
STATUTORY INSTRUMENTS

1997 No. 2920

CIVIL AVIATION

**The Civil Aviation (Route Charges for
Navigation Services) Regulations 1997**

Made - - - - - *9th December 1997*
Laid before Parliament *10th December 1997*
Coming into force - - - *1st January 1998*

Whereas in pursuance of tariffs approved under the Eurocontrol Convention⁽¹⁾ and under the Multilateral Agreement relating to Route Charges concluded at Brussels on 12th February 1981⁽¹⁾ (being international agreements to which the United Kingdom is a party), the Secretary of State for Transport has determined rates of charges, as specified in the following Regulations, payable to Eurocontrol in respect of navigation services provided for aircraft:

Now, therefore, the Secretary of State for Transport, in exercise of the powers conferred by sections 73(1)(a), (1A), (3), (4), (6) and (7), 74(4) and (5) and 102(2)(b) of the Civil Aviation Act 1982⁽²⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Route Charges for Navigation Services) Regulations 1997 and shall come into force on 1st January 1998.

Revocation

2. The Regulations specified in Schedule 1 hereto are hereby revoked.

Interpretation

3.—(1) In these Regulations—

“AIP” in relation to a country other than the United Kingdom means a document in force at the date of the making of these Regulations, entitled “Aeronautical Information Publication” or “AIP” and published by a public authority of that country;

(1) Cmnd. 8662.

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(2) 1982 c. 16; section 73(1A) was added by section 1 of the Civil Aviation (Air Navigation Charges) Act 1989 (c. 9); “prescribed” is defined in section 105(1); section 73(4) was amended by section 3(2) of the Civil Aviation (Eurocontrol) Act 1983 (c. 11).

“authorised person” means any constable or any person authorised by the CAA (whether by name or by class or description) either generally or in relation to a particular case or class of cases;

“ECUs” means European Currency Units being units of account defined by reference to more than one currency;

“FIR” means “Flight Information Region”;

“specified airspace” means the airspace of a FIR described as set forth in columns (1) and (2) of Schedule 2 hereto;

“United Kingdom Air Pilot” means the document so entitled in force at the date of the making of these Regulations and published by the CAA.

(2) Other expressions used in these Regulations shall, unless the context otherwise requires, have the same respective meanings as in the Air Navigation (No. 2) Order 1995⁽³⁾.

Charge to be paid to Eurocontrol

4.—(1) Subject to the provisions of these Regulations the operator of any aircraft (in whatsoever State it is registered) for which navigation services (not being navigation services provided in connection with the use of an aerodrome) are made available in a specified airspace shall pay to Eurocontrol, in respect of each flight by that aircraft in that airspace, a charge for those services (hereinafter referred to as “the charge”) at the appropriate rate calculated in accordance with regulation 6 of these Regulations.

(2) If Eurocontrol is unable, after taking reasonable steps, to ascertain who is the operator, it may give notice to the owner of the aircraft that it will treat him as the operator until he establishes to the reasonable satisfaction of Eurocontrol that some other person is the operator; and from the time when the notice is given Eurocontrol shall be entitled, for so long as the owner is unable to establish as aforesaid that some other person is the operator, to treat the owner as if he were the operator, and for that purpose the provisions of these Regulations (other than this paragraph) shall apply to the owner of the aircraft as if he were the operator.

(3) The operator of an aircraft shall not be required to pay any charge to Eurocontrol under these Regulations in respect of a flight if he has previously paid to Eurocontrol in respect of that flight a charge of the same or a greater amount under the law of a country specified in column 1 of Schedule 2 hereto.

Payment

5.—(1) The amount of the charge shall be payable to Eurocontrol at its principal office in Brussels and shall be paid in ECUs.

(2) The equivalent in sterling of the charge may be recovered in any court of competent jurisdiction in the United Kingdom.

(3) If the amount of the charge payable under regulation 4(1) is not paid in cleared funds by the operator of the aircraft within 30 days of the date payment is demanded by Eurocontrol, interest calculated in accordance with paragraph (4) below on the unpaid amount shall be paid from that day until the date when cleared funds are received by Eurocontrol.

(4) Interest payable under paragraph (3) shall be simple interest calculated from day to day at the rate of 7.73%.

(5) Nothing in this regulation shall prevent Eurocontrol from accepting as a good discharge payment other than in ECUs or at places other than the principal office of Eurocontrol.

(3) S.I. 1995/1970, to which there are amendments not relevant to these Regulations.

