

**GUYANA**

**No..... of .....**

**REGULATIONS**

**Made Under**

**GUYANA CIVIL AVIATION ACT .....**

**THE ECONOMIC REGULATION OF AIRPORTS**

**REGULATIONS .....**

**ARRANGEMENT OF REGULATIONS**

March 8, 2017

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**PART 1**  
**PRELIMINARY**

- Citation* 1. These Regulations may be cited as the Economic Regulations of Airports Regulations 2017.
- Application* 2. These Regulations shall apply to all commercial airports in Guyana.
- Interpretation* 3. In these Regulations, unless the context otherwise requires –
- (1) **agreement** means any agreement, whether formal or informal and whether express or implied.
  - (2) **aircraft** means a machine or craft that can derive support in the atmosphere from the reactions of the air.
  - (3) **aircraft movement** means:
    - (a) the landing of an aircraft at an airport; or
    - (b) the taking off of an aircraft from an airport.
  - (4) **airline** means a person who carries on a commercial air transport enterprise that involves offering or operating scheduled or chartered air services.
  - (5) **airport** means an aerodrome within the meaning of the Civil Aviation Act 2017 together with other land, buildings and structures used for the purposes of:
    - (a) the landing and taking off of aircraft at the aerodrome,
    - (b) the manoeuvring, parking or servicing of aircraft between landing and take-off at the aerodrome,
    - (c) the arrival or departure of persons carried or to be carried as passengers by air transport services operating to or from the aerodrome, together with their baggage,
    - (d) the arrival or departure of cargo carried or to be carried by such services,
    - (e) the processing of such persons, baggage and cargo between their arrival and departure, and
    - (f) the arrival or departure of persons who work at the airport.
- An airport also includes:
- (a) passenger terminal,
  - (b) a car park,
  - (c) a cargo processing area,
  - (d) land, buildings and other structures used for air traffic services, and
  - (e) land, buildings and other structures used for the purposes of transferring passengers, baggage or cargo –
    - (i) between passenger terminals or cargo processing areas that form part of the airport, or
    - (ii) between such terminals or areas and aircraft using the airport.

- (6) **airport lease:**
- (a) means a lease of the whole or a part of an airport site, where the Government is the lessor; and
  - (b) when used in relation to an airport-means a lease of the whole or a part of the airport site of the airport, where the Government is the lessor.
- (7) **airport-management agreement** in relation to an airport means an agreement (other than a contract of employment or a prescribed kind of agreement) between:
- (a) the airport-lessee company for the airport; and
  - (b) another person; under which the other person (either alone or together with the company and/or one or more other persons) is in a position to exercise control over either or both of the following:
  - (c) the operation of the whole or a substantial part of the airport;
  - (d) the direction to be taken in relation to the development of the whole or a substantial part of the airport.
- (8) **airport-management company** means a company that is a party to an airport-management agreement with an airport-lessee company.
- (9) **airport user** means, in relation to any airport, a person responsible for the carriage of passengers, mail or freight by air to or from the airport;
- (10) **airport user charge** means the money charged (excluding over flight charge) for use of airport facilities such as but not limited to aircraft movement areas and their associated lighting, passenger terminal facilities, cargo terminal facilities, hangar and maintenance areas, ground handling services, fire fighting and ambulance services, air traffic control, communications, meteorological services, ground access facilities and services, industrial development and other services provided within the airport;
- (11) **approve** means to approve under these regulations, and “approved” and “approval” shall be construed accordingly
- (12) **Authority** means the Guyana Civil Aviation Authority
- (13) **airport-operator company** means an airport-lessee company or an airport-management company.
- (14) **company** means a body corporate.
- (15) **declared capacity**, in relation to an airport, has the meaning given by Regulations 149 and 153
- (16) **demand management scheme** has the meaning given by Part 14.
- (17) **draft environment strategy means** a draft environment strategy under Part 8.

- (18) **draft master plan** means a draft master plan under Part 3.
- (19) **engage in conduct** means:
- (a) do an act; or
  - (b) omit to perform an act.
- (20) **final environment strategy** means a final environment strategy under Part 8.
- (21) **final master plan** in relation to an airport, means the draft master plan approved and in force for that airport, and includes a master plan that is deemed under Part 3 of the act to be so approved;
- (22) **interest**, in relation to an airport lease, means a right or interest, whether legal or equitable, in the airport lease, by whatever term called, and includes an option to acquire such a right or interest in the airport lease, but to avoid doubt, does not include, and is taken never to have included:
- (a) a sublease; or
  - (b) a licence; or
  - (c) an easement or other incorporeal hereditament; or
  - (d) a restrictive covenant.
- (23) **international air transport** means air transport between a place in Guyana and a place outside Guyana.
- (24) **lender**, in relation to a loan security, means the person who is entitled to enforce the security.
- (25) **lending money** includes providing non-equity finance where the provision of the finance may reasonably be regarded as equivalent to lending money.
- (26) **loan security** means a security held solely for the purposes of a moneylending agreement.
- (27) **Minister** means the minister responsible for civil aviation in Guyana
- (28) **moneylending agreement** means an agreement entered into in good faith in the ordinary course of carrying on a business of lending money, but does not include an agreement dealing with any matter unrelated to the carrying on of that business.
- (29) **proposal** means a proposal for amendments to a final master plan for an airport that is in force;
- (30) **planning period** has the meaning assigned to it by Regulation 17;
- (31) **qualified company** means a company that:

- (a) is a constitutional corporation; and
- (b) is incorporated, or taken to be incorporated, under the Corporations Act 2001; and
- (c) has a share capital.

(32) **scheme** means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

(33) **Undertaking** means any natural person or legal person who is providing air services with an intention of making profit or not.

Any Aerodrome open for public consumption in Guyana shall be subjected to the regulation of aerodromes fees and charges.

*Duties of the Authority*

4. (1) The Authority shall perform its function under these Regulations in a manner which it considers shall further the interests of users of air transport services regarding the range, availability, continuity, cost and quality of airport operation services.
- (2) The Authority shall perform its function under these Regulations in such manner as it considers best calculated to:
  - (a) Further the reasonable interests of users of airports within Guyana and to provide economical and reliable services to those users by establishing a system for the regulation of airports that takes account of those users;
  - (b) Promote the efficient, economic and profitable operation of airports;
  - (c) Ensure compliance with such international obligations of Guyana as maybe notified to the Authority by the Minister;
  - (d) Create an enabling environment for potential investors in airport;
  - (e) Encourage investments in new facilities at airports in time to satisfy demands by users of airports;
  - (f) Further such vital public interests as may be notified to the Authority by the Minister from time to time; and

- (g) Ensure that the airport is operated in accordance with performance standards and service levels consistent with best industries practices.

## **PART 2**

### **LICENSING AND MANAGEMENT OF AIRPORTS**

*Licence  
authorising  
operation of  
airport*

- 5. (1) No person shall operate an airport unless the person is authorised to do so by —
  - (a) an airport operator licence; or
  - (b) an exemption granted by the Authority.
- (2) Every airport operator licence granted under this part shall be in such form and for such period as the Authority may determine.
- (3) The Authority may, in accordance with the terms of a general authority given by the Minister, grant or extend an airport operator licence.
- (4) In determining whether to grant or extend an airport operator licence to or for a particular person, the Authority shall consider the following:
  - (a) the ability of that person to finance the operation of the airport concerned;
  - (b) the experience of that person in operating the airport concerned, and his ability to perform the duties which would be imposed on him under these Regulations and the airport operator licence; and
  - (c) the functions and duties of the Authority under Regulation 4.
- (5) Every airport operator licence granted or extended under this Part shall continue in force for such period as may be specified in the airport operator licence, unless it is earlier revoked or suspended.
- (6) Any person who contravenes Regulation 5 (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

*Conditions of  
airport  
operator  
licence*

- 6. (1) An airport operator licence may include such conditions (whether or not relating to the activities authorised by the airport operator licence) as appear to the Authority to be requisite or expedient having regard to the purposes of these regulations.
- (2) Without prejudice to the generality of Regulation 5(1), an airport operator licence may include conditions requiring the airport operator licensee —
  - (a) to enter into agreements or arrangements with any other person, class of persons or another airport operator licensee for —
    - (i) the interconnection with, access to and use of any facility needed for carrying on any activity authorized by the airport

operator licence (wherever situated and whether or not used for the purpose of carrying on those activities); and

- (ii) such other purpose as may be specified in the airport operator licence, and on such conditions as may be agreed to by the airport operator licensee and such other persons, as may be determined by the Authority;

(b) to prepare itself to deal with any public emergency;

(c) to pay to the Authority a fee on the grant of the airport operator licence or periodic fees during the currency of the airport operator licence or both, of such amount as may be determined by or under the airport operator licence;

(d) to comply with any direction, determination, order or decision of the Authority as to such matters as are specified in the airport operator licence or are of a description so specified; and

(e) to do or not to do such things as are specified in the airport operator licence or are of a description so specified.

(3) Conditions in an airport operator licence may include:

- (i) requiring the airport operator licensee to furnish specified persons or the Authority, in such manner and at such times as may be specified, with such information as appears to the Authority to be requisite or expedient for the purpose of facilitating the exercise by those persons or the Authority of the functions or duties assigned to them or as may be reasonably required for that purpose;

- (ii) requiring the airport operator licensee to furnish to the Authority financial information including regulatory accounts in respect of such period and on such basis as may be specified;

- (iii) requiring the airport operator licensee to comply with such requirements as to capital expenditure in relation to the airport or airport services and facilities as specified or described in the airport operator licence;

- (iv) providing for the determination by the Authority of such questions arising under the airport operator licence, or under any document specified or described in the airport operator licence;

- (v) imposing requirements by reference to designation, acceptance or approval by the Authority;

- (vi) providing for references in the conditions of the airport operator licence to any document specified or described in the airport operator licence to operate as references to that document as revised or re-issued from time to time;

(vii) requiring the airport operator licensee to provide a performance bond, guarantee or any other form of security on such terms and conditions as the Authority may determine; and

(viii) providing that the conditions of the airport operator licence shall have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions.

(4) A payment required by paragraph (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

*Modification of  
conditions of  
airport  
operator  
licence*

7. (1) Subject to this paragraph, the Authority may modify the conditions of an airport operator licence.

(2) Before making modifications to the conditions of an airport operator licence under these regulations, the Authority shall give notice to the airport operator licensee —

(a) stating that it proposes to make the modifications in the manner as specified in the notice and the compensation payable for any loss or damage suffered or expense reasonably incurred as a direct result of the modification; and

(b) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

(3) Upon receipt of any written representation referred to in paragraph (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise, and, in either event, it shall thereupon issue a direction in writing to such airport operator licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.

(4) Unless otherwise provided by these regulations or the Minister, where the airport operator licensee concerned has appealed under Part 15 of these regulations to the Minister against any decision by the Authority under this part, the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

(5) If no written representation is received by the Authority within the time specified in paragraph (2) or if any written representation made under that

paragraph is subsequently withdrawn, the Authority may immediately carry out the modifications as specified in the notice given under that paragraph.

*Revocation or  
suspension,  
etc., of airport  
licence*

8. (1) If the Authority is satisfied that -
- (a) an airport operator licensee is contravening, or is likely to contravene or has contravened -
    - (i) any of the conditions of its airport operator licence;
    - (ii) any provision of these regulations applicable to the airport operator licensee, for which no criminal penalty is prescribed for a contravention thereof; or
    - (iii) any code of practice or standard of performance applicable to the airport operator licensee;
  - (b) an airport operator licensee has been convicted of an offence under these regulations;
  - (c) an airport operator licensee has not complied with any direction or requirement issued by the Authority under this part of these regulations or any direction under this Part;
  - (d) any circumstance specified in an airport operator licensee's airport operator licence giving rise to the Authority's power to revoke or suspend the licence exists;
  - (e) an airport operator licensee has gone or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
  - (f) an airport operator licensee has made any assignment to, or composition with, its creditors; or
  - (g) the public interest or security of Guyana requires; the Authority may do all or any of the following:
    - (A) revoke its airport operator licence or suspend its airport operator licence for such period as the Authority thinks fit, except in a case of a contravention or likely contravention of any code of practice or standard of performance applicable to the airport operator licensee;
    - (B) require the payment of a financial penalty not exceeding —
      - (BA) \$100 million; or
      - (BB) the prescribed amount, whichever is applicable;
    - (C) impose such other direction as the Authority considers appropriate restricting the airport operator licensee's business of operating the airport.



(2) The Authority shall not exercise its powers under paragraph (1) unless an opportunity of being heard by a representative in writing or by counsel had been given to the airport operator licensee against which the Authority intends to exercise its powers, being a period of at least 14 days but not more than 28 days.

(3) Where the Authority has made any decision under paragraph (1) against any airport operator licensee, it shall serve on the airport operator licensee concerned a notice of its decision.

(4) Subject to paragraph (6), any decision by the Authority under paragraph (1) against any airport operator licensee shall not take effect until the expiration of 14 days after the Authority has served the notice of the decision on the airport operator licensee concerned.

(5) Where the airport operator licensee concerned has appealed under Part 15 of these regulations to the Minister against any decision by the Authority under these regulations, the decision shall not take effect unless the decision is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or withdrawn.

(6) The revocation or suspension of any airport operator licence under these regulations shall not prejudice the enforcement by any person of any right or claim against the airport operator licensee or former airport operator licensee, or by the airport operator licensee or former airport operator licensee of any right or claim against any person.

(7) In this Part —

“aeronautical revenue” means such payments received or to be received by an airport operator licensee for an airport from such of its services which are essential to the operation of the airport as may be prescribed; “the prescribed amount” means —

(a) where the ground for exercising any power under paragraph (1) relates to any capital expenditure in relation to an airport or the airport services and facilities of an airport — 1% (or such other percentage as the Minister may prescribe) of the gross aeronautical revenue from an airport operator licensee’s business of operating an airport received, or to be received, for each year during which the contravention or non-compliance occurred; or

(b) where the ground for exercising any power under paragraph (1) relates to aeronautical charges) being in excess of the maximum prices set or approved under these regulations - 120% (or such other percentage as the Minister may prescribe) of the total aeronautical charges in excess for each year during which those charges are in excess.

*by airport  
operator  
licensee*

- (a) any condition of its airport operator licence;
- (b) any provision of any code of practice or standard of performance applicable to the airport operator licensee;
- (c) any of the provisions of these regulations applicable to the airport operator licensee, for which no criminal penalty is prescribed for a contravention thereof; or
- (d) any direction issued to, or applicable to, the airport operator licensee under these regulations or any direction under this part, the Authority may, by notice in writing, direct the airport operator licensee to do, or not to do, such things as are specified in such direction.

(2) In addition to any powers conferred under these regulations, if the Authority is satisfied that an airport operator licensee is contravening, is likely to contravene or has contravened —

- (a) any condition of its airport operator licence;
- (b) any provision of any code of practice or standard of performance applicable to the airport operator licensee;
- (c) any provision of these regulations for which no criminal penalty is prescribed for a contravention thereof; or
- (d) any direction (including a direction under this part) issued by the Minister or the Authority to, or applicable to, the airport operator licensee, the Authority may, by direction in writing to the airport operator licensee, require the airport operator licensee to provide or further provide a performance bond, guarantee or other form of security on such terms and conditions as the Authority may determine, of such amount as the Authority considers appropriate.

(3) An airport operator licensee to whom a direction is issued under this Part shall comply with the direction.

*Restriction on  
transfer of  
airport licence*

10. (1) No airport operator licence shall be transferred to any person without the prior consent in writing of the Authority.
- (2) Any purported transfer of an airport operator licence in contravention of this Part shall be void and of no effect.

*Airport  
operator  
licensee not to  
carry on non-  
airport  
business*

11. (1) Except with the prior approval of the Authority, an airport operator licensee for an airport shall not carry on substantial trading or financial activities other than -
- (a) activities relating to the operation of the airport;
  - (b) activities incidental to the operation of the airport; and
  - (c) activities that are consistent with the lease for the airport site and the master plan for that airport.

(2) Paragraph (1) shall not apply to a person who acquires the lease for an airport site by way of the enforcement of a loan security.

(3) A contravention of this Part shall not affect the validity of any transaction.

*Exemption  
from requiring  
airport licence*

12. (1) The Authority may, with the approval of the Minister, by order published in the Gazette, exempt any person from complying with these regulations for any specified period generally or to such an extent as may be specified in the order, and unconditionally or subject to such conditions as may be specified therein

(2) Without prejudice to the generality of paragraph (1), the conditions of an exemption may require any exempt airport operator operating an airport in pursuance of the exemption —

- (a) to comply with any direction given by the Authority as to such matters as are specified in the exemption order under paragraph (1) or are of a description so specified;
- (b) to do or not to do such things as are specified in the exemption order under paragraph (1) or are of a description so specified, except in so far as the Authority consents to his doing or not doing them; and
- (c) to refer for determination by the Authority such questions arising under the exemption as are specified in the exemption order under paragraph (1) or are of a description so specified.

