

Subsidiary Legislation made under s.13.

**TGEU Implementation (Civil Aviation) (Slot Allocations)
Regulations 2026**

LN.2026/210

Commencement **15.7.2026**

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In exercise of the powers conferred on it by section 13 of the Treaty on Gibraltar and the European Union Act 2026, and for the purpose of implementing Article 273(3) of the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, and for connected purposes, the Government has made the following Regulations—

Title.

1. These Regulations may be cited as the TGEU Implementation (Civil Aviation) (Slot Allocations) Regulations 2026.

Commencement.

2. These Regulations come into operation on the Implementation Date.

Interpretation.

- 3.(1) In these Regulations, unless the context otherwise requires—

“air carrier” means an air transport undertaking holding a valid operating licence or equivalent at the latest on 31 January for the following summer scheduling period or on 31 August for the following winter scheduling period; for the purpose of regulations 5, 9, 10, and 13 the definition of air carrier shall also include business aviation operators, when they operate according to a schedule; for the purposes of regulations 8 and 15, the definition of air carrier shall also include all civil aircraft operators;

“business aviation” means that sector of general aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, where the aircraft are flown for purposes generally considered not for public hire and are piloted by individuals having, at a minimum, a valid commercial pilot license with an instrument rating;

“coordinated airport” means an airport where, in order to land or take off, it is necessary for an air carrier or any other aircraft operator to have been allocated a slot by a coordinator, with the exception of State flights, emergency landings and humanitarian flights;

“coordination parameters” means the expression in operational terms of all the capacity available for slot allocation at Gibraltar Airport during each coordination period, reflecting all technical, operational and environmental factors that affect the performance of the airport infrastructure and its different sub-systems;

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“direct air service” means a service between Gibraltar Airport and another airport including stopovers with the same aircraft and same flight number;

“Director General” means the person who has been appointed pursuant to section 17 of the Civil Aviation Authority Act 2024;

“group of air carriers” means two or more air carriers which together perform joint operations, franchise operations or code-sharing for the purpose of operating a specific air service;

“Minister” means the Minister with responsibility for civil aviation;

“new entrant” means-

- (a) an air carrier requesting, as part of a series of slots, a slot at Gibraltar Airport on any day, where, if the carrier's request were accepted, it would in total hold fewer than five slots at Gibraltar Airport on that day; or
- (b) an air carrier requesting a series of slots for a non-stop scheduled passenger service between a United Kingdom or European Union airport and Gibraltar Airport where at most two other air carriers operate the same non-stop scheduled service between these airports or airport systems on that day, where, if the air carrier's request were accepted, the air carrier would nonetheless hold fewer than five slots at that airport on that day for that non-stop service; or
- (c) an air carrier requesting a series of slots at Gibraltar Airport for a non-stop scheduled passenger service between that airport and a regional airport where no other air carrier operates a direct scheduled passenger service between these airports or airport systems on that day, where, if the air carrier's request were accepted, the air carrier would nonetheless hold fewer than five slots at Gibraltar Airport on that day for that non-stop service,

and an air carrier holding more than 5 % of the total slots available on the day in question at Gibraltar Airport shall not be considered as a new entrant at Gibraltar Airport;

“operator of the Civil Airport” means the person appointed as operator of the Civil Airport pursuant to section 37 of the Civil Aviation Act 2024;

“slot” means the permission given by a coordinator in accordance with these Regulations to use the full range of Gibraltar Airport’s infrastructure necessary to operate an air

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service on a specific date and time for the purpose of landing or take-off as allocated by a coordinator in accordance with these Regulations;

“scheduling period” shall mean either the summer or winter season as used in the schedules of air carriers;

“schedules facilitated airport” shall mean an airport where there is potential for congestion at some periods of the day, week or year which is amenable to resolution by voluntary cooperation between air carriers and where a schedules facilitator has been appointed to facilitate the operations of air carriers operating services or intending to operate services at the airport;

“series of slots” shall mean at least five slots having been requested for the same time on the same day of the week regularly in the same scheduling period and allocated in that way or, if that is not possible, allocated at approximately the same time;

“the coordinator” shall mean a person responsible for managing, reviewing and coordinating slot allocations and other required responsibilities at a coordinated airport;

“the schedules facilitator” shall mean a person responsible for managing, reviewing, and coordinating flight schedules and other required responsibilities at a schedules facilitated airport.

