
STATUTORY INSTRUMENTS

1998 No. 2575

CIVIL AVIATION

**The Civil Aviation (Canadian
Navigation Services) Regulations 1998**

<i>Made</i>	- - - -	<i>19th October 1998</i>
<i>Laid before Parliament</i>		<i>26th October 1998</i>
<i>Coming into force</i>	- -	<i>1st November 1998</i>

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) 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 regulation 4, hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Civil Aviation (Canadian Navigation Services) Regulations 1998 and shall come into force on 1st November 1998.

Interpretation

2.—(1) 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;

“Corporation” means NAV CANADA, a corporation incorporated in Canada on 26th May 1995 for purposes including the provision of air navigation services in Canada;

“international flight” means a flight to or from a place outside Canada;

“specified airspace” means the airspace of Canada and all airspace for which the Government of Canada has undertaken in pursuit of international arrangements the provision of air navigation services other than airspace within the Gander Oceanic Flight Information Region.

(2) The expression “maximum total weight authorised” shall have the same meaning as in the Air Navigation (No. 2) Order 1995(2).

(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.

Revocation

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

Charges for services provided by the Corporation

4.—(1) The operator of an aircraft, wherever registered, shall pay to the CAA charges in respect of air navigation services made available by the Corporation or a person acting under the authority of the Canadian Minister of National Defence as follows—

- (a) in respect of each flight in the course of which the aircraft makes use of such services within the Gander Oceanic Flight Information Region other than a flight described in sub-paragraph (c) of this paragraph, a charge of \$83.81 Canadian;
- (b) in respect of each international flight other than a flight between Canada and the United States of America other than Hawaii in the course of which the aircraft makes use of radio frequencies to obtain such services by way of telecommunication services other than a flight described in sub-paragraph (c) of this paragraph, a charge of \$50.61 Canadian;
- (c) in respect of each flight from or to an airport in Canada situated north of N6000 to or from an airport in Greenland in the course of which the aircraft makes use of one or more of the services described in sub-paragraphs (a) and (b) of this paragraph, a charge of 40 per cent of the charge specified in those sub-paragraphs for each of the services used;
- (d) subject to sub-paragraph (f) of this paragraph, in respect of each flight which crosses specified airspace without landing or taking off in Canada in the course of which the aircraft makes use of such services, a charge of \$0.03263 Canadian multiplied by the flight distance in kilometres in the great circle distance between the point of entry into and the point of exit from the specified airspace as those points are determined from the flight plan communicated to the appropriate air traffic control unit in relation to each flight multiplied by the square root of the maximum total weight authorised of the aircraft in metric tonnes;
- (e) sub-paragraphs (a) to (d) of this paragraph shall not apply to a flight by an aircraft in the service of a State which is not made for commercial purposes; and
- (f) sub-paragraph (d) of this paragraph shall not apply to a flight by an aircraft the maximum total weight authorised of which is 8 metric tonnes or less between any two points both of which are in the United States of America.

(2) The charges specified in sub-paragraphs (a) to (d) of paragraph (1) of this regulation shall be cumulative and shall apply whether or not in the course of the flight the aircraft flies within the United Kingdom or Canada.

(3) If the amount of the charge payable under regulation 4(1) is not paid by the operator of the aircraft within 30 days of the date on which an invoice for the charge is issued, interest calculated in accordance with paragraph (4) below on the unpaid amount shall be paid from that day until the date when payment is made.

(4) Interest payable under paragraph (3) shall be simple interest calculated from day to day at the rate of 18.00 per cent.

Dispensations

5. The CAA may dispense wholly or in part with any charge payable by virtue 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 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 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 be reasonably 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(3);
- (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.

(3) Section 73 was also amended by section 1 of the Civil Aviation (Air Navigation Charges) Act 1989 (c. 9).

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 to 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(4) applies or at Belfast International Airport, Belfast City Airport or Londonderry (Eglington) 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 these Regulations

15. The CAA shall remit to the Corporation in respect of air navigation services made available by the Corporation or a person acting under the authority of the Canadian Minister of National Defence such sums as it may receive under these Regulations.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

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

14th October 1998

We consent to the making of these Regulations.

Bob Ainsworth
David Jamieson
Two of the Lords Commissioners of Her
Majesty's Treasury

19th October 1998

(4) 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, and paragraph 126(1) and (4) of Schedule 13 to, the Local Government etc. (Scotland) Act 1994 (c. 39).

SCHEDULE 1

Regulation 3

<i>(1)</i> <i>Regulations revoked</i>	<i>(2)</i> <i>References</i>
The Civil Aviation (Canadian Navigation Services) Regulations 1996	S.I.1996/688
The Civil Aviation (Canadian Navigation Services) (Amendment) Regulations 1996	S.I. 1996/2540
The Civil Aviation (Canadian Navigation Services) (Second Amendment) Regulations 1998	S.I. 1998/205

SCHEDULE 2

Regulation 9

Steps to be taken to bring proposed application to court to 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, 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 a notice as is prescribed by 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 this 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⁽⁵⁾ 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 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.

(5) 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 sub-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 consolidate the Civil Aviation (Canadian Navigation Services) Regulations 1996, as amended.

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

1. The charge for the use of air navigation services within the Gander Oceanic Flight Information Region is reduced from \$88.33 Canadian to \$83.81 Canadian (regulation 4(1)(a)).

2. The charge in respect of each international flight other than a flight between Canada and the United States of America other than Hawaii in the course of which the aircraft makes use of radio frequencies to obtain air navigation services by way of telecommunication services is reduced from \$58.49 Canadian to \$50.61 Canadian (regulation 4(1)(b)).

3. Air navigation services in Canada are no longer made available by or on behalf of the Canadian Minister of Transport and references to that Minister are withdrawn.

Document Generated: 2023-07-28

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

Charges under the Regulations are payable to the Civil Aviation Authority which is required to remit them to NAV CANADA (regulation 15).