



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART IV

#### AIRCRAFT

##### *Rights etc. in relation to aircraft*

#### **88 Detention and sale of aircraft for unpaid airport charges.**

- (1) Where default is made in the payment of airport charges incurred in respect of any aircraft at an aerodrome to which this section applies, the aerodrome authority may, subject to the provisions of this section—
  - (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.
- (2) An aerodrome authority shall not detain or continue to detain an aircraft under this section 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 subsection (1)(a)(i) above, that the charges in question were incurred in respect of that aircraft; and
  - (b) gives to the authority, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.
- (3) An aerodrome authority shall not sell an aircraft under this section without the leave of the court; and the court shall not give leave except on proof—
  - (a) that a sum is due to the authority for airport charges;

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- (b) that default has been made in the payment thereof; and
  - (c) that the aircraft which the authority seek leave to sell is liable to sale under this section by reason of the default.
- (4) An aerodrome authority proposing to apply for leave to sell an aircraft under this section shall take such steps as may be prescribed—
- (a) for bringing the proposed application to the notice of persons whose interests may be affected by the determination of the 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 aerodrome authority shall secure that the aircraft is sold for the best price that can reasonably be obtained.
- (5) Failure to comply with any requirement of subsection (4) above in respect of any sale, while actionable as against the aerodrome authority 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.
- (6) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say—
- (a) in payment of any duty (whether of customs or excise) chargeable on imported goods or value added tax which is due in consequence of the aircraft's having been brought into the United Kingdom;
  - (b) in payment of the expenses incurred by the aerodrome authority in detaining, keeping and selling the aircraft, including their expenses in connection with the application to the court;
  - (c) in payment of the airport charges which the court has found to be due;
  - (d) in payment of any charge in respect of the aircraft which is due by virtue of <sup>[F1]</sup>section 73 of the Transport Act 2000 (or, if more than one such charge is due, in payment of them in such order as the Secretary of State may specify by order)];
- 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 <sup>[F2]</sup>(with priority being given to any person or persons having an international interest within the meaning of the Cape Town Convention Regulations, in accordance with the rules set out in regulation 16 of those Regulations)].

<sup>[F3]</sup>(6A) In subsection (6) “the Cape Town Convention Regulations” means the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015.]

- (7) The power of detention and sale conferred by this section 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 subsections (2) to (6) above include, except where the context otherwise requires, references to any such equipment and stores.
- (8) The power of detention conferred by this section 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 section, be transferred by the aerodrome authority to the purchaser.
- (9) The power conferred by this section to detain an aircraft in respect of which charges have been incurred may be exercised on the occasion on which the charges have been

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incurred or on any subsequent occasion when the aircraft is on the aerodrome on which those charges were incurred or on any other aerodrome owned or managed by the aerodrome authority concerned.

- (10) This section applies to any aerodrome owned or managed by any government department . . . <sup>F4</sup> or a local authority [<sup>F5</sup>, other than a district council in Scotland,] and to any other aerodrome designated for the purpose of this section by an order made by the Secretary of State; and in this section—

“aerodrome authority” in relation to any aerodrome, means the person owning or managing it;

“airport charges” means charges payable to an aerodrome authority for the use of, or for services provided at, an aerodrome but does not include charges payable by virtue of [<sup>F6</sup>section 73 of the Transport Act 2000 [<sup>F7</sup>or penalties payable by virtue of section 38C or 78A of this Act]];

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

“the court” means—

- (a) as respects England and Wales, the High Court; and
- (b) respects Scotland, the Court of Session.

- (11) The Secretary of State may, after consultation with any local authority which appears to him to be concerned, by order repeal any enactment in a local Act which appears to the Secretary of State to be unnecessary having regard to the provisions of this section or to be inconsistent therewith.

- (12) Nothing in this section shall prejudice any right of an aerodrome authority to recover any charges, or any part thereof, by action.

#### Textual Amendments

- F1** Words in s. 88(6)(d) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F2** Words in s. 88(6) added (23.3.2015 coming into force in accordance with reg. 2) by **The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015** (S.I. 2015/912), reg. 2, **Sch. 5 para. 8(2)** (with reg. 51)
- F3** S. 88(6A) inserted (coming into force in accordance with reg. 2) by **The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015** (S.I. 2015/912), reg. 2, **Sch. 5 para. 8(3)** (with reg. 51)
- F4** Words repealed by **Airports Act 1986** (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**
- F5** Words in s. 88(10) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 126(4), **Sch. 14**; S.I. 1996/323, **art. 4(1)**, **Sch. 2**
- F6** S. 88(10): words in definition of “airport charges” substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 6(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F7** Words in s. 88(10) inserted (1.3.2007) by **Civil Aviation Act 2006** (c. 34), ss. 13, 14, **Sch. 2 para. 2**; S.I. 2007/598, **art. 2**, Sch. 1

#### Modifications etc. (not altering text)

- C1** S. 88(10)(11): Functions transferred (S.) (1.7.1999) by S.I. 1999/1750, **art. 2**, **Sch. 1**
- C2** S. 88(10) amended by **Local Government Act 1985** (c. 51, SIF 81:1), **s. 40(3)**

**Changes to legislation:**

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