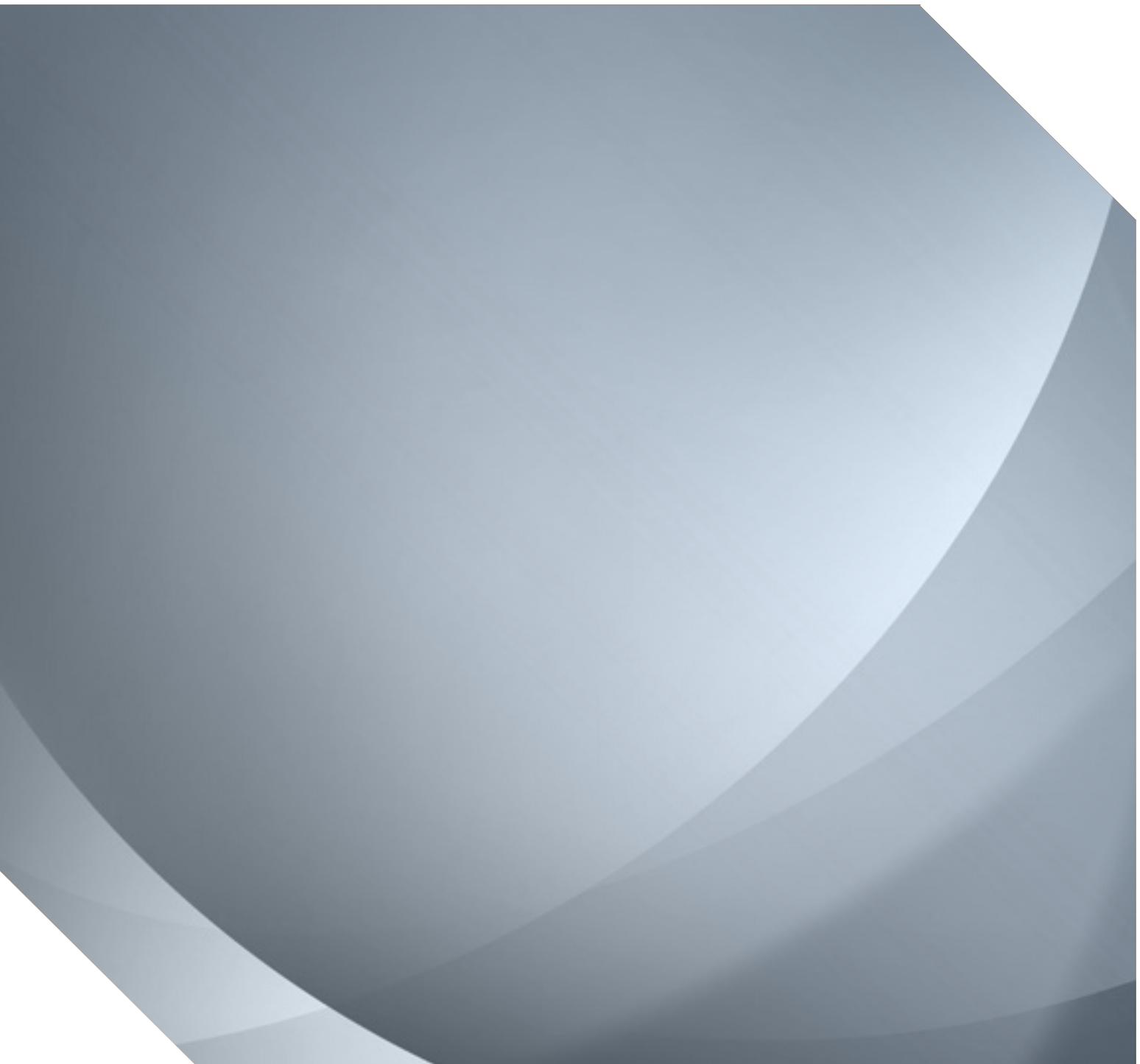


# Guidance for applicant: Conduct of reviews of decisions or proposals made by the CAA Safety and Airspace Regulation Group

## Regulation 6 of the Civil Aviation Authority Regulations 1991

**CAP 1048**





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# Guidance on requesting a review of decision to refuse or a proposal to vary, suspend or revoke made by CAA SARG

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## Introduction

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1. The types of decisions or proposals made by the CAA Safety and Airspace Regulation Group (SARG) which are subject to review are defined in Regulation 6 of the Civil Aviation Authority Regulations 1991 (extract attached at Annex A). When such a decision to refuse an application or a proposal to vary, suspend or revoke a licence, certificate or approval etc is received the 'applicant' may request a review to be undertaken by Members of the CAA Board. Non-executive Members are appointed by the Secretary of State for Transport.

## How do I request a review?

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2. The letter containing the notification of the CAA SARG decision/proposal will provide details on whom to contact to request a review.

