
STATUTORY INSTRUMENTS

1997 No. 2937

CIVIL AVIATION

The Civil Aviation (Joint Financing) Regulations 1997

Made - - - - *10th December 1997*
Laid before Parliament *11th December 1997*
Coming into force - - *1st January 1998*

The Secretary of State, in exercise of the powers conferred by sections 73(1)(a), (3), (4), (6)(a) and (9) and 74(4)(a) and (5) and 102(2)(b) of the Civil Aviation Act 1982(1) and of all other powers enabling him in that behalf, and with the consent of the Treasury in respect of regulations 4 and 5, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Joint Financing) Regulations 1997 and shall come into force on 1st January 1998.

Interpretation

2. In these Regulations “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, and other expressions used in these Regulations shall have the same respective meanings as in the Air Navigation (No. 2) Order 1995(2).

Revocation

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

Charges for services provided by the Governments of Denmark and Iceland

4.—(1) In respect of each crossing between Europe and North America by an aircraft, wherever registered, in the course of which the aircraft is at any time north of the 45th parallel North between the meridians of 15° West and 50° West, the operator of the aircraft shall, upon completion of the crossing, pay to the CAA a charge of £62.88 computed as follows—

(1) 1982 c. 16; section 73(4) was amended by section 3(2) of the Civil Aviation (Eurocontrol) Act 1983 (c. 11). The expression “prescribed” is defined in section 105(1).
(2) S.I. 1995/1970, to which there are amendments not relevant to these Regulations.

in respect of air navigation services provided by the Government of Denmark for such crossings £17.80;

in respect of air navigation services provided by the Government of Iceland for such crossings £45.08.

(2) If an aircraft, wherever registered, without making a crossing between Europe and North America, makes one of the following crossings, that is to say between Greenland and Canada, Greenland and the United States of America, Greenland and Iceland or Iceland and Europe, the operator of the aircraft shall pay to the CAA in respect of each crossing upon completion thereof, one third of the amount of the charges specified in paragraph (1).

(3) If an aircraft, wherever registered, without making a crossing between Europe and North America, makes one of the following crossings, that is to say between Greenland and Europe, Iceland and Canada or Iceland and the United States of America, the operator of the aircraft shall pay to the CAA in respect of each crossing upon completion thereof, two thirds of the amount of the charges specified in paragraph (1).

(4) If an aircraft, wherever registered, without making a crossing for which a charge is specified in paragraph (1), (2) or (3), makes a crossing—

- (a) between any point and Europe, or
- (b) between any point and Iceland

in the course of which the aircraft does not cross the coast of North America but does cross the meridian of 30° West north of the 45th parallel North, the operator shall pay to the CAA in respect of each crossing upon completion thereof, one third of the amount of the charges specified in paragraph (1).

(5) If the CAA 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 the CAA that some other person is the operator; and from the time when the notice is given the CAA 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 as if he were the operator.

(6) For the purposes of this regulation—

- (a) a crossing shall be counted whether or not the aircraft takes off or lands in the areas mentioned;
- (b) “Europe” shall not include Iceland or the Azores.

Dispensations

5. The CAA may dispense wholly or in part with any charge payable under regulation 4 of these Regulations, if it determines that it is proper to do so, having regard to all the circumstances of the case.

Detention and sale of the aircraft for unpaid charges

6. Where default is made in the payment of charges incurred in respect of any aircraft under these Regulations, the CAA or an authorised person may, 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 of the date when the detention begins, the CAA may, subject to the following regulations, sell the aircraft in order to satisfy the charges.

7. The CAA or the authorised person concerned shall not detain, or continue to detain, an aircraft under these Regulations by reason of any alleged default in the payment of 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 6(a) of these Regulations, that the charges in question were incurred in respect of that aircraft; and
- (b) gives to the CAA, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

8. The CAA shall not sell an aircraft 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 the CAA 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 is liable to sale under these Regulations by reason of the default.

9. The CAA shall, before applying to the court for leave to sell an aircraft under these Regulations, 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 2 to these Regulations. If such leave is given, the CAA shall secure that the aircraft is sold 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.

10. 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;
- (d) 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.

11. 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 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 7 and 10 of these Regulations include, except where the context otherwise requires, references to any such equipment and stores.

12. 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.

13. 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(3) for the time being applies and to Belfast International Airport, Belfast City Airport and Eglinton Airport.

14. Nothing in these Regulations shall prejudice any right of the CAA to recover any charges, or any part thereof, by action.

Disposal by the CAA of charges received under the Regulations

15.—(1) Subject to paragraphs (2) and (3) of this regulation, the CAA shall remit to the Governments of Denmark and Iceland such sums as it may receive under these Regulations in respect of air navigation services provided respectively by those Governments.

(2) The CAA shall deduct from the sums so received a sum of 22.137% thereof and shall remit this sum to the International Civil Aviation Organisation in respect of air navigation services provided by that Organisation.

(3) The CAA may deduct from the sums so received and may retain as a fee a sum not exceeding 5% thereof.

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

4th December 1997

We consent to the making of regulations 4 and 5 of these Regulations

Graham Allen
Bob Ainsworth
Two of the Lords Commissioners of Her
Majesty's Treasury

10th December 1997

(3) 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 3

(1) <i>Regulations Revoked</i>	(2) <i>References</i>
The Civil Aviation (Joint Financing) Regulations 1994	S.I.1994/3055
The Civil Aviation (Joint Financing) (Amendment) Regulations 1995	S.I. 1995/3161
The Civil Aviation (Joint Financing) (Second Amendment) Regulations 1996	S.I. 1996/3032.

SCHEDULE 2

Regulation 9

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 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 London Gazette and also if the aircraft is detained in Scotland, in the Edinburgh Gazette, or if it is detained in Northern Ireland, in the Belfast 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 a charterer of the aircraft whether or not by demise;
- (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(4) 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.

(4) 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).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 the CAA 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 to whom it is to be sent; or
 - (b) by leaving it at his usual or last known place of business or abode; or
 - (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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Civil Aviation (Joint Financing) Regulations 1994, as amended.

In addition to some minor and drafting amendments, the following changes of substance are made—

The charge payable by operators of aircraft to the CAA in respect of crossings between Europe and North America is increased in consequence of a decision of the Council of the International Civil Aviation Organisation. The element of the charge payable in respect of air navigation services provided by the Government of Denmark is increased from £17.46 to £17.80. The element of the charge payable in respect of air navigation services provided by the Government of Iceland is increased from £41.79 to £45.08. The total charge is thus increased from £59.25 to £62.88 (regulation 4(1)).

The charges are payable in pursuance of the Agreements on the Joint Financing of certain Air Navigation Services respectively in Greenland and the Faroe Islands and in Iceland, opened for signature in Geneva on 25th September 1956 (Cmnd.Nos. 677 and 678) as amended by

the Protocols opened for signature at Montreal on 3rd November 1982 (Cmnd. Nos. 8844 and 8845).

Belfast International Airport, Belfast City Airport and Eglinton Airport are added to the aerodromes at which the power conferred by these Regulations to detain an aircraft may be exercised (regulation 13).

In consequence of a decision of the Council of the International Civil Aviation Organisation the sum which is to be deducted by the CAA from the charges received and remitted to that Organisation in respect of air navigation services provided by it is increased from 17.772% to 22.137% (regulation 15(2)).

The charges are required to be remitted to the Governments of Denmark and Iceland subject to the deduction of a fee not exceeding 5% for the CAA's expenses in billing and collection.