(3) An exemption order under paragraph (1) shall continue in force, unless it is revoked, for such period as may be specified in the order.

(4) Any exempt airport operator who fails to comply with any direction referred to in paragraph (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50 million or to imprisonment for a term not exceeding 2 years or to both.

(5) Without prejudice to paragraph (4), if any condition of an exemption granted to an exempt airport operator is not complied with by the exempt airport operator, the Authority may give to that exempt airport operator a notice declaring that the exemption is revoked, in so far as it relates to that person, to such extent and from such date as may be specified in the notice

*Codes of  
practice or  
standards of  
performance*

13. (1) The Authority may, from time to time —

- (a) issue one or more codes of practice or standards of performance applicable to airport operator licensees;
- (b) approve as a code of practice or standard of performance applicable to airport operator licensees any document prepared by a person other than the Authority if the Authority considers the document as suitable for this purpose; or
- (c) amend or revoke any code of practice or standard of performance issued under sub-paragraph (a) or approved under sub-paragraph (b), with respect to all or any of the following:
  - (i) the operation of an airport;
  - (ii) the provision of airport services and facilities;

- (iii) the quality of such aspects of airport services and facilities as are prescribed in regulations;
  - (iv) competition, abuse of a dominant position in the operation of airports and fair market conduct in the provision of airport services and facilities;
  - (v) the acquisitions or consolidations involving an airport operator licensee and any other person (whether an airport operator licensee or otherwise).
- (2) A code of practice may, in particular, specify the duties and obligations of any airport operator licensee in relation to his business operation in so far as it relates to the provision of airport services and facilities in Guyana.
- (3) If any provision in any code of practice or standard of performance is inconsistent with any provision of these regulations, such provision, to the extent of the inconsistency —
  - (a) shall have effect subject to the provisions of these regulations; and
  - (b) having regard to the provisions of these regulations, shall not have effect.
- (4) Where a code of practice or standard of performance is issued, approved, amended or revoked by the Authority under paragraph (1), the Authority shall —
  - (a) publish a notice of the issue, approval, amendment or revocation, as the case may be, of the code of practice or standard of performance in such manner as shall secure adequate publicity for such issue, approval, amendment or revocation;
  - (b) specify in the notice referred to in sub-paragraph (a) the date of the issue, approval, amendment or revocation, as the case may be; and
  - (c) ensure that, so long as the code of practice or standard of performance remains in force, copies of that code or standard, and of all amendments to that code or standard, are available for inspection by airport operator licensees free of charge and for their purchase at a reasonable price.
- (5) No code of practice or standard of performance, no amendment to an approved code of practice or standard of performance, and no revocation of any such approved code of practice or standard of performance, shall have any force or effect as an approved code of practice or standard of performance until the notice relating thereto is published in accordance with paragraph (4).
- (6) Any code of practice or standard of performance issued or approved under this Part shall not have legislative effect.
- (7) Subject to paragraph (8), every airport operator licensee shall comply with the relevant codes of practice and standards of performance issued or approved under this Part.

(8) The Authority may, either generally or for such time as the Authority may specify, waive the application of any code of practice or standard of performance, or part thereof, issued or approved under this Part to any airport operator licensee.

(9) The Authority shall give a copy of each approved code of practice or standard of performance and amendment to or revocation of an approved code of practice or standard of performance to the Minister; but failure to comply with this paragraph in respect of any approved code of practice or standard of performance, or any amendment or revocation thereof, shall not invalidate the approved code of practice or standard of performance, or the amendment or revocation thereof, as the case may be.

(10) In this Part, “dominant position” means a dominant position in any market for airport services and facilities, whether in Guyana or elsewhere.

*Directions  
affecting  
airport  
operator  
licensee*

14. (1) The Authority may give directions to be observed by airport operator licensees -

- (a) to ensure the reliability of the provision of any airport services and facilities to the public;
- (b) to ensure fair and efficient market conduct by airport operator licensees;
- (c) to ensure the technical compatibility and safety of operation of any equipment or system used in the provision of airport services and facilities;
- (d) to ensure the co-ordination and co-operation, on such terms as the Authority may specify, with any other person in the use or sharing of any facility, installation, plant or system, or part thereof, owned or used by the airport operator licensee for the provision of any airport services and facilities;
- (e) in the public interest and security; or
- (f) as may be necessary to allow the Authority to carry out any of its functions or duties under these regulations.

(2) A direction under paragraph (1):

- (a) shall require the airport operator licensee concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the direction or are of a description as specified therein;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under that direction; and
- (c) may be revoked at any time by the Authority.

(3) Before giving a direction to any airport operator licensee under paragraph (1), the Authority shall, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice:

- (a) stating that the Authority proposes to make the direction and setting out its effect; and
- (b) specifying the time within which representations or objections to the proposed direction may be made, and shall consider any representations or objections which are duly made.

(4) Every airport operator licensee shall comply with every direction of the Authority given to the airport operator licensee under these regulations.

*Advisory guidelines*

15. (1) The Authority may make advisory guidelines about any aspect of airport services and facilities.
- (2) Advisory guidelines, for example, may be made about —
- (a) any matter in respect of which codes of practice and standards of performance may be made;
  - (b) the use, construction, design or performance of anything relating to airport services and facilities.
- (3) The Authority shall give a copy of each advisory guideline to the Minister, and publish each advisory guideline in any way the Authority thinks fit; but failure to comply with these regulations in respect of any advisory guidelines shall not invalidate the advisory guidelines.

### **PART 3**

#### **AIRPORT MASTER PLAN**

*Master plan for each airport*

16. (1) For each airport there shall be a master plan approved by the Authority under Regulations 29:
- (a) To establish the strategic direction for efficient and economic development at the airport over the planning period of the plan;
  - (b) To provide for the development of additional uses of the airport site; and
  - (c) To reduce potential conflicts between the use of the airport site and to ensure that uses of the airport site are compatible with the areas surrounding the airport.

*Meaning of “planning period”*

17. (1) Each draft master plan and final master shall relate to a period of 15 years which shall be called the planning period.
- (2) For the purposes of the application of these Regulations to a draft master plan or final master plan for an airport, it is to be assumed that the lease or leases held by the airport operator licensee for the airport shall continue in force for the duration of the planning period of the plan.

*Draft master plan to be submitted on acquisition of airport site*

18. (1) Except as otherwise provided in Regulations 32 and 33, if:
- (a) an airport operator licensee acquires the lease or leases for the whole or part of the airport site of an airport; and
  - (b) a final master plan for the airport is not in force at the time of such acquisition, the airport operator licensee shall submit to the Authority, in writing, a draft master plan for the airport within a period of 6 months after the date of such acquisition or if the Authority, by written notice given to the airport operator licensee, allows a longer period, within that longer period

*Periodic review of final master plan*

19. (1) If a final master plan (referred to in these Regulations as the original plan) for an airport is in force, the airport operator licensee shall:
- (a) at least once during the first regulatory period applicable to the airport operator licensee; and
  - (b) at least once during every subsequent regulatory period applicable to the airport operator licensee,

submit to the Authority, in writing, a draft master plan that is expressed to replace the original plan.

(2) Any draft master plan under paragraph (1) becomes a final master plan for the airport, the original plan ceases to be in force.

*Replacement of final master plan*

20. (1) Without prejudice to Regulations 19, if a final master plan (referred to in this rule as the original plan) for an airport is in force, the Authority may, by written notice given to the airport operator licensee for the airport, direct the airport operator licensee to submit to the Authority, in writing, a draft master plan that is expressed to replace the original plan.
- (2) The airport operator licensee who receives a written notice under paragraph (1) shall comply with the direction therein:
- (a) within 4 months after the day on which the notice was given; or
  - (b) if the Authority, by written notice given to the airport operator licensee, allows a longer period, within that longer period.

*Proposals to amend final master plan*

21. (1) If a final master plan for an airport is in force, the airport operator licensee for the airport may at any time submit to the Authority, in writing, proposals to amend the final master plan which the airport operator licensee considers expedient.
- (2) Proposals for amendment to a final master plan under paragraph (1) may relate to the whole of the area which is the subject of the final master plan or any part thereof but shall be submitted at least 4 months before the amendments are intended to take effect.

*Contents of draft master plan, etc.*

22. (1) Every draft master plan for an airport operated or to be operated by an airport operator licensee, and every proposal for an airport, shall consist of:

- (a) a written statement accompanied by an executive summary endorsed by the chief executive officer of the airport operator licensee;
- (b) such drawings and maps prepared to scale as the Authority may approve; and
- (c) any other relevant reports or documents, setting out the provisions, specifications and particulars in relation to the draft master plan or proposal, and such other information and materials as may be necessary to explain and illustrate the draft master plan or proposal, as the case may be.

(2) Without prejudice to the generality of paragraph (1), every draft master plan for an airport operated or to be operated by an airport operator licensee and every proposal shall contain:

- (a) the airport operator licensee's development objectives for the airport;
- (b) the airport operator licensee's planning principles and assumptions;
- (c) the airport operator licensee's assessment of the future needs of civil aviation users of the airport, and other users of the airport, for airport services and facilities relating to the airport;
- (d) the airport operator licensee's intentions for land use, showing the proposed land use zoning and interim land uses (if any) for the planning period of the draft master plan and related development of the airport site, including in particular any major airport development at the airport site and for any adjacent area that may become part of the airport site;
- (e) the airport operator licensee's provision of airport services and facilities relating to the airport to the users of any area adjacent to the airport site;
- (f) the airport operator licensee's airport development plan, including but not limited to airport capacity expansion and other infrastructure enhancement or development proposals and the estimated time of starting and completion;
- (g) the airport operator licensee's assessment of the future capacity of the key airport systems and infrastructure;
- (h) the flight templates at the airport;
- (i) the airport operator licensee's assessment of the environmental issues that might reasonably be expected to be associated with the implementation of the plan; and



- (j) the airport operator licensee's plans for dealing with the environmental issues mentioned in sub-paragraph (i) (including plans for ameliorating or preventing environmental impacts).

(3) A draft master plan or proposal shall, in relation to the landside part of the airport, where possible, describe proposals for land use and related planning, zoning or development in an amount of detail equivalent to that required by, and using terminology (including definitions) consistent with that applying in, written law that is in force governing land use planning, zoning and development.

*Duty of airport operator licensee to consult* 23.

(1) Before submitting to the Authority a draft master plan for an airport under Regulations 18, 19(1) or 20(1) or a proposal for amendments to the final master plan for an airport under Regulations 21(1), the airport operator licensee for the airport shall unless otherwise directed by the Authority in any connection with any particular draft master plan or proposal, consult in writing such other public authority with responsibility for town planning or use of land of its intention to give the Authority the draft master plan or proposal, as the case may be.

(2) In addition, the Authority may require the airport operator licensee to do the following at its expense before submitting to the Authority the draft master plan or proposal for amendments to a final master plan:

- (a) give notice to such persons or class of persons specified in a list given by the Authority under paragraph (3):
  - (i) stating that the airport operator licensee has prepared a preliminary version of the draft master plan or proposal;
  - (ii) stating that copies of the preliminary version shall be available for inspection and purchase (at a reasonable price approved by the Authority) by these persons during normal office hours throughout the period of 60 working days after the publication of the notice;
  - (iii) specifying the place or places where the copies shall be available for inspection and purchase; and
  - (iv) inviting these persons to give written objections to and representations about the preliminary version of the draft master plan or proposal to the airport operator licensee within 15 working days after receiving the notice, or such longer period as the Authority may specify in any particular case; and
- (b) make copies of the preliminary version available for inspection and purchase by such persons or class of persons as the Authority may specify under paragraph (3) in accordance with the notice.

(3) The Authority shall, at the same time it makes a requirement of an airport operator licensee under paragraph (2), give to the airport operator licensee, in

writing, a list specifying the persons or class of persons to whom the airport operator licensee shall give notice under paragraph (2)(a).

*Objections and representations*

24. (1) If any person (or such other public authority with responsibility for planning or use of land) has given written objections or representations about the preliminary version of a draft master plan or proposal in accordance with the notice under Regulations 23, the draft master plan submitted to the Authority under Regulations 18, 19(1) or 20(1), or the proposal for amendments submitted to the Authority under Regulations 21(1), as the case may be, shall be accompanied by –

- (a) copies of those objections and representations; and
- (b) a written report signed on behalf of the airport operator licensee –
  - (i) listing the names of those persons;
  - (ii) summarizing those objections and representations; and
  - (iii) demonstrating that the airport operator licensee has had due regard to those objections and representations.

*Review of airport operator licensee's draft master plan or proposals*

25. (1) Upon receipt from an airport operator licensee of any draft master plan submitted under Regulations 18, 19(1) or 20(1), or any proposal for amendments submitted under Regulations 21(1), the Authority shall, within a period of 4 months after receiving the draft master plan or proposal, as the case may be, review the draft master plan with a view to:

- (a) approving the draft master plan or the proposal; or
- (b) refusing to approve the draft master plan or the proposal,

and to that end, may do anything it considers necessary or convenient for the purposes of the review but subject to these regulations.

- (2) In deciding whether to approve the draft master plan or the proposal, the Authority shall have regard to the following matters:

- (a) the extent to which carrying out the plans would meet present and future requirements of civil aviation users of the airport, and other users of the airport, for services and facilities relating to the airport concerned;
- (b) the effect that carrying out the plan would be likely to have on the use of land:
  - (i) within the airport site concerned; and
  - (ii) in areas surrounding the airport;

(c) the consultations undertaken in preparing the plan (including the outcome of the consultations);

(d) the views of the Aviation Safety and Security Departments of the Authority, in so far as they relate to safety and security aspects and operational aspects of the plan.

(3) Paragraph (2) does not, by implication, limit the matters to which the Authority may have regard.

(4) Subject to these Regulations, the Authority may conduct any such review in the manner it considers appropriate and, in particular, may-

(a) consult with any person

(b) receive submissions from those persons it considers appropriate;

(c) hold seminars or workshops; or

(d) conduct hearings

(5) In conducting any such review, the Authority is not bound by Rules of evidence but may inform itself of any matter in any manner it considers appropriate.

*Requiring  
persons to give  
evidence or  
procure  
documents*

26. (1) For the purposes of a review under Regulations 25, the Authority may require a person, by written notice provided to the person, to do any one or more of the following:

(a) attend before the Authority and answer questions which, in the opinion of the Authority, are relevant to the review;

(b) provide to the Authority, in the manner specified in the notice, any document specified in the notice which is in the person's possession or control and which, in the opinion of the Authority, is relevant to the review;

(c) provide to the Authority, in the manner specified in the notice, a document prepared in the manner and containing such information as is specified in the notice which, in the opinion of the Authority, is relevant to the review.

(2) If a person is required under paragraph (1) to attend before the Authority and answer questions, the Authority may determine whether the person may be represented by another person.

*Use of  
documents or  
information*

27. (1) The Authority -

(a) may examine, take possession of, make copies of and take extracts from any document provided under a requirement referred to in Regulations 26(1)(b) or (c);

- (b) may retain that document for so long as is necessary for the purposes of the review; and
  - (c) shall allow a person who would be entitled to inspect the document if it were not in the possession of the Authority to inspect it, make a copy of it or take an extract from it at any reasonable time.
- (2) The Authority may give directions prohibiting or restricting –
- (a) the publication of any answer, document or other information provided to it under a requirement referred to in Regulations 26(1);
  - (b) a part of any such answer, document or other information or part thereof.
  - (c) a copy of, or an extract from, any such answer, document, other information or part thereof.
- (3) The Authority may communicate to any person as the Authority considers appropriate any answer, document or other information provided under a requirement referred to in Regulations 26(1), or part of any such answer, document or other information, except where—
- (a) a direction in respect of the answer, document, other information or part thereof has been given under paragraph (2) and its provision to that person would contravene the direction; or
  - (b) the answer, document, other information or part thereof is or contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.
- (4) Any person who contravenes a direction under paragraph (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20 million or to imprisonment of a term not exceeding 2 years or to both.

*Hearings*

28. (1) Before holding a hearing referred to in Regulations 25(4)(d), the Authority shall give reasonable notice of the hearing to such consumers or users of airport services and facilities provided by the airport operator licensee concerned as the Authority determines.
- (2) The notice of a hearing is to specify—
- (a) the purpose of the hearing; and
  - (b) the time and place at which the hearing is to be held.
- (3) The Authority may determine whether any person wishing to appear before the Authority at a hearing may be represented by another person.

(4) Subject to paragraph (5), a hearing is to be held in public.

(5) If the Authority is satisfied that it would be in the public interest to do so or that any document to be presented at the hearing is, or is likely to be, of a confidential or commercially sensitive nature, the Authority shall—

(a) direct that the hearing or part of the hearing is to take place in private and give directions as to the person who may be present; and

(b) give directions prohibiting or restricting the publication of evidence or a document presented at the hearing or a part of any such evidence or document.

(6) Any person who contravenes a direction under paragraph (5) shall be guilty of an offence.

