



# Civil Aviation Act 1982

## 1982 CHAPTER 16

### PART IV

#### AIRCRAFT

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

#### **86 Power to provide for the mortgaging of aircraft.**

- (1) Her Majesty may by Order in Council make provision for the mortgaging of aircraft registered in the United Kingdom or capable of being so registered.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular—
  - (a) include provisions which correspond (subject to such modifications as appear to Her Majesty in Council to be necessary or expedient) to any of the provisions of the [<sup>F1</sup>Merchant Shipping Act 1995] relating to the mortgaging of ships;
  - (b) make provision as respects the rights and liabilities of mortgagors and mortgagees of such aircraft as are mentioned in subsection (1) above, and as respects the priority inter se of such rights and the relationship of such rights to other rights in or over such aircraft, including possessory liens for work done to such aircraft and rights under section 88 below or under regulations made by virtue of [<sup>F2</sup>section 83 of the Transport Act 2000 (detention and sale of aircraft)];
  - (c) make provision as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;
  - (d) provide for the rights of mortgagees of such aircraft to be exercisable, in such circumstances as may be specified in the Order, in relation to payments for the use of the aircraft;

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- (e) confer on courts in the United Kingdom powers in respect of any register maintained in pursuance of the Order and in respect of transactions affecting aircraft registered therein;
- (f) make provision for enabling the mortgage of an aircraft to extend to any store of spare parts for that aircraft and for applying, for that purpose, to any such spare parts provisions such as are mentioned in the preceding paragraphs of this subsection;
- (g) make provision specifying, subject to the consent of the Treasury, the fees to be paid in respect of the making or deletion of entries in any such register as aforesaid and in respect of any other matters in respect of which it appears to Her Majesty in Council to be expedient for the purposes of the Order to charge fees;
- (h) provide for the imposition of penalties in respect of the making of false statements in connection with matters dealt with in the Order and in respect of the forgery of documents relating to such matters.

#### Textual Amendments

- F1** Words in s. 86(2) substituted (1.1.1996) by 1995 c. 21, s. 314(2), **Sch. 13 para. 64(b)** (with s. 312(1))
- F2** Words in s. 86(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 5** (with s. 106); S.I. 2001/869, **art. 2**

## 87 Application of law of wreck and salvage to aircraft.

- (1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel.
- (2) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.
- (3) Subsections (1) and (2) above shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of Her Majesty's dominions.
- (4) Her Majesty may by Order in Council direct that any provisions of any Act for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications, if any, as may be specified in the Order apply in relation to aircraft as those provisions apply in relation to vessels.
- (5) For the purposes of this section—
  - (a) any provisions of an Act which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck; and
  - (b) “Act” shall include any local or special Act and any provisions of the <sup>M1</sup>Harbours, Docks and Piers Clauses Act 1847, as incorporated with any local or special Act, whenever passed.

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#### Marginal Citations

M1 1847 c. 27.

### 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;
  - (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—

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- (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 [F<sup>3</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.

- (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 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>F<sup>4</sup></sup> or a local authority [<sup>F<sup>5</sup></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>F<sup>6</sup></sup>section 73 of the Transport Act 2000 [<sup>F<sup>7</sup></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.

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- (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

- F3** 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**
- 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)

## 89 Exemption of aircraft and parts thereof from seizure on patent claims.

- (1) Any lawful entry into the United Kingdom or any lawful transit across the United Kingdom, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the United Kingdom, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.
- (2) Subject to subsection (3) below, the importation into, and storage in, the United Kingdom of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the United Kingdom on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.
- (3) Subsection (2) above shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the United Kingdom or are exported from the United Kingdom for sale or distribution.
- (4) This section applies—
- to an aircraft other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by Her Majesty by Order in Council with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory; and
  - to such other aircraft as Her Majesty may by Order in Council specify.

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- (5) Schedule 12 to this Act shall have effect with respect to detention on patent claims in respect of foreign aircraft other than aircraft to which this section applies.

**90 Power to give effect to Convention on rights in aircraft.**

- (1) Her Majesty may by Order in Council make such provision as appears to Her Majesty in Council to be necessary or expedient for giving effect to the Convention on the International Recognition of Rights in Aircraft which was signed at Geneva on behalf of the United Kingdom on 19th June 1948.
- (2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular, make provision—
- (a) for the recognition in the United Kingdom of rights of the kind specified in the Convention in or over aircraft registered in other states party to the Convention, being rights registered or recorded in those states in accordance with the Convention and recognised as valid by the law of the state party to the Convention in which the aircraft in question was registered when the rights were constituted;
  - (b) for subordinating to any such rights as aforesaid, to such extent as may be required under the Convention, any other rights in or over such aircraft as aforesaid, including possessory liens for work done to such aircraft and rights under section 88 above or under regulations made by virtue of [F8 section 83 of the Transport Act 2000 (detention and sale of aircraft)];
  - (c) as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in any part of the United Kingdom relating to bills of sale or the registration of charges on the property or undertaking of companies;
  - (d) for prohibiting the sale in execution of any such aircraft as aforesaid without an order of a court, and otherwise for safeguarding in the case of such a sale any such rights as are mentioned on paragraph (a) above;
  - (e) for the recognition in the United Kingdom, in priority to other rights in or over any such aircraft as aforesaid or any aircraft registered in the United Kingdom or a relevant overseas territory, of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other state party to the Convention in which those operations terminated;
  - (f) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) above to cases where a right such as is mentioned in the said paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

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**Textual Amendments**

**F8** Words in s. 90(2)(b) substituted (1.4.2001) by 2000 c. 38, s. 97, **Sch. 8 Pt. III para. 7** (with s. 106); S.I. 2001/869, **art. 2**

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