(2) Other terms used in these Regulations shall be construed consistently with the equivalent terms defined or used in the Civil Aviation Act 2024, the Civil Aviation Authority Act 2024 and the Operating (Definitions) Regulations 2025.

Conditions for Airport coordination.

4.(1) The Director General shall-

- (a) be under no obligation to designate Gibraltar Airport as schedules facilitated or coordinated save in accordance with the provisions of these Regulations; and
- (b) not designate Gibraltar Airport as coordinated save in accordance with the provisions of sub-regulation (3), (4) and (6).

(2) The Director General may, however, provide for Gibraltar Airport to be designated as a schedules facilitated airport provided that principles of transparency, neutrality and non-discrimination are met.

(3) The Director General shall ensure that a thorough capacity analysis is carried out at Gibraltar Airport by the operator of the Civil Airport or by any other competent body when the Director General considers it necessary, or within six months-

- (a) following a written request from air carriers representing more than half of the operations at Gibraltar Airport or from the operator of the Civil Airport when either considers that capacity is insufficient for actual or planned operations at certain periods; or
- (b) upon request from the Director General, in particular where Gibraltar Airport is accessible only for air carriers that have been allocated slots or where air carriers and in particular new entrants encounter serious problems in securing landing and take-off possibilities.

(4) The analysis referred to in sub-regulation (3) shall be based on commonly recognised methods, and shall determine any shortfall in capacity, taking into account environmental constraints at Gibraltar Airport and the analysis shall consider the possibilities of overcoming such shortfall through new or modified infrastructure, operational changes, or any other change, and the time frame envisaged to resolve the problems. It shall be updated if sub-regulation (6) has been invoked, or when there are changes at Gibraltar Airport influencing significantly its capacity and capacity usage. Both the analysis and the method used shall be made available to the parties having requested the analysis and, upon request, to other interested parties and the analysis shall be communicated to the Director General at the same time.

(5) On the basis of the analysis, the Director General shall consult on the capacity situation at Gibraltar Airport with the operator of the Civil Airport, the air carriers and their representative organisations, and the representatives of general aviation using Gibraltar Airport regularly; and Gibraltar air traffic control service providers.

(6) Where capacity problems occur for at least one scheduling period, the Director General shall ensure that Gibraltar Airport is designated as coordinated for the relevant periods only if-

- (a) the shortfall is of such a serious nature that significant delays cannot be avoided at Gibraltar Airport; and
- (b) there are no possibilities of resolving these problems in the short term.

(7) By way of derogation from sub-regulation (6), the Director General may, in exceptional circumstances, designate as coordinated Gibraltar Airport for the appropriate period.

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(8) When a capacity sufficient to meet actual or planned operations is provided, Gibraltar Airport's designation as a fully coordinated airport shall be lifted.

The schedules facilitator and the coordinator.

5.(1) The Director General shall ensure the appointment of a qualified natural or legal person as schedules facilitator or coordinator respectively after having consulted the air carriers using Gibraltar Airport regularly, their representative organisations and the operator of the Civil Airport and the coordination committee, where such a committee exists.

(2) The Director General shall ensure-

- (a) that the schedules facilitator acts under these Regulations in an independent, neutral, non-discriminatory and transparent manner;
- (b) the independence of the coordinator by separating the coordinator functionally from any single interested party and the system of financing the coordinators' activities shall be such as to guarantee the coordinator's independent status; and
- (c) that the coordinator acts according to these Regulations in a neutral, non-discriminatory and transparent way.

(3) The schedules facilitator and the coordinator shall participate in such international scheduling conferences of air carriers as are permitted by Gibraltar law.

(4) The schedules facilitator shall advise air carriers and recommend alternative arrival and/or departure times when congestion is likely to occur.

(5) The coordinator shall be the sole person responsible for the allocation of slots and shall allocate the slots in accordance with the provisions of these Regulations and shall make provision so that, in an emergency, slots can also be allocated outside office hours.