## What happens next?

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<b>Applicant requests review</b>	The applicant may within 14 days of a decision or proposal request a review.
<b>The applicant is notified of the timetable for the review</b>	A Review Panel Lawyer is appointed to manage the review and will write to the applicant with details of the review including the timetable for submissions.
<b>Brief prepared by CAA SARG</b>	SARG will produce a brief (as described below) setting out their case.
<b>Brief sent to applicant who prepares representations</b>	<p>The brief is sent to the applicant who then has the time specified in the notified timetable to submit written representations of their case <sup>1</sup></p> <p><sup>1</sup> Regulation 6(7) refers to representations being sent within 21 days, but any representations sent after that period but within the time specified in the timetable notified to the applicant will be taken into account.</p>

<b>SARG may comment on the applicant's representations</b>	The applicant's representations are considered by SARG who may submit comments
<b>The applicant may submit a response to the SARG comments</b>	The SARG comments are sent to the applicant who may submit a response
<b>Bundle of documents circulated</b>	The Review Panel Lawyer circulates a bundle of documents for the hearing comprising the SARG Brief, applicant's representations, SARG comments (if any) and the applicant's response (if any)
<b>Date of hearing fixed</b>	A date for the hearing will be fixed by the Panel appointed to conduct the Review. This date may only be changed in exceptional circumstances.
<b>Review hearing</b>	Review conducted by Members of CAA Board and the decisions normally available within 10 days of the review

## What is in the brief?

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3. The Brief is compiled by the SARG and will contain detailed reasons for the decision or proposal.

## What happens during the review?

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4. The applicant will be offered an oral hearing. The hearing may be attended by:
  1. The Panel;
  2. A technical assessor (if one has been appointed);
  3. The Review Panel Lawyer, who advises the Panel;
  4. The applicant;
  5. The applicant's supporters, who may include legal representative and witnesses;
  6. The relevant SARG employee(s);
  7. The SARG Lawyer, who advises the SARG employees;
  8. A shorthand writer who will prepare a transcript of the hearing which will be made available to all parties;

9. Members of the public unless the hearing is to be in private (see next section).
5. The hearing will be based on the document bundle circulated to the parties (comprising the SARG Brief, applicant's representations, SARG comments (if any) and the applicant's response (if any)). The applicant has the opportunity to make oral representations, seek clarification and ask questions of the SARG employees. SARG employees will be given the opportunity to seek clarifications, comment on the oral representations and question the applicant. The last word will go to the applicant.
6. If any new information or arguments are introduced, either by the applicant or SARG employees, which were not contained within the documents, the hearing may be adjourned to allow time for all parties to consider the new issues.
7. A transcript of the hearing will be supplied to applicant.
8. If the applicant decides not to attend or be represented at the oral hearing, the review will be undertaken by the CAA Board Members based on the documents.

## **Hearing to be in public**

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9. The hearing will be in public unless either the applicant or SARG request it to be in private and the CAA Board Members are satisfied that it may be held in private in accordance with the provisions of Regulation 6(7A) of the Civil Aviation Authority Regulations (see below).

## **The decision**

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10. The applicant will be informed, in writing, of the decision and the reasons for it, normally within 7 to 10 days of the hearing.

## **Publication of the decision**

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11. Normally, decisions will be published in full on the CAA website, including the name of the person or organisation concerned. Two years after the hearing, the report will be disidentified.
12. After a further three years (so five years after the hearing), the report will be removed from the website.

13. Where a hearing has been held in private, there will be redacted any material referring to the matters in respect of which the decision to hold the hearing in private had been based.
14. In addition, representations may be made by an appellant, at the hearing or separately, putting forward reasons why, exceptionally, the decision should not be published in full. Such representations will be considered by the CAA Board Members and their determination notified to the appellant.

## **Rights of appeal to the court**

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15. If a personnel licence granted under the Air Navigation Order is refused, revoked, suspended or varied on the grounds that the CAA SARG does not consider the person concerned a fit person (in terms of character as opposed to medical fitness) to hold such a licence, that person has a right of appeal to the County Court against the decision of the CAA Board Members. The appeal should be filed within 21 days of the date of the decision letter.
16. There is no such appeal in relation to:
  - a decision on grounds of fitness relating to any other sort or licence, certificate or approval including any licence, certificate or approval issued under an EASA regulation.
  - any decision taken by the Panel on the grounds of competence.

## **Reapplication**

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17. It should be noted that after a decision to revoke, refuse a licence etc, is made the applicant may at any time in the future reapply. Clearly, if a further application is made quite soon after a decision has been reached then in the absence of any relevant new material in support of the applicant the CAA SARG is likely to reach the same decision. However, it is important that the applicant understands that a refusal or revocation is not for life.

## **Regulation 6 review complaints procedure**

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18. If you have any complaint concerning the manner in which a review is conducted, you may write to the General Counsel & Secretary to the Civil Aviation Authority, CAA House, 45-59 Kingsway, London WC2B 6TE.

