STATUTORY INSTRUMENTS

1977 No. 314

CIVIL AVIATION

The Civil Aviation (Canadian Navigation Services) Regulations 1977

Made - - - -	*25th February* 1977
Laid before Parliament	*7th March* 1977
Coming into Operation	*1st April* 1977

The Secretary of State, in exercise of his powers under sections 4 and 7 of the Civil Aviation (Eurocontrol) Act 1962(**a**), as those sections are amended respectively by section 15 of the Civil Aviation Act 1968(**b**) and by paragraphs 6 and 7 of Schedule 10 to the Civil Aviation Act 1971(**c**) and of all other powers enabling him in that behalf, and with the consent of the Treasury in respect of Regulations 3 and 4, hereby makes the following Regulations:—

Citation and operation

1. These Regulations may be cited as the Civil Aviation (Canadian Navigation Services) Regulations 1977 and shall come into operation on 1st April 1977.

Interpretation

2.—(1) The Interpretation Act 1889(**d**) shall apply for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament.

(2) Expressions used in these Regulations shall unless the context otherwise requires have the same respective meanings as in the Air Navigation Order 1976(**e**).

Charges for services provided by the Government of Canada

3.—(1) The operator of an aircraft, wherever registered, shall pay to the Civil Aviation Authority charges in respect of air navigation services provided by or on behalf of the Government of Canada, as follows:—

(*a*) in respect of each flight between any point in North America and any point outside North America in the course of which the aircraft makes use of such services within the Gander Flight Information Region—a charge of $50 Canadian; and

(*b*) in respect of each flight between any two points one of which is in Europe (including Iceland) or Greenland in the course of which the aircraft makes use of such services, being services provided by the Edmonton Area Control Centre—a charge of $33 Canadian; and

(**a**) 1962 c. 8.
(**b**) 1968 c. 61.
(**c**) 1971 c. 75.
(**d**) 1889 c. 63.
(**e**) S.I. 1976/1783 (1976 III, p. 4769).

(*c*) in respect of each flight in the course of which the aircraft makes use of international radio frequencies to obtain telecommunication services provided by or on behalf of the Government of Canada—a charge of $30 Canadian.

(2) The charges specified in 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.

Dispensations

4. The Authority may dispense wholly or in part with any charge payable under Regulation 3 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

5. Where default is made in the payment of charges incurred in respect of any aircraft under these Regulations, the Authority 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 Authority may sell the aircraft in order to satisfy the charges.

6. The Authority 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 5(*a*) of these Regulations, 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.

7. The Authority 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 Authority for charges under these Regulations, that default has been made in the payment thereof and that the aircraft which the Authority seeks leave to sell is liable to sale under these Regulations by reason of the default.

8. The Authority 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 the Schedule to these

Regulations. If such leave is given, the Authority shall secure that the aircraft is sold for the best price that can reasonaby 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 Authority 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.

9. 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 Authority in detaining, keeping and selling the aircraft, including its expenses in connection with the application to the court;

(*c*) in payment of any airport charges incurred in respect of any 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;

(*d*) in payment of any charge in respect of the aircraft which is due by virtue of these or any other Regulations under section 4 of the Civil Aviation (Eurocontrol) Act 1962;

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.

10. 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 6 to 9 of these Regulations include, except where the context otherwise requires, references to any such equipment and stores.

11. 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 Authority to the purchaser.

12. 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 14 of the Civil Aviation Act 1968 for the time being applies.

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

Disposal by the Civil Aviation Authority of charges received under these Regulations

14.—(1) The Authority shall remit to the Government of Canada such sums as it may receive under these Regulations.

Stanley Clinton Davis,
Parliamentary Under-Secretary of State,
25th February 1977 Department of Trade.

We consent to the making of Regulations 3 and 4 of these Regulations.

T. E. Graham,
Donald R. Coleman,
Lords Commissioners of
24th February 1977 Her Majesty's Treasury.

Regulation 8 SCHEDULE

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 Authority, 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 Authority 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 Authority to be the owner of the aircraft;

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

(*d*) any person who appears to the Authority to be the operator of the aircraft;

(*e*) H.P. Information Ltd., being a company incorporated under the Companies Act 1948**(a)**;

(*f*) any person who is registered as a mortgagee of the aircraft under an Order in Council made under section 16 of the Civil Aviation Act 1968 or who appears to the Authority to be a mortgagee of the aircraft under the law of any country other than the United Kingdom;

(*g*) any other person who appears to the Authority to have a proprietary interest in the aircraft.

a) 1948 c. 38

(2) If any person who has been served with a notice in accordance with sub-paragraph (1) of this paragraph informs the Authority in writing within 14 days of the service of the notice of his desire to become a party to the proceedings the Authority 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 the Authority for charges imposed by these Regulations, the Authority, 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 Authority 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 to it 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.)

Arrangements have been made between the Governments of the United Kingdom and Canada for the billing and collection by the Civil Aviation Authority of charges in respect of air navigation services provided by the Government of Canada in the Gander Flight Information Region and by the Edmonton Area Control Centre; also for the use of international radio frequencies to obtain telecommunication services provided by the Government of Canada.

These Regulations prescribe the charges for such services and require them to be paid to the Civil Aviation Authority, which is required to remit them to the Government of Canada. They include provision for the detention and sale of aircraft for unpaid charges.

The Government of Canada will pay a fee to the Civil Aviation Authority to cover the cost of its services in this connection.

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