(6) The schedules facilitator shall monitor the conformity of air carriers' operations with the schedules recommended to them and the coordinator shall monitor the conformity of air carriers' operations with the slots allocated to them. These conformity checks shall be carried out in cooperation with the operator of the Civil Airport and with the Gibraltar air traffic control service providers and shall take into account the time and other relevant parameters and the coordinator shall submit on request to the Director General and to the Minister an annual activity report, concerning, in particular, the application of regulations 10 and 14, as well as any complaints regarding the application of regulations 9 and 13 and the steps taken to resolve them.

(7) The schedules facilitator and coordinator shall cooperate to detect inconsistencies in schedules.

(8) The coordinator shall on request and within a reasonable time make available free of charge for review to interested parties, in particular to members or observers of the coordination committee, either in written form or in any other easily accessible form, the following information-

- (a) historical slots by airline, chronologically, for all air carriers at Gibraltar Airport;
- (b) requested slots (initial submissions), by air carriers and chronologically, for all air carriers;
- (c) all allocated slots, and outstanding slot requests, listed individually in chronological order, by air carriers, for all air carriers;
- (d) remaining available slots; and
- (e) full details on the criteria being used in the allocation.

(9) The information referred to in sub-regulation (8) shall be made available at the latest at the time of the relevant scheduling conferences and as appropriate during the conferences and thereafter and on request, the coordinator shall provide such information in a summarised format and a cost-related fee may be charged for the provision of such summarised information.

(10) Where relevant and generally accepted schedules information standards are available, the schedules facilitator, the coordinator and the air carriers shall apply them provided that they comply with Gibraltar law.

(11) No person shall act as a schedules facilitator or as a coordinator for the Civil Airport unless that person is duly approved and appointed pursuant to sub-regulation (1) and any person who contravenes this sub-regulation shall be guilty of an offence.

Coordination committee.

6.(1) When Gibraltar Airport is designated as coordinated, the operator of the Civil Airport shall ensure that a coordination committee is set up and membership of this committee shall be open at least to the air carriers, general aviation operators and their representative organisations using Gibraltar Airport regularly, the operator of the Civil Airport and the Gibraltar air traffic control service providers.

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(2) The tasks of the coordination committee shall be-

(a) to make proposals concerning or advise the coordinator-

- (i) the possibilities for increasing the capacity of Gibraltar Airport determined in accordance with regulation 4 or for improving its usage;
- (ii) the coordination parameters to be determined in accordance with regulation 7;
- (iii) the methods of monitoring the use of allocated slots;
- (iv) local guidelines for the allocation of slots or the monitoring of the use of allocated slots, taking into account, inter alia, possible environmental concerns, as provided for in regulation 9(6);
- (v) improvements to traffic conditions prevailing at the Gibraltar Airport in question;
- (vi) serious problems encountered by new entrants, as provided for in regulation 13(12);
- (vii) all questions relating to the capacity of the Gibraltar Airport;

(b) to mediate between all parties concerned on complaints on the allocation of slots, as provided for in regulation 14.

(3) The Director General and the coordinator shall be invited to the meetings of the coordination committee as observers.

(4) The coordination committee shall draw up written rules of procedure covering, inter alia participation, elections, the frequency of meetings, and language(s) used and any member of the coordination committee may propose guidelines as provided for in regulation 9(6).

(5) At the request of the coordinator, the coordination committee shall discuss suggested guidelines for the allocation of slots as well as those suggested for the monitoring of the use of allocated slots and a report of the discussions in the coordination committee shall be submitted to the Director General with an indication of the respective positions stated within the committee.

Coordination parameters.

7.(1) Should Gibraltar Airport be designated as a coordinated airport, the operator of the Civil Airport shall ensure the determination of the parameters for slot allocation twice yearly, while taking account of all relevant technical, operational and environmental constraints as well as any changes thereto.

(2) Sub-regulation (1) shall be based on an objective analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at Gibraltar Airport, the airspace congestion likely to occur during the coordination period and the capacity situation.

(3) The parameters shall be communicated to the coordinator in good time before the initial slot allocation takes place for the purpose of scheduling conferences.

(4) For the purpose of the exercise referred to in sub-regulation (1), where the operator of the Civil Airport does not do so, the coordinator shall define relevant coordination time intervals after consultation of the coordination committee and in conformity with the established capacity.

