



# Transport Licensing Authority

## APPLICATION FOR A GUERNSEY AIR TRANSPORT LICENCE

1.

Name of Applicant (including any trading name): \_\_\_\_\_

Address for Correspondence: \_\_\_\_\_

Contact Information: Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

e-mail: \_\_\_\_\_

2.

Route to which the application relates: \_\_\_\_\_

3.

Is the application for: a scheduled passenger service ? or

a charter passenger service ?

Will cargo be carried as part of the service ?

Yes

☐

No


4.

Applicants must hold a valid Civil Aviation Authority Licence. Please state the relevant

licence number: \_\_\_\_\_

5.

Will the flights to which the application refers include flights to or from:

- any other place in the United Kingdom ?\*,
- the Isle of Man ?,
- Alderney ?, or
- Jersey ?


\* If yes, please specify: \_\_\_\_\_

6.

Proposed date of commencement of service: \_\_\_\_\_

7.

Period of service:      year-round

seasonal


state period: \_\_\_\_\_

Frequency of service: \_\_\_\_\_

\_\_\_\_\_

8.

Type of aircraft to be used and seating capacity: \_\_\_\_\_

\_\_\_\_\_

Other aircraft in the applicants fleet, including seating capacity, that are considered suitable for the route:

\_\_\_\_\_

\_\_\_\_\_

9.

Proposed fare structure: \_\_\_\_\_

\_\_\_\_\_

10.

Contingency plan if services are delayed or disrupted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11.

Explain the need and/or demand for this service and the benefits that will derive to users and Guernsey if the application is granted:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12.

How will the service be promoted ? : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13.

In the case of an application for a charter service, name and contact information of the charterer:

\_\_\_\_\_

\_\_\_\_\_

#### **APPLICATION AND DECLARATION**

I, the undersigned, hereby apply for the grant of a licence as described in this application and I declare that, to the best of my knowledge and belief, the statements given in this application and the contents of any documents accompanying it are true.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Position: \_\_\_\_\_

**NOTE: Section 18 of the Air Transport Licensing (Guernsey) Law 1995 makes it an offence to knowingly or recklessly produce information to the Department which is false, deceptive or misleading.**

Applications, supporting documents and evidence of insurance must be sent to the Transport Licensing Authority, Raymond Falla House, P.O.Box 459, Longue Rue, St Martin, Guernsey, GY1 6AF.

## NOTES FOR APPLICANTS

1. **A copy of a valid insurance document must accompany an application**
2. Licences are issued under the Air Transport Licensing (Guernsey) Law, 1995.
3. The procedures that the Authority will apply are set out in Appendix 1.
4. Notice of an application will be published in the Gazette Officielle of the Guernsey Press, in the Official Record of the Civil Aviation Authority and on the States of Guernsey website on the Tuesday that next follows its receipt by the Authority.

It is the policy of the Authority to publish the application form and **all** accompanying information on the States of Guernsey website or to make this information available, on request.

**If an applicant wishes to submit commercially sensitive information, it must be separate from any other information and accompanied by a written request that the information is not made public and a justification for that request. The Authority will only grant such a request in exceptional circumstances and provided that it is satisfied that the reasons are justified. If a request is refused, an applicant will be given the opportunity to withdraw or modify the information, otherwise it will be made public.**

5. An applicant is strongly advised to provide as much information as possible with an application. For the avoidance of doubt, the Authority reasonably expects that an application will contain detailed information addressing the following matters:
  - (a) the need or demand for the service and the benefits that users might derive from such a service;
  - (b) the proposed fare structure;
  - (c) contingency plans; and
  - (d) the proposed frequency of services.

These headings are for guidance only and must not be taken to be an exhaustive list of matters that will be determinative of the application. The applicant must have regard to its own experience and expertise when deciding what information to submit to the Authority in support of its application.

If there is insufficient space on the application form for this information, it should be submitted on separate sheets.

6. **An applicant is also strongly recommended to review the Policy Statement (see Appendix 2) and to provide the Authority with a written statement as to how it considers the proposed service will fulfil the objectives set out in that document.**

7. It is recommended that applicants provide as much information as possible with the application to assist the Authority in its decision making. If the information is insufficient, the Authority may require additional information and documents to be furnished. Applicants should be aware that this will delay the determination of the application.