(7) The Authority may communicate to any person as it considers appropriate any evidence or document presented at a hearing, or part of any such evidence or document, except where –

(a) a direction in respect of the evidence, document, or part thereof has been given under paragraph (5)(b) and its provision to that person would contravene the direction; or

(b) the evidence, document, or part thereof is or contains information which could cause damage to the commercial interests of a person and the Authority determines that such damage or the possibility of such damage outweighs the public benefit that would arise from its publication.

*Approval of  
draft master  
plan*

29. (1) As soon as practicable after deciding whether to approve a draft master plan for an airport submitted under Regulations 18, 19(1) or 20(1), or any proposal for amendments to a final master plan in force for an airport submitted under Regulations 21(1), the Authority shall notify the airport operator licensee of the airport in writing of its decision.

(2) If the Authority refuses to approve any such draft master plan for an airport or any such proposal for an airport, the Authority shall notify the airport operator licensee of the airport in writing of the Authority's reason for the refusal.

(3) If the Authority refuses to approve any such draft master plan for an airport or any such proposal for an airport, the Authority may, by written notice given to the airport operator licensee of the airport, direct the airport operator licensee to submit to the Authority, in writing, a fresh draft master plan, or a fresh proposal, or a fresh proposal for amendments to the final master plan in force, for that airport.

(4) The fresh draft master plan or fresh proposals under paragraph (3) shall be submitted to the Authority—

- (a) within 30 days after the day on which the written notice under paragraph (3) was given; or
- (b) if the Authority, by such written notice given to the airport operator licensee, allows a longer period, within that longer period,

and Regulations 25 to 28 shall apply to the fresh draft master plan or fresh proposals with such modifications as necessary.

*Publication of approved plans and proposals*

30. (1) Subject to paragraph (3), if the Authority approves a draft master plan for an airport or any proposal for amendments to a final master plan in force for an airport, the airport operator licensee for the airport shall-

- (a) give notice to such persons or class of persons specified in a list given under Regulations 23(3)-
  - (i) stating that its draft master plan has or its proposals have been approved;
  - (ii) stating that copies of the plan or proposal shall be available for inspection and purchase (at a reasonable price approved by the Authority) by those persons during normal office hours while the plan remains in force; and
  - (iii) specifying the place or places where the copies shall be available for inspection and purchase; and
- (b) make copies of the plan or proposals available for inspection and purchase (at reasonable price approved by the Authority) by those persons in accordance with the notice.

- (2) The airport operator licensee shall comply with paragraph (1) –

- (a) within 30 days after the day on which the draft master plan or the proposals, as the case may be, were approved; or
- (b) if the Authority, by written notice given the airport operator licensee, allows a longer period, within that longer period.

- (3) The airport operator licensee need not comply with paragraph (1) if the Authority, upon being satisfied that it would not be in the public interest to do so or that any contents of the final master plan is, or is likely to be, of a confidential or commercially sensitive nature, directs otherwise.

*Minor variations of the final master plan*

31. (1) These Regulations apply if –

- (a) a final master plan is in force for an airport;

(b) the airport operator licensee for the airport submits to the Authority under Regulations 21(1) a proposal for amendments to the final master plan comprising additions and alterations thereto; and

(c) those additions and alterations are minor variations

(2) The Authority shall either approve the proposal or refuse to approve such a proposal.

(3) If the Authority neither approves, nor refuses to approve, the proposal before the end of the period of 60 working days after the day on which the Authority received the proposal, the Authority shall be deemed, at the end of that period, to have approved the proposal under Regulations 29.

(4) As soon as practicable after deciding whether to approve the proposal with a minor variation, the Authority shall notify the airport operator licensee concerned in writing of its decision.

(5) If the Authority refuses to approve the variation, the Authority shall notify the airport operator licensee concerned in writing of its reasons for the refusal.

(6) If the Authority approves the proposal, the final master plan is varied accordingly.

(7) If any questions arise as to whether any proposed additions or alterations are minor variations within the meaning of this Regulation, the Authority's assessment shall be conclusive as to whether the proposed additions or alterations are or are not minor variations within the meaning of this rule.

(8) Regulations 23 to 30 shall not apply to a proposal for amendments to a final master plan to which this Regulation applies.

*Transfer of  
lease during  
the approval  
process*

32. (1) If the lease or leases for the whole of the airport site for an airport is transferred and before that transfer, a draft master plan for the airport is, or proposals are submitted to the Authority, and immediately before the transfer the Authority has not made a decision whether to approve the draft master plan or proposals, the transferee is taken—

(a) to have submitted the draft plan or proposals to the Authority immediately after the transfer; and

(b) to have adopted the draft master plan or proposals as its own, unless, within 60 days after the transfer, the transferee gives the Authority a written undertaking to submit to the Authority an alternative draft master plan or alternative proposals for the airport.

(2) A draft or final master plan for an airport does not cease to be in force if the lease or leases for the airport are transferred, and in that event, the transferee is taken to have adopted the plan as its own.

- Expiry of lease during approval process* 33. (1) If the lease or leases for the whole of the airport site for an airport expire and before that expiry, a draft master plan for the airport is or proposals are submitted to the Authority, and immediately before the expiry of the lease or leases the Authority has not made a decision whether to approve the draft master plan or proposals, the airport operator licensee who, upon renewal of the lease or leases or otherwise, acquires the fresh lease or leases for that airport site shall be taken—
- (a) to have submitted the draft plan or proposals to the Authority immediately after the expiry of the lease or leases; and
- (b) to have adopted the draft master plan or proposals as its own, unless, within 60 days after the expiry of the lease or leases, the airport operator licensee gives the Authority a written undertaking to submit to the Authority an alternative draft master plan or alternative proposals for the airport.
- (2) A draft or final master plan for an airport does not cease to be in force upon the expiry of the lease or leases for the airport, and in that event, the airport operator licensee who, upon renewal of the lease or leases or otherwise, acquires the fresh lease or leases for that airport site shall be taken to have adopted the plan as its own.
- Scale of the master plan* 34. (1) The Authority may, where it considers expedient, prepare any drawings and map comprised in the final master plan for an airport or any part of such drawings and map to a suitable scale which differs from the scale approved for that drawings and map by the Authority under Regulations 22(1)(b).
- Description of maps* 35. (1) The maps and other documents comprised in any draft master plan shall be identified on the face thereof by titles conferred on them by the Authority.
- Interpretation of master plans* 36. (1) In these Regulations, where there is any contradiction, discrepancy or inconsistency between particulars shown on maps comprised in a draft master plan or final master plan relating to the same area, the map which is to a larger scaled shall prevail.
- (2) Where there is any contradiction, discrepancy or inconsistency between a map comprised in a draft master plan or final master plan and the written statement thereof, such written statement shall prevail.

#### **PART 4**

#### **REGULATION OF CHARGES, FEES AND TARIFFS**

- Airport Charges* 37. (1) Subject to paragraphs (2) and (3), an airport operator licensee for an airport may set such charges as it from time to time thinks fit for the use of the airport,



or for such other airport services and facilities provided by the airport operator licensee as may be prescribed.

(2) An airport operator licensee for an airport shall not be entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport operator licensee any aeronautical charge in excess of such maximum prices as may be set or approved from time to time by the Authority under Regulations 38(1).

(3) An airport operator licensee for an airport used by or for the use of any Guyanese aircraft engaged in flights for the purpose of public transport or instruction in flying shall not be entitled to demand or take from any person using or otherwise enjoying the benefit of the airport or any airport services and facilities provided by the airport operator licensee any charge for, or in respect of the use of the airport by aircraft registered in any Contracting State that is in excess of the charge demanded for or in respect of the use of the airport by Guyanese aircraft engaged in similar flight operations.

(4) Any charges set under these Regulations may be charged to persons or classes of persons owning or operating aircraft, or to persons or classes of persons using or otherwise enjoying the benefit of the airport operated or managed by the airport operator licensee, or any airport services and facilities provided by the airport operator licensee, or to any other persons.

(5) In this Part and Regulations 38, “aeronautical charge” means any charges imposed by an airport operator licensee for an airport for providing any of the following services:

- (a) any service that is essential to the operation of the airport;
- (b) any service which the Authority certifies as a service that the airport operator licensee has the market power of a monopoly or near monopoly in Guyana as a provider of such service;
- (c) any other service prescribed for the purposes of paragraph (1) by regulations.

*Maximum  
prices for  
aeronautical  
charges*

38. (1) In respect of aeronautical charges, maximum prices may be approved by the Authority in one or more of the following terms:

- (a) maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
- (b) average prices or average rates of increase or decrease in such average prices;
- (c) pricing policies or principles;
- (d) by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor;

(e) by reference to quantity, location or period of supply of the airport services and facilities;

(f) any other terms as the Authority considers appropriate.

(2) The Authority shall prescribe the content, form and procedure to be followed, and the methodology or other matters to be included in connection with the preparation, setting and approval of maximum prices for the purposes of paragraph (1).

(3) Any maximum price approved by the Authority immediately upon the commencement of these Regulations in respect of any aeronautical charges at any airport shall be deemed to be maximum prices approved by the Authority in accordance with Regulations framework set out in respect of those aeronautical charges of the airport operator licensee for that airport.

*Advance  
information  
from airport  
users*

39. (1) An airport operator licence shall give a notice to all airport users in relation to the regulated airport it manages each year in accordance with these Regulations.

(2) A notice shall require the airport user to provide the following information to the airport operator licence within a period specified in the notice of not less than 30 days beginning with the day on which the airport user receives the notice:

- (a) forecasts as regards its traffic at the airport,
- (b) forecasts as to the composition and envisaged use of its fleet at the airport,
- (c) its development projects at the airport, and
- (d) its requirements at the airport.

(3) A notice shall invite the airport user to make representations or provide any other information to the airport operator licence as to the system or level of airport charges and the associated quality of service.

(4) On receipt of a notice under paragraph (1) an airport user shall provide to the regulated airport operator the information required under paragraph (2) in so far as is relevant to it.

*Annual  
consultations*

40. (1) An airport operator licence shall supply to all airport users in relation to the regulated airport it manages:

- (a) details of its intended future airport charges,
- (b) details of the associated quality of service it intends to provide, and

- (c) information on the components serving as a basis for determining the system or level of all charges proposed, including the matters set out in paragraph (2).

(2) The matters are:

- (a) a list of the various services and infrastructure provided in return for the airport charges levied,
- (b) the methodology used for setting airport charges,
- (c) the overall cost structure of the airport with regard to the facilities and services to which airport charges relate,
- (d) details of the revenue from the different components of airport charges and the total costs of the associated services or facilities,
- (e) any financing provided by a public authority in connection with the facilities and services to which airport charges relate,
- (f) forecasts for the charges, traffic growth and proposed investments at the airport,
- (g) the details of the actual use of the airport infrastructure and equipment over at least the previous 12 months, and
- (h) the predicted outcome of any major proposed investments in terms of their effect on airport capacity.

(3) An airport operator licensee shall fulfil its obligation under paragraph (1) once a year within three months of giving notices to airport users in accordance with Regulations 39.

(4) After supplying information in accordance with paragraph (1) the airport operator licensee shall, in so far as practicable, hold consultations with the airport users on its intended future airport charges and the associated quality of service.

*Proposals to  
change airport  
charges*

41. (1) If an airport operator licensee intends to change the system or level of airport charges or the quality of service associated with an airport charge at an airport that it manages it shall give a notice in accordance with this regulation at least four months before the change has effect.

(2) The obligation to give a notice no later than four months before making a change does not arise where there are exceptional circumstances making this not practicable and in such circumstances paragraph (3) applies.

(3) Where this paragraph applies the airport operator licensee shall -

- (a) explain the exceptional circumstances to the airport users and the Authority, and

(b) give a notice in accordance with this regulation as soon as practicable and before the intended changes are made.

(4) A notice under these regulations shall be given to each person who is an airport user in relation to the airport.

(5) The notice shall -

(a) identify the time from which the change is intended to have effect, and

(b) provide information on the components serving as a basis for determining the system or level of airport charges for which a change (including a change to the quality of the associated service) is proposed, including the matters set out in Regulations 40(2)(a) and (b).

(6) After giving notices under these Regulations the airport operator licensee shall, in so far as practicable, hold consultations with the airport users on its intended changes.

(7) The obligations in these Regulations may be satisfied as part of or in conjunction with the satisfaction of obligations under Regulations 40.

*Agreements not to require consultation etc.* 42. (1) The obligations under Regulations 39 and 40 do not arise in relation to a particular year if in the preceding year this was agreed by the airport operator licensee and all airport users in relation to the airport.

*Multi-annual agreements* 43. (1) This Regulation applies where the system or level of one or more airport charges (and the associated quality of service) in relation to a regulated airport is determined for more than 12 months by or in accordance with an agreement between the airport operator licensee and all the airport users in relation to that airport ("a multi-annual agreement").

(2) Subject to paragraph (3), where this Regulation applies the obligations which would otherwise arise under these Regulations do not arise in respect of the system or level of an airport charge (and the associated quality of service) for as long as they are determined by the multi-annual agreement.

(3) The Authority may direct any airport operator consult in respect of the system or level of airport charges (or the associated quality of service) at the relevant airport where they are the subject of a multi-annual agreement.

(4) Directions under paragraph (3) may include directions as to the matters to be consulted on and the procedures to be followed.

(5) An airport operator licensee shall consult in accordance with any direction given to it under this regulation.

*Service level agreements*

44. (1) The obligations under Regulations 39 and 40 do not arise in respect of an airport user where paragraph (2) applies in the context of negotiations conducted with a view to the conclusion of a service level agreement.

(2) This paragraph applies where an airport operator licensee and an airport user provide information of equivalent detail, and consult each other to an equivalent degree, as they otherwise would have done in accordance with regulations 7 and 8.

(3) For the purposes of paragraph (1), a “service level agreement” is an agreement determining the quality of service to be provided by an airport operator which takes into account the actual system or level of airport charges and the quality of service to which airport users are entitled in return for airport charges.

*Setting of charges*

45. (1) Before deciding to continue or change the system or level of airport charges or the associated quality of services at an airport that it manages, an airport operator licensee shall have regard to any representations (including objections) made by airport users consulted under Regulations 39 to 41 or in circumstances in which Regulation 44(2) applies.

(2) An airport operator licensee shall publish details of any change to the system or level of airport charges or to the associated quality of services provided at an airport that it manages:

- (a) if practicable, before the beginning of the period of two months ending with the day on which the change takes effect, and
- (b) if not, as soon as practicable after the beginning of that period.

(3) Where any airport user gives notice to the relevant airport operator licensee that it objects to any changes proposed, the licensee shall provide to that person any reasons it has for disagreeing with views on those changes expressed by way of objection in that notice.

*Basis for setting airport charges*

46. (1) Airport charges set by an airport operator licensee shall not discriminate between airport users engaged in a similar type of operations or use.

(2) Paragraph (1) does not prevent an airport operator licensee from varying airport charges for reasons relating to the public and general interest, including for reasons relating to the environment, where the criteria used for varying the charges are relevant, objective and transparent.

(3) Subject to paragraph (1), an airport operator licensee may set airport charges that differentiate between airport users provided that the reason for the differentiation is relevant, objective and transparent.

(4) For the purposes of paragraph (3), a reason may (but need not) relate to the quality, scope or costs of services associated with the airport charge.

*Basis for  
providing  
differentiated  
services*

47. (1) This regulation applies where a differentiated service cannot be provided to all of the airport users in relation to an airport who notify the airport operator licensee of an interest in using the service.

(2) Where this regulation applies, allocation of the differentiated service shall be determined by the airport operator licence on the basis of relevant, objective, transparent and non-discriminatory criteria.

(3) For the purpose of this regulation, where a service or facility is provided at an airport to different airport users but the service or facility provided to one or more of them differs in quality or scope, each different version of the service or facility is a “differentiated service”.

*Ground  
Handling  
services to be  
regulated*

48. (1) For the purpose of these Regulations, “ground handling services” include services necessary for aircraft on arrival at, or departure from, an airport and include terminal handling passenger check-in, baggage and freight handling, clearing and forwarders and ramp handling aircraft handling, cleaning and servicing.

(2) The ground handling service providers shall ensure that the services offered are competitive.

(3) The Authority may impose on the ground handling services provider any condition which it considers desirable for public interest, in the interest of safety, security and facilitation, or in order to prevent uneconomic competition.

(4) Without prejudice to paragraph (3), ground handling service providers shall hold consultations with ground handling service users before effecting any new charge or a variation of an existing charge and shall avail documentary evidence for such consultations to the Authority upon demand.

*Airport  
Services*

49. (1) For the purpose of this Regulation the “airport services” include airport managements, aircraft maintenance, aircraft fuelling and in-flight services necessary for an aircraft operation.

(2) The airport services providers shall ensure that the services provided are competitive.

(3) The Authority may impose to the airport services provider any condition which it considers desirable in the public interest, safety and security, or in order to prevent uneconomic competition.

(4) Without prejudice to paragraph (3), airport services providers shall hold consultations with airport service users before effecting any new charge or a variation of an existing charge and shall avail documentary evidence for such consultations to the Authority upon demand.

