
STATUTORY INSTRUMENTS

2014 No. 2925

CIVIL AVIATION

The Air Navigation (Overseas Territories) (Amendment) Order 2014

Made - - - - 5th November 2014
Laid before Parliament 12th November 2014
Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 5th day of November 2014

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 8(1)(a), (2)(c), (f), (g), (h) and (n) and (3) of the Civil Aviation Act 1949⁽¹⁾, as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969⁽²⁾, is pleased by and with the advice of Her Privy Council to make the following Order.

Citation and Commencement

1.—(1) This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2014 and, subject to paragraph (2), comes into force on 1st April 2015.

(2) Articles 3 and 11 come into force on 15th January 2015.

Amendment of the Air Navigation (Overseas Territories) Order 2013

2. The Air Navigation (Overseas Territories) Order 2013⁽³⁾ is amended as follows.

Registration and marking of aircraft

3.—(1) In article 3(1) (interpretation), after the definition of “uncontrollable balloon” insert—

(1) 1949 c.67.

(2) S.I. 1969/592 as amended by S.I. 2001/1452 and by S.I. 2011/2979. There are other amendments but none is relevant.

(3) S.I. 2013/2870.

“‘United Kingdom national’ means a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National (overseas), a British subject under the British Nationality Act 1981(4) or a British protected person within the meaning of that Act;”.

(2) For article 16(1) (qualifications for registration) substitute—

“(1) The following persons are qualified to hold a legal or beneficial interest by way of ownership in an aircraft registered in a Territory or a share in such an aircraft—

- (a) the Crown in right of Her Majesty’s Government in the United Kingdom or in right of the Government of the Territory;
- (b) United Kingdom nationals;
- (c) Commonwealth citizens;
- (d) nationals of any European Economic Area State;
- (e) bodies incorporated in any part of the Commonwealth and which have their registered office or principal place of business in any part of the Commonwealth; or
- (f) undertakings formed in accordance with the law of an European Economic Area State and which have their registered office, central administration or principal place of business within the European Economic Area.”.

(3) Notwithstanding article 15(2)(b) of the Air Navigation (Overseas Territories) Order 2013 any aircraft that was validly registered before 1st January 2014 and has not since then been de-registered is, and remains, validly registered even if any person then owning a legal or beneficial interest by way of ownership in the aircraft would have been unqualified to hold such an interest after that date and before the date paragraph (2) comes into force.

Aviation security

4. After article 5 (publication of requirements) insert—

“(3) Subject to paragraph (4), nothing in this article requires the Governor to publish requirements in respect of a licence, certificate or other document if the Governor determines that to do so would be, or would be likely to be, detrimental to national security.

(4) If the Governor makes a determination under paragraph (3) any applicant for such a licence, certificate or other document must be given access to such requirements on such terms as the Governor thinks fit.”.

5. In article 8(1) (power to prevent aircraft flying)—

- (a) delete the third “or” at the end of subparagraph (b);
- (b) at the end of subparagraph (c), insert “or”; and
- (c) insert—
 - “(d) in such circumstances that the operator of the aircraft has failed to comply with any of the specified requirements for the security of aircraft or any instruction for the security of aircraft given or published by the Governor under article 74(1)(c)”.

6. For article 74(1)(c) (operation of aircraft) substitute—

“(c) any instructions given or published for the operation, safety and security of aircraft and the safety and security of persons and property carried in an aircraft including instructions in respect of the instruments and equipment to be installed in or carried on an aircraft”.

7.—(1) In article 94(1) (issue of air operator’s certificate) omit “, certifying that the holder of the certificate is competent to secure that aircraft operated by the holder on such flights are operated safely”.

(2) In article 94(2) insert—

- (a) “and secure” after “safe”; and
- (b) “, security” after “maintenance”.

(3) After article 94(3) insert—

“(3A) The operator of an aircraft to which this article applies must establish, implement and maintain a security programme that meets the specified requirements for security for commercial air transport aircraft.”.