Calculation of the Charge

6.—(1) The charge shall be calculated in ECUs according to the following formula—

$$r = N \times U$$

where

r is the charge for the flight, N is the number of service units relating to that flight and U is the appropriate unit rate specified in column 3 of Schedule 2 hereto in relation to the specified airspace through which the flight is made, increased or decreased as the case may be by the same percentage as the relevant national currency has increased or decreased against the ECU as compared with the rate of exchange specified in column 4 of the said Schedule in relation to that airspace.

(2) For the purpose of the preceding paragraph, the number of service units relating to a flight shall be calculated in accordance with the following formula—

$$N = d \times p$$

where

d is the distance factor for the flight in the specified airspace in question and p is the weight factor for the aircraft concerned.

(3) For the purposes of the preceding paragraph—

- (a) the distance factor shall be the number of kilometres in the great circle distance between the points specified in paragraph (4) of this regulation minus 20 kilometres for each landing and take-off in the specified airspace in question, divided by 100 and expressed to two places of decimals, and
- (b) the weight factor, subject to the provisions of paragraphs (6) and (7) of this regulation, shall be equal to the square root of the quotient obtained by dividing by 50 the number of metric tonnes of the maximum total weight authorised of the aircraft and shall be expressed to two places of decimals.

(4) The points referred to in paragraph (3) of this regulation are—

- (a) the aerodrome of departure within the specified airspace in question or, if there is no such aerodrome, the point of entry into that airspace; and
- (b) the aerodrome of first destination within the specified airspace in question or, if there is no such aerodrome, the point of exit from that airspace.

(5) For the purposes of the preceding paragraph, the point of entry into the specified airspace in question and the point of exit from that airspace shall be the points at which the lateral limits of the said airspace are crossed by the route described in the flight plan communicated by or on behalf of the operator of the aircraft either to the appropriate air traffic control unit or to the Flow Management Unit of Eurocontrol with any modifications thereto subsequently made or approved by or on behalf of the operator.

(6) Subject to paragraph (7) below, the weight factor for an aircraft of any type shall be calculated by reference to the maximum total weight authorised of the heaviest aircraft of that type.

(7) Where an operator has indicated to Eurocontrol, within the period of one year immediately preceding the flight, the composition of the fleet of aircraft which he operates and which includes two or more aircraft which are different versions of the same type of aircraft, the weight factor shall be calculated by reference to the average of the maximum total weight authorised of all his aircraft of that type so indicated to Eurocontrol.

(8) For the purposes of this regulation the rate of exchange of the ECU to a national currency shall be the average monthly rate of exchange of the ECU to that national currency established by Eurocontrol for the month preceding the month during which the flight takes place.

Exempt Flights

7. These Regulations shall not apply to the following flights—
- (i) flights by military aircraft;
 - (ii) flights made for the purposes of search and rescue operations;
 - (iii) flights by aircraft of which the maximum total weight authorised is 5700 kg or less made entirely in accordance with the Visual Flight Rules in the Rules of the Air Regulations 1996(4);
 - (iv) flights terminating at the aerodrome from which the aircraft has taken off;
 - (v) flights other than the flights referred to in paragraph (i) of this regulation made by aircraft which are used in the service of a State (including for customs or police purposes) and which are not made for commercial purposes;
 - (vi) flights made exclusively for the purpose of checking or testing equipment used or intended to be used as aids to air navigation;
 - (vii) flights made exclusively for the purpose of the instruction or testing of flight crew within the specified airspace of the United Kingdom;
 - (viii) flights made by aircraft of which the maximum total weight authorised is less than two metric tonnes;
 - (ix) flights made by helicopters between any point in the United Kingdom to a vessel or an offshore installation within the area bounded by straight lines joining successively the following points—
N5500 E00302; N5500 W00100; N5600 W00230; N5740 W00230; N5740 W00400; N5830 W00400; N5830 W00500; N6300 W00500; N6300 E/W00000;
and thence south by the Median Line to N5500 E00302; and
 - (x) flights made by helicopters between any point in the United Kingdom to a vessel or an offshore installation within the area bounded by straight lines joining successively the following points—
N5500 W00100; N5500 E00300; N5423 E00245; N5256 E00309; N5230 E00247; N5226 E00137; N5238 E00140; N5251 E00124; N5319 E00010; N5500 W00100.

Detention and sale of aircraft for unpaid charges

8. Where default is made in the payment of the charges incurred in respect of any aircraft under these Regulations Eurocontrol may request the CAA to act on behalf of Eurocontrol in accordance with the provisions of regulations 9 to 12.

