

2011 No. 69

AIRPORTS

The City of Derry Airport (Control Over Land) Order (Northern Ireland) 2011

Made - - - - *3rd March 2011*

Coming into operation - *4th April 2011*

Derry City Council is the airport operator of an airport to which Article 8 of the Airports (Northern Ireland) Order 1994(a) (“the 1994 Order”) applies.

The Department for regional Development(b) has received representations from the airport operator that it is reasonably necessary in order to secure the safe and efficient operation of the airport that the area of land specified in this order shall be subject to control by directions.

The Department being satisfied that it is necessary to do so, in exercise of the powers conferred by Article 8 of the 1994 Order and now exercised by it hereby makes the following order:

Citation and commencement

1. This Order may be cited as the City of Derry Airport (Control Over Land) Order (Northern Ireland) 2011 and shall come into operation on 4th April 2011.

Interpretation

2. In this Order—

“the Department” means the Department for Regional Development;

“directions” means directions given under this order;

“the map” means the map attached to this order and showing the area of land subject to control; and

“the specified areas of land” has the meaning given in Article 3.

Areas of land subject to control by directions

3.—(1) The Department hereby declares that the specified areas of land shall be subject to control by directions.

(2) In this order “the specified areas of land” means the area of land which is shown outlined by a continuous red line on the map being land situated within parts of the areas of the local government district of Derry City Council and Limavady Borough Council.

(a) S.I. 1994/No. 426 (N.I. 1)

(b) S.I. 1999/283 (N.I. 1) Article 3(1)

(3) Where such a continuous red line on a map is shown along a road, path, or other similar topographical feature it shall be treated as being along the centre thereof.

(4) In this Article “the map” means the map marked “City of Derry Airport – Specified Areas of Land” which has been signed and sealed with reference to this order and deposited at the office of the Department at Clarence Court, Adelaide Street, Belfast, BT2 8GB.

Authority to give directions

4. The Department is hereby authorised to give directions, either generally or specifically, in relation to the specified areas of land for any of the purposes set out in paragraphs (a) to (g) of Article 8(3) of the 1994 Order.

Appeals

5.—(1) Any person aggrieved by

- (a) the refusal of the Department to give its consent under paragraph (3)(a) of Article 8 of the 1994 Order; or
- (b) any condition subject to which any such consent is given

may appeal to the Planning Appeals Commission (“the Commission”) within 28 days beginning with the date of the decision.

(2) A person who wishes to appeal to the Commission under paragraph (1) shall give to the Commission written notice of the appeal, together with a statement of the grounds of the appeal.

(3) The Commission shall determine the appeal and paragraphs (1), (3), (4) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991^(a) shall apply in relation to the determination of the appeal as they apply in relation to an appeal under that Order.

(4) If either party to the appeal so requests, the Commission shall afford to each of them an opportunity of appearing before and being heard by the Commission.

(5) Notice of appeal shall be accompanied by a fee as specified in regulation 17(1) of the Planning (Fees) Regulations (Northern Ireland) 1995^(b) as if it were an appeal to the Commission under the Planning (Northern Ireland) Order 1991.

Bringing buildings, etc. into conformity with directions

6.—(1) Where a direction has not been complied with on the expiration of 14 days from the date of its coming into operation, an authorised person may remove, pull down, cut down or alter so as to bring into conformity with the requirements of the direction, any building, structure, tree or apparatus which contravenes those requirements.

(2) For the purposes of paragraph (1), an authorised person shall, on production of his authorisation, have the right to enter on any part of the specified areas of land at all reasonable hours.

(3) Admission to land for the purposes of paragraph (1) shall not be demanded as of right unless at least 7 days notice of the intended entry has been given to every person appearing to the Department to be an owner, occupier or lessee of the lands to which entry is sought.

(4) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with that purpose.

(5) If it is shown to the satisfaction of a lay magistrate on a sworn complaint in writing—

(a) S.I. 1991/1220 (N.I. 11)

(b) S.R. 1995 No.78

- (a) that admission to land which any person is entitled to enter by virtue of paragraph (2) has been refused to that person, or that refusal is apprehended, or that land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency; and
- (b) that there are reasonable grounds for entry to the land for any purpose for which entry is required

the lay magistrate may by warrant under his hand authorise that person to enter the land, if need be by force.

(6) Any person entitled to enter on any land by virtue of paragraph (2) or of a warrant issued under paragraph (5)—

- (a) may take with him such other persons and such equipment as may be necessary, and
- (b) on leaving any unoccupied land which he has entered by virtue of such a warrant shall leave as effectually secured against trespassers as he found it.

(7) Every warrant granted under paragraph (5) shall continue in force until the purposes for which entry is necessary has been satisfied.

(8) Where an authorised person enters on land for the purposes of paragraph (1), he shall reinstate the land as soon as possible.

(9) In this Article “authorised person” means any person authorised in writing by the Department for the purposes of this Article.

Revocations

7. The statutory provisions specified in columns 1 and 2 of the Schedule are hereby revoked to the extent specified in column 3 of the Schedule.

Sealed with the Official Seal of the Department for Regional Development on 3rd March 2011.



B.R.D. White
A senior officer of the Department for Regional Development

SCHEDULE 1
Statutory Provisions Revoked

Article 7

Chapter	Short Title	Extent of Revocation
S.R. (N.I.) 1989 No. 434	Eglinton Airport (Control Over Land) Order (Northern Ireland) 1989	The whole Order

EXPLANATORY NOTE

(This note is not part of the Order)

Under Article 8 of the Airports (Northern Ireland) Order 1994 an airport operator may, request the Department to make an order for control over land in relation to the safe and efficient operation of an airport.

The specified areas of land subject to such control and which may be subject to directions made by the Department are identified by means of a map marked “City of Derry Airport – Specified Areas of Land”, signed and sealed with reference to this order. The map is available for inspection at any reasonable hour at the office of the Department for regional Development, Clarence Court, Adelaide Street, Belfast, BT2 8GB.

The Department may give directions in relation to the specified areas of land for any of the purposes set out in Article 8 (3) of the Airports (Northern Ireland) Order 1994.

Article 5 confers a right of appeal on any person who is aggrieved by a decision of the Department to refuse consent under paragraph (3)(a) of Article 8 of the 1994 Order or to give its consent subject to conditions.

The order empowers the Department to authorise any person to carry out work to bring any structure, building, tree or apparatus within the specified areas into conformity with the requirements of the direction and gives a person so authorised power to enter into land for these purposes.

An airport operator must pay compensation in respect of any expenditure reasonably incurred by any person for carrying out work which is required (by a direction given under Article 8 of the Airports (Northern Ireland) Order 1994) to be carried out in relation to an airport.

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