

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Detention of Aircraft (Guernsey and Alderney) Law, 1994

(Registered on the Records of the Island of Guernsey
on the 11th day of April, 1994.)



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ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of April, 1994 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:—Harry Wilson Bisson, Herbert Nicolle Machon, Stanley Walter John Jehan, Raymond Arthur Heaume, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe, Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires and Mrs. Eileen May Glass, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 8th day of February, 1994, approving and ratifying a *Projet de Loi* entitled "The Detention of Aircraft (Guernsey and Alderney) Law, 1994", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered:—

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 8th day of February 1994

PRESENT.

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the affairs of Guernsey and Jersey dated the 25th day of January, 1994 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble petition of the States of the Island of Guernsey setting forth:—

“1. That, in pursuance of their Resolution of the 26th day of May 1993 the States of Deliberation at a meeting held on the 11th day of August 1993, approved a Bill or “Projet de Loi” entitled “The Detention of Aircraft (Guernsey and Alderney) Law, 1994”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 6th day of October 1993, considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the said Bill or “Projet de Loi” is as set forth in the Shedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Detention of Aircraft (Guernsey and Alderney) Law, 1994”, and to order that the same shall have force of Law in the Islands of Guernsey and Alderney.”.

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to

report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey and Alderney.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. H. Nicholls

PROJET DE LOI

ENTITLED

The Detention of Aircraft (Guernsey and Alderney) Law, 1994

THE STATES, in pursuance of their Resolution of the 26th day of May, 1993(a), have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Alderney.

Detention and sale of aircraft for unpaid airport fees.

1. (1) Where default is made in the payment of airport fees incurred, in respect of an aircraft, at Guernsey Airport or Alderney Airport, the appropriate authority may, subject to the provisions of this Law-

(a) detain, pending payment-

- (i) the aircraft in respect of which the fees were incurred (whether or not 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

(a) Article VII of Billet d'État No.VIII of 1993.

- (b) if the fees are not paid within 56 days of the date when the detention begins, sell the aircraft in order to satisfy the fees.

(2) The appropriate authority shall not detain or continue to detain an aircraft under this section by reason of any alleged default in the payment of airport fees if the operator of the aircraft or any other person claiming an interest therein-

- (a) disputes that the fees, or any of them, are due or, if the aircraft is detained under subsection (1)(a)(i), that the fees in question were incurred in respect of that aircraft; and
- (b) gives to the appropriate authority, pending determination of the dispute, security acceptable to the authority and sufficient for the payment of the fees alleged to be due.

No sale without leave of court.

2. (1) The appropriate authority shall not sell an aircraft under section 1 without leave of the Court.

(2) The Court shall not give leave except on proof-

- (a) that a sum is due for airport fees;
- (b) that default has been made in the payment thereof; and

- (c) that the aircraft which the appropriate authority is seeking leave to sell is liable to sale under section 1 by reason of the default.

(3) Where the appropriate authority proposes to apply for leave to sell under this section it shall, not less than seven days before the day upon which the application is to be heard, give notice to any person of whom the authority is or ought reasonably to be aware whose interests may be affected by the Court's decision on the application.

(4) A notice under subsection (3) shall inform the person in question of the date, time and place of the hearing and that he is entitled to become a party to the proceedings.

(5) If leave to sell is given, the appropriate authority shall use its best endeavours to ensure that the aircraft is sold for the best price reasonably obtainable.

(6) Failure to comply with any requirement of subsection (3), (4) or (5) in respect of a sale shall not, after the sale has taken place, be a ground for impugning its validity.

(7) Subsection (6) is without prejudice to any right of action arising against the appropriate authority at the suit of any person suffering loss in consequence of the failure to comply.

Application of proceeds of sale.

3. The proceeds of any sale of an aircraft under this Law shall, notwithstanding any other interest or charge, be applied as follows and in the following order-

- (a) in payment of any duty or impôt (whether of customs or excise) chargeable on imported goods and due in consequence of the bringing of the aircraft into Guernsey or Alderney;
- (b) in payment of any expenses incurred by the appropriate authority in detaining, keeping and selling the aircraft, including its expenses and costs in connection with the application to the Court for leave to sell;
- (c) in payment of the airport fees which the Court has found to be due;
- (d) in payment of any charge due in respect of the aircraft by virtue of regulations under section 73 of the Civil Aviation Act 1982(b);

and the surplus, if any, shall be paid to or among the persons of whom the authority is or ought reasonably to be aware whose interests in the aircraft have been divested by reason of the sale.

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- (b) An Act of Parliament (1982 c.16); the Act was extended to the Bailiwick by United Kingdom S.I.'s 1992/230 and 1992/806.

Equipment and stores of aircraft.