(5) An airport operator licensee shall ensure that providers of airport services are engaged by using an open selection process.

*Airport Service  
Charges*

50. (1) The Authority shall regulate airport service charges in order to –
- (a) promote the interests of users of airports;
  - (b) promote the efficient, economic and profitable operation of such airports;
  - (c) encourage investment in new facilities at airports to meet anticipated user demand;
  - (d) take account of the Guyana's international obligations found in Article 15 of the Chicago Convention, the Bilateral and Multilateral Air Services Agreements between Guyana and other contracting States;
  - (e) ensure that the rates charged and services provided by airport operators are competitive;
  - (f) ensure that airports encourage the development of a diverse and competitive industry within the general and specific policies set out by the Government;
  - (g) ensure that users get their money worth from airport operators.

*Application to  
Charge on  
Airport  
Services*

51. (1) Any person who wants to charge for airport services shall apply to the Authority for permission to charge for airport services and shall ensure the charge shall not adversely affect the industry and that it is competitive and fair to all.
- (2) An application referred to under paragraph (1) shall include the following particulars:
- (a) name of airport operator;
  - (b) name of airport owner;
  - (c) the corporate structure (where an airport is a part of a wider group of companies);
  - (d) most recently available audited annual accounts for the airport;
  - (e) details of the current charges applied at airport for the landing, parking or taking off of aircraft (including any passenger related charges);
  - (f) any future changes to the charges which are known at the time of application.

*Permission to  
Charge for  
Airport  
Services*

52. (1) The Authority shall, within 7 days after receipt of the application for charging of airport services cause to be published a notice containing the particulars of the application in the local press.
- (2) The costs of the evaluation of the applications by the Authority shall be met by the airport operator concerned.
- (3) The permission so granted shall remain in force unless it is revoked.
- (4) A permission can be revoked if the airport –
- (a) ceases to be regulated, or
  - (b) persistently fails to comply with any condition, other than an accounts condition, which the Authority has imposed on it.
- (5) An airport operator licensee shall provide the Authority routinely with its annual statutory accounts, schedules of airport charges, if any, in addition to the information included in the original application.

*Regulated  
Airports and  
Authority Levy*

53. (1) Any airport operator which has been granted a permit to charge for airport services shall be regulated.
- (2) An airport operator licensee shall pay to the Authority an annual levy as determined by the Authority from time to time.

*Conditions on  
Airports*

54. (1) The Authority may impose certain mandatory conditions on international airports.
- (2) The conditions imposed shall govern both the information which shall be included in the statutory accounts (the accounts condition) and the maximum level of airport charges (the charges condition).
- (3) The charges condition may be reset every five years following a review by the Authority.

*Discretionary  
Conditions*

55. (1) The Authority may impose discretionary conditions on any airport.
- (2) Where the above discretionary condition is imposed the airport operator shall have to show:
- (a) separately, the revenue from and the costs of activities on which airport services are charged;
  - (b) other airport related activities;
  - (c) non airport related activities;
  - (d) it received a subsidy or any other preferential treatment during the year.



(3) Where the Authority proposes an accounts condition, the airport operator concerned shall make representations within two months.

*Additions of  
Discretionary  
Conditions*

56. (1) The Authority may add a discretionary condition where it finds that, in relation to the provision at the airport of any services or facilities for the purposes of the landing, parking and taking off of aircraft, or the servicing of aircraft including the supply of fuel, or the handling of passengers or their baggage or of cargo at all stages while on airport premises, including the transfer of passengers, their baggage, or cargo to and from the aircraft, an airport operator is –

(a) adopting any trade practice, pricing policy or the granting of rights which –

(i) unreasonably discriminates against any class of users of the airport; or

(ii) unfairly exploits its bargaining position relative to users generally;

(b) levying charges which are both unduly low and cause damage or are designated to cause damage to another airport.

*Conditions  
Upon a  
Qualified  
Airport*

57. (1) The Authority shall impose conditions upon an airport where in its five-year review finds that the airport has pursued a course of conduct which has operated or which might be expected to operate against the public interest.

(2) Such courses of conduct extend to all airport related activities and not just those described in Regulations 53.

**PART 5**

**LEASING AND MANAGEMENT OF AIRPORTS**

*Grant of  
airport leases*

58. (1) The Minister may grant an airport lease under these Regulations.

(2) The Minister shall not grant an airport lease unless the lease complies with Regulation 62.

*Variation*

59. (1) An airport lease shall not be varied unless the varied lease complies with Regulation 62.

*Transfer*

60. (1) The Minister shall not approve the transfer of an airport lease unless the transferred lease complies with Regulation 62.

*Contravention*

61. (1) If a purported grant, variation or approval contravenes under these Regulations, it is of no effect.

*Rules about  
airport leases*

62. (1) An airport lease complies with these Regulations if:

- (a) there is a single lessee;
- (b) the lessee is a qualified company;
- (c) the term of the lease is not longer than 25 years (with or without an option to renew the lease for up to 25 years);
- (d) the lease provides for the use of the site as an airport (whether or not the lease also provides for other uses);
- (e) the lease provides for the use of the leased area for purposes in connection with the airport (whether or not the lease also provides for other uses);
- (f) the lease provides for the development of the site as an airport or the use of the site as an airport, or both (whether or not the lease also provides for other developments or other uses); and
- (g) the lease provides for access to the airport by domestic air transport or international air transport, or both (whether or not the lease also provides for other access).

*Termination of airport lease if lessee ceases to be a qualified company*

63. (1) These Regulations applies to an airport lease if the lessee is a qualified company.
- (2) If, at a particular time, the lessee ceases to be a qualified company, the lease terminates at that time.

*Person may acquire airport leases for only one airport site*

64. (1) The Minister shall not grant a lease of the whole or a part of an airport site to a person who already holds an airport lease or an interest in an airport lease, unless each of those leases relates to the same airport site.
- (2) The Minister shall not approve the transfer of a lease of the whole or a part of an airport site to a person who already holds an airport lease or an interest in an airport lease, unless each of those leases relates to the same airport site.
- (3) If a purported grant or approval contravenes these Regulations, it is of no effect.

*Simultaneous grant of leases to the same person shall relate to the same airport*

65. (1) The Minister shall not simultaneously grant to the same person two (2) or more airport leases, unless those leases relate to the same airport site.
- (2) If purported grants contravene these Regulations, they are of no effect.

*Only one person to hold airport leases*

66. (1) The Minister shall not grant a lease of the whole or a part of an airport site to a person if another person already holds an airport lease for the airport.

*for an airport site*

(2) If there are two (2) or more airport leases for the same airport site, the Minister shall not approve the transfer of any of those leases unless the Minister is satisfied that, immediately after the transfer of that lease, all of those leases shall be held by the same person.

(3) If a purported grant or approval contravenes these Regulations, it is of no effect.

*Simultaneous grant of leases relating to the same airport site to be to the same person*

67. (1) The Minister shall not simultaneously grant 2 or more leases relating to different parts of the same airport site, unless those grants are to the same person.

(2) If purported grants contravene these Regulations, they are of no effect.

*Airport leases for an airport site to expire on the same day*

68. (1) If there are, or are to be, two (2) or more airport leases for the same airport site, the Minister shall ensure that the term of each of those leases expires on the same day.

*No grant of lease if Ownership of airport is contravened*

69. (1) The Minister shall not grant an airport lease to a company if the Minister is satisfied that:

- (a) an unacceptable foreign-ownership situation in relation to the company would come into existence in the event of the grant; or
- (b) an unacceptable airline-ownership situation in relation to the company would come into existence in the event of the grant; or
- (c) an unacceptable airport operator company would come into existence in the event of the grant.

(2) If a purported grant contravenes these Regulations, it is of no effect.

*Airport lease granted subject to existing interests in the land*

70. (1) An airport lease is granted under regulation 58 subject to all existing leases in relation to the land concerned.

(2) The following provisions have effect:

(a) all obligations and benefits of the Government under, or connected with, such an existing lease:

(i) pass to the airport-lessee company; and

(ii) cease to be enforceable by or against the Government; whether or not the obligations or benefits touch and concern the land;

(b) an instrument relating to such an obligation or benefit continues to have effect after the grant of the airport lease as if a reference in the instrument to the Government was a reference to the company;

(c) the company becomes the Government's successor in law, in relation to such an obligation or benefit, immediately after the grant of the airport lease.

(3) An airport lease is granted under regulation 58 to all other existing interests in the land concerned.

(4) For the purpose of this part of the Regulations: *instrument* includes a document.

*Restriction on acquisition of airport lease*

71. (1) A person shall not acquire an airport lease, or an interest in an airport lease, unless:

- (a) the person is a qualified company; or
- (b) the acquisition is by way of the enforcement of a loan security and the person is a constitutional corporation.

(2) If a purported acquisition contravenes these Regulations, it is of no effect.

(3) An airport lease shall not be transferred without the written approval of the Minister.

(4) If a purported transfer contravenes these Regulations, it is of no effect.

*No transfer of airport lease without approval of Minister*

72. (1) An airport lease shall not be transferred without the written approval of the Minister. If a purported transfer contravenes these Regulations, it is of no effect.

(2) The Minister may only refuse to approve the transfer of an airport lease on a ground specified in these Regulations.

(3) This part of the Regulations does not apply to a transfer by way of the enforcement of a loan security.

*No transfer of lease if Part 3 contravened*

73. (1) The Minister shall not approve the transfer of an airport lease to a company if the Minister is satisfied that:

- (a) an unacceptable foreign-ownership situation in relation to the company would come into existence in the event of the transfer; or
- (b) an unacceptable airline-ownership situation in relation to the company would come into existence in the event of the transfer; or

(c) another airport operator company shall have controlling interest.

*No declaration of trust in*

74. (1) The lessee of an airport lease shall not dispose of the lease by way of declaration of trust.

*respect of  
airport lease*

(2) If a purported disposal contravenes these Regulations, it is of no effect.

*Beneficial  
interest in  
airport lease  
shall not be  
transferred  
independently  
of legal interest*

75. (1) A beneficial interest in an airport lease shall not be transferred independently of the legal interest in the lease.

(2) If a purported transfer contravenes this part, it is of no effect.

(3) This part of the Regulations does not apply to a transfer by way of the enforcement of a loan security.

*Notification of  
acquisition of  
lease or of  
entry into  
possession-  
enforcement of  
loan security*

76. (1) Any person who acquires an airport lease and the acquisition is by way of the enforcement of a loan security; the person shall, within 7 days after acquiring the lease, give the Minister written notice of the acquisition.

(2) Any person found to be in contravention of paragraph (1) of these regulations commits an offence and is liable on summary conviction to a penalty of not more than 3 million dollars.

(3) Any airport lease which is subject to a loan security and the lender enters into possession of the land to which the lease relates and the entry into possession is by way of the loan security; the lender shall, within 7 days after entering into possession, give the Minister written notice of the entry into possession.

(4) Any person found to be in contravention of paragraph (3) of these regulations commits an offence and is liable on summary conviction to a penalty of not more than 3 million dollars.

*Re-transfer of  
lease—  
enforcement of  
loan security*

77. (1) Any person who acquires an airport lease and the acquisition is by way of the enforcement of a loan security, the person shall transfer the lease to a qualified company:

(a) Within 90 after acquiring the lease; or

(b) If a longer period is specified in a written notice given to the person by the Minister – within that longer period.

(2) Any airport lease which is subject to a loan security and the lender enters into possession of the land to which the lease relates and the entry into possession is by way of the enforcement of the loan security, the lender shall cause the lease to be transferred to a qualified company:

(a) Within 90 days after the lender entered into possession; or

(b) If a longer period is specified in a written notice given to the lender by the Minister – within that longer period.

(3) A person commits an offence if:

- (a) the person is subject to a requirement to transfer a lease under paragraph (1) or (2); and
- (b) the person engages in conduct; and
- (c) the person's conduct contravenes the requirement.

(4) Any person found to be in contravention of these regulations commits an offence and is liable on summary conviction to a penalty of not more than 3 million dollars.

(5) These Regulations do not, by implication, prevent an airport lease from being terminated otherwise than under a provision of these Regulations.

*Airport-  
management  
agreements*

78. (1) The airport-lessee company for an airport shall not enter into an airport-management agreement in relation to the airport unless the other party to the agreement is both:

- (a) approved in writing by the Minister; and
- (b) a qualified company.

If a purported agreement contravenes paragraph (1), it is of no effect.

*Breach of  
ownership  
restrictions*

(2) The Minister shall not approve a company under paragraph (1) if the Minister is satisfied that Regulation 69 is not complied with.

(3) The Minister may refuse to approve the company on a ground specified in the regulations.

*Approval of  
agreement*

(4) The airport-lessee company for an airport shall not enter into an airport-management agreement in relation to the airport unless the agreement is approved in writing by the Minister.

(5) In making a decision under paragraph (1), the Minister shall have regard to:

*Criteria for  
approval*

- (a) the matters specified in the regulations; and
- (a) such other matters (if any) as the Minister considers relevant.

*Approval of variation*

(6) An airport-management agreement in relation to the airport shall not be varied unless the variation is approved in writing by the Minister.

*Termination of agreement if contractor ceases to be a qualified company*

(7) Any qualified company (the contractor) that enters into an airport-management agreement in relation to an airport and at a particular time the contractor ceases to be a qualified company, the agreement terminates at that time.

(8) These regulations do not, by implication, prevent an agreement from being terminated otherwise than under Regulation 78(7).

*Economic and commercial substance of agreement*

(9) In determining whether an agreement is an airport-management agreement, regard shall be had to the economic and commercial substance of the agreement.

## **PART 6**

### **LIMITS ON OWNERSHIP AIRPORT-OPERATOR COMPANIES**

*Meaning of unacceptable cross-ownership situation*

79. (1) For the purposes of these Regulations, an unacceptable ownership situation exists in when an airport operator company has greater than 30% of another airport operator company within Guyana.

*Acquisitions of shares*

80. (1) If:
- (a) a person, or two (2) or more persons under an arrangement, acquire shares in a company; and
  - (b) the acquisition has the result, in relation to a particular airport-operator company that:
    - (i) an unacceptable ownership situation comes into existence and in relation to a person; or
    - (ii) if an unacceptable ownership situation already exists and in relation to a particular person-there is an increase in any type of stake held by the person; and
  - (c) the person or persons mentioned in paragraph (a) knew, or were reckless as to whether, the acquisition would have that result;

the person or persons mentioned in paragraph (a) are guilty of an offence punishable on conviction by a fine not exceeding 30 million dollars.

*Compliance by  
airport-  
operator  
companies*

81. (1) The responsible member of an airport-operator company shall take all reasonable steps to ensure that an unacceptable ownership situation does not exist.
- (2) A company commits an offence if the company is required to take steps under paragraph (1) and the company engages in conduct that contravenes the requirements of paragraph (1).
- (3) Any person found to be in contravention of the provisions of these regulations is guilty of an offence and is liable on summary conviction to a penalty of not more than 50 million dollars.

*Remedial  
orders*

82. (1) If an unacceptable ownership situation exists, the court may, on application by the Authority or a member of either airport-operator company, make such orders as the court considers appropriate for the purpose of ensuring that the situation ceases to exist.

*Practical  
control*

83. (1) In these regulations control includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights.

*Declaration*

84. (1) The Minister may declare a person to have practical control of an airport-operator company if the Minister is satisfied that:
- (a) The directors of an airport-operator company are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of a person (either alone or together with associated); or
  - (b) A person (either alone or together with associates) is in a position to exercise control over an airport-operator company; and
  - (c) The person does not have any type of stake in the company; or
  - (d) If the person has on or more types of stake in the company – each of those stakes is not more than 30%;

the Minister may declare that the person has practical control of the airport-operator company for the purposes of these Regulations.

- (2) A declaration under this part has effect accordingly.



*Revocation of  
declaration*

(3) If a declaration is in force under this part and the Minister ceases to be satisfied of the matters referred to in paragraphs (1)(a) and (b); the Minister shall revoke the declaration.

*Gazettal and  
notification of  
declaration*

(4) If a declaration under this part is made or revoked, the Minister shall arrange for a copy of the declaration or revocation:

- (a) to be published in the Gazette; and
- (b) to be given to the airport-operator company and the person concerned.

*Requirement to  
relinquish  
practical  
control or  
reduce stake*

85. (1) If a person:

- (a) has practical control of a particular airport-operator company (the first company); and
- (b) the first company is a member of a second airport-operator company; and
- (c) either of the following subparagraphs applies to the other member:

- (i) the person has practical control of the other member;
- (ii) the person has a particular type of stake in the other member of more than 30%;

the person shall take such steps as are necessary to ensure that there is at least one member of the airport operator company where both of the following paragraphs apply:

(d) both:

- (i) the directors of the company are not accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person (either alone or together with associates); and
- (ii) the person (either alone or together with associates) is not in a position to exercise control over the company;

(e) either:

- (i) the person does not have any type of stake in the company; or

if the person has one or more types of stake in the company - each of those stakes is not more than 30%.

