
STATUTORY INSTRUMENTS

2004 No. 3337

CIVIL AVIATION

**The Air Navigation (Overseas Territories)
(Environmental Standards) Order 2004**

Made - - - - 16th December 2004

Laid before Parliament 10th January 2005

Coming into force 31st January 2005

Her Majesty, in exercise of the powers conferred on Her by Section 8(1) of the Civil Aviation Act 1949(a) as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b) and section 108(1) of the Civil Aviation Act 1982(c) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

Preliminary

Citation and commencement

1. This Order may be cited as the Air Navigation (Overseas Territories)(Environmental Standards) Order 2004 and shall come into force on 31st January 2005.

Interpretation

2.—(1) In this Order—

“authorised person” means any person authorised by the Governor (whether by name or by class or description) either generally or in relation to a particular case or class of cases;

“noise certificate” means a certificate issued by the Governor in accordance with article 5 or a certificate or other document issued or validated in accordance with article 4;

(a) 1949 c. 67.
(b) S.I. 1969/592.
(c) 1982 c. 16.

“Volume I of Annex 16” means the third edition - July 1993 of Volume I of Annex 16 to the Chicago Convention as amended by Amendment 7 dated 21st March 2002;

“Volume II of Annex 16” means the second edition - July 1993 of Volume II of Annex 16 to the Chicago Convention as amended by Amendment 3 dated 20th March 1997, Amendment 4 dated 4th November 1999, Supplement dated 31st December 1994 and Amendment to Supplement dated 25th March 1999.

(2) Other expressions used in this Order and in the Air Navigation (Overseas Territories) Order 2001(d) shall have the same meaning in this Order as they have in that Order.

(3) In this Order any reference to a sum expressed in terms of sterling shall be construed as a reference to the equivalent sum in the currency of the Territory calculated at such rate of exchange as may be prescribed or as the Governor may by order direct.

PART II

Noise Certification

Requirement for noise certificate by aircraft registered in the Territory

3. An aircraft registered in the Territory for which Volume I of Annex 16 specifies applicable standards shall not fly unless it has a noise certificate issued by the Governor.

Requirement for noise certificate by aircraft registered elsewhere than in the Territory

4. An aircraft registered elsewhere than in the Territory for which Volume I of Annex 16 specifies applicable standards shall not fly in the Territory unless it has a noise certificate issued by or on behalf of the State of Registry certifying compliance with those standards.

Issue of noise certificate by Governor and furnishing of evidence

5.—(1) The Governor shall issue a noise certificate to an aircraft registered in the Territory if he is satisfied that the aircraft complies with the applicable standards specified in Volume I of Annex 16 in relation to the noise made by the aircraft.

(2) For the purposes of paragraph (1) the applicant for a certificate shall furnish such evidence and submit the aircraft to such flying trials and other tests as the Governor may require.

(3) The Governor shall issue every noise certificate subject to a condition as to the maximum total weights at which the aircraft may land or take-off and may issue such a certificate subject to such other conditions relating to standards as to noise as he thinks fit.

Exceptions to requirement for a noise certificate

6. A noise certificate is not required by:

(1) an aircraft flying in accordance with the “A Conditions” or the “B Conditions” set forth in Part A of Schedule 3 to the Air Navigation (Overseas Territories) Order 2001; or

(2) an aircraft landing or taking-off at a prescribed place.

Validity of noise certificate

7.—(1) Subject to paragraph (2) and article 17, a noise certificate issued under article 5 shall remain in force without limit of time.

(2) A noise certificate issued under article 5 shall cease to be valid for the purposes of article 3:

- (a) if the aircraft or any part of it is modified in any way which affects the ability of the aircraft to comply with the noise standards required by this Order, except if such modification is done in a manner and with material of a type approved by the Governor for the purposes of this Part of this Order either generally or in relation to a class of aircraft or to a particular aircraft;
- (b) until the satisfactory completion of any inspection or test of the aircraft required by the Governor to be made for the purpose of ascertaining whether the aircraft continues to comply with the noise standards required by this Order.

Information to be included in flight manual

8.—(1) This article shall apply to any aircraft first registered in the Territory on or after 1st August 1986 in respect of which by virtue of article 15 of this Order a noise certificate is required to be carried.

(2) An aircraft to which this article applies shall not fly unless the flight manual in respect of that aircraft includes the information specified in Part II, Chapter 1 of Volume I of Annex 16.

Exemptions in respect of Part II of this Order

9. The Governor may exempt from any of the provisions of this Part of this Order any aircraft or persons or classes of aircraft or persons, either absolutely or subject to such conditions as he thinks fit.

PART III

Emissions Certification

Requirement for emissions certification by aircraft registered in the Territory

10. An aircraft registered in the Territory for which Volume II of Annex 16 specifies applicable standards shall not fly unless it individually, or is of a type which, has been certified by the Governor as complying with those standards.

