to the undertaking to which a certificate was granted of his intention to suspend, amend or revoke a certificate under paragraph (2) of this Article or to enlarge or reduce the period of such a suspension or amendment under this Article and the reasons therefor and shall state in the notice that representations in relation to the proposed suspension, amendment, revocation, enlargement or reduction may be made in writing to the Minister before a specified date (which shall be not less than 2 weeks after the date of the notice).

(5) The Minister shall consider any representations made to him pursuant to paragraph (3) before suspending, amending or revoking a certificate under paragraph (2) of this Article or enlarging or reducing the period of such a suspension or amendment.

(6) The holder of an air operator's certificate or any other person having possession or custody of the certificate shall, where the certificate has been revoked, suspended or amended under paragraph (1) or (2) of this Article, surrender it to the Minister as soon as may be after being notified by him of the revocation, suspension or amendment, and in the case of a suspension of a certificate the Minister shall retain the certificate until the expiration of the period of suspension and shall thereupon return the certificate to the undertaking concerned, and in the case of an amendment of a certificate he shall record the amendment on the certificate and shall thereupon return the certificate to the undertaking concerned.

(7) Where an air operator's certificate has been amended under paragraph (1) of this Article and the Minister, does not amend, revoke or suspend the certificate under paragraph (2) of this Article, he shall delete any amendments noted on or appended to the certificate under paragraph (6) of this Article and return it to the undertaking concerned.

8. An undertaking shall not operate or cause to be operated an aircraft to which an air operator's certificate relates in contravention of any term or condition of the certificate or any provision of this Order.

9. An authorisation to which the Air Navigation and Transport Act, 1965 (Section 8) Regulations, 1966 ( S.I. No. 96 of 1966 ), applied and in force immediately before the commencement of the Air Navigation and Transport Act, 1965 (Section 8) Regulations, 1993 ( S.I. No. 323 of 1993 ) or the (Section 8) (No. 2) Regulations, 1993 ( S.I. No. 324 of 1993 ), in relation to an undertaking which is eligible for or has been granted an operating licence within the meaning of the said Regulations of 1993 shall continue in force until expiry after such commencement as if it was an air operator's certificate and may be amended, suspended or revoked accordingly.

10. (1) The Minister may, where necessary, give directions in respect of the matters to which this Order relates for carrying out the purposes of this Order and the Schedules thereto.

(2) Directions under this Order may be given in the form of Notices to Airmen (otherwise known as "NOTAMS"), Aeronautical Notices or Aeronautical Information Circulars, or by notice sent by registered post to the person or undertaking affected.