
STATUTORY INSTRUMENTS

2014 No. 2926

CIVIL AVIATION

**The Air Navigation (Overseas Territories)
(Environmental Standards) Order 2014**

<i>Made</i>	- - - -	<i>5th November 2014</i>
<i>Laid before Parliament</i>		<i>12th November 2014</i>
<i>Coming into force</i>	- -	<i>3rd December 2014</i>

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) and (2)(p) of the Civil Aviation Act 1949⁽¹⁾, as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969⁽²⁾ and section 108(1) of the Civil Aviation Act 1982⁽³⁾ is pleased, by and with the advice of Her Privy Council, to order as follows.

PART I

Preliminary

Citation and commencement

1. This Order may be cited as the Air Navigation (Overseas Territories) (Environmental Standards) Order 2014 and comes into force on 3rd December 2014.

Revocation

2. The Air Navigation (Overseas Territories) (Environmental Standards) Order 2004⁽⁴⁾ is revoked.

⁽¹⁾ 1949 c. 67.

⁽²⁾ S.I. 1969/592. There are amendments to the Order but none is relevant.

⁽³⁾ 1982 c. 16. There are amendments to the Act but none is relevant.

⁽⁴⁾ S.I. 2004/3337.

Interpretation

3.—(1) In this Order—

“ASSI” means Air Safety Support International Limited, being a wholly owned subsidiary company of the Civil Aviation Authority formed in accordance with a direction given by the Secretary of State to the Civil Aviation Authority under section 6(2)(c) of the Civil Aviation Act 1982 on 2nd January 2003;

“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;

“competent authority” means, in relation to a Contracting State other than the Territory, the authority responsible under the law of that State for promoting the safety of civil aviation;

“Contracting State” means any State (including the United Kingdom) that is a party to the Convention on International Civil Aviation signed at Chicago on 7th December 1944;

“Governor” means the person for the time being administering the Government of the Territory and, in relation to such of the functions of the Governor under this Order as are specified in a designation made by the Governor under article 28, includes any person specified in that designation to carry out those functions;

“military 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;

“military aircraft” means—

- (a) the naval, military or air force aircraft of any country;
- (b) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and
- (c) any aircraft in respect of which there is in force a certificate issued by the Secretary of State that the aircraft is to be treated for the purposes of this Order as a military aircraft;

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

“notified” means shown in any of the following publications for the time being in force and issued in the Territory whether before or after the coming into force of this Order, that is to say, ‘Notams (Notices to Airmen)’, ‘Aeronautical Information Publications’, “OTARs”, or such other official publications so issued for the purpose of enabling any of the provisions of this Order to be complied with;

“OTAR” means Overseas Territories Aviation Requirements published by the Governor under article 27;

“pilot-in-command” in relation to an aircraft means the pilot designated by the operator as being in command and charged with the safe conduct of a flight, or, if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“prescribed” means prescribed by regulations made by the Governor;

“State of registry” means the Contracting State in which an aircraft is registered;

“Territory” has the meaning given in article 3(2);

“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(5) or a British protected person within the meaning of that Act;

“Volume I of Annex 16” means the sixth edition July 2011 of Volume I of Annex 16 to the Chicago Convention;

“Volume II of Annex 16” means the third edition July 2008 of Volume II of Annex 16 to the Chicago Convention.

(2) In the application of this Order to any territory listed in the Schedule, the expression “the Territory” in this Order means that Territory.

PART II

Noise Certification

Requirement for noise certificate by aircraft registered in the Territory

4.—(1) An aircraft registered in the Territory for which Volume I of Annex 16 specifies applicable standards must not fly unless it has a noise certificate issued or validated by the Governor.

(2) For the purpose of paragraph (1) the Governor may issue or validate a noise certificate in accordance with any form or method of documentation provided for by paragraph 2.3 of Attachment G of Volume I of Annex 16.

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

5.—(1) An aircraft registered elsewhere than the Territory for which Volume I of Annex 16 specifies applicable standards must not fly in the Territory unless it has a noise certificate issued or validated by or on behalf of the competent authority of another Contracting State certifying compliance with those standards.

(2) For the purpose of paragraph (1) a noise certificate is a certificate which, with other documents, is in accordance with any form or method of documentation provided for by paragraph 2.3 of Attachment G of Volume I of Annex 16.

Issue of noise certificate or validation by Governor and furnishing of evidence

6.—(1) The Governor must—

- (a) issue a noise certificate; or
- (b) validate a noise certificate issued by the competent authority of another Contracting State, in respect of an aircraft registered in the Territory if the Governor is satisfied as to the matters in paragraph (2) and the applicant pays any prescribed charge.