Requirement for emissions certification by aircraft registered elsewhere than in the Territory

11. An aircraft registered elsewhere than in the Territory for which Volume II of Annex 16 specifies applicable standards shall not fly in the Territory unless it individually, or is of a type which, has been certified by or on behalf of the State of registry as complying with those standards.

Issue of emissions certification by Governor and furnishing of evidence

12.—(1) The Governor shall certify a type of aircraft, turbojet engine, or turbofan engine if he is of the opinion that the type in question complies with the applicable standards specified in Volume II of Annex 16.

(2) The applicant for certification to be issued by the Governor pursuant to paragraph (1) shall furnish such evidence and subject aircraft or engines of a type in respect of which the application has been made to such tests as the Governor may require.

Exceptions to requirement to be certified

13. The requirement to be certified in accordance with this Part of this Order shall not apply to—

(1) an aircraft flying in accordance with the “A Conditions” or the “B Conditions” set forth in Part A of Schedule 3 to the Air Navigation (Overseas Territories) Order 2001; or

(2) an aircraft landing or taking off at a prescribed place.

Exemptions in respect of Part III of this Order

14. The Governor may exempt from any of the provisions of this Part of this Order any aircraft or engine or persons or classes of aircraft or engine or persons, either absolutely or subject to such conditions as he thinks fit.

PART IV

Carriage, Production and Revocation of Noise Certificate

Noise certificate to be carried

15.—(1) An aircraft shall not land or take-off in the Territory unless it carries every noise certificate which it is required to carry under the law of the country in which it is registered.

(a) Subject to sub-paragraph (b), an aircraft registered in the Territory shall, when in flight, carry every noise certificate which is required by this Order to be in force in respect of that aircraft.

(b) If the flight is intended to begin and end at the same aerodrome in the Territory, the certificate may be kept at that aerodrome instead of being carried in the aircraft.

Production of noise certificate

16.—(1) Within a reasonable time after being requested to do so by the Governor or an authorised person, the commander of an aircraft shall cause to be produced to the Governor or that person every noise certificate in force in respect of that aircraft.

(2) Within a reasonable time after being requested to do so by the Governor or an authorised person, the operator of an aircraft shall cause to be produced to the Governor or that person every noise certificate in force in respect of that aircraft.

Revocation, suspension and variation of noise certificate

17.—(1) The Governor may, if he thinks fit, provisionally suspend any noise certificate, exemption or other document issued under this Order pending inquiry into or consideration of the case.

(2) The Governor may, after sufficient ground being shown to his satisfaction after due inquiry, revoke, suspend or vary any such certificate, exemption or other document.

(3) The holder or any person having the possession or custody of any noise certificate, exemption or other document which has been revoked, suspended or varied under this Order shall surrender it to the Governor within a reasonable time after being required to do so by him.

(4) The breach of any condition subject to which any noise certificate, exemption or other document has been issued under this Order shall render the document invalid during the continuance of the breach.

PART V

Offences, Penalties and General

Offences in relation to noise certificates and emissions certification

18.—(1) A person shall not with intent to deceive—

- (a) use any noise certificate issued under this Order which has been revoked or suspended, or to which he is not entitled; or
- (b) lend any such certificate to, or cause or permit it to be used by, any other person; or
- (c) make any false representation for the purpose of procuring for himself or any other person the issue, renewal or variation of any such certificate or of emissions certification issued in accordance with article 10 or 11 of this Order.

(2) A person shall not purport to issue any noise certificate or emissions certification under this Order unless he has been authorised to do so by the Governor.

Power to prevent aircraft flying

19.—(1) If it appears to the Governor or an authorised person that any aircraft is intended or likely to be flown in such circumstances that articles 3, 4, 10 or 11 would be contravened, the Governor or that authorised person may direct the operator or the commander of the aircraft that he is not to permit the aircraft to make the flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Governor or by an authorised person, and, if the aircraft is in the Territory, the Governor or that authorised person may take such steps as are necessary to detain the aircraft.

(2) The operator or, as the case may be, the commander of an aircraft shall comply with any direction given to him pursuant to paragraph (1), unless he has reasonable excuse.

(3) For the purposes of paragraph (1), the Governor or any authorised person may enter upon and inspect any aircraft.

Right of access to aerodromes and other places

20.—(1) Subject to paragraph (2), for the purpose of ascertaining whether the provisions of this Order are being complied with, the Governor and any authorised person shall have the right of access at all reasonable times to any aerodrome or any other place in the Territory where an aeroplane has landed for the purpose of inspecting any aircraft or any document which he has power to demand under this Order, and for the purpose of detaining any aircraft under this Order.

(2) In relation to any Government aerodrome the Governor or the authorised person (as the case may be) shall obtain the permission of the person in charge of that aerodrome before exercising the right of access referred to in paragraph (1).

Obstruction of persons

21. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Order.

