

Detention of Aircraft

Airside Operational Instruction 25

CONTENT:-

1. REGULATIONS
2. AIRCRAFT TO BE DETAINED
3. INTERNAL AUTHORISATION
4. IMPLEMENTATION
5. EXCEPTIONS
6. REMOVAL OF LIEN
7. LEGAL LIABILITY
8. CAA AND EUROCONTROL DETENTIONS
9. AIR NAVIGATION ORDER DETENTIONS

- APPENDIX 1 BOH NOTIFICATION OF INTENTION TO DETAIN AN AIRCRAFT
APPENDIX 2 BOH NOTIFICATION OF DETENTION OF AIRCRAFT
APPENDIX 3 ANO 2009; DETENTION FORMS

A. AMENDMENTS

This document will be subject to a routine review, over a period not exceeding 18 months. The latest version will be included in the annual reissue of the Aerodrome Manual; interim reviews are carried out as deemed necessary.

Only operational related amendments will prompt the issue of a new Version; pertinent amendments being highlighted in **green** text & indicated by a **green** bar in the right margin. Indication of any amendment of an administrative nature will be listed below.

B. REVIEW / AMENDMENT HISTORY

REVIEW SUMMARY			
VERSION / REVIEW REF:-	1.1	REVIEW COMPLETED BY:-	CATHY WILLOUGHBY-CRISP
DATE:-	SEP 16	ROLE:-	AIR TRAFFIC & OPERATIONS MANAGER

PARAGRAPH	AMENDMENT
	<i>Nil</i>

REVIEW SUMMARY			
VERSION / REVIEW REF:-	V2.0	REVIEW COMPLETED BY:-	CATHY WILLOUGHBY-CRISP
DATE:-	DEC 17	ROLE:-	AIR TRAFFIC & OPERATIONS MANAGER

PARAGRAPH	AMENDMENT
	New ownership
Various	Role title change; General Manager now Managing Director
Various	Reference to Manchester Airports Group (MAG) now Regional & City Airports (RCA)

1. REGULATIONS

- 1.1 Under Section 88 of the Civil Aviation Act 1982, the Airport Company has the right to place a lien on any aircraft for non-payment of airport charges, until such time as the charges due in respect of it, or incurred by its operator in respect of another aircraft, are discharged.

The power to detain is specific to charges incurred at Bournemouth Airport (BOH). The Airport Company may not detain an aircraft for airport charges incurred at other airports under the ownership or management of Regional & City Airports (RCA). Similarly, other airports under the control of RCA may not detain for airport charges incurred at BOH.

Unlike the powers to detain, described in Paragraphs 8 and 9 below, the power to detain to recover unpaid airport charges is not given to specific named individuals. It is given to the Airport Company as the owner/manager of the Airport.

2. AIRCRAFT TO BE DETAINED

- 2.1 Aircraft that may be detained, until such time as any charges are discharged, are either of the following: -
- a) The aircraft in respect of which the charges were incurred; this applies whether or not the charges were incurred by the person / company who is the operator of the aircraft at the time the detention begins
 - b) Any other aircraft of which the person / company in default, is the operator at the time the detention begins.
- 2.2 The power to lien is to recover "airport charges"; these will include landing, navigational and parking charges. It may also include "other services" provided by the Airport Company to the aircraft. RCA Legal Services should be consulted prior to placing a lien in respect of other services, to ensure the power to lien exists.

The power to lien only arises where "default" is made in payment of airport charges. If credit terms are in place e.g. payment within 14 days of invoice, "default" will not arise in respect of such sums until the expiry of this period.

In the event that the aircraft charges are not paid within 56 days of the date when detention began, the Airport Company may, subject to strict notice and court procedure, sell the aircraft in order to satisfy the charges.

3. INTERNAL AUTHORISATION

- 3.1 When a debt is identified by the Finance department, which could be recouped by placing a lien on an aircraft, the Financial Controller should first consult with the Managing Director (or Head of Technical Services, in their absence) to ascertain the commercial viability and implications of implementing such a lien. Where possible, RCA Legal Services should be consulted prior to implementing the lien.

Following the internal consultation, details of the lien should be entered in Part A of the form "Notification of Intention to Detain an Aircraft" and the Managing Director (or Head of Technical Services, in their absence) should then authorise implementation of the lien by signing Part A of the form.

