Status: *This is the original version (as it was originally made).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

STATUTORY INSTRUMENTS

2015 No. 1769

CIVIL AVIATION

The Air Navigation (Overseas Territories) (Amendment) Order 2015

Made - - - -	*8th October 2015*
Laid before Parliament	*15th October 2015*
Coming into force - -	*5th November 2015*

At the Court at Buckingham Palace, the 8th day of October 2015

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 8, 57, 59, 61 and 63(8) of the Civil Aviation Act 1949(**1**), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(**2**), and by section 61 of the Civil Aviation Act 1982(**3**), as extended to certain territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001(**4**), is pleased by and with the advice of Her Privy Council to make the following Order.

Citation, Commencement and Extent

1.—(1) This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2015 and comes into force on 5th November 2015.

(2) In this Order the "principal Order" means the Air Navigation (Overseas Territories) Order 2013(**5**).

(3) This Order extends to the territories listed in Schedule 6 of the principal Order.

Amendment of the Air Navigation (Overseas Territories) Order 2013

2. The principal Order is amended as follows.

(**1**) 1949 c.67.
(**2**) S.I. 1969/592, amended by S.I. 2001/1452 and by S.I. 2011/2979. There are other amendments but none is relevant.
(**3**) 1982 c.16.
(**4**) S.I. 2001/1452.
(**5**) S.I. 2013/2870. There are amendments but none is relevant.

General Provisions

3. In article 19, after paragraph (1) insert—

"(1A) The Governor must publish requirements for the issuance of an export certificate of airworthiness, for the purpose of facilitating the transfer of the registration of an aircraft from the Territory to another State.".

Continued airworthiness

4. In article 26(1)(c), after "aircraft" insert "or by the Governor" and, after "with", insert ", or the Governor has approved alternative means of compliance with such directives".

5. After article 39 insert—

"**Airworthiness directive**

39A.—(1) This article applies only to aircraft registered in the Territory.

(2) The Governor may issue a mandatory airworthiness directive in respect of an aircraft or a class or a type of aircraft where it is considered necessary to ensure the airworthiness or continued airworthiness of the aircraft.

(3) An airworthiness directive may—

(a) require maintenance of an aircraft or aircraft component; and

(b) impose limitations or conditions on the operation of the aircraft.".

Offences and penalties

6. For article 185 substitute—

"**Offences and penalties**

185.—(1) Subject to paragraphs (2) and (3), if any provision of this Order or of any regulations made, or any direction or instructions given under it, is contravened in relation to an aircraft, the operator of that aircraft and the pilot-in-command and, in the case of a contravention of articles 135 and 137, the charterer of that aircraft, is (without prejudice to the liability of any other person for that contravention) deemed for the purposes of the following provisions of this article to have contravened that provision.

(2) A person will not be deemed to have contravened a provision referred to in paragraph (1) if the person proves that the contravention occurred without that person's consent or connivance and that that person exercised all due diligence to prevent the contravention.

(3) 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 or of any regulations made under it, was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission is deemed not to be a contravention by that person of that provision.

(4) Where a person is charged with contravening a provision of this Order or of any regulations made under it by reason of having been a member of the flight crew of an aircraft on a flight for the purpose of commercial air transport or aerial work, the flight is to be treated (without prejudice to the liability of any other person under this Order) as not having been for that purpose if the person proves that they did not know or suspect that the flight was for that purpose.

(5) Any person who contravenes any provision of this Order or of any regulations made under it not being a provision referred to in paragraphs (6) or (7), is guilty of an offence and liable on summary conviction to a fine not exceeding £1000, or its equivalent in the currency of the Territory.

(6) Any person who contravenes any provision specified in Part A of Schedule 5 is guilty of an offence and liable on summary conviction to a fine not exceeding £2500, or its equivalent in the currency of the Territory.

(7) Any person who contravenes any provision specified in Part B of Schedule 5 is guilty of an offence and liable—

(a) on summary conviction to a fine not exceeding £5000, or its equivalent in the currency of the Territory; or

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.”.

7. For article 187 substitute—

“**Application of Order**

187.—(1) The provisions of this Order apply to the Territories mentioned in Schedule 6, any one of which is in this Order referred to in the expression “the Territory”.

(2) Article 185 applies to the Falkland Islands, the South Georgia and South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia and St Helena, Ascension and Tristan da Cunha subject to the modifications set out in Schedule 7.”.

8. After Schedule 6 insert as Schedule 7—

“SCHEDULE 7 Article 187(2)

Application of Article 185 to particular Territories

1.—(1) Article 185 applies to the Falkland Islands, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia and St Helena, Ascension and Tristan da Cunha subject to the following modifications.

(2) For paragraph (5) substitute—

“(5) Any person who contravenes any provision of this Order or of any regulations made under it not being a provision referred to in paragraphs (6) or (7), is guilty of an offence and liable on conviction to a fine not exceeding £1000, or its equivalent in the currency of the Territory.”.

(3) For paragraph (6) substitute—

“(6) Any person who contravenes any provision specified in Part A of Schedule 5 is guilty of an offence and liable on conviction to a fine not exceeding £2500, or its equivalent in the currency of the Territory.”.

(4) For paragraph (7) substitute—

“(7) Any person who contravenes any provision specified in Part B of Schedule 5 is guilty of an offence and liable on conviction to a fine or imprisonment for a term not exceeding two years or both.”.”.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

Article 3 of this instrument inserts paragraph (1A) in article 19 of the Air Navigation (Overseas Territories) Order 2013 ("the 2013 Order"), to ensure that the Governor publishes requirements for the issue of an export certificate of airworthiness, in order to facilitate the transfer of registration of an aircraft from a Territory to another State.

Article 4 of this instrument amends article 26(1)(c) to ensure that an aircraft registered in the Territory for which a certificate of airworthiness is in force does not fly unless it has complied with all mandatory airworthiness directives that have been issued by the Governor, as well as the State responsible for the certification of the aircraft, or alternatively that the Governor has prescribed other means of compliance for such directives.

Article 5 empowers the Governor to issue an airworthiness directive in respect of an aircraft or a class or a type of aircraft. This power applies only in respect of aircraft registered in the Territory.

Article 6 of this instrument substitutes article 185 of the 2013 Order. In addition to minor drafting changes, to simplify the structure of article 185, it includes, in the case of the power to fine, power to fine an equivalent sum in the Territory's own currency to the sum stated in pound sterling.

Articles 7 and 8 of this instrument insert a new Schedule into the 2013 Order that applies article 185 subject to modifications for particular Territories. The purpose of this amendment is to reflect the different criminal justice systems in the Territories compared to that in the United Kingdom.