(2) The matters are—

- (a) in the case of an application for a noise certificate, the aircraft complies with the Governor’s requirements for the issue of a noise certificate, as specified in an OTAR; or
- (b) in the case of an application for a certificate of validation of a noise certificate issued by the competent authority of another Contracting State, the noise certificate meets the requirements for the issue of such a certificate of validation, as specified in an OTAR.

(3) For the purposes of paragraph (2)(a) 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.

(4) The Governor must issue every noise certificate or certificate of validation subject to a condition as to the maximum certificated take-off mass at which the aircraft may land or take-off in compliance with the certificate.

(5) The Governor may issue a certificate subject to such other conditions as the Governor thinks fit.

Validity of noise certificate

7.—(1) Subject to paragraph (2) and article 16, a noise certificate or a certificate of validation issued under this Order remains in force without limit of time.

(2) Subject to paragraph (3) a noise certificate issued under this Order ceases to be valid for the purposes of article 4 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 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 those noise standards.

(3) Paragraph (2) does not apply if the 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.

(4) An approval by the Governor under paragraph (3) may be made—

- (a) either generally or in relation to a class of aircraft or to a particular aircraft; and
- (b) subject to such conditions as the Governor thinks fit.

Information to be included in flight manual

8.—(1) This article applies to any aircraft registered in the Territory in respect of which, by virtue of article 14 of this Order, a noise certificate is required to be carried.

(2) An aircraft to which this article applies must 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.—(1) 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.

(2) An exemption may be granted either absolutely or subject to such conditions as the Governor 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 must not fly unless, individually or as a type, it has been certified by the Governor as complying with those standards or its certification by the competent authority of another Contracting State has been recognised as valid by the Governor.

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

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

Recognition of validity, of emissions certification

12. The Governor must recognise emissions certification issued by another competent authority of if the Governor is satisfied as to the matter stated in paragraph 1.4 of Volume II of Annex 16.

Exemptions in respect of Part III of this Order

13.—(1) The Governor may exempt from any of the provisions of this Part of this Order any aircraft or classes of aircraft.

(2) An exemption may be granted either absolutely or subject to such conditions as the Governor thinks fit.

PART IV

Carriage, Production and Revocation of Noise Certificate

Noise certificate to be carried

14.—(1) An aircraft must 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 State of registry.

(2) Subject to paragraph (2), an aircraft registered in the Territory must, when in flight, carry every noise certificate which is required by this Order to be in force in respect of that aircraft.

(3) 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

15. Within a reasonable time after being requested to do so by the Governor or an authorised person, the pilot-in-command or operator of an aircraft must cause to be produced to the Governor or the authorised person every noise certificate in force in respect of that aircraft.

Revocation, suspension and variation of noise certificate

16.—(1) The Governor may, if the Governor 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, on sufficient ground being shown to the Governor's satisfaction and after due inquiry into or consideration of the case, 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 must 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 renders the document invalid during the continuance of the breach.

PART V

Offences, Penalties and General

Offences in relation to noise certificates

17.—(1) A person must not with intent to deceive—

- (a) use any noise certificate issued under this Order which has been revoked or suspended, or to which the person 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 the person or for any other person the issue, renewal or variation of any such certificate issued in accordance with article 6 of this Order.

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

Power to prevent aircraft flying

18.—(1) If it appears to the Governor or an authorised person that any aircraft is intended or is likely to be flown in such circumstances that articles 4, 5, 10 or 11 would be contravened, the Governor or an authorised person may make a direction in accordance with paragraph (2).

(2) A direction is to—

- (a) be given to the operator or the pilot-in-command of the aircraft;
- (b) direct that the operator or the pilot in command are 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
- (c) direct that if the aircraft is in the Territory, the Governor or that authorised person may take such steps as are necessary to detain the aircraft.

(3) The operator or, as the case may be, the pilot-in-command of an aircraft must comply with any direction given to them pursuant to paragraph (1), unless they have reasonable excuse.

(4) For the purposes of paragraph (1) and (2), the Governor or any authorised person may—

- (a) enter upon and inspect any aircraft; and
- (b) require the production of noise certificates and emissions certification for the aircraft.

Right of access to aerodromes, aircraft and other places

19.—(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 have the right of access at all reasonable times to any aerodrome or aircraft or to any other place in the Territory where an aircraft has landed for the purpose of—

- (a) inspecting any aircraft (including an aircraft that has landed) or inspecting any document carried in the aircraft or carried by persons in the aircraft or to demand any document issued under this Order; and
- (b) detaining any aircraft under article 18.

(2) In relation to any military aerodrome the Governor or the authorised person (as the case may be) must 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

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

Penalties

21.—(1) If any provision of this Order is contravened in relation to an aircraft the operator of that aircraft and the commander thereof are (without prejudice to the liability of any other person under this Order for that contravention and subject to paragraph (2)) to be deemed, for the purposes of the paragraph (3), to have contravened that provision.