## **APPENDIX 1**

### **PROCEDURES**

#### **1. The objectives**

- 1.1 The Transport Licensing Authority aims to make the procedure for applying for an air transport licence understandable, transparent, fair and just. This includes (but is not necessarily limited to), so far as is practicable:
- (a) using clear, unambiguous and understandable language in all of its publications and communications with interested parties;
  - (b) where appropriate, conducting its business in public;
  - (c) dealing with the application in ways that are proportionate to:
    - (i) the importance of the application;
    - (ii) the complexity of the issues involved; and
    - (iii) saving expense and avoiding unnecessary delay;
  - (d) ensuring that the application is dealt with expeditiously and fairly; and
  - (e) allotting to it an appropriate share of the Authority's time and resources.
- 1.2 Where, in the Authority's opinion, circumstances require a departure from the procedure set out in this document, it will continue to abide by the principles of natural justice, seek to achieve fairness and be guided by the objectives set out above.
- 1.3 Throughout the application process, the Authority will require all interested parties to help them further these objectives.

#### **2. The Authority**

- 2.1 The Transport Licensing Authority is a committee of the States constituted on 1<sup>st</sup> May 2016. The members are:

Deputy B.Paint, President  
Deputy D.Tindall, Vice-President

Deputy J.Gollop  
Deputy E.Yerby  
Deputy C.Meerveld

It is the function of the Authority to determine applications for air route licences and to carry out any other transport licensing and regulatory functions which the States may confer on it from time to time.

### **3. Applications**

- 3.1 An application must be submitted on the standard application form and must be accompanied by a writing statement setting out the following information -
- a) the grounds for the application, and
  - b) the evidence on which the applicant intends to rely.
- 3.2 An applicant may also submit other written information in support of an application.
- 3.3 Please see paragraph 4.3 regarding confidential information.

### **4. Publication of the application**

- 4.1 Notice of the application will be published in the Gazette Officielle and Official Record of the Civil Aviation Authority. Publication will normally be on the first Tuesday following receipt of an application, taking account of deadlines for the submission of notices in these two publications, unless the Authority requests further information from the applicant.
- 4.2 Pursuant to its objective of transparency, and subject to paragraph 4.3, the application and all supporting information will be published on the States of Guernsey website.
- 4.3 The applicant may request the Authority to treat any part of the application or supporting information as confidential. Such a request should be made to the Authority at the time of application, setting out the reasons for that request.
- 4.4 If the Authority rejects the request, the applicant will have the opportunity to withdraw the application or any supporting information.

### **5. Representations following publication of the application**

- 5.1 Following publication of the application pursuant to s.15 of *The Air Transport Licensing (Guernsey) Law, 1995* ("the Law"), a period of 14 days will be allowed for interested parties to make representations to the Authority. This period may be extended at the discretion of the Authority to take account of exceptional circumstances (for example, extended periods of public holidays or illness).

5.2 Any person wishing to make representations (“representors”) in support of or objecting to the application will be able to obtain a copy of the application and **all** additional and/or supporting information provided by the applicant from the States of Guernsey website, alternatively will be available for inspection or, if resources permit, will be provided with copies of these documents on request.

5.3 Representors must:

- (a) make their representations to the Authority in writing; and
- (b) must state clearly the grounds for the representation and any information and/or evidence upon which they propose to rely.

5.4 All representations will be passed by the Authority, **in full**, to the applicant.

5.5 In the event that the Authority decides to convene a hearing, and subject to the matters set out below, all representors and the applicant will have the opportunity to make an oral presentation at the hearing. A representor is not obliged to make an oral presentation and, whether they do or not, their written submission will be taken into account by the Authority.

## **6. Applicant’s representations in response**

6.1 The applicant will be allowed a further 14 days in which to submit representations in writing to the Authority in response to the representations of interested parties.

## **7. Determination of the application**

7.1 If no representations in response to the application are received, the Authority will determine the application according to the Law and taking account of all of the information provided by the applicant and the matters specified in s.7 of the Law, including the applicable Policy Statement (currently that approved by the States of Deliberation in 2013).

7.2 If representations have been received in response to the application, the Authority may (in its absolute discretion) convene a hearing (see below). If the Authority decides not to convene a hearing, it will determine the application taking account of all the matters described above and, in addition, the written representations made in response to the application and any made in response thereto by the applicant.

## **8. Hearings**

8.1 At its absolute discretion, and only if it considers it necessary to further the objectives set out in section 1 above, the Authority may convene a hearing to receive oral presentations from the applicant and representors. The Authority may, if it thinks it necessary to further the objectives set out in section 1, limit or exclude oral presentations and may make directions accordingly.