(5) The determination of the parameters and the methodology used as well as any changes thereto shall be discussed in detail within the coordination committee with a view to increasing the capacity and number of slots available for allocation, before a final decision on the parameters for slot allocation is taken and all relevant documents shall be made available on request to interested parties.

Information for schedules facilitators and coordinators

8.(1) Air carriers operating or intending to operate at Gibraltar Airport when it is designated as a schedules facilitated or coordinated airport shall submit to the schedules facilitator or coordinator respectively all relevant information requested by them and all relevant information shall be provided in the format and within the time-limit specified by the schedules facilitator or coordinator; in particular, an air carrier shall inform the coordinator, at the time of the request for allocation, whether it would benefit from the status of new entrant, in respect of requested slots.

(2) Should Gibraltar Airport have no designated status, the operator of the Civil Airport shall provide, when requested by a coordinator, any information in its possession about the planned services of air carriers.

(3) Where an air carrier fails to provide the information referred to in sub-regulation (1) and (2), unless it can satisfactorily demonstrate that mitigating circumstances exist, or provides false or misleading information, the coordinator shall not take into consideration the slot

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request or requests by that air carrier to which the missing, false or misleading information relates and the coordinator shall give that air carrier the opportunity to submit its observations.

(4) The schedules facilitator or the coordinator, the operator of the Civil Airport and the Gibraltar air traffic control service providers shall exchange all the information they require for the exercise of their respective duties, including flight data and slots.

Process of slot allocation.

9.(1) Series of slots are allocated from the slot pool to applicant carriers as permissions to use Gibraltar Airport infrastructure for the purpose of landing or take-off for the scheduling period for which they are requested, at the expiry of which they have to be returned to the slot pool as set up according to the provisions of regulation 13.

(2) Without prejudice to regulations 8, 10, 12, 13(1), 15, sub-regulation (1) shall not apply when the following conditions are satisfied-

- (a) a series of slots has been used by an air carrier for the operation of scheduled and programmed non-scheduled air services; and
- (b) that air carrier can demonstrate to the satisfaction of the coordinator that the series of slots in question has been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which it has been allocated,

and in such case that series of slots shall entitle the air carrier concerned to the same series of slots in the next equivalent scheduling period, if requested by that air carrier within the time-limit referred to in regulation 8(1).

(3) In the event that more than one applicant fulfils the requirements of sub-regulation (1), priority shall be given to the air carrier that has operated the greater number of slots of that series.

(4) Without prejudice to regulation 13(2), in a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to commercial air services and in particular to scheduled services and programmed non-scheduled air services and in the case of competing requests within the same category of services, priority shall be given for year-round operations.

(5) Re-timing of series of slots before the allocation of the remaining slots from the pool referred to in regulation 13 to the other applicant air carriers shall be accepted only for operational reasons or if slot timings of applicant air carriers would be improved in relation to

the timings initially requested and it shall not take effect prior to the express confirmation by the coordinator.

(6) The coordinator shall also take into account additional rules and guidelines established by the air transport industry world-wide as well as local guidelines proposed by the coordination committee and approved by the Director General, provided that such rules and guidelines do not affect the independent status of the coordinator, comply with Gibraltar law and aim at improving the efficient use of airport capacity.

(7) If a requested slot cannot be accommodated, the coordinator shall inform the requesting air carrier of the reasons therefor and shall indicate the nearest available alternative slot.

(8) The coordinator shall, in addition to the planned slot allocation for the scheduling period, endeavour to accommodate single slot requests with short notice for any type of aviation, including general aviation and to this end, slots remaining in the pool referred to in regulation 13 after distribution among the applicant carriers and slots available at short notice may be used.

Slot mobility.

10.(1) Slots may be-

- (a) transferred by an air carrier from one route or type of service to another route or type of service operated by that same air carrier;
- (b) transferred-
 - (i) between parent and subsidiary companies, and between subsidiaries of the same parent company,
 - (ii) as part of the acquisition of control over the capital of an air carrier,
 - (iii) in the case of a total or partial take-over when the slots are directly related to the air carrier taken over; and
- (c) exchanged, one for one, between air carriers.