9. Where such a request has been made, the CAA or an authorised person may on behalf of Eurocontrol, subject to the provisions of this and the following regulations, take such steps as are necessary to detain, pending payment, either—

- (a) 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
- (b) any other aircraft of which the person in default is the operator at the time when the detention begins;

and if the charges are not paid within 56 days after the date when the detention begins, the CAA may, subject to the following regulations, sell the aircraft on behalf of Eurocontrol in order to satisfy the charges.

10. The CAA or the authorised person concerned shall not detain, or continue to detain, an aircraft on behalf of Eurocontrol under these Regulations by reason of any alleged default in the payment of the charges payable under these Regulations 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 regulation 9(a) of these Regulations, that the charges in question were incurred in respect of that aircraft; and
 - (b) gives to Eurocontrol, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.
- (a) (a) The CAA shall not sell an aircraft on behalf of Eurocontrol under these Regulations without the leave of the court; and the court shall not give leave except on proof that a sum is due to Eurocontrol for charges under these Regulations, that default has been made in the payment thereof and that the aircraft which the CAA seeks leave to sell on behalf of Eurocontrol is liable to sale under these Regulations by reason of default.
- (b) In this regulation, “the court” means, as respects England, Wales and Northern Ireland, the High Court and, as respects Scotland, the Court of Session.

12. The CAA shall, before applying to the court for leave to sell an aircraft on behalf of Eurocontrol under regulation 11 above, take such steps for bringing the proposed application to the notice of interested persons and for affording them an opportunity of becoming a party to the proceedings as are set forth in Schedule 3 to these Regulations. If such leave is given, the CAA shall secure that the aircraft is sold on behalf of Eurocontrol for the best price that can reasonably be obtained; but failure to comply with any requirement of this regulation or of the said Schedule in respect of any sale, while actionable as against the CAA 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.

13. The proceeds of any sale under these Regulations shall be applied as follows, and in the following order, that is to say—

- (a) in payment of any customs duty which is due in consequence of the aircraft having been brought into the United Kingdom;
- (b) in payment of the expenses incurred by the CAA in detaining, keeping and selling the aircraft, including its expenses in connection with the application to the court;
- (c) in payment of the charges in respect of any aircraft which the court has found to be due from the operator by virtue of these or any other Regulations under section 73 of the Civil Aviation Act 1982⁽⁵⁾;
- (d) in payment of any interest on unpaid charges incurred in respect of any aircraft which the court has found to be due from the operator by virtue of these Regulations;
- (e) in payment of any airport charges incurred in respect of the aircraft which are due from the operator of the aircraft to the person owning or managing the aerodrome at which the aircraft was detained under these Regulations;

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.

14. The power of detention and sale conferred by these Regulations in respect of an aircraft extends to the equipment of the aircraft and any stores for use in connection with its operation (being

(5) 1982 c. 16.

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 regulations 9 to 13 of these Regulations include, except where the context otherwise requires, references to any such equipment and stores.

15. The power of detention conferred by these Regulations in respect of an aircraft extends to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under these Regulations, be transferred by the CAA to the purchaser.

16. The power conferred by these Regulations to detain an aircraft may be exercised on any occasion when the aircraft is on an aerodrome to which section 88 of the Civil Aviation Act 1982(6) applies or at Belfast International Airport, Belfast City Airport or Eglinton Airport.

17. Nothing in these Regulations shall prejudice any right of Eurocontrol to recover any charges, or any part thereof, or interest on unpaid charges, by action.

Records of Movements of Aircraft

18.—(1) This regulation shall apply to any aerodrome to which section 88 of the Civil Aviation Act 1982 applies and to Belfast International Airport, Belfast City Airport and Eglinton Airport.

(2) The manager of any aerodrome to which this regulation applies shall keep a log (hereafter in this regulation referred to as “the aircraft movement log”) in which the following particulars shall be recorded:

- (a) the type and registration mark of each aircraft taking off from or landing at the aerodrome;
- (b) the date and time of each such take off and landing;
- (c) the origin or destination of each aircraft as the case may be.

(3) The aircraft movement log shall be preserved by the aerodrome manager for a period of two years after the date of the last entry therein.

(4) The aircraft movement log shall be maintained in a legible form or in a form which is capable of being reproduced in a legible form.

(5) The aerodrome manager shall, within seven days after being requested to do so by an officer of the CAA, produce to such officer the aircraft movement log in a legible form.

Signed by authority of the Secretary of State for Transport

Glenda Jackson
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

9th December 1997

(6) Section 88(10) was amended by section 83(5) of, and Part 1 of Schedule 6 to, the Airports Act 1986 (c. 31) and by section 180 of, paragraph 126(1) and (4) of Schedule 13 to and Schedule 14 to, the Local Government etc. (Scotland) Act 1994 (c. 39).

