

# **AOP 23 –** *Detention of Aircraft*

VERSION No: 1.1

## Document Control

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## **1 SECTION 1 - Detention of Aircraft**

### **1.1 Aims and Objectives**

Under section 88 of the Civil Aviation Act 1982, LBA has the right to detain an aircraft for non-payment of airport charges payable to LBA for the use of, or for services provided at, Leeds Bradford Airport ('the Airport') until such time as the charges due in respect of it (or incurred by its operator in respect of another aircraft) are satisfied.

The power to detain for non-payment of airport charges is not given to specific named individuals. It is instead given to LBA as the owner/manager of the Airport.

The procedures set out below determine who is authorised internally to detain an aircraft pursuant to this document.

### **1.2 Aircraft to be detained**

Aircraft that may be detained until such time as any relevant charges are discharged are:

- The aircraft in respect of which the charges were incurred (whether or not the charges were incurred by the person who is the operator of the aircraft at the time the detention begins); or
- Any other aircraft of which the person in default is the operator at the time the detention begins.

Before any detention for unpaid fees is implemented, Section 88 of the Civil Aviation Act must be reviewed to ensure all actions are legal and defensible.

The power to detain is to recover "airport charges". This includes landing, navigational and parking charges. It may also include charges for other "services" provided by LBA to the aircraft

at the Airport. LBA's Legal Counsel should be consulted prior to exercising a right to detain in respect of other "services" to ensure the relevant right exists.

The power to detain 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 the credit period.

If the aircraft charges are not paid within 56 days of the date when detention begins, LBA may take steps to sell the aircraft in order to satisfy the charges. No steps of this nature should be taken without first having consulted LBA's Legal Counsel as court approval is required.

### **1.3 Internal Authorisation**

When unpaid airport charges that may be recovered by exercising the right to detain an aircraft are identified by the Finance Department or otherwise, the Chief Financial Officer should in the first instance consult with the:

- Chief Executive and
- Operations Director

to ascertain the commercial viability and implications of detention.

Where possible LBA's Legal Counsel should be consulted prior to detention. Following this internal consultation, Part A of the form APPENDIX 35 - Notification of Intention to Detain an Aircraft should be completed and the Chief Executive (or Operations Director in his absence) should then authorise the detention by signing Part A of the form.

Once authorisation of detention is granted, copies of the completed form are to be circulated to:

#### **1.3.1 Notification of Intent circulation list**

- Chief Executive
- Chief Financial Officer
- LBA's Legal Counsel
- Operations Director
- Airfield Operations Manger
- Air Traffic Services Manager

If the aircraft is foreign registered, the Department for Transport (DFT) must be informed before the detention is implemented. As at the date of issue of this document, the DFT contact is the Head of Bilateral Division (0207 944 5803 or, out of hours, 0207 944 5999).

### **1.4 Implementation**

On receipt of the Notification of Intention to Detain an Aircraft, a person designated to detain aircraft shall complete and sign APPENDIX 36 - Notice of Detention of Aircraft.

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

The persons designated to detain aircraft are:

- Operations Director

- Airfield Operations Manger
- Air Traffic Services Manager

The person designated to detain aircraft shall attend the aircraft and serve the Notice of Detention of Aircraft, in the presence of witnesses, either by presenting it to the aircraft captain or affixing it to the exterior of the aircraft door. It is recommended that a copy of the notice be affixed to the exterior of the aircraft door in all cases (whether or not handed to the aircraft captain as well) so that any person entering is aware of detention. (A copy should be sent immediately to the owners' and operators' head office and the handling agent).

The aircraft should be blocked in to prevent unauthorised attempts to remove it.

### **1.5 Exceptions**

LBA 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:

- disputes that the charges, or any part of them, are due; and
- gives LBA, pending the determination of the dispute, sufficient security for the payment of the charges which are alleged to be due.

### **1.6 Removal of Lien**

On final settlement of the charges that resulted in the detention, the Chief Executive and/or Operations Director (whoever authorised the implementation of the lien) should then end the detention by signing Part B of the form APPENDIX 35 - Notification of Intention to Detain an Aircraft. Once authorisation for the end of the detention is granted copies of the completed form are to be circulated to the recipients provided for in Para. 60.3.1.

