

2006 No. 1911

CIVIL AVIATION

**The Air Navigation (Overseas Territories) (Amendment) Order
2006**

Made - - - - - *19th July 2006*

Laid before Parliament *31st July 2006*

Coming into force - - - *21st August 2006*

At the Court at Buckingham Palace, the 19th day of July 2006

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by Sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949(a), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b), as amended by the Civil Aviation Act 1982 (Overseas Territories) Order 2001(c), and of the powers conferred on Her by Section 61 of the Civil Aviation Act 1982(d), as extended to certain territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and Commencement

1. This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2006 and shall come into force on 21st August 2006.

Amendment of the Air Navigation (Overseas Territories) Order 2001

2. The Air Navigation (Overseas Territories) Order 2001(e) shall be amended as follows.
3. In article 4, paragraph (4)(a), the word “of” where it first appears shall be replaced by “or”.
4. In article 68, paragraph (c), the word “or” shall be replaced by “of”.
5. For article 101 there shall be substituted:

(a) 1949 c. 67.
(b) S.I. 1969/592.
(c) S.I. 2001/1452.
(d) 1982 c. 16.
(e) S.I. 2001/2128, amended by S.I. 2003/433, S.I. 2004/2038 and S.I. 2005/2763.

“Aerodromes – aircraft operations required to use certificated or notified aerodromes

101.—(1) An aircraft to which this paragraph applies shall not take off or land at a place in the Territory other than:

- (a) an aerodrome certificated under article 103 of this Order for the take-off and landing of such aircraft; or
- (b) a Government aerodrome notified under article 102 of this Order as available for the take-off and landing of such aircraft, or in respect of which the person in charge of the aerodrome has given his permission for the particular aircraft to take off or land as the case may be;

and in accordance with any conditions subject to which the aerodrome may have been certificated or notified, or subject to which such permission may have been given.

(2) Subject to paragraph (4), paragraph (1) applies to:

- (a) aircraft which are flying for the purpose of international operations;
- (b) aircraft having a type certificated maximum passenger seating capacity of 10 or more which are flying for the purpose of public transport operations;
- (c) aircraft having a maximum total weight authorised (MTWA) of 15,000 kg or more operating a flight for the purpose of public transport;
- (d) aircraft (other than Micro-lights) which are flying:
 - (i) for the purpose of instruction in flying given to any person for the purpose of becoming qualified for the grant of a pilot’s licence or the inclusion of an aircraft rating, a night rating or a night qualification in a licence; or
 - (ii) for the purpose of carrying out flying tests in respect of the grant of a pilot’s licence or the inclusion of an aircraft rating or a night rating in a licence;
- (e) an aeroplane that is unable to maintain a positive climb gradient in the event of a failure of a power unit on take-off, operating a flight for the purpose of commercial air transport of passengers at night.

(3) (a) Subject to paragraph (4) the person in charge of any area in the Territory intended to be used for the taking off or landing of helicopters at night other than such a place as is specified in paragraph (1) shall cause to be in operation, whenever a helicopter flying for the purpose of the public transport of passengers is taking off or landing at that area by night, such lighting as will enable the pilot of the helicopter:

- (i) in the case of landing, to identify the landing area in flight, to determine the landing direction and to make a safe approach and landing; and
- (ii) in the case of taking off, to make a safe take-off.

(b) A helicopter flying for the purpose of the public transport of passengers at night shall not take off or land at a place to which sub-paragraph (a) applies unless there is in operation such lighting.

(4) Paragraph (1) shall not apply to or in relation to an aircraft flying under and in accordance with the terms of a police air operator’s certificate.

(5) For the purposes of this article “international operations” are operations in respect of which the point of departure of the flight and the point of destination thereof are in two different States or in respect of which the flight passes through the sovereign airspace of the territory of more than one State.”

6. For article 102 there shall be substituted:

“Use of Government aerodromes

102.—(1) The Governor may cause to be notified, subject to such conditions as he thinks fit, any Government aerodrome as an aerodrome available for the take-off and landing of

aircraft engaged on flights for the purpose of the commercial air transport of passengers or for the purpose of instruction in flying or of any classes of such aircraft.

(2) For the purposes of this article a “Government aerodrome” means any aerodrome in the Territory that is under the control of Her Majesty’s naval, military or air forces or of any visiting force.”

7. For article 103 there shall be substituted:

“Certification of aerodromes

103.—(1) A person in charge of the operation of an aerodrome in the Territory is required to hold in respect of such aerodrome a certificate issued by the Governor in accordance with this article if:

- (a) the aerodrome is made available for the purposes of any of the operations specified in article 101(2) of this Order; or
- (b) the Governor considers that it is in the public interest to so require an aerodrome to be certificated.

