STATUTORY INSTRUMENTS

1977 No. 1437.

CIVIL AVIATION

The Civil Aviation (Navigation Services Charges) Regulations 1977

Made - - -	*22nd August* 1977
Laid before Parliament	*30th August* 1977
Coming into Operation	*1st October* 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 paragraphs 6 and 7 of Schedule 10 to the Civil Aviation Act 1971(**b**), and under section 15 of the Civil Aviation Act 1968(**c**) and of all other powers enabling him in that behalf, and with the consent of the Treasury in respect of Regulations 4 to 9 inclusive, hereby makes the following Regulations:

Citation and Operation

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

Interpretation

2. (1) In these Regulations:

"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;

"airport charges" means charges payable to a person owning or managing an aerodrome in the United Kingdom to which section 14 of the Civil Aviation Act 1968 or any enactment having the force of law in Northern Ireland containing provisions corresponding to that section for the time being applies for the use of, or for services provided at, the aerodrome but does not include charges payable by virtue of these Regulations;

"authorised person" means:

(*a*) any constable, and

(*b*) any person authorised by the Authority (whether by name or by class or description) either generally or in relation to a particular case or class of cases;

"the court" means, as respects England and Wales, the High Court, as respects Scotland, the Court of Session, and, as respects Northern Ireland, the High Court of Justice in Northern Ireland;

"international flight" means a flight to or from a place outside the United Kingdom, Channel Islands and the Isle of Man, or a flight which is part of a through journey of the aircraft to or from a place outside those countries;

(**a**) 1962 c. 8. (**b**) 1971 c. 75. (**c**) 1968 c. 61.

"maximum total weight authorised" means, in relation to an aircraft, the maximum total weight of the aircraft and its contents at which the aircraft may take off in the United Kingdom in the most favourable circumstances in accordance with the certificate of airworthiness for the time being in force in respect of the aircraft; however, if that certificate indicates a maximum total weight at which the aircraft may taxi, that weight shall be taken to be the maximum total weight authorised;

"the 1962 Act" means the Civil Aviation (Eurocontrol) Act 1962;

"operator", in relation to an aircraft, means the person who, at the relevant time, has the management of that aircraft;

"the specified amount" means, in relation to a landing or take-off, the additional cost incurred by the Authority in providing navigation services by reason of the landing or take-off, as the case may be, being made outside hours;

"the standard charge" means, for each complete metric ton of the maximum total weight authorised of the aircraft in respect of which the charge is made, and for each fraction of a metric ton, a charge—

(i) for services provided in connection with the use of any of the aerodromes specified in Column 1 of the following Table in respect of an aircraft engaged on an international flight, of the amount specified in relation to that aerodrome in Column 2 of the said Table;

(ii) for services provided in connection with the use of any of the said aerodromes in respect of an aircraft engaged on a flight other than an international flight, of the amount specified in relation to that aerodrome in Column 3 of the said Table;

TABLE

Column 1	Column 2	Column 3
Heathrow—London	£0·80	£0·60
Gatwick—London	£0·80	£0·60
Stansted—London	£0·80	£0·60
Aberdeen (Dyce)	£2·00	£1·65
Belfast (Aldergrove)	£2·40	£2·00
Birmingham	£2·10	£1·75
Bournemouth (Hurn)	£2·10	£1·75
Edinburgh	£2·40	£2·00
Glamorgan (Rhoose)	£2·10	£1·75
Glasgow	£2·10	£1·75
Liverpool	£2·10	£1·75
Prestwick	£1·65	£1·40

"United Kingdom Air Pilot" means a document published by the Authority and so entitled;

"within hours" means within the notified hours of watch of the air traffic control unit at the aerodrome, and "outside hours" shall be construed accordingly.

(2) Unless otherwise defined in this Regulation and unless the context otherwise requires, expressions used in these Regulations shall have the same respective meanings as in the Air Navigation Order 1976(**a**).

(3) The Interpretation Act 1889(**b**) 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 and section 38(2) of that Act (which relates to the effect of repeals) shall apply to these Regulations as if these Regulations were an Act of Parliament and as if the Regulations revoked by these Regulations were Acts of Parliament thereby repealed.

Revocation

3.—(1) Subject to the following provisions of this Regulation, the Regulations specified in Schedule 1 hereto are hereby revoked.

(2) Any authority issued or having effect under any Regulations revoked by these Regulations in force at the date of coming into operation of these Regulations shall remain in force and shall have effect for the purposes of these Regulations as if it had been granted under the corresponding provisions thereof:

Provided that any such authority which is expressed to remain in force for a definite period shall remain in force, unless renewed, only until the expiration of that period.

(3) Any power conferred on the Authority by Regulations revoked by these Regulations being a power to authorise a person to detain an aircraft for non-payment of charges incurred under any such revoked Regulations shall be exerciseable by the Authority as if it were a power conferred by the corresponding provisions of these Regulations.