(2) The transfers or exchanges referred to in sub-regulation (1) shall be notified to the coordinator and shall not take effect prior to the express confirmation by the coordinator and the coordinator shall decline to confirm the transfers or exchanges if they are not in conformity with the requirements of these Regulations and if the coordinator is not satisfied that-

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- (a) airport operations would not be prejudiced, taking into account all technical, operational and environmental constraints;
 - (b) limitations imposed according to regulation 12 are respected; and
 - (c) a transfer of slots does not fall within the scope of sub-regulation (3).
- (3) Slots allocated to a new entrant-
- (a) may not be transferred as provided for in sub-regulation (1)(b) for a period of two equivalent scheduling periods, except in the case of a legally authorised takeover of the activities of a bankrupt undertaking;
 - (b) only as defined in the definition of new entrant sub-paragraphs (b) and (c) in regulation 3(1), may not be transferred to another route as provided for in sub-regulation (1)(a) for a period of two equivalent scheduling periods unless the new entrant would have been treated with the same priority on the new route as on the initial route;
 - (c) may not be exchanged as provided for sub-regulation (1)(c) for a period of two equivalent scheduling periods, except in order to improve the slot timings for these services in relation to the timings initially requested.
- (4) An air carrier who exchanges or transfers a slot contrary to the requirements of this regulation shall be guilty of an offence.

Exclusion of compensation claims.

11. The entitlement to a series of slots referred to in regulation 9(2) shall not give rise to any claims for compensation in respect of any limitation, restriction or elimination thereof imposed under Gibraltar law.

Public service obligations.

12.(1) Where public service obligations have been imposed on a route in accordance with Gibraltar law, the Director General may reserve the slots required for the operations envisaged on that route.

(2) If the reserved slots on the route concerned are not used, they shall be made available to any other air carrier interested in operating the route in accordance with the public service obligations and if no other carrier is interested in operating the route and a call for tenders is

not issued, the slots shall either be reserved for another route subject to public service obligations or be returned to the pool.

Slot pool.

13.(1) The coordinator shall set up a pool, which shall contain all the slots not allocated on the basis of regulations 9(2) and 9(5) and all new slot capacity determined pursuant to regulation 4(3) shall be placed in the pool.

(2) A series of slots that has been allocated to an air carrier for the operation of a scheduled or a programmed non-scheduled air service shall not entitle that air carrier to the same series of slots in the next equivalent scheduling period if the air carrier cannot demonstrate to the satisfaction of the coordinator that they have been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which they have been allocated.

(3) Slots allocated to an air carrier before 31 January for the following summer season, or before 31 August for the following winter season, but which are returned to the coordinator for reallocation before those dates shall not be taken into account for the purposes of the usage calculation.

(4) If the 80 % usage of the series of slots cannot be demonstrated, all the slots constituting that series shall be placed in the slot pool, unless the non-utilisation can be justified on the basis of any of the following reasons-

- (a) unforeseeable and unavoidable circumstances outside the air carrier's control leading to-
 - (i) grounding of the aircraft type generally used for the air service in question;
 - (ii) closure of Gibraltar Airport or Gibraltar airspace;
 - (iii) serious disturbance of operations at Gibraltar Airport, including those series of slots at other UK airports or at EU airports related to routes which have been affected by such disturbance, during a substantial part of the relevant scheduling period;
- (b) interruption of air services due to action intended to affect these services which makes it practically and/or technically impossible for the air carrier to carry out operations as planned.

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(5) When the non-utilisation of a slot is justified by the restrictions referred to in sub-regulation (4), the coordinator shall consider that the slot was operated within the series of slots concerned.

(6) The coordinator shall apply international best practices regularly, pursuant to sub-regulation (4).

(7) At the request of the Minister, the Director General shall examine the application of sub-regulation (4) by the coordinator of Gibraltar Airport.

(8) Without prejudice to regulation 9(2), slots placed in the pool shall be distributed among applicant air carriers and 50 % of these slots shall first be allocated to new entrants unless requests by new entrants are less than 50 % and the coordinator shall treat the requests of new entrants and other carriers fairly, in accordance with the coordination periods of each scheduling day.

