
STATUTORY INSTRUMENTS

1969 No. 592

CIVIL AVIATION

The Civil Aviation Act 1949 (Overseas Territories) Order 1969

<i>Made</i>	- - - -	<i>23rd April 1969</i>
<i>Laid before Parliament</i>		<i>29th April 1969</i>
<i>Coming into Operation</i>		<i>30th April 1969</i>

At the Court at Windsor Castle, the 23rd day of April 1969

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by section 66 of the Civil Aviation Act 1949 or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Civil Aviation Act 1949 (Overseas Territories) Order 1969.

(2) This Order shall come into operation on 30th April 1969.

(3) The Orders set out in Schedule 1 to this Order are revoked in so far as they form part of the law of the territories specified in Schedule 3 to this Order:

Provided that nothing in this paragraph shall affect the operation of section 13 of the Civil Aviation Act 1949 as extended to the said territories by the Colonial Civil Aviation (Application of Act) Order 1952(1), which section is, for the sake of convenience, reproduced in paragraph 5 of Schedule 2 to this Order.

(4) Nothing in paragraph (3) of this Article shall affect—

- (a) any Order in Council made under any enactment revoked by this Order;
- (b) any instrument or other thing made or done or having effect under any of the enactments revoked by this Order or under any such Order as is mentioned in subparagraph (a) of this paragraph;

but any such Order or instrument or thing aforesaid shall, if and so far as in force immediately before the coming into force of this Order, continue in force (subject however, to any Order in Council or instrument or thing made or done after the coming into force of this Order) and so far as it could have been made or done under this Order shall have effect as if made or done under this Order.

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(5) In this Article “instrument” includes any order, regulation, direction, instruction, rule or other requirement, any notice and any certificate, licence, validation or other authority.

(6) Any document referring to any enactment revoked by this Order shall be construed as referring to this Order or to the corresponding enactment in this Order.

2.—(1) In this Order unless the context otherwise requires—

“Central and Southern Line Islands” means the islands of Malden, Starbuck, Vostock, Caroline and Flint;

“Colony” means any of the colonies, protectorates or other territories mentioned in Schedule 3 to this Order, and includes the dependencies of a colony;

“Chicago Convention” means the Convention on International Civil Aviation signed on behalf of the Government of the United Kingdom at Chicago on the seventh day of December 1944;

“Government Aerodrome” means an aerodrome under the control of the Governor and a naval, military or air force aerodrome;

“Governor” means the officer for the time being administering the Government of the Colony .

(2) In this Order references to “Her Majesty's dominions” shall be construed as though British protectorates and protected states and trust territories administered by the Government of any part of Her Majesty's dominions, formed part of Her Majesty's dominions.

(3) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of Parliament.

3. The provisions of sections 8, 9, 10, 11, 14, 27, 38, 40, 41, 51, 53, 57, 58, 59, 60, 61, 62 and 63 of the Civil Aviation Act 1949, adapted and modified as set out in Schedule 2 hereto, are hereby extended to the territories mentioned in Schedule 3 hereto.

W. G. Agnew

SCHEDULE 1

Article 1(3)

ORDERS REVOKED

<i>Order</i>	<i>Reference</i>
The Colonial Civil Aviation (Application of Act) Order 1952.	S.I. 1952/868 (1952 I, p. 565).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1953.	S.I. 1953/591 (1953 I, p. 275).
The Colonial Civil Aviation (Application of Act) (Amendment) (No. 2) Order 1953.	S.I. 1953/1669 (1953 I, p. 277).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1954.	S.I. 1954/830 (1954 I, p. 463).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1955.	S.I. 1955/709 (1955 I, p. 458).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1958.	S.I. 1958/1514 (1958 I, p. 303).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1959.	S.I. 1959/1052 (1959 I, p. 684).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1961.	S.I. 1961/2317 (1961 III, p. 4271).
The Colonial Civil Aviation (Application of Act) (Amendment) Order 1965.	S.I. 1965/980 (1965 I, p. 2419).

SCHEDULE 2

Article 3

CIVIL AVIATION ACT 1949

PART II

REGULATION OF CIVIL AVIATION

General

“Power to give effect to Chicago Convention and regulate air navigation

Section 8.—(1) Her Majesty may by Order in Council make such provision as appears to Her to be requisite or expedient—

- (a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or
- (b) generally for regulating air navigation.