SCHEDULE 1

Regulation 2

REVOCATIONS

(1) <i>Regulations revoked</i>	(2) <i>References</i>
The Civil Aviation (Route Charges for Navigation Services) Regulations 1995	S.I.1995/3160
The Civil Aviation (Route Charges for Navigation Services) (Amendment) Regulations 1996	S.I. 1996/1495
The Civil Aviation (Route Charges for Navigation Services) (Second Amendment) Regulations 1996	S.I. 1996/3089
The Civil Aviation (Route Charges for Navigation Services) (Third Amendment) Regulations 1997	S.I. 1997/1653

SCHEDULE 2

Regulations 3(1), 4(3) and 6(1)

SPECIFIED AIRSPACES

(1) <i>Country</i>	(2) <i>Publication in which FIRs are described</i>	(3) <i>Unit Rate in ECUs</i>	(4) <i>Established at a Rate of exchange of</i>
Austria	AIP Austria	57.57	1 ECU=13.79612 Sch
Belgium and Luxembourg	AIP Belgique	78.46	1 ECU=40.46577 BF
Bulgaria	AIP Bulgaria	60.32	
Croatia	AIP Croatia	47.44	1 ECU=6.896589 HRK
Cyprus	AIP Cyprus	24.25	1 ECU=0.580735 £Cy
Czech Republic	AIP Czech Republic	45.28	1 ECU=36.79034 CZK
Denmark	AIP Denmark	52.08	1 ECU=7.465173 Kr
France	AIP France (France Métro-politaine)	61.61	1 ECU=6.588673 FF
Germany	AIP Germany	66.81	1 ECU=1.960314 DM
Greece	AIP Greece	25.85	1 ECU=309.0668 Dra
Hungary	AIP Hungary	24.84	1 ECU=214.7737 Hf
Ireland, Republic of	AIP Ireland	22.53	1 ECU=0.740373 £Ir
Italy	AIP Italy	65.24	1 ECU=1912.460 L

* Excluding Shanwick FIR.

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(1) <i>Country</i>	(2) <i>Publication in which FIRs are described</i>	(3) <i>Unit Rate in ECUs</i>	(4) <i>Established at a Rate of exchange of</i>
Malta	AIP Malta	34.56	1 ECU=0.435052 Lm
Netherlands	AIP Netherlands	45.70	1 ECU=2.207741 G
Norway	AIP Norway	49.43	1 ECU=8.011991 KR
Portugal	AIP Portugal	Lisbon FIR-39.82 Santa Maria FIR-14.75	1 ECU=199.1187 Esc
Romania	AIP Romania	36.98	
Slovakia	AIP Slovakia	68.06	1 ECU=37.63354 SKK
Slovenia	AIP Slovenia	65.25	1 ECU=184.0652 SIT
Spain	AIP Espana	Madrid & Barcelona FIR-48.05 Canaries FIR-46.15	1 ECU=165.3699 Pts
Sweden	AIP Sweden	49.45	1 ECU=8.435991 SKr
Switzerland	AIP Switzerland	74.42	1 ECU=1.613105 SF
Turkey	AIP Turkey	38.32	
United Kingdom	United Kingdom Air Pilot*	79.52	1 ECU=£0.684627

* Excluding Shanwick FIR.

SCHEDULE 3

Regulation 12

Steps to be taken to bring proposed application to court to the notice of interested persons and afford them an opportunity of becoming a party to the proceedings.

1 The CAA, if it proposes to apply to the court for leave to sell an aircraft on behalf of Eurocontrol under these Regulations, shall take such of the following steps for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the court thereon and for affording to any such person an opportunity of becoming a party to the proceedings on the application as are applicable to the aircraft—

(1) At least 21 days before applying to the court, the CAA shall publish—

(i) in the Edinburgh Gazette if the aircraft is detained in Scotland, or in the Belfast Gazette if the aircraft is detained in Northern Ireland, and in any case in the London Gazette; and

(ii) in one or more local newspapers circulating in the locality in which the aircraft is detained

such notice as is prescribed in paragraph 2 of this Schedule, and shall also, unless in that case it is impracticable to do so, serve such a notice, in the manner so prescribed, on each of the following persons:

(a) the person in whose name the aircraft is registered;

(b) the person, if any, who appears to the CAA to be the owner of the aircraft;

(c) any person who appears to the CAA to be the charterer of the aircraft whether or not by demise;

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- (d) any person who appears to the CAA to be the operator of the aircraft;
- (e) any person who is registered as a mortgagee of the aircraft under an Order in Council made under section 86 of the Civil Aviation Act 1982⁽⁷⁾ or who appears to the CAA to be a mortgagee of the aircraft under the law of any country other than the United Kingdom;
- (f) any other person who appears to the CAA to have a proprietary interest in the aircraft.