4. The powers of detention and sale conferred by section 1 in respect of an aircraft extend to the equipment thereof and any stores for use in connection with its operation, being equipment and stores carried in the aircraft and whether or not the property of the operator; and references to the aircraft in sections 1 to 3 include, except where the context requires otherwise, references to such equipment and stores.

Aircraft documents.

5. The powers of detention conferred by section 1 in respect of an aircraft extend to any aircraft documents carried in it, and any such documents may, if the aircraft is sold under this Law, be transferred by the appropriate authority to the purchaser.

Exercise of power of detention.

6. The powers conferred by section 1 to detain an aircraft in respect of which airport fees have been incurred may be exercised when the fees are incurred or whenever the aircraft is subsequently at Guernsey Airport or Alderney Airport.

Service of documents..

7. (1) Any document to be given or served under this Law may be given or served-

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode;

- (b) on a body corporate with a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, that office;
- (c) on a body corporate without a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in the Bailiwick or, if there is no such place, its registered or principal office outside the Bailiwick;
- (d) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in the Bailiwick or, if there is no such place, its principal or last known principal place of business elsewhere;
- (e) on the Board or the States of Alderney, by being left at, or sent by post or transmitted to, their respective principal offices in the Bailiwick;

and in this section the expression "by post" means by registered post or recorded delivery service and the expression "transmitted" means transmitted by telex, facsimile transmission or any similar means which

produces a document containing the text of the communication.

(2) If service of a document cannot, after reasonable enquiry, be effected in accordance with subsection (1), the document may be given or served by being-

(a) published on two occasions in La Gazette Officielle; and

(b) affixed to some conspicuous part of the aircraft to which it relates;

and a document served under this subsection is sufficient if addressed generally to all persons whose interests may be affected by the sale of the aircraft in question or whose interests in the aircraft may be divested by reason of the sale.

(3) Subsections (1) and (2) are without prejudice to any other lawful method of service.

(4) Notwithstanding the provisions of this section and of any other rule of law in relation to the service of documents, no document to be given to or served on the appropriate authority under or for the purposes of this Law shall be deemed to have been given or served until it is received.

(5) If a person upon whom a document is to be given or served under this Law is an infant or person under guardianship, the document shall be given to or served on his guardian; and if there is no guardian, the appropriate authority may apply to the Court for

the appointment of a person to act as guardian for the purposes of this Law.

(6) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Law to have been received-

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting;

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting;

excluding in each case any non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958, as amended(c).

Interpretation.

8. (1) In this Law, unless the context otherwise requires-

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

(c) Ordres en Conseil Vol.XVII, p.384; and Vol.XXIV, p.84.

"airport fees" means the fees payable under the provisions of the Airport Fees Ordinance, 1987(d), the airport service charges payable under the provisions of the Airport Service Charge (Guernsey) Law, 1958(e) and any other charges or amounts payable to the States of Guernsey, the States of Alderney or any of their respective committees in respect of the use of, or in respect of services, goods or facilities provided at, Guernsey Airport or Alderney Airport;

"Alderney Airport" means the airport known as Alderney Airport in respect of which the States of Alderney holds an aerodrome licence granted by the Royal Court under Article 70 of the Air Navigation Order 1980(f), and includes all land in respect of which the said licence is for the time being granted;

"the appropriate authority" means the Board, in relation to an aircraft at Guernsey Airport, and the States of Alderney, in relation to an aircraft at Alderney Airport;

"the Board" means the States of Guernsey Board of Administration;

(d) Recueil d'Ordonnances Tome XXIV, p.9.

(e) Ordres en Conseil Vol.XVII, p.448.

(f) United Kingdom S.I. 1980/1965, extended to the Bailiwick by United Kingdom S.I. 1981/1805.

"the Court" means the Royal Court sitting as an Ordinary Court, in relation to an aircraft detained at Guernsey Airport, and the Court of Alderney, in relation to an aircraft detained at Alderney Airport;

"Guernsey Airport" means Guernsey Airport at La Villiaze, being the airport in respect of which the Board holds an aerodrome licence granted by the Royal Court under Article 70 of the Air Navigation Order 1980, and includes all land in respect of which the said licence is for the time being granted;

"operator", in relation to an aircraft, means the person having the management thereof for the time being or, in relation to a particular time, at that time.

(2) The provisions of the Interpretation (Guernsey) Law, 1948(g) shall apply to the interpretation of this Law.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Savings for existing remedies.

9. Nothing in this Law shall prejudice any right or remedy of the appropriate authority in respect of airport fees arising otherwise than under this Law.

(g) Ordres en Conseil Vol.XIII, p.355.

Citation.

10. This Law may be cited as the Detention of Aircraft (Guernsey and Alderney) Law, 1994.

D. R. DOREY,
Her Majesty's Deputy Greffier.