(2) Her Majesty may by Order in Council make provision—

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- (a) as to the registration of aircraft in the Colony;
- (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified either in the Order or by the Governor;
- (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes;
- (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified either in the Order or by the Governor except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft;
- (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the Colony may fly, and as to the conditions under which aircraft may fly from one part of the Colony to another;
- (f) as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified either in the Order or by the Governor;
- (g) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;
- (i) for requiring persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (k) for regulating the use of the civil air ensign and any other ensign established by Her Majesty in Council for purposes connected with air navigation;
- (l) for prohibiting aircraft from flying over such areas in the Colony as may be specified either in the Order or by the Governor;
- (m) for applying, adapting or modifying, or enabling the Governor to apply, adapt or modify, the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting, or enabling the Governor to permit, in connection with air navigation, subject to such conditions as appear to Her Majesty in Council, or to the Governor, as the case may be, to be requisite or expedient for the protection of the revenue, the importation of goods into the Colony without payment of duty;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the

examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;

- (o) for regulating, or enabling the Governor to regulate, the charges that may be made for the use of aerodromes licensed under the Order and for services provided at such aerodromes;
- (p) for prescribing, or enabling the Governor to prescribe, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by, or in pursuance of, the Order and in respect of any other matters in respect of which it appears to Her Majesty in Council, or to the Governor, to be expedient for the purpose of the Order to charge fees;
- (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons.

(3) An Order in Council under this section may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of the Colony but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the Colony operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

(4) An Order in Council under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of six months, and, in the case of any provision having effect by virtue of paragraph (1) of subsection (2) of this section, may also for that purpose provide for the taking of such steps (including firing on aircraft) as may be specified in the Order.

(7) Part VI of this Act applies to this section.”

“Control of aviation in time of war or emergency

Section 9.—(1) In time of war, whether actual or imminent, or of great national emergency, the Governor may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the navigation of all or any descriptions of aircraft over the Colony or any portion thereof; and may by order provide for taking possession of and using for the purposes of Her Majesty's naval, military or air forces any aerodrome, or any aircraft in the Colony, or any machinery, plant, material or things found in or on any such aerodrome or such aircraft, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, or flying school, or any class or description thereof.

(2) An order under this section may make, for the purposes of the order, such provision as an Order in Council under section 8 of this Act may by virtue of subsection (4) of that section make for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (1) of subsection (2) of that section.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Governor under this section, shall be entitled to receive compensation from the Governor, from such public funds as he may lawfully apply for the purpose, the amount thereof to be fixed, in default of agreement, by an arbitrator to be agreed upon or failing agreement to be appointed by the Chief Justice or other chief judicial officer of the Colony:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the Colony or any part thereof.

(6) Part VI of this Act applies to this section.”

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“Investigation of accidents

Section 10.—(1) The Governor may make regulations providing for the investigation of any accident arising out of or in the course of air navigation, and either occurring in or over the Colony or occurring elsewhere to British aircraft registered in the Colony.

(2) Regulations under this section may contain provisions—

- (a) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified;
- (b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of any law in force in the Colony relating to the investigation of deaths or accidents;
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted in the Colony under this Part of this Act or any Order in Council or order made under this Part of this Act, or the withdrawal or suspension of any validation conferred in the Colony of a licence granted by a duly competent authority elsewhere, where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered, or the validation withdrawn or suspended, as the case may be, and requiring the production of any such licence or certificate for the purpose of being so dealt with:

Provided that nothing in this section shall limit the powers of any authority under sections 530 to 537 of the Merchant Shipping Act 1894 or any enactment amending those sections.

(3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

(5) Part VI of this Act applies to this section.”

“Dangerous flying

Section 11.—(1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

In this section the expression “owner” in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(2) The provisions of this section shall be in addition to and not in derogation of the powers conferred on Her Majesty in Council by section 8 of this Act.

(3) Part VI of this Act applies to this section.” in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence. (2)The provisions of this section shall be in addition to and not in derogation of the powers conferred on Her Majesty in Council by section 8 of this Act.(3)Part VI of this Act applies to this section.