### **1.7 Legal Liability**

LBA's legal liability arising from the detention of aircraft is covered under LBA's aviation insurance policy to the extent that LBA becomes legally liable to pay damages arising out of detention of aircraft in breach of the Civil Aviation Act 1982 and / or the Air Navigation Order 2016 and / or existing or future legislation including, without limitation, instruments, regulations, directives, orders and byelaws pursuant to which LBA detains an aircraft.

### **1.8 CAA and Eurocontrol Detentions**

As of the date of issue of this document, the following persons are authorised pursuant to the Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft) Regulations 2001 (as amended) and the Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft for Eurocontrol) Regulations 2001 (as amended) to detain aircraft on behalf of the Civil Aviation Authority (CAA) and the European Organisation for the Safety of Air Navigation (Eurocontrol) in respect of air navigation charges due.

- Chief Executive
- Operations Director

All required paperwork will be prepared and provided by the CAA.

## 1.9 Implementation of CAA and Eurocontrol detentions

- LBA will receive a request to detain an aircraft from the CAA on behalf of either Eurocontrol or the National Air Traffic Services (NATS).
- This request must be actioned by one of the persons holding the roles identified in Para. 60.4
- Once the aircraft has been detained the CAA should be contacted and the CAA will, in turn inform the operator of the event and the procedures for payment of costs.
- Once a satisfactory conclusion has been reached between the operator and the CAA, LBA will be informed and the aircraft can be released. This should be confirmed to the CAA, who will in turn advise the operator.

## 1.10 Air Navigation Order Detentions

A further right to detain aircraft may be given to specific individuals by CAA authorisation issued under the Air Navigation Order 2016 made pursuant to Section 60 of the Civil Aviation Act 1982. If it appears to an Authorised Person that any aircraft is intended or likely to be flown while in a condition unfit for the flight, that Authorised Person may direct the operator or the commander of the aircraft that he is not to permit the aircraft to fly until the direction has been revoked by the CAA or by an Authorised Person and the CAA or that Authorised Person may take such steps as are necessary to detain the aircraft.

The power within the Authorisation could be invoked in 3 circumstances:

- On your own volition, when you suspect reasonable grounds exist
- After obtaining advice from the CAA; or
- The CAA requests you to detain the aircraft on its behalf.

LBA must not exercise these powers of an Authorised Person to detain an aircraft for non-payment of landing or other fees. An Authorised Person acting under Article 257 is not carrying out a function of the CAA or acting on its behalf. Their authority to perform the function derives from their appointment by the CAA under the ANO as an Authorised Person and they are responsible for their own actions. Liability for the use of Authorisations under Article 257 by non-CAA personnel lies solely with them and their employer, and not with the CAA.

### 1.10.1 Aircraft determined unfit for flight

Should an authorised person resolve that an aircraft is unfit for flight, in the first instance they should try to contact the CAA to request that they attend and detain the aircraft.

A Direction is to be issued to the Operator or the Commander of the aircraft. It should always be in writing. If it cannot be given to the addressee in person the Direction should be fixed to the aircraft concerned and a copy of it sent to the Commander and/or Operator. In such a case it may be appropriate to try and inform the Operator and/or Commander orally that the Direction has been issued. The power to detain under Article 257(3) allows the authorised person to direct the operator/commander not to permit the aircraft to make 'the particular flight or any other flight of such description as may be specified in the direction'.

It is important to remember that if a Direction has been given it must subsequently be revoked. This Direction should only be revoked if required by a court order or if the Authorised Person is satisfied that the aircraft is now airworthy.

If a decision is made to detain an aircraft under in accordance with Para. 60.10.1, then only a CAA approved person is authorised to detain such aircraft & shall complete and sign APPENDIX 37 – Air Navigation Order Detention Forms.

The Authorised Person will be responsible for ensuring this power to prevent an aircraft flying is used properly in accordance with the ANO and may be liable for any claims of improper use.

As well as issuing the Direction, an Authorised Person is also entitled to take such steps as are necessary to detain the aircraft. This may for example involve parking an airport vehicle so as to prevent the aircraft from moving. Any such steps should however be apparent to any person trying to move the aircraft and should avoid damaging the aircraft. In accordance with Article 257 (5), the CAA or any authorised person may enter and inspect any aircraft. The persons approved by the CAA to detail aircraft under Article 257 are: LBA Airfield Safety & Compliance Manager.

#### 1.10.2 CAA Contact details

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

- Between the hours of 0900 hours and 1700 hours the CAA Investigation and enforcement Manager should be contacted on 0207 453 6193;
- Should the above be unavailable, or if it is out of hours, then contact 01293 567171.