The person shall take those steps:

- (f) within 90 days after receiving the copy of the most recent declaration under Regulation 85 relating to the practical control of the first company or the other member of the second company; or

(g) if the Minister, by written notice given to the person, allows a longer period for compliance - before the end of that longer period.

(2) A person commits an offence if the person is required to take steps under Paragraph (1) and the person engages in conduct and the person's conduct contravenes the requirement.

(3) Any person found to be in contravention of the provisions of these regulations is guilty of an offence and is liable on summary conviction to a penalty of no more than 25 million dollars.

*Remedial orders*

86. (1) If a person has practical control of a particular airport-operator company (the first company) and the first company is a member of a second airport-operator company and either of the following subparagraphs applies to the other member of the company:

(a) the person has practical control of the other member; and

(b) the person has a particular type of stake in the other member of more than 30%;

the court may, on application by the Minister, make such orders as the court considers appropriate to ensure that there is at least one member of the airport operator companies where both of the following paragraphs apply:

(c) the directors of the company are not accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person (either alone or together with associates); and

(d) the person (either alone or together with associates) is not in a position to exercise control over the company;

(e) either:

(i) the person does not have any type of stake in the company; or

(ii) if the person has one or more types of stake in the company - each of those stakes is not more than 30%.

*Head office to be in Guyana*

87. (1) An airport-operator licensee shall ensure that the central management and control of the company is ordinarily exercised at a place in Guyana.

(2) A contravention of paragraph (1) does not affect the validity of any transaction

*Majority of directors shall be Guyanese citizens or residents*

88. (1) An airport-operator company shall ensure that a majority of its directors are:

(a) Guyanese citizens; or

(b) foreign citizens ordinarily resident in Guyana.

(2) A contravention of paragraph (1) does not affect the validity of any transaction

## PART 7

### ANTI-AVOIDANCE

*Acquisition of  
assets*

89. (1) If:

- (a) one or more persons enter into, begin to carry out or carry out a scheme; and
- (b) it would be concluded that the person, or any of the persons, who entered into, began to carry out or carried out the scheme or any part of the scheme did so for the sole or dominant purpose of avoiding the application of any of these regulations in relation to any person or persons (whether or not mentioned in paragraph (a)); and
- (c) as a result of the scheme or a part of the scheme, a person (the beneficiary) acquires any of the following assets:
  - (i) an airport lease or an interest in an airport lease;
  - (ii) a sublease of an airport lease;
  - (iii) a licence relating to an airport lease;

the Authority may give the beneficiary a written direction to dispose of the asset within a specified time.

*Acquisition of  
stake in  
airport-  
operator  
company*

(2) If:

- (a) one or more persons enter into, begin to carry out or carry out a scheme; and
- (b) it would be concluded that the person, or any of the persons, who entered into, began to carry out or carried out the scheme or any part of the scheme did so for the sole or dominant purpose of avoiding the application of any of these regulations in relation to any person or persons (whether or not mentioned in paragraph (a)); and
- (c) as a result of the scheme or a part of the scheme, a person (the stakeholder) increases the stakeholder's stake in an airport-operator company;

the Authority may give the stakeholder a written direction to cease holding that stake within a specified time.

(3) A person who intentionally contravenes a direction under paragraph (1) or (2) is guilty of an offence punishable on conviction by a fine not exceeding 50 million dollars.

(4) In this Part increase, in relation to a stake in a company, includes an increase from a starting point of nil and stake, in relation to a company, has the same meaning as in these regulations.

*Anti-avoidance—airport-management agreements*

90. (1) These Regulations apply if:

- (a) one or more persons enter into, begin to carry out or carry out a scheme; and
- (b) it would be concluded that the person, or any of the persons, who entered into, began to carry out or carried out the scheme or any part of the scheme did so for the sole or dominant purpose of avoiding the application of any provision of these regulations to any person or persons (whether or not mentioned in paragraph (a)); and
- (c) as a result of the scheme or a part of the scheme, a person (the contractor) enters into an airport-management agreement with the airport-lessee company for an airport.

(2) The Authority may, by written notice given to the contractor and the company, terminate the agreement with effect from a specified time.

## **PART 8**

### **ENVIRONMENTAL MANAGEMENT**

*Airports to which Division applies*

91. (1) This Part applies to:

- (a) a core regulated airport; or
- (b) an airport specified in the regulations; if there is an airport lease for the airport.

(2) For the purposes of paragraph (1), the boundaries of an airport are the boundaries of the airport site for the airport.

*Final Strategy*

92. (1) For each airport, there is to be a final environment strategy

*Contents of draft or final environment strategy*

93. (1) This paragraph specifies the matters that shall be set out in each draft or final environment strategy for an airport.

(2) In the case of an airport, a draft or final environment strategy shall specify:

- (a) the airport-lessee company's objectives for the environmental management of the airport; and

- (b) the areas if any within the airport site which the airport-lessee company, in consultation with State conservation bodies, identifies are environmentally significant; and
  - (c) the sources of environmental impact associated with airport operations; and
  - (d) the studies, reviews and monitoring to be carried out by the airport-lessee company in connection with the environmental impact associated with airport operations; and
  - (e) the time frames for completion of those studies and reviews and for reporting on that monitoring; and
  - (f) the specific measures to be carried out by the airport-lessee company for the purposes of preventing, controlling or reducing the environmental impact associated with airport operations; and
  - (g) the time frames for completion of those specific measures; and
  - (h) details of the consultations undertaken in preparing the strategy (including the outcome of the consultations); and
  - (i) such other matters (if any) as are specified in the regulations.
- (3) Paragraphs (a) to (h) (inclusive) do not, by implication, limit paragraph (i).

*Period*

94. (1) A draft or final environment strategy shall relate to a period of 5 years. This period is called the strategy period.

*Assumption of continuity of lease*

95. (1) For the purposes of the application of this Division to a draft or final environment strategy for an airport, it is to be assumed that the airport lease or airport leases held by the airport-lessee company shall continue in force for the duration of the strategy period for the strategy.

*Strategy does not lapse when lease transferred*

96. (1) A draft or final environment strategy for an airport does not cease to be in force if the airport lease or airport leases are transferred. In that event, the transferee is taken to have adopted the strategy as its own.

*Draft environment strategy to be given to Minister after acquisition or grant of airport lease*

97. (1) If:
- (a) a company acquires or is granted an airport lease; and
  - (b) a final environment strategy for the airport is not in force at the time of the acquisition or grant; the company shall give the Authority a draft environment strategy for the airport:
  - (c) within 12 months after the acquisition or grant; or
  - (d) if the Authority, by written notice given to the company, allows a longer period—within that longer period.

(2) A company commits an offence if:

- (a) the company is required to give the Authority a draft environment strategy under paragraph (1); and
- (b) the company engages in conduct; and
- (c) the company's conduct contravenes the requirement.

*New draft environment strategy to be submitted before expiry of old strategy*

98. (1) If a final environment strategy (the original strategy) is in force for an airport, the airport-lessee company shall give the Authority a draft environment strategy for the airport before the expiry of the original strategy. The strategy period for the draft strategy shall begin immediately after the expiry of the original strategy.

(2) A company commits an offence if:

- (a) the company is required to give the Authority a draft environment strategy under paragraph (1); and
- (b) the company engages in conduct; and
- (c) the company's conduct contravenes the requirement.

*Duration of final environment strategy*

99. (1) A final environment strategy remains in force for 5 years. However, if, at the end of that 5 years, a fresh final environment strategy does not come into force, the original strategy remains in force until a fresh strategy comes into force.

(2) Paragraph (1) has effect subject to Regulation 98 (which deals with replacement of strategies).

*Replacement of final environment strategy*

100. (1) If a final environment strategy (the original strategy) for an airport is in force, the airport-lessee company for the airport may give the Authority a draft environment strategy that is expressed to replace the original strategy. When the draft strategy becomes a final environment strategy, the original strategy ceases to be in force.

(2) If a final environment strategy (the **original strategy**) for an airport is in force, the Authority may, by written notice given to the airport-lessee company for the airport, direct the company to give the Authority a draft environment strategy that is expressed to replace the original strategy. The company shall comply with the direction:

- (a) within 180 days after the day on which the notice was given; or
- (b) if the Authority, by written notice given to the company, allows a longer period—within that longer period. When the draft strategy becomes a final environment strategy, the original strategy ceases to be in force.

(3) A company commits an offence if the company is subject to a direction under paragraph (2) and the company engages in conduct and the company's conduct contravenes the direction.

*Public  
comment*

101. (1) Before giving the Authority a draft environment strategy for an airport under Regulations 97, 98 or 100, the airport-lessee company for the airport shall:

- (a) cause to be published in a newspaper circulating generally in Guyana a notice:
  - i. stating that the company has prepared a preliminary version of the draft strategy; and
  - ii. stating that copies of the preliminary version shall be available for inspection and purchase by members of the public during normal office hours throughout the period of 90 days after the publication of the notice; and
  - iii. specifying the place or places where the copies shall be available for inspection and purchase; and
  - iv. inviting members of the public to give written comments about the preliminary version to the company within 90 days after the publication of the notice; and
- (b) make copies of the preliminary version available for inspection and purchase by members of the public in accordance with the notice.

(2) If members of the public have given written comments about the preliminary version in accordance with the notice, the draft strategy submitted to the Authority shall be accompanied by a written certificate signed on behalf of the company:

- (a) listing the names of those members of the public; and
- (b) summarising those comments; and
- (c) stating that the company has had due regard to those comments in preparing the draft strategy; and
- (d) setting out such other information (if any) about those comments as is specified in the regulations.

(3) Paragraph (2) does not, by implication, limit the matters to which the company may have regard.

*Consultations*

102. (1) This Regulation applies if:

- (a) an airport-lessee company gives the Authority a draft environment strategy under regulation 97, 98 or 100; and
- (b) before the publication under regulation 101 of a notice about the strategy, the company consulted a person covered by any of the following subparagraphs:

- i. a State or Territory government;
- ii. an authority of a State or Territory; a local government body
- iii. an airline or other user of the airport concerned;
- iv. any other person.

(2) The draft strategy submitted to the Authority shall be accompanied by a written statement signed on behalf of the company:

- (a) listing the names of the persons consulted; and
- (b) summarising the views expressed by the persons consulted.

*Approval of  
draft by  
Minister*

103. (1) This paragraph applies if an airport-lessee company gives the Authority a draft environment strategy.

(2) The Authority shall approve the strategy or refuse to approve the strategy.

(3) In deciding whether to approve the strategy, the Authority shall have regard to the following matters:

- (a) the effect that carrying out the strategy would be likely to have on the standard of air quality, water quality and soil quality;
- (b) the effect that the carrying out of the strategy would be likely to have on:
  - i. biota or habitat; or
  - ii. natural or heritage values;
- (c) the effect that carrying out the strategy would be likely to have on noise exposure levels;
- (d) details of the consultations undertaken in preparing the strategy (including the outcome of the consultations).

(4) Paragraph (3) does not, by implication, limit the matters to which the Authority may have regard.

(5) If the Authority neither approves, nor refuses to approve, the strategy before the end of the period of 90 days after the day on which the Authority received the draft strategy, the Authority is taken, at the end of that period, to have approved the strategy under paragraph (2).



(6) As soon as practicable after deciding whether to approve the strategy, the Authority shall notify the company in writing of the decision.

(7) If the Authority refuses to approve the strategy, the Authority shall notify the company in writing of the Authority's reasons for the refusal.

(8) If the Authority refuses to approve the strategy, the Authority may, by written notice given to the company, direct the company to give the Authority a fresh draft environment strategy. The fresh draft environment strategy shall be given to the Authority:

(a) within 180 days after the day on which the direction was given; or

(a) if the Authority, by written notice given to the company, allows a longer period—within that longer period.

(9) A company commits an offence if the company is subject to a direction under paragraph (8) and the company engages in conduct that contravenes the direction.

*Approval of  
draft by  
Minister*

104. (1) This paragraph applies if an airport-lessee company gives the Authority a draft environment strategy.

(2) The Authority shall approve the strategy or refuse to approve the strategy.

(3) In deciding whether to approve the strategy, the Authority shall have regard to the following matters:

(a) the effect that carrying out the strategy would be likely to have on the standard of air quality, water quality and soil quality;

(b) the effect that the carrying out of the strategy would be likely to have on:

i. biota or habitat; or

ii. natural or heritage values;

(c) the effect that carrying out the strategy would be likely to have on noise exposure levels;

(d) details of the consultations undertaken in preparing the strategy (including the outcome of the consultations).

(4) Paragraph (3) does not, by implication, limit the matters to which the Authority may have regard.

(5) If the Authority neither approves, nor refuses to approve, the strategy before the end of the period of 90 days after the day on which the Authority received the draft

strategy, the Authority is taken, at the end of that period, to have approved the strategy under paragraph (2).

(6) As soon as practicable after deciding whether to approve the strategy, the Authority shall notify the company in writing of the decision.

(7) If the Authority refuses to approve the strategy, the Authority shall notify the company in writing of the Authority's reasons for the refusal.

(8) If the Authority refuses to approve the strategy, the Authority may, by written notice given to the company, direct the company to give the Authority a fresh draft environment strategy. The fresh draft environment strategy shall be given to the Authority:

- (a) within 180 days after the day on which the direction was given; or
- (b) if the Authority, by written notice given to the company, allows a longer period—within that longer period.

(9) A company commits an offence if the company is subject to a direction under paragraph (8) and the company engages in conduct and the company's conduct contravenes the direction.

*Transfer of  
airport lease  
during  
approval  
process*

105. (1) These Regulations apply if an airport lease is transferred and before the transfer a draft environment strategy had been submitted by the transferor to the Authority and immediately before the transfer the Authority had not made a decision whether to approve the draft strategy.

(2) The transferee is taken:

- (a) to have given the draft strategy to the Authority immediately after the transfer; and
- (b) to have adopted the draft strategy as its own; unless, within 60 days after the transfer, the transferee gives the Authority a written undertaking to give the Authority an alternative draft strategy.

*Minor  
variation of  
final  
environment  
strategy*

106. (1) This part applies if:

- (a) a final environment strategy for an airport is in force; and
- (b) the airport-lessee company for the airport gives the Authority a draft variation of the strategy; and
- (c) the variation is of a minor nature.

(2) The Authority shall approve the variation; or refuse to approve the variation.

(3) If the Authority neither approves, nor refuses to approve, the variation before the end of the period of 90 days after the day on which the Authority received the draft

variation, the Authority is taken, at the end of that period, to have approved the variation under paragraph (2).

(4) As soon as practicable after deciding whether to approve the variation, the Authority shall notify the company in writing of the decision.

(5) If the Authority refuses to approve the variation, the Authority shall notify the company in writing of the Authority's reasons for the refusal.

(6) If the Authority approves the variation, the strategy is varied accordingly.

*Compliance  
with final  
environment  
strategy*

107. (1) If a final environment strategy is in force for an airport, the airport-lessee company for the airport shall take all reasonable steps to ensure that the strategy is complied with.

(1A) If a final environment strategy is in force for an airport, a person (other than the airport-lessee company for the airport) who carries on activities at the airport shall take all reasonable steps to ensure that the strategy is complied with.

(2) A contravention of paragraph (1) or (1A) is not an offence.

(3) A contravention of paragraph (1) or (1A) does not affect the validity of any transaction.

(4) In addition to its effect apart from this paragraph, paragraph (1A) also has the effect it would have if its application were,

*Publication of  
final  
environment  
strategy or  
variation of  
final  
environment  
strategy*

108. (1) This part applies if:

(a) the Authority approves a draft environment strategy for an airport; or

(b) the Authority approves a draft variation of a final environment strategy for an airport.

(2) The airport-lessee company for the airport shall cause to be published in a newspaper circulating generally in the State or Territory in which the airport is situated a notice:

i. stating that the strategy or variation has been approved; and

ii. stating that copies of the strategy or variation shall be available for inspection and purchase by members of the public during normal office hours while the strategy remains in force; and

iii. specifying the place or places where the strategy or variation shall be available for inspection and purchase; and

(a) make the strategy or variation available for inspection and purchase by members of the public in accordance with the notice.

- (b) The company shall comply with this paragraph within 90 days after the approval of the strategy or variation, as the case requires; or
- (c) if the Authority, by written notice given to the company, allows a longer period—within that longer period.

(3) A company commits an offence if the company is required to publish a notice and make a strategy or variation available for inspection and purchase by members of the public under paragraph (2) and the company engages in conduct; and the company's conduct contravenes the requirement.

(4) Strict liability applies to paragraph (3).