A copy of the form is contained as Appendix 1.

3.2 Once authorisation for the implementation of a lien is granted, copies of the completed form are to be circulated to:-

- Managing Director
- Financial Controller
- RCA Legal Services
- Head of Technical Services
- Air Traffic & Operations Manager

If the aircraft is foreign registered, the Department for Transport (DfT) must also be informed before the lien is implemented (0207 944 5847).

4. IMPLEMENTATION

4.1 On receipt of the Notification of Intention to Detain an Aircraft, a person designated to detain aircraft shall complete and sign the Detention Notice.

The persons designated to detain aircraft are:-

- Managing Director
- Head of Technical Services
- Air Traffic & Operations Manager

A copy of the Detention Notice is attached as Appendix 2.

It is important that a contact name and number are specified on the Detention Notice, so that payment can be made and the lien removed without delay. Out-of-hours contact details should be provided where possible.

4.2 In the presence of witnesses, the person designated to detain aircraft shall attend the aircraft and serve the Detention Notice, either by presenting it to the aircraft captain or affixing it to the exterior of the aircraft. It is recommended that a copy of the Notice be affixed to the exterior of the aircraft door in all cases, whether or not also handed to the Captain, so that any person entering is aware of detention.

If the Notice is only affixed to the exterior of the aircraft, a copy should be sent immediately to the owner's and operator's head office.

5. EXCEPTIONS

5.1 The Legislation states that, the Airport Company shall not detain or continue to detain an aircraft for unpaid charges, if the operator of the aircraft or any other person claiming an interest in the aircraft:-

- a) Disputes that the charges, or any part of them, are due. *or*
- b) If detained as under Para 2.1 above; disputes that the charges, or any part of them, were incurred in respect of that aircraft.

Providing that the Airport Company is given, pending determination of the dispute, sufficient security for payment of the alleged charges.

6. REMOVAL OF LIEN

6.1 On final settlement of the charges, which prompted the lien to be implemented, the Managing Director / Head of Technical Services (whoever authorised implementation of the lien), should then rescind the lien by signing Part B of the "Notification of Intention to Detain an Aircraft" form. Once authorisation for the removal of a lien is granted, copies of the completed form are to be circulated.

7. LEGAL LIABILITY

7.1 The Airport Company's legal liability for detention of aircraft is insured under the Airport Operators Policy. Therefore, if the airport charges are owed to the Airport Company because of the aircraft's operation from the airport, the Airport Company can detain and in the event that the detention was wrongful, the Airport Company's liability would be covered. This might not be the case with CAA and Eurocontrol detentions.

8. CAA AND EUROCONTROL DETENTIONS

8.1 The following persons are authorised to detain aircraft on behalf of the Civil Aviation Authority (CAA) and Eurocontrol in respect of Air Navigation charges due:-

- Managing Director
- Head of Technical Services
- Air Traffic & Operations Manager

The powers to detain aircraft are dealt with in separate legislation. All required paperwork will be prepared and provided by the CAA.

The CAA has given the Airport Company and those specific individuals authorised to place liens on aircraft on the CAA's behalf, a written indemnity for any loss or liability arising from acting on behalf of the CAA, except where such loss or liability arises from the negligence of the Airport or the authorised individuals.

- 8.2** Liens initiated by the CAA and Eurocontrol will be implemented by the following process:-
- a) The Airport will receive a request to detain an aircraft from the CAA, on behalf of either Eurocontrol or the National Air Traffic Services (NATS).
 - b) This request must be actioned by one of the persons listed in Paragraph 8.1 and in the manner as described in Paragraph 4.
 - c) Once the aircraft has been detained, the CAA should be contacted and they will, in turn, inform the operator of the event and the procedures for payment of costs.
 - d) Once a satisfactory conclusion has been reached between the operator and the CAA, the Airport will be informed and the aircraft can be released. This should be confirmed to the CAA, who will in turn advise the operator.

9. AIR NAVIGATION ORDER DETENTIONS

- 9.1** A further right to detain aircraft may be given to specific individuals by CAA authorisation, issued under the Air Navigation Order made pursuant to Section 60 of the Civil Aviation Act 1982. This legislation relates to navigational and safety issues, as well as possible detention as detailed in Paragraph 9.2.

The person authorised by the Civil Aviation Authority to detain an aircraft on safety grounds is the Managing Director.