8.2 If the Authority decides to hold a hearing, it will notify the applicant and representors of this decision in writing. The Authority will also:

- (a) ask the applicant and representors to indicate whether or not they wish to make an oral presentation at the hearing;
- (b) if any representor does wish to make an oral presentation, they must provide an address to which the applicant may send documents and bundles; and
- (c) request dates when those who wish to make an oral presentation (together with that of any representatives and witnesses they propose to call) can attend a hearing within a period that is not sooner than 8 weeks and not later than 10 weeks after the date of its notification.

8.3 The applicant and each representor will be requested to respond to the questions in paragraph 8.2 within 7 days of the notification.

8.4 The Authority will endeavour to set a hearing date that accommodates the availability of the applicant, any representor who wishes to make an oral presentation, their representatives and any witnesses. To ensure that the application is dealt with expeditiously, if a date cannot be identified that accommodates the availability of all persons who wish to attend the hearing, the Authority will select a date for the hearing that it considers most fairly accommodates the availability of those who wish to attend.

8.5 There is a presumption that the hearing will be held in public, but the Authority retains a discretion to conduct the hearing (or part of it) in private. The hearing, whether in public or private, will be recorded by the Authority. The public will not be entitled to speak at a hearing (unless such a person has made a representation, complied with any relevant directions (see below) and wishes to address the Authority).

8.6 The Authority will determine the application in private following a hearing, but not necessarily on the date of the hearing.

## **9. Directions for the efficient conduct of the hearing**

9.1 If the Authority decides that a hearing is necessary then, in order to promote the efficient conduct of the hearing, the standard Directions set out in the Schedule shall apply to the applicant and any representor who wishes to make an oral presentation at, or otherwise take part in, the hearing.

## **10. Outcome of the Application**

10.1 Where the Authority proposes to refuse an application or to impose any term or condition in respect of a licence, notice of such proposal will be given to the applicant

in accordance with s.10 of the Law and the applicant will have 14 days from the date of the notice within which to make written representations regarding the proposal.

- 10.2 If no representations are received from the applicant, the Authority will make a final determination of the application. This determination will not take place until after the 14 day period for representations has expired, unless, prior to the end of that period, the applicant provides a written statement that it does not intend to make a representation.
- 10.3 If representations are received, they will be considered by the Authority as part of its final determination of the application. The determination will be made as soon as practicable after the representation is received.

#### **11. Notices of the grant or refusal of the licence**

- 11.1 Notice of the grant of a licence or the refusal of the application will be published in the *La Gazette Officielle* and Official Record of the Civil Aviation Authority pursuant to s.15 of the Law. Publication will be on the first Tuesday following a decision of the Authority, taking account of deadlines for the submission of notices in these two publications.

#### **12. Publication of Licence**

- 12.1 The licence that is granted and any conditions attached to that licence will be published on the States of Guernsey website.

#### **13. Appeals**

- 13.1 Appeals are dealt with under section 14 of the Law.

#### **14. Amendment of the Guidance**

- 14.1 These notes are for guidance and may be subject to change from time to time.

### **SCHEDULE TO THE PROCEDURES**

#### **Standard Directions**

In order to promote the efficient conduct of a hearing and in furtherance of the objectives set out in section 1, the Authority has decided to issue the following directions to the applicant and any representor who wishes to make an oral presentation at the hearing:

- (1) A hearing and all evidence, argument and submissions shall, unless the Authority directs otherwise, be in public. The hearing will be recorded.
- (2) The strict rules of evidence shall not apply to the hearing. It is for the parties to decide how best to prove any facts upon which they seek to rely during the course of the hearing. The burden of proof shall be on the applicant and the standard of proof shall be the civil

standard (*i.e.* on the balance of probabilities). It shall be a matter for the Authority to decide what weight is attached to any particular piece of evidence. All parties are reminded of the provisions of *The Air Transport Licensing (Guernsey) Law, 1995* and the applicable Policy Statement (currently that approved by the States of Deliberation in 2013).