(2) If it is proved—

- (a) 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; or
 - (b) that the contravention occurred without the person's consent or connivance and that the person exercised all due diligence to prevent the contravention,
- the act or omission is to be deemed not to be a contravention by that person of that provision.

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

Liability of persons other than principal offender

22.—(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, the director, manager, secretary or other similar officer of the body corporate or other person who was purporting to act in any such capacity, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

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

(3) Where a partnership is guilty of an offence under this Order 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, the partner as well as the partnership is guilty of that offence and is liable to be proceeded against and punished accordingly.

Application of the Order to the Crown and visiting forces

23.—(1) Subject to the following provisions of this article, the provisions of this Order 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.

(2) 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 is deemed to be the operator of the aircraft.

(3) Nothing in this article renders liable to any penalty any department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(4) The naval, military and air force authorities and the 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 are 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.

(5) Nothing in this Order applies to or in relation to any military aircraft.

Extra-territorial effect of the Order

24.—(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, apply to such aircraft wherever they may be;
- (b) insofar as they apply as aforesaid to other aircraft, 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 pilot-in-command of any aircraft registered in the Territory, apply to the pilot-in-command wherever the pilot 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 another person, where such person is a United Kingdom national, apply to that person wherever they may be.

(2) Nothing in this article is to 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 is not to be guilty of an offence.

Acceptance of reports

25.—(1) The Governor may, for the purposes of this Order, accept reports furnished to the Governor by a person whom the Governor may approve as qualified to furnish such reports.

(2) The Governor may approve the person either absolutely or subject to such conditions as the Governor thinks fit.

Extent of Order

26. This Order extends to the Territories mentioned in the Schedule to this Order.

Publication of requirements

27.—(1) Where any provision of this Order provides for the Governor to grant a certificate, upon being satisfied as to any matters specified in the provision, the Governor must before determining whether to effect that grant or require such a person to keep or do something—

- (a) publish or cause to be published the Governor's requirements as to those matters in the Territory by means of an OTAR; and
- (b) take into account those requirements when determining whether to grant the certificate.

(2) Nothing in this article requires the Governor to publish requirements in respect of a certificate if the Governor is not required to exercise the powers to grant the certificate in question.

Designation by the Governor

28.—(1) Subject to paragraphs (3) and (4), the Governor must designate a person to carry out those functions of the Governor under Parts II, III, IV and V of this Order that are specified in the designation, subject to such conditions as the Governor thinks fit.

(2) Subject to paragraph (3) the Governor may revoke or vary a designation made under paragraph (1).

(3) Before making a designation or revoking or varying a designation made the Governor must consult, and take into account any advice given by, ASSI.

(4) The Governor may not include in any designation the functions of the Governor under this article or under article 27.

Ceri King
Deputy Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 3

TERRITORIES TO WHICH THIS ORDER EXTENDS

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for noise certification and aircraft emissions certification and applies the requirements in Annex 16, Volumes I and II (6th edition) to the Convention on International Civil Aviation 1944.

The Order has the following effect.

(1) It requires all aircraft registered in the Territory and all aircraft taking-off and landing in the Territory to have a valid noise certificate in accordance with Attachment G of Volume I of Annex 16 (articles 4 and 5).

(2) It defines 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 6, 7 and 8).

(3) It requires information relating to the noise certificate to be included in the flight manual (article 9).

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

(5) It requires that specified aircraft must not land or take-off in the Territory unless certified as complying with required emissions standards contained in Annex 16 Volume II (articles 10 and 11).

(6) It provides for the Governor to recognise the validity of emissions certification issued by the competent authority of another Contracting State or territory to which this Order applies (article 12).

(7) It provides for the Governor to issue exemptions from the restrictions referred to in paragraph 5 above (article 13).

(8) It requires the noise certificate to be carried and produced when required and make failure to do so an offence (articles 14 and 15).

(9) It enables the Governor to revoke, suspend or vary a noise certificate (article 16).

(10) It sets out the offences in relation to noise certificates and emissions certification and the powers of the Governor relating to prevention (articles 17 and 18).

(11) It provides for access to aerodromes and aircraft and obstruction of persons (articles 19 and 20).

(12) It sets out the penalties for contravening the Order and the liability of certain offenders (articles 21 and 22).

(13) It sets out the applicability of the Order to the Crown and visiting forces (article 23).

(14) It provides for the Order to have extra-territorial effect (article 24).

(15) It provides for the Governor to approve persons to provide reports (article 25).

(16) It requires the Governor to publish requirements for noise certification (article 27).

(17) It requires the Governor to designate a person to carry out his functions under the Order on the Governor's behalf (article 28).

Annex 16 of the Chicago Convention can be purchased from:ICAO, online, at www.icao.int.