*Publication of  
final  
environment  
strategy or  
variation of  
final  
environment  
strategy*

109. (1) This part applies if:
- (a) the Authority approves a draft environment strategy for an airport; or
  - (b) the Authority approves a draft variation of a final environment strategy for an airport.
- (2) The airport-lessee company for the airport shall:
- (a) cause to be published in a newspaper circulating generally in the State or Territory in which the airport is situated a notice:
    - i. stating that the strategy or variation has been approved; and
    - ii. stating that copies of the strategy or variation shall be available for inspection and purchase by members of the public during normal office hours while the strategy remains in force; and
    - iii. specifying the place or places where the strategy or variation shall be available for inspection and purchase; and
  - (b) make the strategy or variation available for inspection and purchase by members of the public in accordance with the notice. The company shall comply with this paragraph:
  - (c) within 90 days after the approval of the strategy or variation, as the case requires; or
- (3) A company commits an offence if:
- (a) the company is required to publish a notice and make a strategy or variation available for inspection and purchase by members of the public under paragraph (2); and
  - (b) the company engages in conduct; and
  - (c) the company's conduct contravenes the requirement.

(4) Strict liability applies to paragraph (3)(a).

*Airports to  
which Division  
applies*

110. (1) This Part applies to:

- (a) a core regulated airport; or
- (b) an airport specified in the regulations; if there is an airport lease for the airport.

(2) For the purposes of paragraph (1), the boundaries of an airport are the boundaries of the airport site for the airport.

*Offence  
resulting in  
serious  
environmental  
harm*

111. (1) A person commits an offence if the person engages in conduct that directly or indirectly results in environmental pollution that affects an area that consists of, or is included in, an airport site if the pollution harms, or has the potential to harm, the environment and:

- (a) both:
  - i. a final environment strategy is in force for the airport concerned; and
  - ii. the area is identified in the strategy as environmentally significant; or
- (b) the effect of the pollution is, or has the potential to be:
  - i. of high impact; and
  - ii. irreversible; or
- (c) the pollution results, or has the potential to result, in substantial harm to public health or to public safety; or
- (d) the pollution results, or has the potential to result, in substantial damage to property.

(2) Paragraph (1) applies to an act or omission of a person, even if the act or omission was not the sole cause of the pollution concerned.

(3) This part does not, by implication, limit Regulation 116 and 117.

(4) A reference in this part to *environmental pollution* includes a reference to air, water or soil pollution, but does not include a reference to noise pollution.

*Offence  
resulting in  
material*

112. (1) A person commits an offence if the person engages in conduct that directly or indirectly results in environmental pollution that affects an area that consists of, or is included in, an airport site if the pollution harms, or has the potential to harm, the environment and:

*environmental  
harm*

- (a) the effect of the pollution is, or has the potential to be, of significant impact;  
or
- (b) the pollution results, or has the potential to result, in harm to public health or to public safety; or
- (c) the pollution results, or has the potential to result, in damage to property (other than minor damage).

(3) Paragraph (1) applies to an act or omission of a person, even if the act or omission was not the sole cause of the pollution concerned.

(4) This part does not, by implication, limit Regulation 116 or 117.

(5) A reference in this part to environmental pollution includes a reference to air, water or soil pollution, but does not include a reference to noise pollution.

*Offence  
resulting in  
environmental  
nuisance*

113. (1) A person commits an offence if the person engages in conduct that directly or indirectly results in environmental pollution that affects an area that consists of, or is included in, an airport site and:

(a) the pollution takes the form of smoke, dust or odour; or

(b) the effect of the pollution is:

i. of low impact; and

ii. transient; or

(c) the effect of the pollution interferes unreasonably, or has the potential to interfere unreasonably, with the enjoyment of the area by a person occupying, or lawfully using, the area.

(ii) This Regulation applies to conduct of a person, even if the conduct was not the sole cause of the pollution concerned.

(iii) This Regulation does not, by implication, limit Regulations 116 or 117.

(4) A reference in this part to environmental pollution includes a reference to air, water or soil pollution but does not include a reference to noise pollution.

## PART 9

### ACCOUNTS AND REPORTS OF AIRPORT-OPERATOR LICENSEE

<i>Airports to which Part applies</i>	<p>114. (1) This Part applies to an airport-operator company for:</p> <ul style="list-style-type: none"><li>(a) a regulated airport; or</li><li>(b) an airport specified in the regulations; if there is an airport lease for the airport.</li></ul> <p>(2) For the purposes of paragraph (1), the boundaries of an airport are the boundaries of the airport site for the airport.</p>
<i>Preparation and retention of accounts</i>	<p>115. (1) This Part applies to a company if the company was an airport-operator licensee throughout the whole or a part of a financial year.</p>
<i>Preparation of accounts</i>	<p>116. (1) The airport operator licensee shall, in respect of the whole or part, as the case may be, of the financial year, prepare such accounts and statements as are specified in, or ascertained in accordance with, the regulations. However, this Part does not apply if the regulations declare that the company is exempt from this part.</p>
<i>Regulations may deal with the preparation of accounts</i>	<p>117. (1) The regulations may make provision for and in relation to the preparation of accounts and statements covered by Regulation 116. If the regulations make such provision, the accounts and statements covered by Regulation 116 shall be prepared in accordance with the regulations. This paragraph does not, by implication, limit Regulation 116.</p>
<i>Accounts to be signed</i>	<p>118. (1) The accounts and statements prepared in accordance with Regulation 116 shall be signed by at least 2 directors of the company.</p>
<i>Retention of accounts for 5 years</i>	<p>119. (1) The company shall retain the accounts and statements prepared in accordance with Regulation 116 for 5 years after the end of the period to which they relate.</p>
<i>Offence</i>	<p>120. (1) A company commits an offence if:</p> <ul style="list-style-type: none"><li>(a) the company is subject to a requirement under this paragraph; and</li><li>(b) the company engages in conduct; and</li><li>(c) the company's conduct contravenes the requirement.</li></ul>
<i>Incorporation of IAS and IFRS accounting standards</i>	<p>121. In preparation of accounts, the airport operator licensee shall make provision for or in relation apply, adopt or incorporate (with or without modification) any matter contained in an International Accounting Standard (IAS) or International Financial Reporting Standard (IFRS) as in force or existing from time to time.</p>

<i>Audit of accounts</i>	122. (1) This Regulation applies if a company prepares accounts and statements in respect of a period (the accounting period) in accordance with this Regulation.
<i>Audit by approved auditor</i>	(2) The accounts and statements shall be audited by an approved auditor.  (3) The company shall make such arrangements as are necessary to enable the audit of those accounts and statements in accordance with this Regulation.
<i>Offence</i>	(4) A company commits an offence if:  (a) the company is required to make arrangements under paragraph (3); and  (b) the company engages in conduct; and  (c) the company's conduct contravenes the requirement.
<i>Auditor's certificate</i>	(5) The auditor shall, for the purposes of this Part, give the company a certificate relating to the accounts and statements. The certificate shall be given within the prescribed period after the accounting period. The certificate shall be in the prescribed form in accordance with internationally certified standards.
<i>Lodgement of accounts with the Authority</i>	123. (1) This Part applies if a company prepares accounts and statements in respect of a period (the accounting period) in accordance with this Regulation.  (2) The company shall, within the prescribed period after the accounting period, give the Authority:  a) those accounts and statements; and  b) the certificate given to the company by an approved auditor under regulation 122 in respect of the accounting period.
<i>Publication of accounts and statements</i>	124. (1) The Authority may publish accounts and statements given to the Authority under Regulation 123.  (2) The Authority may charge fees for the supply of accounts and statements published under paragraph (1).
<i>Approved Auditor</i>	125. (1) For the purposes of this Part, an approved auditor is a person registered as an auditor.
<i>Airport reports</i>	126. An airport-operator company shall prepare and submit to the Authority written reports about the airport.
<i>Publication of airport reports</i>	127. (1) The Authority may publish reports given to the Authority in accordance with a requirement covered by Regulation 126.



(2) The Authority may charge fees for the supply of reports published under paragraph (1).

*Record-keeping* 128.(1) The regulations may make provision for and in relation to requiring a company to keep and retain records, where the records are relevant to the preparation of:

- (a) the accounts and statements of the company mentioned in Regulation 115; or
- (b) the reports of the company mentioned in Regulation 125.

(2) A company commits an offence if:

- (a) the company is subject to a requirement under the regulations to keep and retain records; and
- (b) the company engages in conduct; and
- (c) the company's conduct contravenes the requirement.

## **PART 10**

### **QUALITY OF SERVICE MONITORING AND REPORTING - SERVICE LEVEL AGREEMENTS**

*Airports to which Part applies* 129. (1) This Part applies to an airport operator company which operates:

- (a) an airport; or
- (b) an airport specified in the regulations; if there is an airport lease for the airport.

(2) For the purposes of Paragraph (1), the boundaries of an airport are the boundaries of the airport site for the airport.

*Airport services and facilities* 130.(1) These Regulations apply to an airport service or facility if the service or facility is provided:

- (a) by an airport-operator company; or
- (b) by a person other than an airport-operator company under an agreement with an airport-operator company.

*Performance indicators* 131.(1) The airport operator company shall submit to the Authority a Quality of Service Plan which specifies methods of ascertaining, performance indicators to be used in monitoring and evaluating the quality of airport services and facilities for the purposes of this Part.

*Examples of performance indicators* 132. (1) Some of the performance indicators that shall be prescribed under Regulation 131:

- (a) indicators relating to congestion of aeronautical facilities, terminal facilities or ground access systems;
- (b) indicators relating to the standard of runways, taxiways and apron facilities;
- (c) indicators relating to the standard of passenger services;
- (d) indicators relating to the standard of freight services.

*Monitoring by  
the Authority*

133. (1) The Authority shall monitor and evaluate the quality of airport services and facilities against:
- (a) the performance indicators prescribed under Regulation 131; and
  - (b) such other criteria as the Authority determines in writing.

*Record-keeping  
and giving of  
information*

134. (1) The airport operator company shall make provision for and in relation to requiring a person:
- (a) keep and retain records, where the records are relevant to a quality of service matter; and
  - (b) give information to the Authority that is relevant to a quality of service matter.

*Offence*

135. (1) A company commits an offence if the company is subject to a requirement under the regulations to keep and retain records and give information to the Authority; and the company engages in conduct; and the company's conduct contravenes the requirement.

*Regulations  
may confer  
discretionary  
powers on the  
Authority  
Quality of  
service matter*

136. (1) The Authority may, by written notice given to an airport-operator company, require the company to give the Authority, within the period and in the manner specified in the notice, specified information that is relevant to a quality of service matter.
- (2) For the purposes of this part, a matter is a quality of service matter if it is relevant to the monitoring or evaluation of the quality of airport services or facilities against performance indicators prescribed under Regulation 132.

*Publication of  
quality of  
service  
information*

137. (1) The Authority may publish reports relating to the monitoring or evaluation of the quality of airport services and facilities against performance indicators prescribed under Regulation 132; and other criteria determined by the Authority under Regulation 136.
- (2) The Authority may charge fees for the supply of reports published under Regulation (1).

## PART 11

### VARIATION AND CLOSURE OF AIRPORT SITES

*Variation of  
airport sites—  
consent of  
lessee*

138. (1) If there is an airport lease relating to an airport site for an airport, the Minister shall not make any regulations varying the site unless the lessee has given written consent to the making of those regulations.

*Closure of  
airport sites*

139. (1) If there is an airport lease relating to an airport site, the Minister shall not make any regulations repealing the declaration of the site as an airport site unless the lessee has given written consent to the making of those regulations.

(2) If there is a lease of the whole or a part of an airport site, the Government shall not take any action that would have the effect of creating an absolute prohibition of the use of the site as an airport unless the lessee has given written consent to the taking of that action.

*Surrender of  
airport leases*

140. (1) If there is a lease of the whole or a part of an airport site, the lessee may surrender the lease to the State.

(2) The surrender may be unconditional; or subject to such terms and conditions as are agreed between the lessee and the Government.

(3) The terms and conditions may require the Government to grant the lessee a new airport lease relating to the same airport and require the lessee to pay or give the Government consideration for the new airport lease. The new lease may be expressed to take effect when regulations varying the airport site take effect.

(4) Paragraph (3) does not, by implication, limit paragraph (2).

*Variation of  
airport lease—  
reducing leased  
area*

141. (1) If the holder of an airport lease requests the Minister to vary the lease by reducing the leased area as specified in the request, the Minister may, by notice published in the *Gazette*, determine that the lease is varied in accordance with the request. The determination has effect accordingly.

(2) These regulations do not prevent Government from paying consideration to the holder of the airport lease for the variation.

(3) Any airport operator licensee shall not close an airport without the approval of the Authority.

## PART 12

### IMPLEMENTATION OF INTERNATIONAL AGREEMENTS RELATING TO AIRPORTS

*Designated international agreements*

142. (1) In these Regulations another country includes a region:

- (a) that is part of a foreign country; or
- (b) that is under the protection of a foreign country; or
- (c) for whose international relations a foreign country is responsible.

(2) Designated international agreement means:

- (a) the Convention on International Civil Aviation concluded at Chicago on 7 December 1944; or
- (b) an Annex to that Convention, where the Annex was adopted in accordance with that Convention; or
- (c) an agreement or arrangement between Guyana, or an entity or organisation nominated or otherwise similarly authorised by Guyana to enter into the agreement or arrangement and another country;

*Regulations may give effect to designated international agreements*

143. (1) Implementation of international agreements relating to airports under which the carriage by air of passengers or freight, or both passengers and freight, between Guyana and the other country is permitted.

- (2) An airport operator company shall act in a manner consistent with Guyana's obligations under:
  - (a) a designated international agreement; and
  - (b) an amendment of such an agreement; in so far as the agreement, or any part of the agreement, is intended to affect the operation of airports that are open to access by international air transport.

## PART 13

### CONTROL OF CERTAIN ON-AIRPORT ACTIVITIES

*Airports to which Part applies*

144. (1) This Part applies to an airport operator company:

- (a) a core regulated airport; or

(b) an airport specified in the regulations; if there is an airport lease for the airport.

(2) For the purposes of paragraph (1), the boundaries of an airport are the boundaries of the airport site for the airport.

*Control of  
liquor*

145. (1) The Authority prohibit or regulate the sale, supply, disposal or possession of liquor at a specified airport.

(2) In these Regulations liquor means wine, spirits, ale, beer or any liquid containing alcohol ordinarily used, or fit for use, as a beverage.

*Control of  
commercial  
trading*

146. (1) The regulations may make provision for and in relation to:

(a) prohibiting or regulating the supply of goods or services at a specified airport;  
or

(b) authorising the supply of goods or services at a specified airport;

*Control of  
vehicle  
movements*

147. (1) The Authority may:

(a) make provision for and in relation to prohibiting or regulating the parking or use of vehicles within a specified airport; and

(b) provide for signs and road markings for those purposes.

(2) In these Regulations vehicle includes:

(a) a trailer, caravan or portion of an articulated vehicle; or

(b) an object that was designed or adapted for use as a vehicle but is incapable of being so used because one or more parts have been removed from it; or it is in a wrecked or damaged condition.

*Control of  
gambling*

148. (1) The Authority may prohibit or regulate gambling activities at a specified airport.

(2) In these Regulations *gambling activity* includes a game of chance and a lottery (whether involving the use of a machine or otherwise).

*Control of  
smoking*

149. (1) The Authority may prohibit or regulate smoking at a specified airport.

## **PART 14**

### **ACCESS TO AIRPORTS AND DEMAND MANAGEMENT AT AIRPORTS**

*Airport  
capacity  
declarations*

150. (1) The Authority may make a written declaration setting out the capacity (the declared capacity) that, in the Authority's opinion, represents a

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reasonable estimate of the capacity of a specified airport. The declaration is called an airport capacity declaration.

(2) The declared capacity is to be expressed in terms of the maximum number of aircraft movements that the airport is capable of handling during one or more specified intervals of time (whether recurring or otherwise).

(3) A copy of the declaration is to be published in the Gazette.

*Public  
Comment*

151. (1) Before making an airport capacity declaration for an airport, the Authority shall:

(a) cause to be published in a newspaper circulating generally in Guyana a notice:

(i) stating that the Authority has prepared a draft version of the declaration; and

(ii) stating that the draft version of the declaration was prepared on the basis of an assessment of the capacity of the airport; and

(iii) stating that copies of the draft version and of the assessment shall be available for inspection and purchase by members of the public during normal office hours throughout the period of 45 days after the publication of the notice; and

(iv) specifying the place or places where the copies shall be available for inspection and purchase; and

(v) inviting members of the public to give written comments about the draft version and the assessment to the Authority within 45 days after publication of the notice; and

(b) make copies of the draft version and the assessment available for inspection and purchase by members of the public in accordance with the notice.

(2) If members of the public have given written comments about the draft version or the assessment in accordance with the notice, the Authority shall have due regard to those comments in making the declaration.

(3) Paragraph (2) does not, by implication, limit the matters to which the Authority may have regard.

*Submissions*

152. (1) Before the publication of a notice under Regulation 152 relating to an airport capacity declaration for an airport, the Authority shall cause to be published in the Gazette a notice:

(a) stating that the Authority is considering making an airport capacity declaration for the airport; and

(b) inviting persons covered by any of the following subparagraphs to give the Authority a capacity submission within 30 days after the publication of the notice:

(i) an airport-operator company for the airport;

(ii) an aircraft operator who uses the airport;

(iii) the Civil Aviation Authority;

for this purpose, a capacity submission is a submission about the capacity of the airport.