“Licensing of air transport and commercial flying

Section 13.—(1) The Governor may, with the approval of a Secretary of State, make regulations—

- (a) to secure that aircraft shall not be used in the Colony by any person—
 - (i) for plying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations, or
 - (ii) for such flying undertaken for the purpose of any trade or business as may be so specified,except under the authority of, and in accordance with, a licence granted to the said person by the licensing authority specified in the regulations;
- (b) as to the circumstances in which a licence under the regulations may or shall be granted, refused, revoked or suspended, and in particular as to the matters to which the licensing authority specified in the regulations is to have regard in deciding whether to grant or refuse such a licence;
- (c) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the regulations;
- (d) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;
- (e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the regulations;
- (f) prescribing the fees to be paid in respect of the grant of any licence under the regulations, or enabling such fees to be prescribed by any person or authority specified in that behalf by the regulations;

and such regulations may make different provision as respects different classes of aircraft and different classes of licences.

(2) Regulations made under this section may, for the purpose of securing compliance with the regulations, provide for the imposition of the following penalties, namely—

- (a) in the case of a first offence against the regulations, a fine not exceeding five hundred pounds or imprisonment for a term not exceeding three months or both such fine and such imprisonment; and
 - (b) in the case of a second or subsequent offence against the regulations, a fine not exceeding five thousand pounds or imprisonment for a term not exceeding two years or both such fine and such imprisonment.
- (3) Part VI of this Act applies to this section.”

“Information as to air transport undertakings and use of customs aerodromes

Section 14.—(1) The Governor may, with the approval of a Secretary of State, make regulations—

- (a) requiring any person—
 - (i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations, or
 - (ii) who is the holder of a licence in respect of a customs aerodrome,

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to furnish to such authorities as may be specified in the regulations such information relating to the use of aircraft for the purpose of his said business and to the persons employed in connection with that use, or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the regulations;

- (b) requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the regulations as relate to him;
- (c) prescribing the times at which, and the form and manner in which, any information required under the regulations is to be furnished:

Provided that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside the Colony, or relating to persons exclusively employed outside the Colony, unless the person carrying on the business is either a British subject or a British protected person resident in the Colony or a citizen of the Republic of Ireland resident in the Colony or a body corporate incorporated under the law of the Colony.

(2) Regulations under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the regulations such penalties (not exceeding a fine of twenty pounds and a further fine of five pounds for every day on which the contravention or non-compliance continues after conviction therefor) as may be specified in the regulations.

(3) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of such regulations, and if any person discloses any such information in contravention of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such fine and such imprisonment or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such fine and such imprisonment.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of regulations made under this section, or for the purpose of any report of any such proceedings, but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any court or arbitrator to disclose, that information (whether as a witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

(4) In this section the expression “customs aerodrome” means an aerodrome for the time being appointed as a place of landing or departure of aircraft for the purposes of the enactments relating to customs .

(5) Part VI of this Act applies to this section.” means an aerodrome for the time being appointed as a place of landing or departure of aircraft for the purposes of the enactments relating to customs .
(5)Part VI of this Act applies to this section.

PART III

AERODROMES AND OTHER LAND

“Indication of presence of obstructions near aerodromes

Section 27.—(1) If the Governor is satisfied, with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions,—

- (a) to execute, instal, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and
- (b) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order:

Provided that no such order shall be made in relation to any building, structure or erection if it appears to the Governor that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(2) The Governor shall, before making any such order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order; and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Governor thinks proper.

(3) Every such order as aforesaid shall provide—

- (a) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner prescribed by the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and
- (b) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Governor;

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Chief Justice or other chief judicial officer of the Colony; and, for the purposes of this subsection, any expense

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reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and (subject to the provisions of the next following subsection) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

If any person contravenes the foregoing provisions of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both such fine and such imprisonment; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:

Provided that—

- (a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and
 - (b) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.
- (7) In this section—
- (a) the expression “aerodrome to which this section applies” means a Government aerodrome or any premises which, by virtue of an Order in Council made under section 8 of this Act, are for the time being licensed as an aerodrome for public use ; and
 - (b) the expression “proprietor of the aerodrome” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises or, in the case of a Government aerodrome, the officer in charge of the aerodrome.