- (3) Not less than 21 days before the hearing, the applicant shall serve upon each representor who has indicated a wish to make an oral presentation and the Authority all the documents and evidence upon which it proposes to rely at the hearing.
- (4) Unless they simply wish the Authority to take into account the written representations already made to the Authority pursuant to paragraph 3.3 above, each representor who has indicated a wish to make an oral presentation shall, not less than 14 days before the hearing, serve upon the applicant and the Authority all the documents and evidence (other than their written representations already made to the Authority pursuant to paragraph 3.3 above) upon which they propose to rely at the hearing.
- (5) The responsibility for preparing, copying and distributing the agreed bundle(s) for use at the hearing shall be the applicant's.
- (6) The applicant and any representor wishing to make an oral presentation are required to co-operate to prepare a joint, indexed, paginated and legible hearing bundle. The bundle shall include:
  - (a) the application and all other documents submitted to the Authority in support thereof;
  - (b) all representations received by the applicant from the Authority pursuant to paragraph 5.4 above;
  - (c) all responses by the applicant to those representations pursuant to paragraph 6.1 above;
  - (d) the documents and evidence referred to in paragraphs (3) and (4) of these Directions;
  - (e) the skeleton arguments referred to in paragraph (9) of these Directions; and
  - (f) copies of any legal authorities referred to or relied upon.
- (7) In the unlikely event that it is not possible for the parties to agree what is to be included in a joint bundle, separate indexed and paginated bundles may be prepared by the applicant and each representor who wishes to make an oral presentation. The Authority will require written explanations as to why it was not possible to prepare a joint bundle.
- (8) In the event that the joint or other bundles exceed 1 lever arch file, each volume shall be clearly marked "A", "B", "C" etc. and there shall be a paginated "core" bundle not

exceeding 100 pages containing only the essential documents necessary to understand the substance of the case.

- (9) The applicant and any representor who wishes to make an oral presentation shall, not less than 7 days before the hearing, exchange with each other party and file with the Authority their skeleton argument setting out **in summary** the grounds for their application or representation and arguments in support of the same (with clearly identified cross-references to documents in the bundle or bundles) to be included in the hearing bundle(s). Nobody is obliged to file a skeleton argument, but in the absence thereof that party **shall not be entitled to make any oral presentation at the hearing**.
- (10) Not less than 3 working days before the hearing, the applicant shall deliver 7 copies of the bundle(s) referred to in paragraph (6) to the Authority and one copy to each representor who has expressed a wish to make an oral presentation.
- (11) It is the responsibility of each party to bring to the hearing sufficient copies of the bundle or bundles for their own use.
- (12) The applicant or any representor who wishes to make an oral presentation may make representations in writing to the Authority (and copied to the other parties) in respect of these directions or any other matters concerning the conduct of the hearing. Any such representations shall be made promptly.

## **APPENDIX 2**

### **AIR TRANSPORT LICENSING (GUERNSEY) LAW, 1995** **POLICY STATEMENT**

**Approved by the States of Guernsey on 27 November 2013**

This policy statement is the Guernsey Transport Board's published policy in relation to the licensing of Guernsey's air transport services as prepared by the Board and approved by the States of Deliberation as from time to time amended or replaced (with or without modification) by Resolution of the States. This policy statement replaces that set out on p. 405 *et seq* of Billet d'État III of 2004.

1. Services between Guernsey and another point in the British Isles, where the aircraft is carrying passengers or cargo for hire or reward, will be subject to a Guernsey air transport licence being granted – in addition to the appropriate licence(s) or permission(s) required from the United Kingdom's Civil Aviation Authority (hereinafter "CAA"). However, some aircraft or classes of aircraft may be exempt from the need to obtain such a licence (e.g. emergency flights, technical stops, and air taxis (the latter is defined in the Regulations made in 2001)). For absolute clarity, the British Isles (in this context) comprises the United Kingdom, the Isle of Man, and the Channel Islands.

2. Under these arrangements, the CAA's licensing procedures will be accepted for determining the financial fitness and technical capabilities of individual airlines, and for

determining when an airline is engaged in anti-competitive behaviour. Applicants will be required to provide evidence of meeting the minimum insurance cover requirements, as stipulated from time to time by the CAA. Holders of air transport licences are required to provide such evidence annually to the Guernsey Airport Director.

3. When applications for a licence are considered, in accordance with the requirements of Insular legislation, a view will be taken as to the extent to which what is proposed will, or will not, be in the best interests of the users of the Island's air transport services and thereby also the best interests of the Island.

4. Every air transport licence application is considered on its own merits.

5. Certain benefits, particularly with regard to cost and consumer choice, can result from appropriate competition between different destinations and/or carriers. Competition could, therefore, be inter-route or intra-route.

6. Competition, however, is not the sole determining factor and the potential benefits of lower costs and more consumer choice will need to be balanced against the requirement for regulation to safeguard the interests of the users of the air transport services and, where appropriate, Island residents.

7. Consideration will be given to the likely short-term and long-term advantages and disadvantages that would result from the provision of the proposed services.