(9) A new entrant which has been offered a series of slots within one hour before or after the time requested but has not accepted this offer shall not retain its new entrant status for that scheduling period.

(10) In the case of services operated by a group of air carriers, only one of the participating air carriers can apply for the required slots and the air carrier operating such a service assumes responsibility for meeting the operating criteria required to maintain historical precedence referred to in regulation 9(2).

(11) Slots allocated to one air carrier may be used by another air carrier or air carriers participating in a joint operation, provided that the designator code of the air carrier to whom the slots are allocated remains on the shared flight for coordination and monitoring purposes. Upon discontinuation of such operations, the slots so used will remain with the air carrier to whom they were initially allocated and air carriers involved in shared operations shall advise the coordinator of the detail of such operations prior to the beginning of such operations.

(12) If serious problems continue to exist for new entrants, the Director General shall ensure that a meeting of the coordination committee is convened to examine possibilities for remedying the situation and the Director General shall be invited to that meeting.

Complaints and rights of appeal.

14.(1) Without prejudice to rights of appeal under Gibraltar law, complaints regarding the application of regulation 8(3), 9, 10, 13, 15(1) to (4) and 15(5) shall be submitted to the coordination committee and the committee shall, within a period of 1 month following submission of the complaint, consider the matter and if possible make proposals to the

coordinator in an attempt to resolve the problem and if the complaint cannot be settled, the Director General may, within a further 2-month period, provide for mediation by an air carriers' or airports' representative organisation or other third party.

(2) The Director General shall take appropriate measures, in accordance with Gibraltar law, to protect the coordinator from claims for damages relating to their functions under these Regulations, save in cases of gross negligence or wilful misconduct.

Enforcement.

15.(1) An air carrier's flight plan may be rejected by the Gibraltar air traffic control service providers if the air carrier intends to land or take off at Gibraltar Airport during the periods for which it is coordinated, without having a slot allocated by the coordinator.

(2) The coordinator shall withdraw the series of slots provisionally allocated to an air carrier in the process of establishing itself and place them in the pool on 31 January for the following summer season or on 31 August for the following winter season if the undertaking does not hold an operating licence or equivalent on that date or if it is not stated by the competent licensing authority that it is likely that an operating licence or equivalent will be issued before the relevant scheduling period commences.

(3) The coordinator shall withdraw and place in the pool the series of slots of an air carrier, which it has received following an exchange pursuant to regulation 10(1)(c) if they have not been used as intended.

(4) Air carriers that repeatedly and intentionally operate air services at a time significantly different from the allocated slot as part of a series of slots or uses slots in a significantly different way from that indicated at the time of allocation and thereby cause prejudice to Gibraltar Airport or air traffic operations shall lose their status as referred to in regulation 9(2) and the coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having heard the air carrier concerned and after issuing a single warning.

(5) Without prejudice to regulation 13(4), if the 80 % usage rate as defined in regulation 9(2) cannot be achieved by an air carrier, the coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having heard the air carrier concerned.

(6) Without prejudice to regulation 13(4), if after an allotted time corresponding to 20% of the period of the series validity no slots of that series of slots have been used, the coordinator shall place the series of slots in question in the pool for the remainder of the scheduling period, after having heard the air carrier concerned.

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(7) Non-compliance with any provision of this regulation may result in a penalty subject to regulation 19.

Directions.

16.(1) A coordinator may issue a direction to any of the persons specified in sub-regulation (2) for the purpose of securing compliance by an air carrier with the duty set out in regulation 15.

(2) The persons referred to in sub-regulation (1) are-

- (a) that air carrier; and
- (b) the operator of the Civil Airport.

(3) A person to whom a direction is issued shall comply with that direction except to the extent that, in the person's reasonable opinion, compliance would (or would be likely to)-

- (a) conflict with any other requirement having the force of law including any applicable-
 - (i) airport by-laws;
 - (ii) air traffic services approval or designation; or
- (b) prejudice safety.

(4) A person is guilty of an offence should they disregard a direction provided by the coordinator in sub-regulation (1), unless they provide justification in accordance with sub-regulation (3).

Enforcement procedure.

17.(1) A coordinator or schedules facilitator shall give reasons which explain-

- (a) why a penalty has been imposed pursuant to these Regulations;
- (b) the amount of the penalty; and
- (c) why a direction has been issued pursuant to regulation 16.