- 9.2** Should the above become aware of an aircraft, that gives cause for concern for their safe operations, then they may consider the following options:-
- a) There is no apparent safety risk, in which case no further action is taken by the Airport.
 - b) They are satisfied that there is a safety risk and are in a position to detain the aircraft, pursuant to ANO Article 232 (1).
 - c) They believe that there may be a safety risk but need further advice from a CAA Surveyor in determining an appropriate course of action; see Paragraph 9.6.
- 9.3** Once the authorised person has determined that there is a safety risk, they should initially try to contact the CAA to request that they attend and detain the aircraft. If this is not possible, then authorised persons are entitled to carry out any of the following functions at BOH:-
- a) To request the documents and records required by the Air Navigation Order or any Regulations made there under, to be produced at the request of an authorised person and to inspect and copy the same.
 - b) To request the production of a noise certificate in force in respect of an aircraft.
 - c) In accordance with the provision of an Air Navigation Order, to enter upon and inspect any aircraft, to direct the operator or commander of an aircraft not to permit it to make a flight and to detain the aircraft.

- d) In accordance with the provisions of an Air Navigation (Noise Certification) Order, to enter upon and inspect any aircraft, to direct the operator or commander of an aircraft not to permit it to make a flight and detain the aircraft.

If a decision is made to detain an aircraft on safety grounds, then one of the above persons authorised to detain aircraft shall complete and sign the Detention Notice.

A copy of the Detention / Direction Notice is attached as Appendix 3.

9.4 Once an aircraft has been detained, the CAA should be informed on the following numbers:-


- Between the hours of 09:00 & 17:00; the CAA Investigation and Enforcement Manager should be contacted on 0207 453 6193
- Should the above be unavailable, or when out-of-hours, then contact is via 01293 567171

9.5 Should an aircraft be detained by the Airport and a CAA Surveyor subsequently reviews the position and considers that there are no grounds for detention; the Direction Notice will be revoked.

In the event that an authorised person believes there to be a safety risk but needs further advice to determine the appropriate course of action, they should contact the CAA and request a Surveyor. The Surveyor will review the position and will either issue a Detention Notice, or will advise the Airport that no further action is to be taken.

Once it has been agreed that an aircraft is now safe to operate, the CAA will revoke the Direction Notice preventing the aircraft flying (Appendix 3). The CAA will inform both the Airport and the operator that this has happened, and normal operations may commence.

APPENDIX 1

 <p>Bournemouth Airport <small>Part of Bournemouth City Airport</small></p>	<p>NOTIFICATION OF INTENTION TO DETAIN AN AIRCRAFT</p>
---	---

FOR INTERNAL USE ONLY – THIS IS NOT A LIEN

PART A

TO BE COMPLETED AND DISTRIBUTED TO THE RELEVANT PERSONS, AS LISTED IN PARAGRAPH 3.2,
BEFORE A LIEN IS PLACED ON ANY AIRCRAFT AT BOURNEMOUTH AIRPORT

<i>BOURNEMOUTH INTERNATIONAL AIRPORT LIMITED INTENDS TO PLACE A LIEN ON THE AIRCRAFT AS DETAILED BELOW</i>	
REGISTRATION:-	
TYPE:-	
OPERATING COMPANY:-	
OWNER:-	
DETAILS OF DEBT TO BE RECOVERED:-	

ACTION TO BE TAKEN	
AIR TRAFFIC CONTROL:-	ALL DEPARTURE SLOTS FOR THIS AIRCRAFT TO BE SUSPENDED
AIRFIELD OPERATIONS:-	THE AIRCRAFT TO BE PARKED IN AN AREA THAT WILL CAUSE THE MINIMUM DISRUPTION TO OPERATIONS

AUTHORISING PERSON					
SIGNATURE:-		DATE:		TIME:-	
PRINT NAME:-			ROLE:-		

PART B


TO BE COMPLETED AND RE-DISTRIBUTED AS PER PART A,
AS SOON AS PRACTICABLE ONCE A LIEN HAS BEEN RESCINDED

AUTHORISING PERSON

THE LIEN RELATING TO THE AIRCRAFT DETAILED IN PART A HAS BEEN RESCINDED

SIGNATURE:-		DATE:		TIME:-	
PRINT NAME:-			ROLE:-		

APPENDIX 2

 Bournemouth Airport <small>Part of Bournemouth & City Airport</small>	NOTIFICATION OF DETENTION OF AIRCRAFT
--	--