Should an aircraft be detained by LBA and a CAA surveyor subsequently reviews the position and considers that there are no grounds for detention, and then the detention notice will be revoked.

#### 1.10.3 Seeking advice from the CAA

The authorised person may believe that an aircraft is unfit for flight but needs further advice from the CAA before the aircraft is detained. In this case the a surveyor will be requested. The surveyor will review the position and will either issue a detention notice or will advise LBA that no further action is to be taken.

Once it has been agreed that an aircraft is safe to operate, the CAA will revoke the direction to prevent aircraft flying. The CAA will inform both LBA and the operator that this has happened and normal operations may commence.

### **1.11 APPENDIX 35 - NOTIFICATION OF INTENTION TO DETAIN AN AIRCRAFT**

*for internal use only - this is not a detention notice*

Part A - To be completed and distributed to the relevant persons before exercising a right to detain any aircraft at Leeds Bradford Airport

Part B - To be completed and re-distributed as above, as soon as practicable once a right to detain has been rescinded.

#### **PART A**

LBA intends to exercise a right to detain the following aircraft.

Aircraft detail	
Registration	

Type	
Operating Company	
Owner	
Details Of Debt To Be Recovered	

ATC please suspend departure slots for this aircraft.

Airfield Operations please ensure that the aircraft is parked in an area that will cause the minimum amount of disruption to operations.

Authorising person:.....

Signature:.....

Print Name:.....

Position:.....

Date: ..... Time:.....

**PART B**

The detention relating to the above aircraft has now been rescinded.

Authorising person:

Signature:.....

Print Name:.....

Position:.....

Date:..... Time:.....

**1.12 APPENDIX 36 – NOTICE OF DETENTION OF AIRCRAFT**

*To be prepared on LBA headed notepaper*

**LEEDS BRADFORD AIRPORT LIMITED**  
**NOTICE OF DETENTION OF AIRCRAFT**  
Section 88, Civil Aviation Act 1982

AIRCRAFT REGISTRATION / CHASSIS NUMBER  
*insert aircraft registration / chassis number*

**NOTICE IS HEREBY GIVEN**  
for and on behalf of Leed Bradford Airport Limited that this aircraft has been detained by Leed Bradford International Airport Limited in accordance with the provisions of Section 88 of the Civil Aviation Act 1982 pending settlement of all airport charges now accrued and due to Leed Bradford Airport Limited by  
*insert name of debtor*

and shall subject to the provisions of Section 88 of the said Act be detained by Leeds Bradford Airport Limited 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 or any items removed from it without the express authority of Leeds Bradford International Airport Limited, until futher notice.

**Furthermore**, if the charges are not paid within 56 days of the date of detention, Leeds Bradford International Airport Limited may take steps to sell the aircraft in order to satisfy the charges.

Signed.....  
Name.....  
Job title.....  
Contact no.....  
Date.....  
Time.....

To discuss the requirements for the removal of this lien contact [*insert name and position*] or [*insert contact number*]



**1.13 APPENDIX 37 – Air Navigation Order Detention Forms**

**Air Navigation Order 2016**

**DIRECTION TO PREVENT AIRCRAFT FLYING WHILE IN A CONDITION UNFIT FOR THE FLIGHT**

To: **NAME OF OPERATOR**, the Operator of **AIRCRAFT REGISTRATION**  
Or  
**NAME OF COMMANDER**, the Commander of **AIRCRAFT REGISTRATION**

It appears to me **NAME OF AUTHORISED PERSON**

being an authorised person for the purposes of Article 257 of the Air Navigation Order 2016, that the aircraft bearing the registration **AIRCRAFT REGISTRATION** is likely to be flown while in a condition unfit for the flight.

NOW I, as an authorised person, direct that the said aircraft shall not be flown until this direction has been revoked by the CAA or by an authorised person.

Dated this..... day of.....20...

Signature.....

**Air Navigation Order 2016**

**REVOCAION OF DIRECTION TO PREVENT AIRCRAFT FLYING WHILE IN A CONDITION UNFIT FOR THE FLIGHT**

I, **NAME OF AUTHORISED PERSON**, being an authorised person for the purposes of Article 257 of the Air Navigation Order 2016, revoke the Direction dated **DATE** issued to **NAME OF OPERATOR** or **NAME OF COMMANDER** in respect of **AIRCRAFT REGISTRATION**.

Dated this..... day

of..... [year]

Signature.....