(8) Part VI of this Act applies to this section.” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises or, in the case of a Government aerodrome, the officer in charge of the aerodrome.(8)Part VI of this Act applies to this section.

“**Trespassing on aerodromes**

Section 38.—(1) If any person trespasses on any land forming part of a Government aerodrome or an aerodrome licensed in pursuance of an Order in Council under section 8 of this Act, he shall be liable, on summary conviction, to a fine not exceeding five pounds:

Provided that no person shall be liable to any penalty under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

(2) Part VI of this Act applies to this section.”

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

“Liability of aircraft in respect of trespass, nuisance and surface damage

Section 40.—(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight so long as the provisions of Part II and this Part of this Act and any Order in Council or order made in pursuance of Part II or this Part of this Act, being provisions which extend to the Colony, are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which—

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(3) Part VI of this Act applies to this section.”

“Nuisance caused by aircraft on aerodromes

Section 41.—(1) An Order in Council under section 8 of this Act may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) of this section shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Order in Council under section 8 of this Act, as long as the provisions of any such Order in Council are duly complied with.

(3) Part VI of this Act applies to this section.”

PART V

MISCELLANEOUS

“Application of law of wreck and salvage to aircraft

Section 51.—(1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where

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salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

The foregoing provisions of this subsection shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of Her Majesty's dominions.

(2) The Governor may by regulations direct that any provisions of any law of the Colony for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the regulations, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purposes of this section, any provisions of any law of the Colony which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

(4) Part VI of this Act applies to this section.”

“Exemption of aircraft and parts thereof from seizure on patent claims

Section 53.—(1) Any lawful entry into the Colony or any lawful transit across the Colony, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in the Colony, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) The importation into, and storage in, the Colony of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in the Colony on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Colony or are exported from the Colony for sale or distribution.

(3) This section applies—

- (a) to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by Her Majesty by Order in Council, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory, and
- (b) to such other aircraft as Her Majesty may by Order in Council specify.

(5) Part VI of this Act applies to this section.”

PART VI SUPPLEMENTAL

“Orders in Council

Section 57.—(1) Any Order in Council, order or regulation made under any of the enactments to which this Part of this Act applies or this Part of this Act, or any order or regulation made, or instructions given by the Governor thereunder, may contain such incidental and supplementary provisions as appear to Her Majesty in Council, or to the Governor, as the case may be, to be necessary or expedient for the purposes of the Order in Council, order, regulations or instructions; and any such Order in Council may authorise the Governor to make orders, regulations or to give instructions for the purposes of the Order in respect of such matters as may be specified in the Order.

(2) An Order in Council made under any of the enactments to which this Part of this Act applies or this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked or varied by a subsequent Order in Council.

(3) Any reference in the enactments to which this Part of this Act applies or this Part of this Act to the provisions of an Order in Council shall include a reference to the provisions of any order or regulation made, or instructions given, under the Order in Council.”

“Detention of aircraft

Section 58. Any Order in Council, order or regulations made under any enactment to which this Part of this Act applies or this Part of this Act in relation to aircraft may provide for the detention of aircraft to secure compliance with the Order in Council, order or regulations, as the case may be, or with any enactment to which this Part of this Act applies in connection with which the Order in Council, order or regulations is or are made, and may make such further provision as appears to Her Majesty in Council or to the Governor, as the case may be, to be necessary or expedient for securing such detention.”

“Extra-territorial effect

Section 59.—(1) Notwithstanding that an Order in Council made by virtue of any enactment to which this Part of this Act applies or this Part of this Act or an order or a regulation made by virtue of any such enactment by the Governor has effect only as part of the law of the Colony, no provision contained in the Order in Council, order or regulation shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to British aircraft registered in the Colony, wherever they may be, or prohibits, requires or regulates—

- (a) the doing of anything by persons in, or any of the personnel of, such British aircraft as aforesaid, wherever they may be, or
- (b) the doing of anything in relation to such British aircraft as aforesaid by other persons being British subjects, British protected persons or citizens of the Republic of Ireland, wherever they may be.

For the purposes of this subsection the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft, and all other members of the crew of the aircraft.