NOTICE OF DETENTION TO OPERATOR	
CIVIL AVIATION ACT 1982; SECTION 88	
AIRCRAFT REGISTRATION:-	
NOTICE IS HEREBY GIVEN FOR AND ON BEHALF OF BOURNEMOUTH INTERNATIONAL AIRPORT LTD., THAT THIS AIRCRAFT, OPERATED BY:-	
NAME OF OPERATOR:-	
HAS BEEN DETAINED BY BOURNEMOUTH INTERNATIONAL AIRPORT LTD., UNDER THE PROVISIONS OF SECTION 88 OF THE CIVIL AVIATION ACT 1982, IN ENFORCEMENT OF LIEN UPON THE SAME AIRCRAFT, BY VIRTUE OF THE SAID ACT, FOR AIRPORT DUES AND CHARGES NOW ACCRUED, DUE AND OWING TO BOURNEMOUTH INTERNATIONAL AIRPORT LTD. BY:-	
DETAINING PERSON:-	
AND SHALL, SUBJECT TO THE PROVISIONS OF SECTION 88 OF THE SAID ACT, BE DETAINED AT BOURNEMOUTH INTERNATIONAL AIRPORT UNTIL ALL CLAIMS AND ACCOUNTS, IN RESPECT OF THE SAME, ARE SATISFIED; AND THAT THIS AIRCRAFT MAY NOT BE MOVED, BOARDED OR ITS STATE OR CONDITION ALTERED IN ANY WAY, WITHOUT THE EXPRESS AUTHORITY OF BOURNEMOUTH INTERNATIONAL AIRPORT LTD., UNTIL FURTHER NOTICE	

FURTHERMORE, IF THE CHARGES ARE NOT PAID, BOURNEMOUTH INTERNATIONAL AIRPORT LTD. MAY EXERCISE ITS STATUTORY POWER, UNDER SECTION 88 OF THE SAID ACT, TO SELL THE AIRCRAFT IN ORDER TO SATISFY THE CHARGES

FOR AND ON BEHALF OF BOURNEMOUTH INTERNATIONAL AIRPORT LTD			
SIGNATURE:-		DATE:-	
NAME:-		TIME:-	

TO DISCUSS THE REQUIREMENTS FOR THE REMOVAL OF THIS LIEN,
CONTACT THE MANAGING, PAUL KNIGHT ON 07768 620442

APPENDIX 3

AIR NAVIGATION ORDER 2009; DETENTION FORMS

DIRECTION TO PREVENT AIRCRAFT FLYING WHILE IN A CONDITION UNFIT FOR THE FLIGHT
AIR NAVIGATION ORDER 2009

To:-

NAME OF OPERATOR:-	
<i>THE OPERATOR OF; OR</i>	
NAME OF COMMANDER:-	
<i>THE COMMANDER OF</i>	
AIRCRAFT REGISTRATION:-	
<i>WHEREAS IT APPEARS TO ME</i>	
AUTHORISED PERSON:-	

Being an Authorised Person, for the purposes of Article 232 of the Air Navigation Order 2009, that the aircraft bearing the registration , is likely to be flown while in a condition unfit for the flight

Now I, as an Authorised Person, hereby direct that the said aircraft shall not be flown until this direction has been revoked by the CAA or by an Authorised Person

SIGNATURE:-		DATE:-	
--------------------	--	---------------	--

ACKNOWLEDGEMENT OF SERVICE

I (Operator or Commander) acknowledge that I have received a copy of the Direction

SIGNATURE:-		DATE:-	
PRINT NAME:-		TIME:-	

**REVOCATION OF DIRECTION TO PREVENT AIRCRAFT FLYING
WHILE IN A CONDITION UNFIT FOR THE FLIGHT
AIR NAVIGATION ORDER 2009**

I, [REDACTED], being an Authorised Person, for the purposes of Article 232 of the Air Navigation Order 2009, revoke the Direction, dated [REDACTED], issued to Operator [REDACTED] or Commander [REDACTED], in respect of Aircraft bearing the Registration [REDACTED].

SIGNATURE:-		DATE:-	
--------------------	--	---------------	--