8. The interests of the users of passenger air transport services may be summarised as follows:-

- (i) for locally-based leisure and business travellers, the requirement is for sufficient capacity on a daily year-round basis to provide for on demand travel at reasonable cost on services linking the Island with a number of centres of population in the British Isles, and in particular with airports able to provide interlining links with European, Intercontinental and United Kingdom domestic air services. In this respect direct air links with London hub airports, particularly London Gatwick, are considered to be of paramount importance;
- (ii) for tourists to Guernsey, the need is for sufficient capacity at the lowest possible fare on direct services from multiple points of origin within the British Isles. The available air transport services should, wherever possible, allow tourists to make the choice between their own independent travel arrangements or packages offered by tour operators or agents; and
- (iii) for users of the Gatwick route, as detailed in paragraph 18.

9. The interests of the users of cargo air transport services may be summarised as follows:- the requirement is for sufficient capacity on a daily year-round basis to provide for on-demand transport of cargo at reasonable cost on services linking the Island with a number of

points in the British Isles, and in particular with airports able to provide interlining links with European, Intercontinental and United Kingdom domestic air services.

10. Subject to paragraph 18, the best interests of users, particularly in regard to cost and consumer choice, are generally enabled by active competition between air transport operators. Where such competition is intra-route, it should be able to stimulate the route in question. However, it should not discourage active, long-term development of that route. Where such competition is inter-route, it should be able to generate lower fares on those routes and would offer consumers a choice of route. Each route should be provided with a suitable standard of service, by the airline(s) operating on it, to satisfy all main categories of user throughout the year. The services provided should also have continuity over a period of time.

11. There is particular concern to ensure that scheduled air services are maintained at a sufficient level, throughout the year, to ensure the economic and social sustainability of the Island. Air transport links with the United Kingdom are particularly important in this regard. Additionally, scheduled services are important for health/medical, educational and business requirements. Charter air services, or other short-term operations, could be detrimental to the provision of scheduled air services on any particular route and that year-round scheduled services are generally of paramount importance.

### **Scheduled Air Services**

12. The main aims, in respect of scheduled air services, are to:-

- (i) maintain year-round scheduled services of sufficient capacity to cater for all user categories;
- (ii) secure the provision of sufficient capacity throughout the year to cater for the needs of the tourism industry;
- (iii) secure the lowest fare structure consistent with viable operations;
- (iv) obtain continuity of service from year to year, with the airline or airlines operating on a route being in a position to develop the service for the benefit of all categories of user;
- (v) facilitate point-to-point travel and interlining opportunities;
- (vi) secure the highest possible standard of service;
- (vii) maintain and protect the Island's air links with London, with

particular reference to hub airports and, in respect of the Gatwick route, in accordance with paragraph 18.

13. Certain applications could have a potential impact on the incumbent operator. There may be occasions when more than one airline applies to operate the same route. In considering such applications, particular reference will be made to :-

- (i) the number and nature of aircraft in an airline's fleet, with particular concern for the back-up arrangements that could apply to the route;
- (ii) the ability of an airline to replace the capacity provided by an incumbent operator, should the introduction of further competition lead to the withdrawal of the latter from the route, in part or in whole;
- (iii) an airline's performance on other routes (e.g. punctuality, customer service);
- (iv) evidence of an ability to maintain continuity of service from year to year (i.e. the ability to withstand difficult trading conditions that might occur);
- (v) an ability to expand operations through a successful marketing campaign and to cope with the traffic growth generated thereby; and
- (vi) the fare structure and level.

#### **Charter Air Services**

14. Charter services can be beneficial, particularly for the tourism industry. The interests of the tourism industry and tour operators can be served by continuity of those services from year to year.

15. For routes that do not have a year-round scheduled service, charter licence applications will normally be granted.

16. Year-round scheduled services are important. Summer-only, or other short-term, services on any particular route could adversely impact or totally eliminate regular year-round services on that route or nearby routes.

17. The extent to which charter flights or other short-term operations would impact on scheduled services will be considered. Charter flights can impact on scheduled services –

- (i) by reducing the profitability of the scheduled services to such an extent that the latter becomes reduced in scope, particularly during less-profitable or off-season months;
- (ii) by discouraging the development of air services provided by the scheduled operator(s) on the route.

## **London Gatwick**

18. In light of the importance of the Gatwick route to the island, and the volatility of services thereon, when considering any new application to operate on the route, the Board must have regard to the following matters:

- (i) the investment by the incumbent operator(s) on the route,
- (ii) the level of service and reliability of the incumbent operator(s) on the route, and
- (iii) the likely effect on the incumbent operator(s) of granting such application,

where an incumbent operator offers a good level of service and is likely to be prejudiced by the granting of such application, the presumption will be that such application will be refused to safeguard the existing service on this lifeline route.