STATUTORY INSTRUMENTS

1974 No. 1144

CIVIL AVIATION

The Civil Aviation (Joint Financing) Regulations 1974

Made - - - -	*3rd July* 1974
Laid before Parliament	*11th July* 1974
Coming into Operation	*1st August* 1974

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 (Joint Financing) Regulations 1974 and shall come into operation on 1st August 1974.

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 1972(e) as amended(f).

Charges for services provided by the Government of Denmark and Iceland

3.—(1) In respect of each crossing between Europe and North America (not being a crossing in the course of which the aircraft lands in Bermuda or the Azores) by an aircraft, wherever registered, in the course of which the aircraft is at any time north of the 40th parallel North and whether or not the aircraft lands in Europe or in North America, the operator of the aircraft shall, upon completion of the crossing, pay to the Civil Aviation Authority a charge of £6·50 computed as follows:—

in respect of air navigation services provided by the Government of Denmark for such crossings £3·50.

in respect of air navigation services provided by the Government of Iceland for such crossings £3·00.

(a) 1962 c.8.
(b) 1968 c. 61.
(c) 1971 c. 75.
(d) 1889 c. 63.
(e) S.I. 1972/129 (1972 I, p. 366).
(f) The relevant amending Order is S.I. 1972/1723 (1972 III, p. 5027).

(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 Civil Aviation Authority in respect of each crossing upon completion thereof, and whether or not the aircraft lands after making the crossing, one-third 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 Civil Aviation Authority in respect of each such crossing upon completion thereof, and whether or not the aircraft lands after making the crossing, two-thirds of the amount of the charges specified in paragraph (1).

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 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 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) Subject to paragraph (2) of this Regulation, the Authority 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 Civil Aviation Authority may deduct from the sums so received and may retain as a fee, a sum not exceeding 5 per cent. of the sum remitted.

S. Clinton Davies,
Parliamentary Under Secretary of State for Companies, Aviation and Shipping.
Department of Trade.

2nd July 1974.

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

Donald R. Coleman,
James A. Dunn,
Lords Commissioners of Her Majesty's Treasury.

3rd July 1974.

SCHEDULE

Regulation 8

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 a 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.

(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 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.

(a) 1948 c. 38.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Agreements on the Joint Financing of Certain Air Navigation Services respectively in Greenland and the Faroe Islands and in Iceland were opened for signature in Geneva on 25th September 1956. They have been published by Her Majesty's Stationary Office in the Treaty Series, Nos. 20 and 21 (1959), Cmnd. Nos. 677 and 678. Under those Agreements the Governments of Denmark and Iceland may, with the approval of the Council of the International Civil Aviation Organisation, impose a charge for services they provide. That approval having been given, the Government of the United Kingdom, which is a party to the Agreements of 1956, has entered into arrangements with the Governments of Denmark and Iceland under which the Civil Aviation Authority will bill and collect the charges in question and will remit them to the Government concerned to be credited against sums otherwise payable by the Government of the United Kingdom and by other Governments under the Agreements of 1956. The Authority will be entitled to a fee not exceeding five per cent. of the sum remitted for billing and collecting the charges.

These Regulations make provision accordingly, and include provision for the detention and sale of aircraft for unpaid charges.

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