

**1988 No. 251**

**CIVIL AVIATION**

**The Air Navigation (Third Amendment) Order 1988**

*Made* - - - - - *17th February 1988*

*Laid before Parliament* *25th February 1988*

*Coming into force* - *21st March 1988*

At the Court at Buckingham Palace, the 17th day of February 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 60 (other than subsection (3)(r)) and 102 of the Civil Aviation Act 1982(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and commencement**

1. This Order may be cited as the Air Navigation (Third Amendment) Order 1988 and shall come into force on 21st March 1988.

**Amendment of the Air Navigation Order 1985**

2. The Air Navigation Order 1985 ("the principal Order")(b) shall be amended as follows:

(1) Article 62 of the principal Order is hereby amended—

- (a) by the deletion of the words "the appropriate authority" wherever they occur therein and the substitution of the words "the Civil Aviation Authority";
- (b) by the insertion, at the beginning of paragraph (1) thereof, of the words "Subject to paragraph (4) of this article,"; and
- (c) by the deletion of the existing paragraph (4) thereof and the substitution of the following:

“(4) The provisions of article 62A of this Order shall have effect, in place of the provisions of this article, in relation to permits to which that article applies.”.

(2) The following new article shall be inserted immediately after article 62 of the principal Order as article 62A thereof:—

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(a) 1982 c.16.

(b) S.I. 1985/1643, amended by S.I. 1986/2238 and 1987/2062.

**“Revocation, suspension or variation of permissions, etc granted under article 83 or article 84**

**62A.—(1)** Subject to the provisions of this article, the Secretary of State may revoke, suspend or vary any permit to which this article applies.

(2) Save as provided by paragraph (3) of this article, the Secretary of State may exercise his powers under paragraph (1) only after notifying the permit-holder of his intention to do so and after due consideration of the case.

(3) If, by reason of the urgency of the matter, it appears to the Secretary of State to be necessary for him to do so, he may provisionally suspend or vary a permit to which this article applies without complying with the requirements of paragraph (2) of this article; but he shall, in any such case, comply with those requirements as soon thereafter as is reasonably practicable and shall then, in the light of his due consideration of the case, either—

- (a) revoke the provisional suspension or variation of the permit; or
- (b) substitute therefor a definitive revocation, suspension or variation, which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any) or, if a definitive variation, may be in the same or different terms as the provisional variation (if any).

(4) The powers vested in the Secretary of State by paragraph (1) or paragraph (3) of this article may be exercised by him whenever, in his judgement and whether or not by reason of anything done or omitted to be done by the permit-holder or otherwise connected with the permit-holder, it is necessary or expedient that the permit-holder should not enjoy, or should no longer enjoy, the rights conferred on him by a permit to which this article applies or should enjoy them subject to such limitations or qualifications as the Secretary of State may determine. In particular, and without prejudice to the generality of the foregoing, the Secretary of State may exercise his said powers if—

- (a) it appears to him that the person to whom the permit was granted has committed a breach of any condition to which it is subject;
- (b) it appears to him that any agreement between Her Majesty's Government in the United Kingdom and the Government of any other country in pursuance of which or in reliance on which the permit was granted is no longer in force or that that other Government has committed a breach thereof;
- (c) it appears to him that the person to whom the permit was granted, or such other Government as aforesaid (that is to say, a Government which is a party to such an agreement as aforesaid with Her Majesty's Government in the United Kingdom), or the aeronautical authorities of the country concerned, have acted in a manner which is inconsistent with or prejudicial to the operation in good faith, and according to its object and purpose, of any such agreement as aforesaid, or have engaged in unfair, discriminatory or restrictive practices to the prejudice of the holder of an Air Transport Licence granted under section 65 of the Civil Aviation Act 1982 in his operation of air services to or from points in the country concerned;
- (d) it appears to him that the person to whom the permit was granted, having been granted it as a person designated by the Government of a country other than the United Kingdom for the purposes of any such agreement as aforesaid, is no longer so designated or that that person has so conducted himself, or that such circumstances have arisen in relation to him, as to make it necessary or expedient to disregard or qualify the consequences of his being so designated.

(5) The permit-holder or any person having the possession or custody of any permit which has been revoked, suspended or varied under this article shall surrender it to the Secretary of State within a reasonable time of being required by him to do so.

(6) The breach of any condition subject to which any permit to which this article applies has been granted shall render the permit invalid during the continuance of the breach.

(7) The permits to which this article applies are permissions granted by the Secretary of State under article 83 or article 84 of this Order and any approvals or authorisations of, or consents to, any matter which the Secretary of State has granted, or is deemed to have granted, in pursuance of a permission which he has so granted.

(8) References in this article to the permit-holder are references to the person to whom any permit to which this article applies has been granted or is deemed to have been granted.”.

(3) The present article 83 of the principal Order shall be renumbered as paragraph (1) of that article and the following new paragraph shall be added as paragraph (2):

“(2) Without prejudice to the provisions of article 62A of this Order or of paragraph (1) of this article, any breach by a person to whom a permission has been granted under this article of any condition to which that permission was subject shall constitute a contravention of this article.”.

(4) The present article 84 of the principal Order shall be renumbered as paragraph (1) of that article and the following new paragraph shall be added as paragraph (2):

“(2) Without prejudice to the provisions of article 62A of this Order or of paragraph (1) of this article, any breach by a person to whom a permission has been granted under this article of any condition to which that permission was subject shall constitute a contravention of this article.”

(5) The references to articles 83 and 84 of the principal Order which appear in Schedule 13 to that Order shall be transferred from Part A of that Schedule to the appropriate places in Part B.

#### **Application of the new article 62A**

3. The provisions of article 62A of the principal Order, as inserted by article 2, shall have effect, as from the commencement of this Order, as well in relation to permits, being permits to which that article applies, granted before the commencement of this Order as in relation to those granted thereafter.

Clerk of the Privy Council

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Air Navigation Order 1985. Under article 83 of that Order the operator (or charterer) of a foreign registered aircraft requires permission from the Secretary of State before he can take on board or discharge passengers or cargo in the United Kingdom being carried for hire or reward. This Order contains new provisions in relation to the Secretary of State's powers as to the revocation, suspension or variation of such permits.