(2) The Governor shall grant a certificate in respect of any aerodrome in the Territory, subject to such conditions as he thinks fit, if he is satisfied that:

- (a) the applicant is competent, having regard to his previous conduct and experience, his equipment, organisation, staffing, maintenance and other arrangements, to secure that the aerodrome and the airspace within which its visual traffic pattern is normally contained are suitable for use by aircraft;
- (b) the aerodrome is safe for use by aircraft having regard in particular to the physical characteristics of the aerodrome and of its surroundings; and
- (c) the aerodrome manual, incorporating a safety management system, submitted pursuant to paragraph (7) is adequate.

(3) If the applicant so requests the Governor may grant a certificate which in addition to any other conditions that he may impose shall be subject to the condition that the aerodrome shall at all times when it is available for the take-off or landing of aircraft be so available to all persons on equal terms and conditions.

(4) The holder of an aerodrome certificate granted under this Order (in this article called ‘an aerodrome certificate holder’) shall:

- (a) furnish to any person on request information concerning the terms of the certificate; and
- (b) cause to be notified the times during which the aerodrome will be available for the take-off or landing of aircraft engaged on flights for the purpose of the public transport of passengers or instruction in flying.

(5) An aerodrome certificate holder shall not contravene or cause or permit to be contravened any condition of the aerodrome certificate at any time in relation to such aircraft engaged on such flights as are specified in article 101(2) of this Order, but the certificate shall not cease to be valid by reason only of such a contravention.

(6) An aerodrome certificate holder shall take all reasonable steps to secure that the aerodrome and the airspace within which its visual traffic pattern is normally contained are safe at all times for use by aircraft.

(7) Upon making an application for an aerodrome certificate the applicant shall submit to the Governor an aerodrome manual for that aerodrome.

(8) An aerodrome manual required pursuant to this article shall contain all such information and instructions as may be specified by the Governor to enable the aerodrome operating staff to perform their duties as such including, in particular, information and instructions relating to the matters specified in Schedule 16 to this Order.

(9) Every aerodrome certificate holder shall:

- (a) furnish to the Governor any amendments or additions to the aerodrome manual before or immediately after they come into effect;
- (b) without prejudice to sub-paragraph (a), make such amendments or additions to the aerodrome manual as the Governor may require for the purpose of ensuring the safe operation of aircraft at the aerodrome or the safety of air navigation; and
- (c) maintain the aerodrome manual and make such amendments as may be necessary for the purposes of keeping its contents up to date.

(10) Every aerodrome certificate holder shall make available to each member of the aerodrome operating staff a copy of the aerodrome manual, or a copy of every part of the aerodrome manual which is relevant to his duties, and shall ensure that each such copy is kept up to date.

(11) Every aerodrome certificate holder shall take all reasonable steps to secure that each member of the aerodrome operating staff is aware of the contents of every part of the aerodrome manual which is relevant to his duties as such and undertakes his duties as such in conformity with the relevant provisions of the manual.

(12) For the purposes of this article:

- (a) ‘aerodrome operating staff’ means all persons, whether or not the aerodrome certificate holder and whether or not employed by the aerodrome certificate holder, whose duties are concerned either with ensuring that the aerodrome and airspace within which its visual traffic pattern is normally contained are safe for use by aircraft, or whose duties require them to have access to the aerodrome manoeuvring area or apron;
- (b) ‘safety management system’ means a system for the management of safety at aerodromes, including the organizational structure, responsibilities, procedures, processes and provisions for the implementation of aerodromes safety policies by an aerodrome operator, which provides for control of safety at, and the safe use of, the aerodrome;
- (c) ‘visual traffic pattern’ means the aerodrome traffic zone of the aerodrome, or, in the case of an aerodrome which is not notified for the purposes of rule 39 of the Rules of the Air, the airspace which would comprise the aerodrome traffic zone of the aerodrome if it was so notified.”

8. In article 106(1) in the first line after the words “in respect of which” there should be added “a certificate in accordance with article 103 of this Order or”.

9. In article 130(1) the definition of “Government aerodrome” shall be deleted.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Air Navigation (Overseas Territories) Order 2001 (referred to below as “the Order”). In addition to minor corrective and consequential amendments, the following changes are made:

(1) Articles 101 and 103 of the Order are replaced by new articles introducing a process for certification of aerodromes that provide facilities for certain types of aircraft operations as to their compliance with the requirements of Amended Annex 14 to the Chicago Convention. Amended Annex 14 requires Contracting States to introduce such a regulatory process.

(2) Article 102 is replaced by a revised article to provide a new definition of “Government aerodrome” so as to exclude from the requirement for certification aerodromes under the control of Her Majesty’s armed forces or any visiting force.

Annexes to the Chicago Convention can be purchased from:

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