(2) Any person upon whom such a penalty may be imposed or to whom such a direction may be issued shall have an opportunity to-

- (a) make written representations to the coordinator or schedules facilitator before or no more than 28 days after the penalty is imposed or direction is issued;
- (b) in the circumstances described in sub-regulation (3), require a review of the decision of the coordinator or schedules facilitator by an independent reviewer; and
- (c) make representations to that independent reviewer for the purpose of that review.

(3) A review may be required on any of the following grounds-

- (a) the decision of the coordinator or schedules facilitator was substantially flawed;
- (b) the decision-making process adopted by the coordinator or schedules facilitator was substantially unfair;
- (c) new information has become available after the decision that could not reasonably have been made available to the coordinator or schedules facilitator before the decision and which, had it been available, would have resulted in a substantially different decision; or
- (d) the penalty or direction is disproportionate.

(4) Upon completion of a review, an independent reviewer may endorse the decision in question or direct, to such extent or in such manner as the independent reviewer may specify, that-

- (a) the coordinator or schedules facilitator reconsider the decision;
- (b) the amount of any penalty be increased or reduced;
- (c) the decision be varied in any other respect; or
- (d) the decision be cancelled.

(5) A coordinator or schedules facilitator shall reconsider a decision to impose a penalty or, in the case of a coordinator, to issue a direction:

- (a) if an opportunity is afforded to make representations after the decision is made; or

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- (b) to the extent that an independent reviewer directs that the decision should be reconsidered,

and, in either case, may vary or cancel the decision to such extent as the coordinator or schedules facilitator deems appropriate in the circumstances.

(6) Decisions of a coordinator or schedules facilitator shall be published in such manner as the coordinator or schedules facilitator considers appropriate, except to the extent that the protection of commercial confidentiality requires.

(7) A penalty imposed shall be recoverable by a coordinator or schedules facilitator as a civil debt and, upon collection, be paid together with any accrued interest into the Government Consolidated Fund after deduction of all costs and expenses reasonably and properly incurred by the coordinator or schedules facilitator for the purpose of enforcement.

(8) The costs and expenses to be deducted for the purpose of sub-regulation (7) shall include the costs of any review (including legal costs) incurred by the coordinator or schedules facilitator (including the fees and expenses of the independent reviewer) which are not reimbursed by the person who has required the review pursuant to regulation 17(2)(b).

(9) A coordinator shall publish an annual report concerning the implementation of regulations 15, 16 and 19 in such manner and in such form and containing such information (including a summary of any penalties imposed or directions issued) as he considers appropriate or as the Director General may by written notice require from time to time.

(10) A decision of an independent reviewer to affirm the decision of the coordinator or schedules facilitator may be appealed to the Supreme Court within 21 days of said decision.

Enforcement code.

18.(1) The coordinator or schedules facilitator shall adopt and publish an enforcement code which makes provision for the manner in which penalties will be imposed pursuant to these Regulations.

(2) An enforcement code—

- (a) shall comply with regulation 17;
- (b) shall make provision as to—

- (i) the circumstances in which the coordinator or schedules facilitator intends to impose penalties or (in the case of a coordinator) issue directions;
 - (ii) the procedures which the coordinator or schedules facilitator intends to adopt for the purpose of imposing any penalty or (in the case of a coordinator) issuing any direction;
 - (iii) the extent to which the amount of any penalty may vary depending upon the nature of the breach of duty in question;
 - (iv) any other factors that the coordinator or schedules facilitator intends to take into account in determining the amount of any penalty;
- (c) may contain such incidental or supplementary provisions as the coordinator or schedules facilitator considers appropriate; and
- (d) subject to sub-regulation (3), may be amended or revoked by the coordinator or schedules facilitator.

(3) Before adopting, amending or revoking an enforcement code a coordinator or schedules facilitator shall consult the Director General and the Minister.

(4) The Minister may at any time by written notice served on the coordinator or schedules facilitator require that the enforcement code that has been adopted and published be modified in such manner as may be specified in the notice, provided that the Minister has first consulted with the Director General.