(2) If a person gives the Authority a written submission in accordance with the notice, the Authority shall have due regard to the submission in making the declaration.

(3) Paragraph (2) does not, by implication, limit the matters to which the Authority may have regard.

*Declarations  
subjecting  
airports to  
statutory  
demand  
management*

153. (1) This part applies to an airport if an airport capacity declaration is in force for the airport.

(2) The Authority may, by notice published in the Gazette, declare that the airport is subject to statutory demand management under this Part.

(3) If an airport capacity declaration for an airport is revoked, any declaration under this part that relates to the airport is taken to be revoked.

*Criteria for  
making  
declaration*

154. (1) In deciding whether to make a declaration under Regulation 151 about an airport, the Authority shall have regard to the following matters:

(a) whether demand for the handling of aircraft movements at the airport exceeds, or is likely to exceed, the declared capacity of the airport;

(b) the effectiveness of any existing or proposed arrangements for self-management or self-regulation of demand for the handling of aircraft movements at the airport;

(c) the impact of the airport-lessee company's existing or proposed pricing arrangements on demand for the handling of aircraft movements at the airport;

(d) the extent, or likely extent, of congestion at the airport;

(e) existing or proposed laws or other controls relating to environmental matters (including noise matters);

(f) Guyana's international obligations.

(2) Paragraph (1) does not, by implication, limit the matters to which the Authority may have regard

*Submissions*

155. (1) Before making a declaration under regulation 152 about an airport, the Authority shall cause to be published in the *Gazette* a notice:

(a) stating that the Authority is considering making a declaration under Regulation 152 about the airport; and

(b) inviting persons covered by any of the following subparagraphs to give the Authority a submission about the proposed declaration within 30 days after the publication of the notice:

(i) an airport-operator company for the airport;

(ii) a person specified in the regulations for the purposes of the application of this subparagraph to the airport, being a person who represents the interests of all of the aircraft operators who use the airport to operate scheduled air services;

(2) If a person gives the Authority a written submission in accordance with the notice, the Authority shall have due regard to the submission in making the declaration.

(3) Paragraph (2) does not, by implication, limit the matters to which the Authority may have regard.

*Demand management schemes*

156. (1) This Regulation applies to an airport if a declaration under Regulation 151 is in force for the airport.

(2) The Authority may, by written instrument, formulate a scheme for the management of demand for the handling of aircraft movements at the airport. Such a scheme is to be known as a demand management scheme.

(3) If a declaration under Regulation 5 relating to an airport is revoked, any instrument under this Paragraph that relates to the airport is taken to be revoked.

*Types of schemes*

157. (1) For the purposes of this Part, there are 4 types of schemes for the management of demand for the handling of aircraft movements at an airport:

(a) category exclusion schemes (see Regulation 159);

(b) slot allocation schemes (see Regulation 160);

(c) movement limitation schemes (see Regulation 161);

(d) schemes not covered by paragraph (a), (b) or (c).

*Category exclusion schemes*

158. (1) For the purposes of this Part, a category exclusion scheme is a scheme that has the effect of prohibiting specified categories of aircraft movements at an airport (except in cases relating to emergencies or safety matters).



(2) The prohibitions may apply:

(a) at all times; or

(b) only during one or more specified intervals of time (whether recurring or otherwise).

*Slot allocation schemes*

159. (1) For the purposes of this Part, a slot allocation scheme is a scheme of a kind known in the civil aviation industry as a scheme for the allocation of take-off and landing slots at an airport.

(2) A slot allocation scheme for an airport may provide for the Authority to authorise a person to be the slot co-ordinator for the airport.

(3) A slot allocation scheme for an airport may confer powers and functions on the slot co-ordinator for the airport.

*Movement limitation schemes*

160. (1) For the purposes of this Part, a movement limitation scheme is a scheme that:

(a) limits the total number of aircraft movements that may be handled at an airport during one or more specified intervals of time (whether recurring or otherwise); or

(b) limits the total number of aircraft movements belonging to a specified category that may be handled at an airport during one or more specified intervals of time (whether recurring or otherwise).

*Concurrent schemes*

161. (1) These Regulations do not prevent 2 or more schemes from applying to the same airport at the same time.

## **PART 15**

### **APPEALS**

*Appeal to Minister*

162. (1) Any airport operator licensee who is aggrieved by —

(a) any decision of the Authority —

(i) refusing to grant an airport operator operator licence under Regulations 5;

(ii) imposing any condition on an airport operator licence under Regulations 6;

(iii) modifying any condition of an airport operator licence under Regulations 7;

(iv) revoking or suspending an airport operator licence, or imposing a financial penalty under Regulations 8;

(v) refusing consent to a transfer of an airport operator licence under Regulations 10;

(vi) refusing approval to an airport operator licensee to carry on substantial trading or financial activities other than activities specified in Regulations 11(1);

(vii) refusing to approve a draft master plan or the additions and alterations to the master plan in force, as the case may be, for an airport under Regulations 29; or

(b) any direction of the Authority under Regulations 9, 14 or 83;

(c) any maximum price for aeronautical charges set or approved by the Authority under Regulations 3; or

(d) anything contained in any code of practice or standard of performance applicable to the airport operator licensee, may, within 14 days after being notified of the decision, notice or direction, or the issue or approval of the code of practice or standard of performance, as the case may be, (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister in the manner prescribed by Regulations.

(2) Any person (other than an airport operator licensee) who is aggrieved by any decision or direction of the Authority given by or under Regulations 83 may, within 14 days after being notified of the decision or direction (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister in the manner prescribed by these Regulations.

(3) Any person who makes an appeal to the Minister under paragraphs (1) or (2) shall, within the period specified therein:

(a) state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and

(b) submit to the Minister all relevant facts, evidence and arguments for or against the appeal, as the case may be.

(4) Where an appeal has been made to the Minister under paragraphs (1) or (2), the Minister may require:

(a) any party to the appeal; and

(b) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters mentioned in that paragraph, to provide the Minister with all such information as he may require (whether for the purpose of deciding if an Appeals Advisory Panel should be established or for determining the

appeal), and any person so required to provide such information shall provide it in such manner and within such period as may be specified by the Minister.

(5) The Minister may reject any appeal of an appellant who fails to comply with paragraph (3) or (4).

(6) Unless otherwise provided by these regulations or the Minister, where an appeal is lodged under this part, the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

(7) The Minister may determine an appeal under this part:

(a) by confirming, varying or reversing any decision, notice or direction of, or code of practice or standard of performance issued by, the Authority; or

(b) by directing the Authority to reconsider its decision, notice, direction, code of practice or standard of performance, as the case may be.

(8) Before determining an appeal under paragraph (7) and for the purpose of forming an opinion on which to base such determination, the Minister may consult such Appeals Advisory Panel established for the purpose of advising the Minister in respect of the appeal but, in making such determination, shall not be bound by such consultation.

(9) The decision of the Minister in any appeal shall be final.

(10) The Minister may make rules in respect of the manner in which an appeal may be made to, and the procedure to be adopted in the hearing of any appeal by, the Minister under this part.

*Appeals  
Advisory Panel*

163. (1) Where the Minister considers that an appeal lodged under Regulations 161(1) or (2) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, he may establish by direction an Appeals Advisory Panel, comprising one or more of such persons with particular technical or other specialised knowledge and such other persons as the Minister considers appropriate, to provide advice to the Minister with regard to the discharge of his functions under Regulations 161 in respect of any appeal that has been made to the Minister under Regulations 163(1) or (2).

(2) For the purposes of establishing an Appeals Advisory Panel, the Minister may do all or any of the following:

(a) determine or vary the terms of reference of the Appeals Advisory Panel;

(b) appoint persons to be the chairperson and other members of an Appeals Advisory Panel;

(c) at any time remove the chairperson or other member of an Appeals Advisory Panel from such office;

(d) determine the procedure to be adopted by the Appeals Advisory Panel in considering any matter referred to it;

(e) determine any other matters which the Minister considers incidental or expedient for the proper and efficient conduct of business by the Appeals Advisory Panel.

(3) An Appeals Advisory Panel may regulate its proceedings as it considers appropriate, subject to the following:

(a) the quorum for a meeting of the Appeals Advisory Panel shall be a majority of its members;

(b) a decision supported by a majority of the votes cast at a meeting of the Appeals Advisory Panel at which a quorum is present shall be the decision of that Panel.

(4) The remuneration and allowances, if any, of a member of an Appeals Advisory Panel shall be determined by the Minister and shall form part of the expenses of the Authority.

(4) An Appeals Advisory Panel shall be independent in the performance of its functions

*Appeals  
Secretary*

164. (1) The Minister may appoint a public officer to be the Appeals Secretary for the purposes of these regulations.

(2) The Appeals Secretary shall provide administrative and secretarial support –

(a) to the Minister; and

(b) with the approval of the Minister, to the Panel, in relation to every appeal under Regulations 162.

(3) The Appeals Secretary shall act in accordance with such instructions as may be given by the chairperson or the Minister from time to time and shall, in particular, be responsible for –

(a) the acceptance, transmission, service and custody of documents in accordance with these regulations;

(b) the establishment and maintenance of a list of all notices of appeal lodged with the Minister; and

(c) the keeping of a record of the proceedings of the Panel in such form as the chairperson may direct.

(4) The Appeals Secretary shall attend at every hearing of an appeal by the Minister and at every proceeding of the Panel.

*Addresses for  
service*

165. (1) Any document to be lodged with, sent to or served on the Panel under these regulations shall be addressed to the “Appeals Secretary, Advisory Panel” and sent to such address as may be notified, from time to time, in the Gazette.

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(2) Any document to be lodged with, sent to or served on the Minister under these regulations shall be addressed to the “Appeals Secretary” and sent such other address as may be notified, from time to time, in the Gazette.

*Representation* 166. (1) In appeal proceedings before the Minister or the Panel, a party may be represented by any person allowed by the Minister or the Panel, as the case may be, to appear in behalf of that party, being not an advocate and solicitor named in the register of practitioners and having in force a practicing certificate issued under the laws of Guyana.

*Commencement of Appeals* 167. (1) An appeal to the Minister shall be made by lodging a notice of appeal in accordance with Regulations 169.

(2) A notice of appeal shall be lodged:

(a) for an appeal against an appealable decision that is a decision or direction of the Authority given by within a period of 14 days after the appellant is notified of the decision or direction; or

(b) for an appeal against any other appealable decision – within a period of 14 days after:

(i) the code of practice or standard of performance is issued or approved; or

(ii) the appellant is notified of the decision, whichever is applicable.

(3) The Minister may, on the application of the appellant, allow an extension of the period delimited under paragraph (2) for the lodgement of the notice of appeal.

(4) On receiving the notice of appeal, the Appeals Secretary shall forward a copy thereof to each of the other parties concerned.

*Notice of Appeal* 168. (1) Every notice of appeal:

(a) shall state:

(i) the name and address of the appellant;

(ii) the name and address of the appellant’s authorized representative or legal representative; and

(iii) an address in Guyana for the service of documents;

(b) shall contain:

(i) a concise statement of the circumstances under which the appeal arises, the facts and the issues in the appeal;

(ii) a summary of the grounds for appealing against the appealable decision of the Authority, identifying in particular:

(A) the statutory provision under which the appeal is brought and the statutory provision under which the appealable decision was made;

(B) the extent (if any) to which the appellant contends that the appealable decision was based on an error of fact or was wrong in law; and

(C) the extent (if any) to which the appellant is appealing against the Authority's exercise of discretion in making the appealable decision;

(iii) a succinct presentation of the arguments of fact or law supporting each ground of appeal; and

(iv) the relief or directions (if any) sought by the appellant;

(c) shall be signed and dated by the appellant, or on his behalf by his authorized representative or legal representative; and

(d) shall be accompanied by:

(i) a copy of the appealable decision (including the code of practice or standard of performance, where applicable);

(ii) any documents supporting the arguments of fact or law; and

(iii) a fee of \$100,000.

(2) Without prejudice to the generality of paragraph (1)(b)(ii), in the case of an appeal against a price control determination relating to a regulatory period.

(3) Unless the Minister otherwise directs, the appellant shall lodge the duly signed original of the notice of appeal and its accompanying documents with the Minister together with 5 copies thereof, each certified by the appellant, or his authorized representative or legal representative, to be in conformity with the original.

(4) An appellant cannot raise or rely on any ground of appeal which is not stated in the notice of appeal during the hearing of the appeal unless the appellant has permission to amend his notice of appeal to include the ground.

*Defective  
Notices of  
Appeal*

169. (1) If the Minister considers that a notice of appeal is not lodged in accordance with Regulations 167, is materially incomplete, unduly prolix or lacking clarity, the Minister may give such directions to the appellant as may be necessary to remedy the notice.

(2) The Minister may, if he considers that the efficient conduct of the appeal proceedings so requires, instruct the Appeals Secretary to defer forwarding a copy of the notice of appeal to the other parties concerned until after the directions given under paragraph (1) have been complied with.

*Summary  
Disposal of  
Appeal*

170. (1) Where the only parties to an appeal are the appellant and the Authority, the Minister may, after giving the parties an opportunity to be heard, at any stage in the appeal proceedings and without calling for a defence from the Authority, determine the appeal by confirming the appealable decision of the Authority if:

- (a) he considers that the notice of appeal discloses no valid ground of appeal;
- (b) he considers that the appellant is not a person entitled to appeal under Regulations 161(1) or (2);
- (c) he is satisfied that the appellant has habitually made and persistently, and without any reasonable ground:
  - (i) made vexatious appeals to the Minister; or
  - (ii) made vexatious applications in the appeal proceedings or other appeal proceedings before the Minister; or
- (d) the appellant has, without reasonable excuse, failed to comply with the time delimited by any provision of these regulations for the submission of any notice, document or other information in the appeal proceedings, or with any direction of the Minister under these regulations.

(2) Where the Minister determines an appeal under paragraph (1), he may make such consequential order as he considers appropriate.

*Amendment of  
Notice of  
Appeal*

171. (1) the appellant may, with permission of the Minister, amend his notice of appeal.

(2) Where the Minister grants permission under paragraph (1), he may do so on such terms or conditions as he thinks fit to impose, and he shall give such further or consequential directions as he may consider necessary.

(3) No permission to amend a notice of appeal in order to add a new ground of appeal shall be granted unless the Minister is satisfied that –

- (a) such ground is based on any matter of fact or law which came to light after the notice of appeal was lodged;
- (b) it was not practicable to include such ground in the notice of appeal at the time the notice of appeal was lodged; or
- (c) there are exceptional circumstances to do so.

*Withdrawal of  
Appeal*

172. (1) The appellant may, with the permission of the Minister, withdraw his appeal.

(2) Where the Minister grants permission under paragraph (1), he may require the Appeals Secretary to publish a notice of the withdrawal of the appeal on the Authority's website or in such a manner as the Minister may direct.

*Appeal number, etc* 173. (1) On receiving a notice of appeal, the Appeals Secretary shall:

- (a) affix to the notice an official stamp showing the date on which the notice was received;
- (b) enter the appeal in a list and assign a number thereto, which shall constitute the title of the appeal;
- (c) inform the appellant of the title of the appeal; and
- (d) subject to Regulations 170, 171 and 172, forward a copy of the notice of appeal to the Authority.

*Defence* 174. (1) The Authority shall file with the Minister a defence within a period of 21 days after receiving a copy of the notice of appeal from the Appeals Secretary.

(2) The defence:

(a) shall state:

- (i) the name and address of the Authority;
- (ii) the name and address of the Authority's legal representative; and
- (iii) an address in Guyana for the service of documents;

(b) shall contain:

- (i) a succinct presentation of the arguments of fact or law upon which the Authority shall rely in responding to each ground of appeal; and
- (ii) the relief or directions (if any) sought by the Authority; and

(c) shall be signed and dated by a duly authorized officer or the legal representative of the Authority.

(3) To file a defence, the Authority shall send the duly signed original of the defence and its accompanying documents to the Appeals Secretary together with 5 copies thereof, each certified by a duly authorized officer or legal representative of the Authority to be in conformity with the original.

(4) The Minister may, on the application of the Authority, in his discretion, extend the period delimited under paragraph (1) for the sending of the defence.

(5) On receiving the defence, the Appeals Secretary shall forward a copy to the appellant.

*Defective Defence* 175. (1) If the Minister considers that a defence is not sent in accordance with Regulations 175, is materially incomplete, unduly prolix or lacking clarity, the

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Minister may give such directions to the Authority as may be necessary to remedy the defence.

(2) The Minister may, if he considers that the efficient conduct of the appeal proceedings so requires, instruct the Appeals Secretary to defer forwarding a copy of the defence to the appellant until after the directions given under paragraph (1) have been complied with.

*Amendment of  
Defence*

176. (1) The Authority may, with the permission of the Minister, amend its defence.

