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STATUTORY INSTRUMENTS

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**1994 No. 426**

**The Airports (Northern Ireland) Order 1994**

**PART III**

**MANAGEMENT OF AIRPORTS**

**Power of airport operators to detain and sell aircraft for unpaid airport charges**

**23.**—(1) This Article applies to any airport designated for the purposes of this Article by an order made by the Department.

(2) Where default is made in the payment of airport charges incurred in respect of any aircraft at an airport to which this Article applies, the airport operator may, subject to the provisions of this Article—

(a) detain, pending payment, either—

(i) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins); or

(ii) any other aircraft of which the person in default is the operator at the time when the detention begins; and

(b) if the charges are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the charges.

(3) An airport operator shall not detain, or continue to detain, an aircraft under this Article by reason of any alleged default in the payment of airport charges if the operator of the aircraft or any other person claiming an interest therein—

(a) disputes that the charges, or any of them, are due or, if the aircraft is detained under paragraph (2)(a)(i), that the charges in question were incurred in respect of that aircraft; and

(b) gives to the airport operator, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

(4) An airport operator shall not sell an aircraft under this Article without the leave of the High Court; and the High Court shall not give leave except on proof that a sum is due to the airport operator for airport charges, that default has been made in the payment thereof and that the aircraft which the airport operator seeks leave to sell is liable to sale under this Article by reason of the default.

(5) An airport operator proposing to apply for leave to sell an aircraft under this Article shall take such steps as the Department may by regulations prescribe—

(a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the High Court thereon; and

(b) for affording to any such person an opportunity of becoming a party to the proceedings on the application;

and, if leave is given, the airport operator shall secure that the aircraft is sold for the best price that can reasonably be obtained.

(6) Failure to comply with any requirement of paragraph (5) in respect of any sale, while actionable as against the airport operator concerned at the suit of any person suffering loss in consequence thereof, shall not, after the sale has taken place, be a ground for impugning its validity.

(7) The proceeds of any sale under this Article shall be applied as follows, and in the following order, that is to say—

- (a) in payment of any sum payable in respect of the aircraft under any statutory provision;
- (b) in payment of the expenses incurred by the airport operator in detaining, keeping and selling the aircraft, including his expenses in connection with the application to the High Court;
- (c) in payment of the airport charges which the High Court has found to be due;

and the surplus, if any, shall be paid to or among the person or persons whose interests in the aircraft have been divested by reason of the sale.

(8) The power of detention and sale conferred by this Article in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being equipment and stores carried in the aircraft) whether or not the property of the person who is its operator, and references to the aircraft in paragraphs (3) to (7) include, except where the context otherwise requires, references to any such equipment and stores.

(9) The power of detention conferred by this Article in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this Article, be transferred by the airport operator to the purchaser.

(10) The power conferred by this Article to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been incurred or on any subsequent occasion when the aircraft is on the airport on which those charges were incurred or on any other airport owned or managed by the airport operator concerned.

(11) In this Article—

“airport charges” means charges payable to an airport operator for the use of, or for services provided at, an airport, but does not include charges payable by virtue of regulations under section 73 of the 1982 Act;

“aircraft documents”, in relation to any aircraft, means any certificate of registration, maintenance or air-worthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(12) Nothing in this Article shall prejudice any right of an airport operator to recover any charges, or any part thereof, by action.