**L.N. 168 of 1989**

## EUROCONTROL ACT, 1989

### Civil Aviation (Route Charges for Navigation Services) Regulations, 1989

IN exercise of the powers conferred by section 6 of the Eurocontrol Act, 1989, the Prime Minister has made the following regulations:—

Citation and commencement.

**1.** (1) These regulations may be cited as the Civil Aviation (Route Charges for Navigation Services) Regulations, 1989.

(2) These regulations shall come into force on the 1st day of January, 1990.

Interpretation.

**2.** (1) In these regulations, unless the context otherwise requires:

"FIR" means "Flight Information Region";

"Malta AIP" means a document in force in Malta at the date of the making of these regulations entitled "Malta Aeronautical Information Publication" or "Malta AIP" and published by the Department of Civil Aviation;

"Eurocontrol" has the same meaning assigned to it by the Eurocontrol Act, 1989; Act X of 1989.

"Member State" means a State which is a Member State of Eurocontrol;

"Specified Airspace" means the airspace of the Malta Flight Information Region as described in the Malta AIP.

(2) Expressions used in these regulations shall, unless the context otherwise requires, have the same respective meanings as in the Colonial Air Navigation Order, 1961. L.N. 10 of 1963.

Charge to be paid to Eurocontrol.

**3.** (1) Subject to the provisions of these regulations the operator of any aircraft (in whatsoever State it is registered) for which navigation services (not being navigation services provided in connection with the use of an aerodrome) are made available in the specified airspace shall pay to Eurocontrol, in respect of each flight by that aircraft in that airspace, a charge for those services (hereinafter referred to as "the charge") at the appropriate rate calculated in accordance with regulation 5 of these regulations.

(2) If Eurocontrol is unable, after taking reasonable steps, to ascertain who is the operator, it may give notice to the owner of the aircraft that it will treat him as the operator until he establishes to the reasonable satisfaction of Eurocontrol that some other person is the operator; and from the time when the notice is given Eurocontrol shall

be entitled, for so long as the owner is unable to establish as aforesaid that some other person is the operator, to treat the owner as if he were the operator, and for that purpose the provisions of these regulations (other than this paragraph) shall apply to the owner of the aircraft as if he were the operator.

Payment.

**4.** (1) The amount of the charge shall be payable to Eurocontrol at its principal office in Brussels and shall be paid in European Currency Unit.

(2) Without prejudice to any existing rule of law relating to the payment, under an order of the court, of a debt expressed in foreign currency, the equivalent of the charge may be recovered in Maltese liri in any court of competent jurisdiction in Malta.

(3) Nothing in this regulation shall prevent Eurocontrol from accepting as a good discharge payment in currencies other than European Currency Unit or at places other than the principal office of Eurocontrol.

Calculation of the charge.

**5.** (1) The charge shall be calculated in European Currency Unit according to the following formula:—

$$r = N \times U$$

where r is the charge for the flight, N is the number of service units relating to that flight and U is the appropriate unit rate specified in column 3 of the Schedule to these regulations increased or decreased as the case may be by the same percentage as the Maltese currency has increased or decreased against the European Currency Unit as compared with the rate of exchange specified in column 4 of the said Schedule.

(2) For the purpose of the preceding paragraph, the number of service units relating to a flight shall be calculated in accordance with the following formula:—

$$N = d \times p$$

where d is the distance factor for the flight in the specified airspace and p is the weight factor for the aircraft concerned.

(3) For the purposes of the preceding paragraph —

(a) the distance factor shall be the number of kilometres in the great circle distance between the points specified in paragraph (4) of this regulation minus 20 kilometres for each landing and take-off in the specified airspace divided by 100 and expressed to two places of decimals, and

(b) the weight factor shall be equal to the square root of the quotient obtained by dividing by 50 the number of metric tonnes of the maximum total weight authorised of the aircraft and shall be expressed to two places of decimals.

(4) The points referred to in paragraph (3) of this regulation are:

(a) the aerodrome of departure within the specified airspace or, if there is no such aerodrome, the point specified in paragraph (5) of this regulation as the standard point of entry into that airspace for the route in question;

(b) the aerodrome of first destination within the specified airspace or, if there is no such aerodrome, the point specified in paragraph (5) of this regulation as the standard point of exit from that airspace for the route in question.

(5) The standard points of entry and exit referred to in paragraph (4) of this regulation are the points, as described in the Malta AIP, where the median line of the appropriate airway or upper Air Traffic Service route so described crosses the boundary of the airspace.

For the purposes of this paragraph, the appropriate airway or route, in the case of a flight made between 1st January and 31st December in any year, shall be:—

(a) the airway or route between the aerodrome of departure and the aerodrome of first destination which appears to Eurocontrol on 1st January of that year to be the most frequently used such airway or route; or

(b) if Eurocontrol is unable to ascertain on 1st January of that year which such airway or route is the most frequently used, the shortest such airway or route.

(6) The weight factor for an aircraft of any type shall be calculated by reference to the maximum total weight authorised of the heaviest aircraft of that type:

Provided that where an operator has indicated to Eurocontrol, within the period of one year immediately preceding the flight, the composition of the fleet of aircraft of which he disposes and that it includes two or more aircraft which are different versions of the same type of aircraft, the weight factor shall be calculated by reference to the average of the maximum total weight authorised of all his aircraft of that type so indicated to Eurocontrol.

Rate of exchange.

**6.** (1) For the purposes of regulation 5 the rate of exchange of the European Currency Unit to the Malta Lira shall be the average monthly rate of exchange of the European Currency Unit to the Maltese currency established by the International Monetary Fund and publication in the International Financial Statistics of the International Monetary Fund for the month preceding the month during which the flight takes place shall be conclusive evidence of that matter; and a document purporting to be the International Financial Statistics published by the International Monetary Fund shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a document.

(2) In the event that the International Monetary Fund does not publish the International Financial Statistics for the month preceding the month during which the flight takes place, a certificate given by the Central Bank of Malta stating the average monthly rate of exchange of the European Currency Unit to the Maltese currency for the month preceding the month during which the flight takes place shall be conclusive evidence of that matter; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Exempt Flights.

**7.** These regulations shall not apply to the following flights:—

(i) flights by military aircraft of a Member State;

(ii) flights made for the purposes of search and rescue operations;

(iii) flights performed under Visual Flight Rules during the entire en route portion; mixed Visual Flight Rules/Instrument Flight Rules flights shall be exempted only in the airspace of the Flight Information Regions which fall within the competence of the Member State or States where they are performed exclusively under Visual Flight Rules conditions;

(iv) flights terminating at the aerodrome from which the aircraft has taken off;

(v) flights other than the flights referred to in paragraph (i) of this regulation made by aircraft which are the property of a State (including customs and police aircraft) and which are not made for commercial purposes;

(vi) flights made exclusively for the purpose of checking or testing equipment used or intended to be used as aids to air navigation;

(vii) flights made exclusively for the purpose of instruction or testing of flight crew;

(viii) flights made exclusively for the purpose of enabling an aircraft to qualify for the issue or renewal of a Certificate of Airworthiness or of the validation thereof or the approval of a modification of the aircraft, after an application has been made for such issue, renewal, validation or approval as the case may be;

(ix) flights made by aircraft of which the maximum total weight authorised is less than two metric tonnes.

## SCHEDULE

(Regulation 5(1))

| (1) | (2) | (3) | (4) |
|---|---|---|---|
| Country | Publication in which FIR is described | Unit Rate in ECU | Established at a Rate of Exchange of |
| Malta. | Malta AIP | 42.10 | 0.3840. |

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