(2) Where the Minister grants permission under paragraph (1), he may do so on such terms or conditions as he thinks fit to impose, and shall give such further or consequential directions as he may consider necessary.

(3) No permission to amend a defence shall be granted unless the Minister is satisfied that:

(a) there exists any matter of fact or law which came in to light after the defence was sent to the Minister;

(b) it was not practicable to include in or omit from the defence, as the case may be, the subject-matter of the amendment proposed by the Authority at the time the defence was sent to the Minister; or

(c) there are exceptional circumstances to do so.

*Reply by  
Appellant*

177. (1) The appellant may file with the Minister a reply to the Authority's defence, not later than 21 days after the date on which the copy of the defence was sent by the Appeals Secretary to the appellant.

(2) The appellant's reply:

(a) shall contain a succinct presentation of the arguments of fact or law in reply to the Authority's defence;

(b) shall be signed and dated by the appellant, or on his behalf by his authorized representative or legal representative; and

(c) shall be accompanied by any documents supporting those arguments of fact or law in reply.

(3) To file a reply, the appellant shall lodge the duly signed original of the reply and any accompanying documents with the Minister, each certified by the appellant, or his authorized representative or legal representative, to be in conformity with the original, and shall also send the copies thereof to the Authority.

*Rejoinder by  
Authority*

178. (1) The Authority may file with the Minister a rejoinder to the appellant's reply under Regulations 176, not later than 21 days after the date it received the copies of the appellant's reply and the accompanying documents under Regulations 176(3) from the appellant.

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(2) The Authority's rejoinder:

(a) shall contain a succinct presentation of the arguments of fact or law in reply to the appellant's reply;

(b) shall be signed and dated by a duly authorized officer or the legal representative of the Authority; and

(c) shall be accompanied by any document supporting those arguments of fact or law in reply to the appellant's reply.

(3) To file a rejoinder, the Authority shall lodge the duly signed original of its rejoinder and any accompanying documents with the Minister, each certified by a duly authorized officer or the legal representative of the Authority to be in conformity with the original, and shall also send the copies thereof to the appellant.

*Extension of time*

179. (1) The Minister may, on the application of the appellant or the Authority, in his discretion, extend the period delimited under Regulations 178 or 179 for the sending of the reply or rejoinder, as the case may be.

*No New Ground to be Raised*

180. (1) Any reply of the appellant or rejoinder by the Authority under Regulations 176 or 177 shall not raise any new ground of appeal or defence, as the case may be, except with the permission of the Minister.

(2) Where any new ground of appeal or defence is raised without the permission of the Minister, the Minister may disregard it in his consideration of the appeal.

*Consolidation, etc.*

181. (1) Where 2 or more appeal proceedings are pending in relation to the same decision of the Authority, or involve the same or similar issues, the Minister may at any time, on the request of a party or of his own initiative, direct that the proceedings or any particular issue or matter raised in the proceedings be consolidated or heard together.

(2) All the parties to the relevant proceedings shall be entitled to make their submissions thereon before a direction under paragraph (1) is made.

*Directions*

182. (1) The Minister may at any time, whether at a case management conference or otherwise, on the request of a party or of his own initiative, give one or more of the directions referred to in paragraph (2), or such other directions as he thinks fit to secure the just, expeditious and economical conduct of the appeal proceedings.

(2) Without prejudice to the generality of paragraph (1), the Minister may give directions:

(a) as to the manner in which the proceedings are to be conducted;

(b) as to the issues on which he requires evidence, the nature of the evidence required, and the manner in which the evidence is placed before him;

- (c) for the preparation and exchange of skeletal arguments;
  - (d) for the filing by the appellant or the Authority of a core bundle or core bundles comprising a copy of every document on which the appellant or the Authority (as the case may be) rely, including the written statements of all witnesses of fact or expert witnesses (if any);
  - (e) requiring any person to attend and give evidence or to produce documents to the Minister or to a Panel established in respect of an appeal;
  - (f) inviting parties to make any submission on certain aspects of the proceedings;
  - (g) as to the submission of witness statements or expert reports before the hearing;
  - (h) as to the examination or cross-examination of witnesses;
  - (i) as to the abridgement or extension of any time limit;
  - (j) to enable the decision which is the subject of the appeal to be referred back in whole or in part to the Authority;
  - (k) for the disclosure between, or the production by, the parties of documents or classes of documents;
  - (l) for the appointment and instruction of experts by the parties, and the manner in which expert evidence is to be given;
  - (m) for hearing a person who is not a party where, in any proceedings, it is proposed to give a direction in relation to that person.
- (3) The Minister may, in particular, of his own initiative:
- (a) put questions to the parties and the witnesses;
  - (b) invite the parties to make written or oral submissions on certain aspects of the proceedings;
  - (c) ask the parties or third parties for information or particulars;
  - (d) ask for any document relating to the appeal to be produced; and
  - (e) summon the parties or their representatives to meetings.
- (4) A request by a party for directions shall be:
- (a) made in writing without delay; and
  - (b) served by the Appeals Secretary on any other party who may be affected by such directions, as determined by the Minister after taking into account the submissions (if any) of the parties.

*Case  
Management  
Conference*

183. (1) The Minister may at any time, on the request of a party or of his own initiative, give directions for a case management conference to be held before the Appeals Secretary where it appears to the Minister that any appeal proceedings would be facilitated by holding such a conference and, in particular:

- (a) to ensure the efficient conduct of the appeal proceedings;
- (b) to determine the points on which the parties have to present further arguments or which call for further evidence to be produced;
- (c) to clarify the terms of the orders sought by the parties, their arguments of fact and law and the points at issue between them;
- (d) to ensure that all agreements reached between the parties about the matters in issue and the conduct of the proceedings are recorded; or
- (e) to facilitate the settlement of the proceedings.

(2) In holding a case management conference under paragraph (1), the Appeals Secretary shall act in accordance with such general or specific instructions as the Minister may issue with regard thereto.

(3) Unless the Minister otherwise directs, a case management conference shall be held as soon as practicable after the filing of the defence by the Authority unless a reply is filed within the time delimited by Regulations 176, 177, 178 and 179, in which case after the filing of the rejoinder.

(4) A case management conference shall be held in private unless the Minister otherwise directs.

*Evidence*

184. (1) The Minister:

- (a) is not bound by any written law relating to evidence; and
- (b) may give directions as to:
  - (i) the issues on which he requires evidence;
  - (ii) the nature of the evidence which he requires to decide those issues; and
  - (iii) the manner in which the evidence is to be placed before him.

(2) The Minister may, in his discretion, receive new evidence on any matter relating to an appeal if he is satisfied that:

- (a) the evidence could not have been obtained with reasonable diligence at the time of the Authority's appealable decision;

(b) the evidence, if given, would have had an important influence on the result of the case, though it need not be decisive; and

(c) the evidence is credible.

*Minister May  
Obtain  
Information*

185.(1) Where the Minister requires any person to provide information under Regulations 163(4) in relation to an appeal, a copy of such information shall be given to the parties to the appeal, who shall be invited to make their submissions thereon.

*Requests for  
Confidential  
Treatment*

186. (1) A request for the confidential treatment of a document or part of a document filed or provided in connection with any appeals proceedings before the Minister:

(a) shall be made in writing by the party who submitted the document or provided such a document when submitting or providing such a document;

(b) shall, where the request relates to part of a document, state the relevant words, figures or passages for which confidentiality is claimed; and

(c) shall contain the reasons for the request for withholding the document from the other party to the appeals proceedings and, where the request relates to part of a document, the reasons specific to each part thereof.

(2) The party making the request for the confidential treatment of a document or part of a document shall also file with the Minister, if the party considers it possible to summarise or redact the material in the document, a non-confidential version of the document in a form which can be served on the other party.

(3) No request for confidential treatment shall be considered if the request does not comply with paragraph (1), unless the Minister considers that the circumstances are exceptional.

(4) The Minister may grant confidential treatment in relation to any document or part thereof, on such terms and conditions as he thinks fit (including changes to the summary or redacting of material in any non-confidential version filed under paragraph (2)), if he is satisfied that the document or part thereof contains:

(a) information the disclosure of which would, in his opinion, be contrary to the public interest;

(b) commercial information the disclosure of which, in his opinion, would or may significantly harm the legitimate business interests of the undertaking to which it relates; or

(c) information relating to the private affairs of an individual the disclosure of which, in his opinion, would or may significantly harm the interests of that individual.

(5) In the event of a dispute as to whether confidential treatment should be granted, the Minister shall decide the matter after hearing the parties, taking into account the matters referred to in paragraph (4).

(6) The Minister shall not rely on any document or part thereof to which confidential treatment has been granted, for the purposes of considering the appeal and making a determination for resolving it, but may rely on the non-confidential version filed (if any) under paragraph (2) or (7)(a), as the case may be.

(7) When the Minister grants confidential treatment in relation to any document or part thereof under this rule in connection with any appeals proceedings, the party making the request for the confidential shall, no later than 5 days after the Minister's decision:

(a) in the case where the grant is subject to changes to the summary or redacting of material in any non-confidential version of that document filed under paragraph (2), accordingly change the non-confidential version of the document filed and file the revised non-confidential version with the Minister, and send to the other party to the appeals proceedings the revised non-confidential version, notifying the other party that it has been redacted or summarized; or

(b) in any other case, send to the other party to the appeals proceedings the non-confidential version filed under paragraph (2) (if any), notifying the other party that it has been redacted or summarized.

*Failure to  
Comply with  
Directions or  
Time Limits*

187. (1) If a party to any appeal proceedings fails to comply with any direction given by the Minister in accordance with these regulations, the Minister may, if he considers that the justice of the case so requires, order that such party be debarred from taking any further part in the proceedings without the permission of the Minister.

(2) The Minister, in his consideration of an appeal, may disregard any notice, defence, reply, rejoinder or other submission or document served on the Minister after the expiry of the time limit for the service of such submission or document imposed by any provision of these regulations or any direction of the Minister.

*Adjournment*

188. (1) The Minister may, in his discretion, adjourn any hearing of an appeal on any ground and may fix a date for a further hearing.

(2) The Minister may, on the conclusion of a hearing of an appeal, adjourn for any period of time for the purpose of considering his decision.

*Non-attendance  
of Parties*

189. (1) If, at the time appointed for the hearing of an appeal, any party to the proceedings does not appear, the Minister may, if he is satisfied that the party has been duly notified of the hearing, proceed with the hearing and make such order as he thinks fit.

*Decision of  
Minister to be  
Notified, etc.*

190. (1) The Appeals Secretary shall notify the appellant, the Authority and any other party in the appeal of the Minister's decision in respect of the appeal, and reasons for his decision.

*Formation of  
Panel*

191. (1) If at any time after:

March 8, 2017

(a) a reply and rejoinder is filed under these Regulations with respect to an appeal lodged against an appealable decision; or

(b) if no reply or rejoinder is filed, a notice of appeal is lodged with respect to an appeal against an appealable decision and a defence thereto is filed in accordance with these Regulations,

The Minister considers that the appeal involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialized knowledge, he may by direction establish a Panel to provide advice to the Minister with regard to the discharge of his functions under Regulations 161 in respect of the appeal.

(2) Without prejudice to Regulations 187, once a direction is made under paragraph (1) to establish a Panel in respect of an appeal, the Minister shall adjourn the appeal proceedings and fix a date for a further hearing after he receives the advice of the Panel on the appeal.

(3) Subject to Regulations 191(4), a Panel established in respect of an appeal shall comprise a chairperson and 2 or more other members as the Minister may appoint from among persons with such particular technical or other specialized knowledge as the Minister considers appropriate for that appeal.

(4) The Panel established in respect of an appeal shall dissolve immediately upon the withdrawal of the appeal or upon the Minister's decision on that appeal.

*Conflicts of  
Interests*

192. (1) If the chairperson or a member of the Panel appointed with respect to an appeal to the Minister has or acquires an interest, direct or indirect, in the appeal referred to it by the Minister or other matter relating to the appeal which is before the Panel, he shall:

(a) within 48 hours after receiving notice of his appointment as such or becoming aware of the acquisition of such interest, as the case may be, declare the nature, character and extent of his interest to the Minister; and

(b) immediately not, or cease to, take part in the consideration or discussion of, or vote on any question with respect to that appeal or other matter.

(2) Upon receiving any declaration under paragraph (1)(a) from the chairperson or a member of the Panel appointed with respect to an appeal to the Minister, the Minister may appoint another person to be the chairperson or member of the Panel in substitution of that chairperson or member as the case may be.

(3) A chairperson or member of a Panel is to be regarded as having an interest in an appeal or other matter relating to an appeal if –

(a) he holds any office or possesses any property whereby, directly or indirectly, duties or interests are or might be created in conflict with his duties or interests as the chairperson or member of the Panel in relation to the consideration of the appeal or matter;

(b) he has a direct or indirect interest in a contract or proposed contract with any party to the appeal or concerning any matter relating to the appeal and the interest does or could conflict with the proper performance of his duties as the chairperson or member of the Panel in relation to the consideration of the appeal or matter; or

(c) any of his immediate family members:

(i) holds any office or possesses any property whereby, directly or indirectly, duties or interests are or might be created in conflict with his duties or interests as the chairperson or member of the Panel in relation to the consideration of the appeal or matter; or

(ii) has a direct or indirect interest in a contract or proposed contract with any party to the appeal or concerning any matter relating to the appeal and the interest does or could conflict with the proper performance of his duties as the chairperson or member of the Panel in relation to the consideration of the appeal or matter.

(4) No chairperson and no member of the Panel shall be a member, employee or officer of the Authority.

(5) In this regulation, “immediate family members”, in relation to the chairperson or a member, means a spouse, a child, an adopted child, a step-child, a sibling or step-sibling, a parent or step-parent of the chairperson or member, as the case may be.

*Proceedings of  
the Panel*

193. (1) The direction under Regulations 190(1) establishing a Panel with respect to an appeal shall specify the terms of reference of the Panel, in particular the matters or issues the Minister requires advice on, and the procedure to be adopted by the Panel in considering the appeal referred to it.

(2) A Panel shall start its proceedings no later than 28 days after the date of the direction under Regulations 190(1) establishing the Panel with respect to an appeal, and shall submit a report of its advice to the Minister with respect to the appeal no later than 2 months after that date of the direction.

(3) After direction under Regulations 190(1) is made with respect to an appeal, the Appeals Secretary shall forward to the Panel copies of every notice of appeal, defence, reply and rejoinder filed in respect of the appeal, together with all such documents accompanying these documents sent to the Minister, except that where the Minister has granted confidential treatment in relation to any document or part thereof under Regulations 185, only the non-confidential version thereof filed under Regulations 185(2) or (7)(a) shall be forwarded.

(4) The Panel’s proceedings shall be private.

(5) The chairperson is responsible for the proper conduct of proceedings before the Panel.

(6) The Panel may of its own initiative require any party to answer any question, or produce any document or other material in his possession or under his control, which relate to any issue or matter in question in the appeal proceedings.



(7) The Panel shall, so far as it appears to it to be appropriate, seek to avoid undue formality in its proceedings and shall conduct its proceedings in such manner as it considers appropriate for the clarification of the issues before it and generally for the just, expeditious and economical conduct of the proceedings.

(8) Unless the Minister otherwise directs, no expert or witness of fact shall be heard by the Panel unless the relevant expert or witness statement has been submitted before the direction under the Regulations 190(1) establishing the Panel and in accordance with any direction of the Minister.

(9) The record of the proceedings before the Panel and its advice to the Minister in respect of any appeal shall be signed by the chairperson.

*Non-payment  
of Fee for  
Appeals*

194. (1) Unless otherwise directed by the Minister, the fee specified in Regulations 167 shall be paid to the Appeals Secretary, in such manner as the Minister may direct, at the time that the notice of appeal is lodged.

(2) Where the cheque or authorization for the payment of any fee referred to in paragraph (1) is subsequently dishonoured and payment is not received by the Appeals Secretary within 7 days after the cheque is dishonoured, the notice of appeal to which that fee relates shall be deemed as not having been lodged.

*Time*

195. (1) A period expressed in days or months after or from the happening of an event or the doing of any act or thing shall exclude the day on which the event happens or the act or thing is done.

(2) A period expressed in months shall end with the expiry of whichever day in the last month is the same day of the month as the day on which the event or the act or thing after or from which the period is to be calculated happens or is done.

(3) If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month.

(4) Where the time specified by the Minister, Panel or these regulations for doing any act expires on a Saturday, Sunday or public holiday, the act is in time if done on the next following working day.

*Irregularities*

196. (1) Any irregularity resulting from a failure to comply with any provision of these regulations before the Minister has reached his decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Minister, he may give such directions as he thinks fit just to cure or waive the irregularity before reaching his decision if he considers that any person may have been prejudiced by the irregularity.

(3) The following may be corrected at any time by the chairperson by certificate under his hand:

(a) clerical mistakes in any document recording an advice of the Panel, or any proceedings under these regulations before the Panel; or

(b) errors arising in such a document from an accidental slip or omission.

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