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STATUTORY INSTRUMENTS

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**2009 No. 2301**

**The Aviation Greenhouse Gas Emissions  
Trading Scheme Regulations 2009**

**PART 6**

**Detention and sale of aircraft for unpaid civil penalties**

**General**

**30.**—(1) Where an aircraft operator has not paid a civil penalty which is due under regulation 21(3) or (4) within 6 months of the due date, the regulator may detain, pending payment, any aircraft of which the aircraft operator in default is the operator.

(2) Where an aircraft has been detained under paragraph (1) and the civil penalty is not paid within—

(a) 56 days of the date when the detention begins; or

(b) if later, 21 days of the date of service of a notice under paragraph 2(1) of Schedule 1,

the regulator may, subject to the following regulations, apply to the court for leave to sell that aircraft in order to satisfy the civil penalty.

(3) Paragraphs (1) and (2) do not apply in relation to a failure to comply with these Regulations before 1st January 2012.

**Release of aircraft**

**31.** The regulator must not detain, or continue to detain, or sell an aircraft under regulation 30 if—

(a) the aircraft operator has made an appeal under regulation 36 in respect of the civil penalty for which the aircraft has been detained and gives to the regulator, pending the determination of the appeal, sufficient security for the payment of that civil penalty; or

(b) where appropriate, the aircraft operator or any other person claiming an interest demonstrates to the satisfaction of the regulator that the aircraft operator is no longer the lessee of the detained aircraft or any part of it.

**Court procedures**

**32.**—(1) The regulator must not sell an aircraft under regulation 30(2) without the leave of the court.

(2) The court must not give leave under paragraph (1) except where it is satisfied—

(a) that a civil penalty is due to the regulator;

(b) that the aircraft operator has not paid the civil penalty to the regulator; and

(c) that the regulator is entitled to sell the aircraft.

(3) Before applying to the court for leave under paragraph (1) the regulator must, in accordance with Schedule 1—

- (a) take such steps for bringing the proposed application to the notice of any person who may have an interest in the aircraft; and
- (b) afford those persons an opportunity of becoming a party to the proceedings.

(4) Where leave is given under paragraph (1) the regulator must sell the aircraft for the best price that can be reasonably obtained.

(5) Failure to comply with paragraph (3) or (4) does not make a sale under regulation 30(2) void or voidable.

### **Proceeds of sale**

**33.**—(1) The proceeds of any sale under these Regulations must be applied by the regulator in the following order—

- (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 regulator in detaining, keeping and selling the aircraft, including its expenses in connection with the application to the court;
- (c) in payment of any charges in respect of any aircraft operated by the aircraft operator which the court has found to be due by virtue of section 73(1) of the Transport Act 2000(1);
- (d) in payment of any airport charges incurred in respect of the aircraft which are due from the aircraft operator to the person entitled to levy charges in respect of the aerodrome at which the aircraft was detained under regulation 30(1);
- (e) in payment of the civil penalty in respect of which the aircraft was detained and sold;
- (f) in payment of any other civil penalty that the aircraft operator has not paid which is due under regulation 21(3) or (4), even where the failure giving rise to that civil penalty arose before 1st January 2012.

(2) The regulator must, after making the payments under paragraph (1), pay any residue from the proceeds of sale to the person or persons whose interests have been divested by reason of the sale.

### **Equipment and documents**

**34.**—(1) The power to detain and sell an aircraft under regulation 30 includes the power to detain and sell equipment and stores carried in the aircraft provided it is the property of the aircraft operator, and references to the aircraft in regulations 30 to 33 include references to any such equipment and stores.

(2) The power of detention under regulation 30(1) extends to any aircraft documents carried in the aircraft, and any such documents may, if the aircraft is sold under these Regulations, be transferred by the regulator to the purchaser.

### **Interpretation**

**35.** In this Part—

- (a) “aircraft documents” has the meaning given by section 88(10) of the Civil Aviation Act 1982(2);

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(1) 2000 c. 38.

(2) 1982 c. 16.

- (b) “airport charges” means charges payable to the owner or manager of an aerodrome for the use of, or for services provided at, an aerodrome but does not include charges payable by virtue of section 73 of the Transport Act 2000;
- (c) “the court” means—
  - (i) in relation to England, Wales and Northern Ireland, the High Court; and
  - (ii) in relation to Scotland, the Court of Session.