### **Office of the General Counsel**

Civil Aviation Authority

July 2014

## **ANNEX A**

# Extract from the Civil Aviation Authority Regulations 1991

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## **Regulation of the conduct of the Authority**

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6 (1) The functions conferred on the Authority by or under Air Navigation Orders with respect to:

- a) registration of aircraft;
- b) certification of operators of aircraft;
- c) certification of airworthiness of aircraft;
- d) noise certification;
- e) certification of compliance with the requirements for the emission by aircraft engines of unburned hydrocarbons;
- f) personnel licensing;
- g) licensing of aerodromes;
- h) validation of any certificate or licence;
- i) approval of equipment and approval or authorisation of persons;
- j) approval of schemes for the regulation of the flight times of aircraft crew;
- k) receiving reports of reportable occurrences;
- l) making air traffic directions;
- m) making airspace policy directions;

are hereby prescribed for the purposes of section 7(2) of the Act.

(2) Subject to paragraphs (8) and (9) of this regulation, a decision with respect to any of the matters referred to in paragraph (1) of this regulation, being a decision to register, refuse to register, cancel or amend the registration of an aircraft or to grant, refuse to grant, validate, refuse to validate, revoke, suspend, vary or refuse to vary a certificate, licence, approval, authorisation or rating, or make an air traffic direction

or an airspace policy direction may be made on behalf of the Authority only by a member or employee of the Authority.

(3) Subject to paragraphs (8), (9) and (10) of this regulation, where:

- a) it is decided that it would be inexpedient in the public interest for an aircraft to be registered in the United Kingdom; or
- b) an application for the grant, validation or variation of a certificate, licence, approval, authorisation or rating has been refused or granted in terms other than those requested by the applicant;

the Authority shall serve on the applicant a notice stating the reasons for the decision, and the applicant may within 14 days after the date of service of that notice request that the case be reviewed by the Authority.

(4) Subject to paragraphs (8), (9) and (10) of this regulation, where it is proposed to:

- a) cancel the registration of an aircraft on the grounds that it would be inexpedient in the public interest for it to continue to be registered in the United Kingdom; or
- b) revoke, suspend or vary a certificate, licence, approval, authorisation, validation or rating or make an air traffic direction or an airspace policy direction under an Air Navigation Order otherwise than on the application of the holder;

the Authority shall serve on the person concerned notice of the proposal together with the reasons for it, and the person concerned may within 14 days after the date of service of that notice, serve on the Authority a request that the case be decided by the Authority and not by any other person on its behalf.

(5) Any person who has failed any test or examination which he is required to pass before he is granted or may exercise the privileges of a personnel licence may within 14 days after being notified of his failure, request that the Authority determine whether the test or examination was properly conducted.

- (6) a) The function of deciding a case where such a request as is referred to in paragraph (3), (4) or (5) of this regulation has been duly Served on the Authority is hereby prescribed for the purposes of section 7(1) of the Act: and for the purpose of making any decision in such a case a quorum of the Authority shall be one member.
- b) The Authority shall sit with such technical assessors to advise it as the Authority may appoint, but the Authority shall not appoint as an assessor any person who participated in the decision or proposal or in giving or assessing the test or examination which is to be the subject of the Authority's decision.

(7) Where a request under paragraph (3), (4) or (5) has been duly served, the Authority shall, before making a decision:

- a) consider any representations which may have been served on it by the person concerned within 21 days after the date of service of the notice under that paragraph given by the Authority; and
- b) where the person concerned has requested the opportunity to make oral representations in his representations under subparagraph (a) above, afford him an opportunity to make such representations and consider them.

- (7A) a) Where an oral hearing is held it shall be held in public except where the Authority is satisfied that, in the interests of morals, public order, national security, juveniles or the protection of the private lives of the parties a private hearing is required, or where it considers that publicity would prejudice the interests of justice.
- b) The following persons shall be entitled to attend the hearing of an appeal, whether or not it is in private:
  - i) a member of the Council on Tribunals or of the Scottish Committee of that Council; and
  - ii) any other person which the Authority, with the consent of the parties, permits to attend the hearing.

(8) Nothing in this regulation shall:

- a) prevent the Authority or any person authorised so to act on behalf of the Authority from provisionally cancelling the registration of an aircraft or provisionally suspending or varying any certificate, licence, approval, authorisation, validation or rating granted or having effect under an Air Navigation Order or making a provisional air traffic direction pending inquiry into or consideration of the case;
- b) apply to the variation of a flight manual, performance schedule or other document incorporated by reference in a certificate of airworthiness;
- c) apply where the Authority refuses to register or cancels or amends the registration of an aircraft or refuses to grant or validate, grants or validates in terms other than those requested by the applicant, revokes, suspends or varies a certificate, licence, approval, authorisation or rating pursuant to a direction given by the Secretary of State.

(9) Nothing in paragraphs (2), (3) or (4) of this regulation shall apply:

- a) in respect of a medical certificate or certificate of test or experience relating to a personnel licence;
- b) where pursuant to its duty under section 5 of the Act, the Authority refuses an application for the grant of an aerodrome licence or grants such an application in terms other than those requested by the applicant or proposes to revoke, suspend or vary an aerodrome licence otherwise than on the application of the holder.

(10) Nothing in paragraphs (3) or (4) of this regulation shall apply where the Authority:

- a) refuses an application by the holder of an aerodrome licence for the substitution of an ordinary aerodrome licence for a public use aerodrome licence; or
- b) proposes, otherwise than on the application of the licence holder, to substitute a public use aerodrome licence for an ordinary aerodrome licence.