

STATUTORY INSTRUMENTS

S.I. No. 420 of 1999

**IRISH AVIATION AUTHORITY
(AIR OPERATOR CERTIFICATES) ORDER, 1999**

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The Irish Aviation Authority, in exercise of the powers conferred on it by sections 5, 58 and 60 of the Irish Aviation Authority Act, 1993 (No. 29 of 1993) as amended by the Air Navigation and Transport (Amendment) Act, 1998 (No. 24 of 1998), hereby orders as follows:

1. This Order may be cited as the Irish Aviation Authority (Air Operators' Certificates) Order, 1999, and shall come into operation on the First day of March 2000.

2. In this Order -

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

“applicable Joint Aviation Requirements” means the relevant Joint Aviation Requirements applicable to the subject referred to in the Order and effective in the State under the European Communities Council Regulation 91/3922/EEC of 16 December 1991¹ or otherwise prescribed as effective by a direction of the Authority under this Order or any other Order;

“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;

“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;

“the Authority” means the Irish Aviation Authority;

“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) The Air Navigation (Air Operator Certificates) Order, 1993 (S.I. No. 325 of 1993) is hereby revoked.

¹OJ No L.373, 31.12.91 pp 4-8

- (2) Notwithstanding the revocation of the Order specified in paragraph (1) of this Article, any direction given under that Order and every certificate granted, validated or renewed under that Order, which are in force immediately before the commencement of this Order, shall continue in force as if the revocation had not been made, and the provisions of the said Air Navigation (Air Operator Certificates) Order, 1993, which relate to such certificates and to the holders thereof shall continue to have effect in relation thereto during the currency of such certificates.
4.
 - (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 a valid air operator's certificate which is in force in accordance with Article 5(3).
 - (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 Authority 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 and may prescribe an alternative weight in relation to sub-paragraph (b) of paragraph 2.
5.
 - (1)
 - (a) Subject to sub-paragraph (b) of this paragraph, where the Authority is satisfied, on application to it 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) possesses 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,it may, on receipt of the appropriate fee specified in the applicable Schedule or Schedules of the Irish Aviation Authority (Fees) Order for the time being in force, 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 of an air service, upon and subject to such conditions as may be specified in the certificate (including conditions which may relate 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 Authority may, on application to it by the holder of an air operator's certificate and on receipt of the appropriate fee referred to above, 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 it is satisfied that the undertaking possesses the requisite technical and operational competency for the safe operation of the aircraft in question, and the Authority 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 Authority, 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 the Irish Aviation Authority Act, 1993 (No. 29 of 1993) or of any provision made or effective under that Act or any instruments made thereunder, or of any requirement of either the applicable Joint Aviation Requirements or of the European Communities Council Regulation 91/3922/EEC of 16 December 1991.
- (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 Authority 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.
- 6. The Authority 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.
 - 7. There shall be charged for any inspection carried out for the purpose of the grant, renewal or amendment of an air operator's certificate the appropriate fee specified in the applicable Schedule or Schedules of the Irish Aviation Authority (Fees) Order currently in force on the date of such grant, renewal or amendment.

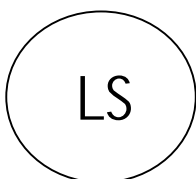
8.
 - (1) The Authority may, if it thinks fit, suspend or amend any air operator's certificate granted under Article 5 of this Order pending an inquiry or consideration of any representations made to it in respect of that suspension or amendment.
 - (2) The Authority may, on sufficient grounds being shown to its 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 Authority may specify and a period so specified may be enlarged or reduced by the Authority.
 - (4) The Authority shall give notice to the undertaking to which a certificate was granted of its 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 Authority before a specified date (which shall be not less than 2 weeks after the date of the notice).
 - (5) The Authority shall consider any representations made to it pursuant to paragraph (4) 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 Authority as soon as may be after being notified by it of the revocation, suspension or amendment, and in the case of a suspension of a certificate the Authority 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 it 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 Authority, does not amend, revoke or suspend the certificate under paragraph (2) of this Article, it shall delete any amendments noted on or appended to the certificate under paragraph (6) of this Article and return it to the undertaking concerned.
9. 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 that certificate or any provision of this Order.

10. (1) The Authority may, where necessary, give directions in respect of the matters to which this Order relates for carrying out the purposes of this Order and may exempt a person, operator or an aircraft from any provision of this Order subject to such conditions as may be specified in relation to such an exemption and which shall be complied with by that person, operator or the registered owner of or pilot in command of that aircraft.
- (2) Directions under this Order may be given in the form of Notices to Operators, Notices to Airmen (otherwise known as "NOTAMS"), Aeronautical Notices or Aeronautical Information Circulars, or by notice or letter sent by registered post to the person or undertaking affected.

Article 5**General Conditions in relation to Article 5 of the Order**

- (1) The air service and the aircraft to which this certificate relates shall be operated in accordance with :-
- the provisions of the Irish Aviation Authority Act, 1993, as amended by the Air Navigation and Transport (Amendment) Act, 1998 (No. 24 of 1998), the Air Navigation and Transport Acts (1936-1998) and any applicable orders or regulations made or any directions given thereunder,
 - the provisions of applicable EU Regulations,
 - the applicable Joint Aviation Requirements, and
 - in accordance with such other laws and regulations as may be applicable when operating in or over other states.
- (2) An operator to which this certificate relates shall maintain and provide to the Irish Aviation Authority a current list of the aircraft registrations for aircraft which are being operated by that operator subject to this certificate.
- (3) An aircraft to which this certificate relates shall be a civil aircraft registered in the State, unless an aircraft otherwise registered is exempted from this condition by the Authority in a particular case and subject to such other conditions as may be specified by the Authority in relation to such an exemption which shall be complied with by the operator concerned.

Present when the Common Seal of the Irish Aviation Authority was affixed hereto on the 17th day of December, 1999.



B.D. McDonnell Director
Paul Duffy Director

EXPLANATORY NOTE

This Order updates an earlier Order which introduces a requirement for a commercial aircraft operator to be issued with a certificate attesting to that operator's operational and technical competence to conduct an air service with specified types of aircraft and subject to such other conditions as may be specified by the Authority.

The Order provides the Authority with the power to renew, amend or revoke the certificates consistent with the performance of the operator concerned in relation to the statutory requirements. The Order also provides for compliance by the operator with applicable Joint Aviation Requirements or applicable EU legislation.

The Order is complementary to other legislation under the Air Navigation and Transport Acts (1936 - 1998) which introduced the requirement for an air operator's licence in accordance with EU legislation.

An operator may not be issued with an operating licence or an authorisation unless that operator is in possession of a valid Air Operator's Certificate issued and in force under the terms of this Order.