Charges for Navigation Services at Aerodromes

4.—(1) Subject to the provisions of these Regulations, the operator of every aircraft for which navigation services are provided by the Authority in connection with the use of an aerodrome referred to in the Table in Regulation 2 of these Regulations (whether or not the services are actually used or could be used with the equipment installed in the aircraft) shall pay to the Authority for those services on the occasion specified in the first column of the following Table the charges specified in relation to those occasions in the second column thereof:—

TABLE

(*a*) Upon each landing of the aircraft at that aerodrome within hours ...	the standard charge
(*b*) Upon each landing of the aircraft at that aerodrome outside hours ...	the standard charge surcharged by 75% or by the specified amount whichever is the greater.
(*c*) Upon each take-off of the aircraft at that aerodrome outside hours, being either (i) a take-off which does not take place within 1 hour of landing or (ii) a take-off which takes place within 1 hour of a landing made within hours	the specified amount or 75% of the standard charge whichever is the greater.

(**a**) S.I. 1976/1783 (1976 III, p. 4769). (**b**) 1889 c. 63.

(2) Where on the occasion of any landing or take-off (as the case may be) the shortest distance in the case of a landing between the aerodrome of departure and the aerodrome of landing and in the case of a take-off between the aerodrome of departure and the aerodrome of intended landing does not exceed 185 kilometres measured along the great circle, for the references to "the standard charge" in the Table in paragraph (1) of this Regulation there shall be substituted references to "half the standard charge".

(3) The minimum charge payable under this Regulation shall be £2.

5. Subject to the provisions of these Regulations, the manager for the time being of Manchester International Airport shall pay to the Authority for the navigation services provided by the Authority for aircraft using the said aerodrome the sum of £155,000 per month.

Charges for Services provided in the Shanwick Oceanic Control Area

6. Subject to the provisions of these Regulations, the operator of every aircraft (whether or not registered in the United Kingdom) which flies within the Shanwick Oceanic Control Area, as described in the United Kingdom Air Pilot on the date of coming into operation of these Regulations, and in respect of which a flight plan is communicated to the appropriate air traffic control unit in relation to its flight in that Area shall pay to the Authority for the navigation services made available by it in relation to that flight a charge of thirty-six pounds.

Value Added Tax Charge

7. For the purpose of reimbursing the Authority in respect of value added tax payable on the provision of navigation services for which a charge is payable pursuant to these Regulations there shall be charged an additional charge equal to the amount of such tax and the incidence of the first-mentioned charge shall determine the incidence of the additional charge.

Services provided outside hours where the intention to land or take-off is not carried out

8. Whenever, by reason of its having received from the operator or commander of an aircraft notice of intention to make use outside hours of an aerodrome referred to in the Table in Regulation 2 of these Regulations for landing or take-off or as an alternate aerodrome, the Authority provides navigation services outside hours but the aircraft does not land or take-off there on the occasion specified in the notice, the operator of the aircraft shall pay, in respect of each such aerodrome—

(*a*) in the case of an intended landing or intended use of the aerodrome as an alternate aerodrome, an amount equal to the surcharge payable under Regulation 4 of these Regulations on the landing of the aircraft outside hours;

(*b*) in the case of an intended take-off, an amount equal to the charge, if any, which would have been payable under Regulation 4 of these Regulations if the aircraft had actually taken off outside hours at the intended time:

Provided that a charge shall not be payable under this Regulation if the notice of intention is cancelled not less than 30 minutes before the end of the last period of watch within hours before the time specified in the notice for landing or for the intended use of aerodrome as an alternate aerodrome or for take-off, as the case may be.

Dispensations

9. The Authority 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

10. 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.

11. The Authority 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 10(*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.

12. 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.

13. 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 Schedule 2 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.

14. 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 1962 Act;

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.

15. 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 11 to 14 of these Regulations include, except where the context otherwise requires, references to any such equipment and stores.

16. 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.

17. The power conferred by these Regulations to detain an aircraft may be exercised on any occasion when the aircraft is on any aerodrome referred to in the Table in Regulation 2(1) of these Regulations or to which section 14 of the Civil Aviation Act 1968 for the time being applies.

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

Stanley Clinton Davis,
Parliamentary Under-Secretary of State,
Department of Trade.

22nd August 1977.

We consent to the making of these Regulations.

Donald R. Coleman,

J. Dormand,

Lords Commissioners of
Her Majesty's Treasury.

19th August 1977.

(Regulation 3)

SCHEDULE 1

Column 1 Regulations revoked	Column 2 References
The Civil Aviation (Navigation Services Charges) Regulations 1975.	S.I. 1975/1184 (1975 II, p. 4081).
The Civil Aviation (Navigation Services Charges) (Amendment) Regulations 1975.	S.I. 1975/1631 (1975 III, p. 5633).
The Civil Aviation (Navigation Services Charges) (Second Amendment) Regulations 1975.	S.I. 1975/1968 (1975 III, p. 7304).
The Civil Aviation (Navigation Services Charges) (Third Amendment) Regulations 1976.	S.I. 1976/369 (1976 I, p. 1015).
The Civil Aviation (Navigation Services Charges) (Fourth Amendment) Regulations 1976.	S.I. 1976/2084 (1976 III, p. 5761).
The Civil Aviation (Navigation Services Charges) (Fifth Amendment) Regulations 1977.	S.I. 1977/340 (1977 I, p. 1029).

(Regulation 13)

SCHEDULE 2

1. *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.*

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, 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 so do, 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*) HP 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;

(a) 1948 c. 38.

(*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.

2. *Content and service of the notice under paragraph 1.*

(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.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations revoke and replace with minor and drafting amendments the Civil Aviation (Navigation Services Charges) Regulations 1975, as amended.

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