Nothing in this subsection shall affect subsection (1) of section 3 of the British Nationality Act 1948 (which limits the criminal liability of certain persons who are not citizens of the United Kingdom and Colonies).

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(2) Her Majesty may by Order in Council direct that any of the following provisions, that is to say—

- (a) any enactment to which this Part of this Act applies; or
- (b) any enactment in this Part of this Act; or
- (c) any provision of any Order in Council, order or regulations made by virtue of any such enactment;

being a provision which has extra-territorial operation in relation to British aircraft registered in the Colony, shall, subject to such exceptions, adaptations and modifications, if any, as may be specified in the Order made under this subsection, have such operation also in relation to British aircraft registered in the United Kingdom or any territory, other than the Colony, mentioned in subsection (1) of section 66 of this Act or registered in the Isle of Man or the Channel Islands.”

“Offences

Section 60. Any offence under any enactment to which this Part of this Act applies or under an Order in Council or order or regulation made under either any such enactment or this Part of this Act shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.”

“Savings

Section 61.—(1) Neither this Part of this Act nor any enactment to which this Part of this Act applies shall apply to aircraft belonging to or exclusively employed in the service of Her Majesty: Provided that Her Majesty may, by Order in Council, apply to any such aircraft, with or without modification, any of the said enactments or any Orders in Council, orders or regulations made thereunder.

(2) Nothing in, or in any instrument made under, the enactments to which this Part of this Act applies or this Part of this Act, shall prejudice or affect the rights, powers or privileges of any general or local lighthouse authority.”

PART VII

GENERAL

“Jurisdiction

Section 62.—(2) The Governor may, by regulations, make provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) Part VI of this Act applies to this section.”

“Interpretation

Section 63.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“British aircraft” means aircraft registered in any part of Her Majesty's dominions;

“land” includes any estate or other interest in land and any easement;

(2) Any reference in this Act to the carrying out of works on land shall be construed as including a reference to the making of excavations on the land or to the carrying out of levelling operations on the land, and references to the maintenance of works or to interference with works shall be construed accordingly.

(3) For the avoidance of doubt it is hereby declared that in this Act the expression “loss or damage” includes in relation to persons, loss of life and personal injury.

(4) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals.

(5) Any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(6) Any power conferred by this Act shall be in addition to and not in derogation of any other power so conferred.

(8) Any power conferred by this Act to make any Order in Council, order or regulation shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary or revoke the Order in Council, order or regulation.

(9) References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by or under any other enactment.” includes in relation to persons, loss of life and personal injury.(4)Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals. (5)Any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.(6)Any power conferred by this Act shall be in addition to and not in derogation of any other power so conferred.(8)Any power conferred by this Act to make any Order in Council, order or regulation shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary or revoke the Order in Council, order or regulation.(9)References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by or under any other enactment.

SCHEDULE 3

Article 3

TERRITORIES TO WHICH THIS ORDER APPLIES

Bahamas
Bermuda
British Antarctic Territory
British Honduras
British Indian Ocean Territory
British Solomon Islands Protectorate
Cayman Islands
Central and Southern Line Islands
Falkland Islands (Colony and Dependencies)
Fiji

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Gibraltar
Gilbert and Ellice Islands Colony
Hong Kong
Montserrat
St. Helena and its Dependencies
St. Vincent
Seychelles
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands.

EXPLANATORY NOTE

The legislation relating to Civil Aviation (other than the Carriage by Air Act 1932 and legislation concerned with the constitutions and functions of the state controlled Airways Corporations) was consolidated in the Civil Aviation Act 1949, which was applied, with the necessary modifications and adaptations, to overseas dependent territories by the Colonial Civil Aviation (Application of Act) Order 1952. That Order has been amended several times to take account of the many changes of status and constitution which have occurred in relation to dependent territories and former dependent territories. It has also been amended by the Tokyo Convention Act 1967 (Overseas Territories) Order 1968 (S.I. 1968/1844).

The present Order consolidates the previous Orders and also takes account of the repeals contained in the Civil Aviation Act 1968 (c. 61) and the attainment of independence by certain territories; it excludes from its purview Antigua, Dominica, Grenada, St. Christopher, Nevis and Anguilla, and St. Lucia, which have become Associated States under the provisions of the West Indies Act 1967 (c. 4).