(2) If any person who has been served with a notice in accordance with sub-paragraph (1) of this paragraph informs the CAA in writing within 14 days of the service of the notice of his desire to become a party to the proceedings the CAA shall make that person a defendant to the application.

Content and service of the notice under paragraph 1

2.—(1) A notice under paragraph 1 of this Schedule shall—

- (a) state the nationality and registration marks of the aircraft;
- (b) state the type of aircraft;
- (c) state that by reason of default in the payment of a sum due to Eurocontrol for charges imposed by these Regulations, the CAA, on a date which shall be specified in the notice, detained the aircraft under these Regulations and, unless payment of the sum so due is made within a period of 56 days from the date when the detention began, or within 21 days of the date of service of the notice, whichever shall be the later, will apply to the court for leave to sell the aircraft;
- (d) invite the person to whom the notice is given to inform the CAA within 14 days of the service of the notice if he wishes to become a party to the proceedings on the application.

(2) A notice under paragraph 1 of this Schedule shall be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by leaving it at his usual or last known place of business or abode;
- (c) by sending it by post in a prepaid registered letter, or by the recorded delivery service, addressed to him at his usual or last known place of business or abode; or
- (d) if the person to whom it is to be sent is an incorporated company or body, by delivering it to the secretary, clerk or other appropriate officer of the company or body at their registered or principal office, or sending it by post in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary, clerk or officer of the company or body at that office.

(3) Any notice which is sent by post in accordance with the preceding paragraph to a place outside the United Kingdom shall be sent by air mail or by some other equally expeditious means.

(7) 1982 c. 16; section 86 was amended by section 314(2) of, and paragraph 64(b) of Schedule 13 to, the Merchant Shipping Act 1995 (c. 21).

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Civil Aviation (Route Charges for Navigation Services) Regulations 1995 (S.I. 1995/3160), as amended.

New unit rates are introduced, reflecting forecasts of costs and traffic for 1998, and taking into account the balance of over and under recoveries of revenue as compared with costs experienced by the countries participating in the Eurocontrol charges system in 1996. Bulgaria, Croatia and Romania will become participating States in the Eurocontrol charges system on 1st January 1998 (regulation 6 and Schedule 2).

If the amount of the charge is not paid in cleared funds by the operator of the aircraft within 30 days of the date payment is demanded by Eurocontrol the rate of interest payable is increased to 7.73% from 7.27% (regulation 5(4)).

A new method of calculating the distance factor for flight in specified airspace is introduced. The points between which the distance is measured are between the aerodrome of departure and the aerodrome of first destination if both aerodromes are within the specified airspace or between the point of entry into the specified airspace and the point of exit from that airspace being points at which the lateral limits of the airspace are crossed by the route described in the flight plan for the flight with any subsequent modifications thereto made or approved by or on behalf of the operator (regulation 6(5)).

There are no longer any standard points of entry into and exit from specified airspace nor is there any provision for transatlantic charges.

The unit rates in ECUs set out in Schedule 2 are calculated by reference to the costs of provision of en-route navigation services in the participating countries in the Eurocontrol charges system, the amount of traffic using each country's airspace and the relationship of each country's currency to the ECU over a period agreed by Ministers of the participating countries. The interaction of these elements varies in each country. In calculating the revised charges the average of the exchange rates between the ECU and the currencies of the participating countries obtaining in the month of July 1997 have been used. In the case of Bulgaria, Romania and Turkey the unit rate is established in ECUs (regulation 6 and Schedule 2).

The unit rates for Cyprus, Greece, Hungary, Ireland, Portugal, Spain (Madrid and Barcelona FIRs) and Turkey have increased on average by 25.1% and Portugal (Santa Maria FIR) by 58.9%. The unit rate for Italy has increased by 0.046%. The unit rates for Austria, Belgium, Czech Republic, Denmark, France, Germany, Malta, Netherlands, Norway, Slovenia and Spain (Canaries FIR) have decreased on average by 9.3%. The unit rate for the United Kingdom has increased by 5.9%.

The United Kingdom Air Pilot and the Foreign Aeronautical Information publications referred to in the Regulations can be purchased from Westward Digital Limited, 37 Windsor Street, Cheltenham, Glos GL52 1DG and can be inspected at major aerodromes in the United Kingdom. The office of Eurocontrol is at Rue de la Fusée 96 B-1130, Brussels.