Penalties

22.—(1) If any provision of this Order is contravened in relation to an aircraft the operator of that aircraft and the commander thereof shall (without prejudice to the liability of any other person under this Order for that contravention) be deemed for the purposes of the following provisions of this article to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Order was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) If any person contravenes any provisions of this Order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

Liability of persons other than principal offender

23.—(1) Where an offence under this Order has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a partnership is guilty of an offence under this Order or any regulations made thereunder and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Application of the Order to the Crown and visiting forces

24.—(1) Subject to the following provisions of this article, the provisions of this Order shall apply to, or in relation to, aircraft belonging to or exclusively employed in the service of Her Majesty, as they apply to or in relation to other aircraft and for the purposes of such application the Department or other authority for the time being responsible on behalf of Her Majesty for the management of the aircraft shall be deemed to be the operator of the aircraft.

(2) Nothing in this article shall render liable to any penalty any Department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(3) The naval, military and air force authorities and members of any visiting force and any international headquarters and the members thereof and property held or used for the purpose of such a force or headquarters shall be exempt from the provisions of this Order to the same extent as if that force or headquarters formed part of the forces of Her Majesty raised in the United Kingdom and for the time being serving there.

(4) Nothing in this Order shall apply to or in relation to any military aircraft.

Extra-territorial effect of the Order

25.—(1) Except where the context otherwise requires, the provisions of this Order—

- (a) insofar as they apply (whether by express reference or otherwise) to aircraft registered in the Territory, shall apply to such aircraft wherever they may be;

- (b) insofar as they apply as aforesaid to other aircraft shall apply to such aircraft when they are within the Territory;
- (c) insofar as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by the commander of any aircraft registered in the Territory, shall apply to him wherever he may be; and
- (d) insofar as they prohibit, require or regulate as aforesaid the doing of anything in relation to any aircraft registered in the Territory by other persons shall, where such persons are Commonwealth citizens, British protected persons or citizens of the Republic of Ireland, apply to them wherever they may be.

(2) Nothing in this article shall be construed as extending to make any person guilty of an offence in any case in which it is provided by section 3(1) of the British Nationality Act 1948 (which limits the criminal liability of citizens of certain countries) that that person shall not be guilty of an offence.

Acceptance of reports

26. The Governor may, for the purposes of this Order, accept reports furnished to him by a person whom he may approve, either absolutely or subject to such conditions as he thinks fit, as qualified to furnish such reports.

Application of Order

27. The provisions of this Order apply to the Territories mentioned in the Schedule to this Order, any one of which is in this Order referred to in the expression “the Territory”.

A K Galloway
Clerk of the Privy Council

SCHEDULE

TERRITORIES TO WHICH THIS ORDER APPLIES

Anguilla
Bermuda
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena
St Helena Dependencies (Tristan da Cunha and Ascension Island)
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order introduces legislation on noise certification and aircraft emissions certification (dealing with fuel venting and emissions of smoke, unburned hydrocarbons, carbon monoxide and oxides of nitrogen) in one document that applies the requirements in Annex 16 to the Convention on International Civil Aviation 1944.

2. The Order is intended:

(1) To require all aircraft registered in the Territory and all aircraft taking-off and landing in the Territory to have a valid noise certificate (articles 3 and 4).

(2) To define the circumstances under which a noise certificate can be issued and its period of validity and the exception from the requirement for a noise certificate (articles 5 – 7).

(3) To require information relating to the noise certificate to be included in the flight manual (article 8).

(4) To provide for the Governor to issue exemptions from noise certification requirements (article 9).

(5) To require that specified aircraft shall not be registered in nor land or take-off in the Territory unless certified as complying with required standards contained in Annex 16 Volume II (articles 10 - 12).

(6) To except from the requirements to have emissions certification aircraft flying in accordance with certain conditions set out in Part A or Part B of Schedule 3 of the Air Navigation (Overseas Territories) Order 2001 or aircraft taking off or landing in a prescribed place (article 13).

(7) To provide for the Governor to issue exemptions from the restrictions referred to in (5) above (article 14).

(8) To require the noise certificate to be carried and produced when required (articles 15 and 16).

(9) To enable the Governor to revoke, suspend or vary a noise certificate (article 17).

(10) To set out the offences in relation to noise certificates and emissions certification and the powers of the Governor relating to prevention (articles 18 and 19).

(11) To provide for access to aerodromes and obstruction of persons (articles 20 and 21).

(12) To set out the penalties for contravening the Order and the liability of offenders (articles 22 and 23).

(13) To set out the applicability of the Order to the Crown and visiting forces (article 24).

(14) To provide for the Order to have extra-territorial effect (article 25).

Annex 16 Volume I (Third Edition – July 1993) and Annex 16 Volume 11 (Second Edition – July 1993) of the Chicago Convention can be purchased from

ICAO, Document Sales Unit, 999 University Street,

Montreal,

Quebec HC 5H7,

Canada,

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E-mail: sales@icao.int.