(5) Each of the persons specified in sub-regulation (6) shall comply with the enforcement code adopted by a coordinator or schedules facilitator.

(6) The persons referred to in sub-regulation (5) are:

- (a) the coordinator or schedules facilitator;
- (b) each independent reviewer appointed by that coordinator or schedules facilitator;
- (c) the operator of the Civil Airport; and
- (d) air carriers at Gibraltar Airport.

(7) Following the adoption, amendment, revocation or modification of any provision of an enforcement code-

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- (a) the coordinator or schedules facilitator shall give written notice of the relevant event and, in the case of adoption, a copy of the provision or, in the case of amendment or modification, details of the change, to –
 - (i) The Director General;
 - (ii) the persons specified in paragraphs (b) to (d) of sub-regulation (6); and
- (b) the Director General shall publish in the Gazette any notice received as result of paragraph (a) of this sub-regulation.

(8) The modification, amendment or revocation of any provision of any enforcement code shall not affect the validity of anything previously done under that provision.

Penalties and other proceedings.

19.(1) Subject to regulations 17, 18 and 20, a penalty of up to £20,000 may be imposed by a coordinator by written notice served on an air carrier on each occasion on which that air carrier fails to comply with any of the duties set out in regulations 15.

(2) Subject to sub-regulation (3), each of the duties specified in regulation 15 shall be owed to the coordinator.

(3) No penalty may be imposed on any person pursuant to sub-regulation (1) and no other proceedings may be commenced pursuant to these Regulations in respect of any failure by any person to comply with either of the duties set out in regulation 15 to the extent that the person concerned demonstrates that the failure in question was beyond that person's reasonable control.

Independent reviewer.

20.(1) An independent reviewer shall be a natural person whose identity, qualifications and terms of appointment by the coordinator or schedules facilitator have been approved in writing by the Director General.

(2) The independent reviewer shall be nominated by the coordinator or schedules facilitator after consulting the Director General.

(3) The persons nominated in sub-regulation (2) shall disclose in writing to the coordinator or schedules facilitator any relationship with or interest with the operator of the Civil Airport or any air carrier.

(4) The coordinator or schedules facilitator shall disclose in writing to the Director General, in such form as the coordinator or schedules facilitator considers appropriate, any relationship or interest disclosed to that coordinator or schedules facilitator pursuant to sub-regulation (3).

(5) Any approval given by the Director General pursuant to sub-regulation (1) may relate to an appointment for the purpose of a particular review or a standing appointment of a single independent reviewer or a panel comprising two or more independent reviewers any one of whom may be selected for the purposes of a particular review.

(6) If the Director General considers that an independent reviewer appointed for a particular review is not independent or impartial in light of the circumstances of that review, the Director General may, by written notice to the coordinator or schedules facilitator, require that the independent reviewer cease acting in that capacity and the independent reviewer must then be replaced with another independent reviewer.

(7) Subject to sub-regulation (8), the fees and expenses of an independent reviewer shall be borne by the coordinator or schedules facilitator but otherwise an independent reviewer shall not have any relationship with or interest in any coordinator or schedules facilitator.

(8) The costs of a review (including legal costs and the fees and expenses of the independent reviewer) must be handled as follows-

- (a) the independent reviewer will decide how the costs should be fairly shared between the coordinator or schedules facilitator and the person who requested the review;
- (b) if the independent reviewer decides that the person who requested the review should pay some or all of the coordinator's or schedules facilitator's costs, that person must reimburse them;
- (c) if the independent reviewer decides that the coordinator or schedules facilitator should pay some or all of the costs of the person who requested the review, the coordinator or schedules facilitator must reimburse that person.

(9) Notwithstanding any of the terms of appointment of an independent reviewer, the appointment of an independent reviewer shall not be terminated without the prior written approval of the Minister except in consequence of-

- (a) death;
- (b) resignation; or

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- (c) expiry of the period of the appointment.

Offences.

21.(1) A person guilty of an offence under these Regulations shall be liable-

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any-

- (a) director;
- (b) manager;
- (c) secretary;
- (d) other similar officer of the body corporate; or
- (e) any person who was purporting to act in any such capacity,

that person as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, sub-regulation (2) shall apply in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

(4) Where a limited partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.