8. After article 138(2) (requirement for air traffic control approval for the provision of air traffic services) insert—

“(3) The person in charge of the provision of an air traffic control service in a Territory, other than at a military aerodrome, must establish, implement and maintain a security programme that meets the specified requirements for security for an air traffic control service.”.

9. After article 154 (aeronautical telecommunications service) insert—

“Aeronautical telecommunications service security programme

154A. The person in charge of an aeronautical telecommunications service must establish, implement and maintain a security programme that meets the specified requirements for security for the equipment or apparatus operated by that person for such a service.”

10.—(1) In article 155(2) (certification of aerodromes) —

- (a) omit the second “and” at the end of subparagraph (c);
- (b) at the end of subparagraph (d), for the full stop substitute “; and”; and
- (c) after subparagraph (d) insert—

“(e) the applicant has established a security programme that meets the specified requirements for security for aerodromes”.

(2) After article 155(6) insert—

“(6A) The aerodrome certificate holder must implement and maintain the security programme established to meet the specified requirements for security at aerodromes.”.

(3) After article 155(7) insert—

“(8) For the purpose of paragraphs (2)(e) and (6A) an “aerodrome” includes:

- (a) any land, building or works within the boundaries of an area designated by the Governor as forming part of an aerodrome for the purposes of those paragraphs in relation to security, following such consultation with the aerodrome certificate holder as the Governor considers appropriate; and
- (b) any area forming part of a restricted zone designated by the Governor under paragraph 11A of Schedule 2 to the Aviation Security and Piracy (Overseas Territories) Order 2000(5).

(9) In making a designation referred to in paragraph (8), where appropriate, the Governor shall consult with the aerodrome manager or the aerodrome certificate holder, as the case may be.”.

(4) In article 156(5) (use of aerodromes and operating sites) insert “security measures” between “aerodrome such” and “rescue”.

(5) After article 156(7)) insert—

“(8) For the purpose of paragraph (5) an “aerodrome” includes—

- (a) any land, building or works within the boundaries of an area designated by the Governor as forming part of an aerodrome for the purposes of that paragraph in relation to security, following such consultation with the operator of the aerodrome as the Governor considers appropriate; and
- (b) any area forming part of a restricted zone designated by the Governor under paragraph 11A of Schedule 2 to the Aviation Security and Piracy (Overseas Territories) Order 2000(6).”.

Extra-territorial effect of the Order

11. For article 188(1)(d) substitute—

“(d) insofar as they prohibit, require or regulate the doing of anything in relation to any aircraft registered in the Territory by other persons, where such persons are United Kingdom nationals, apply to them wherever they may be”.

Miscellaneous corrections

12.—(1) In article 3 (interpretation), in the entry for “the Territory”, after “187”, omit “rs”.

(2) In article 35(2)(a) (equipment of aircraft), for “74(1)(d)” substitute “74(1)(c)”.

(3) In article 36(2)(a) (radio equipment of aircraft), for “74(1)(d)” substitute “74(1)(c)”.

Ceri King
Deputy Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

1. This amendment to the Air Navigation (Overseas Territories) Order 2013(7) (“the Order”) amends the qualification requirements for the registration of aircraft in the register of an Overseas Territory (*article 3*) and makes some corrections to the Order (*article 12*).

2. Article 188(1)(d) of the Order is amended to remove the extra-territorial effect of the Order from Commonwealth citizens and to substitute ‘United Kingdom nationals’ for ‘British protected persons’ (*article 11*). A definition of ‘United Kingdom nationals’ is inserted in article 3 of the Order (*article 3*).

3. These amendments come into force on 15th January 2015.

4. The amendment also introduces new security requirements for the grant of an air operator’s certificate (*article 7*) and the grant of an aerodrome certificate (*article 10*).

5. The amendment also introduces a new security programme requirement for persons in charge of an air traffic control service in a Territory (*article 8*) or an aeronautical telecommunications service (*article 9*).

6. The amendment also empowers the Governor to ground an aircraft if the operator of the aircraft has failed to comply with any specified security instructions or requirements given or published for the security of aircraft (*article 5*).

7. These other amendments come into force on 1st April 2015.