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STATUTORY INSTRUMENTS

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**1991 No. 189**

**CIVIL AVIATION**

**The Air Navigation (Overseas Territories) (Amendment) Order 1991**

*Made* - - - - - *5th February 1991*  
*Laid before Parliament* *13th February 1991*  
*Coming into force* - - - *5th March 1991*

At the Court at Buckingham Palace, the 5th day of February 1991

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949(1), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(2), as amended by the Civil Aviation Act 1971 (Overseas Territories) Order 1976(3), and 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.—(1) This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 1991.
- (2) This Order shall come into force on 5th March 1991.

**Amendment of the Air Navigation (Overseas Territories) Order 1989**

2. The Air Navigation (Overseas Territories) Order 1989(4) shall be amended as follows:
  - (1) In article 3(1) for the proviso at (i)(b) there shall be substituted the following proviso—
    - “(b) is not for the purpose of public transport or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction

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(1) 1949 c. 67.  
(2) S.I.1969/592.  
(3) S.I. 1976/1912.  
(4) S.I. 1989/2395.

or conducting the test and the person receiving the instruction or undergoing the test are both members;”.

(2) In article 4(13) the words “if he is” in the fifth line thereof shall be deleted and the words “within two months of being” shall be inserted.

(3) In article 7 at the end of proviso (a) to paragraph (1) there shall be added—  
“other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members;”.

(4) In article 18—

(a) for paragraph (3)(b)(iv) there shall be substituted the following sub-paragraph—

“(iv) two or more turbine propeller engines and certificated to carry fewer than ten passengers and not provided with a means of pressurising the personnel compartments, unless it is equipped with an auto-pilot which has been approved by the Governor for the purposes of this Article and which is serviceable on take-off; or”;

(b) for paragraph 3(b)(v) there shall be substituted the following sub-paragraph—

“(v) two or more piston engines, unless it is equipped with an auto-pilot which has been approved by the Governor for the purposes of this Article and which is serviceable on take-off;”.

(5) In article 19(8) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) the flight is for the purpose of public transport or aerial work, other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members.”.

(6) In article 20—

(a) for the first sentence of paragraph (1)(d) there shall be substituted the following sentence—

“Subject to paragraph (2) of this Article and to the provisions of Article 62 of this Order, a licence shall remain in force for the period indicated in the licence, not exceeding the period specified in respect of a licence of that class in the said Schedule, and may be renewed by the Governor from time to time upon his being satisfied that the applicant is a fit person and qualified as aforesaid.”;

(b) after paragraph (1) there shall be added a new paragraph, to be referred to as paragraph (1A), as follows:

(a) “(1A) The Governor shall not on or after 5th March 1991 grant a Senior Commercial Pilot’s Licence (Aeroplanes) to any person who was not on 4th March 1991 the holder of such a licence.

(b) A Senior Commercial Pilot’s Licence (Aeroplanes) shall remain in force until either:

(i) the end of the period indicated in the licence, such period not exceeding 10 years; or

(ii) 30th November 1995; whichever is the earlier.”.

(7) In article 28 at the end of paragraph (6) there shall be added—

“unless carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.”.

- (8) In article 34—
- (a) in paragraph (2)(a) the words “and life jackets” shall be deleted and the words and punctuation “, life jackets and the floor path lighting system” shall be substituted;
  - (b) in paragraph (2)(e)(ii) after the words “such baggage is” there shall be inserted the word “either”;
  - (c) at the end of paragraph 2(e)(ii) there shall be added—  
“of stowing baggage or carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.”.
- (9) In article 37—
- (a) in paragraph (3) after the words “cockpit voice recorder” there shall be inserted the words “or a flight data recorder or a combined cockpit voice recorder/flight data recorder”;
  - (b) after paragraph (3) there shall be added the following three new paragraphs—
    - “(4) The operator of the helicopter shall at all times, subject to Article 61 of this Order, preserve:—
      - (a) the last 8 hours of recording made by any flight data recorder specified at sub-paragraph (i) or (ii) of Scale SS of paragraph 5 of Schedule 4 to this Order and required by or under this Order to be carried in the helicopter;
      - (b) in the case of a combined cockpit voice recorder/flight data recorder specified at sub-paragraph (iii) of the said Scale SS and required by or under this Order to be carried in a helicopter either:—
        - (i) the last 8 hours of recording, or
        - (ii) the last 5 hours of recording or the duration of the last flight, whichever is the greater, together with an additional period of recording for either:—
          - (aa) the period immediately preceding the recording required to be retained pursuant to sub-paragraph (b)(ii) above, or
          - (bb) such period or periods as the Governor may permit in any particular case or class of cases or generally.
    - (5) The additional recording retained pursuant to sub-paragraphs (b)(ii)(aa) and (bb) of paragraph (4) above shall, together with the recording required to be retained pursuant to sub-paragraph (b)(ii) thereof, total a period of 8 hours and shall be retained in accordance with arrangements approved by the Governor.
    - (6) An approval granted by the Governor for the purposes of this article shall be in writing and may be subject to such conditions as the Governor thinks fit.”.
- (10) In article 99—
- (a) in paragraph (1) after the definition of “parascending parachute” there shall be added the following definition—  
““Passenger” means a person other than a member of the crew;”;
  - (b) in paragraph (7) after sub-paragraph (a)(iii) the following additional proviso shall be added—  
“Provided also that a glider shall not be deemed to fly for the purpose of public transport for the purposes of part 111 of this Order by virtue of sub-paragraph (a)(iii) of this paragraph if the hire or reward given or promised for the primary purpose of conferring on a particular person the right to fly the glider on that flight is given or promised by a member of a flying club and the glider is owned or operated by that flying club.”.

(11) In article 101 the figure “5” in paragraph (c) shall be deleted and the figure “7” shall be substituted;

(12) After article 101 there shall be added the following new Article—

“(102) In relation to any of his functions pursuant to any of the provisions of this Order the Governor may, either absolutely or subject to such conditions as he thinks fit, approve a person as qualified to furnish reports to him and may accept such reports.”.

(13) In Schedule 4—

(a) in paragraph 4:

(i) in Table (8) the figure “3” in paragraph (c) under the column headed "Description of Aircraft" shall be deleted and the figure “2” shall be inserted;

(ii) in Table (8) after paragraph (c) under the column headed “Description of Aircraft” there shall be added the following three new paragraphs—

“(d) having a maximum total weight authorised exceeding 5,700 kg. and which conform to a type for which a certificate of airworthiness was first applied for (whether in the Territory or elsewhere) after 30th April 1972 but not including an aeroplane which in the opinion of the Governor is identical in all matters affecting the provision of emergency evacuation facilities to an aeroplane for which a certificate of airworthiness was first applied for before that date; or

(e) which are a turbo-jet and which have a maximum total weight authorised exceeding 22,700 kg; or

(f) first issued with a type certificate (whether in the Territory or elsewhere) on or after 1st January 1958 and which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 19 passengers.”;

(iii) in Table (8) after paragraph (c) under the column headed “Circumstances of Flight” there shall be added opposite each of paragraphs (d), (e) and (f) the following—

“when flying for the purpose of the public transport of passengers”;

(iv) in Table (8) after paragraph (c) in the column headed “Scale of Equipment Required” there shall be added opposite each of paragraphs (d), (e) and (f) the following—

“Z (iii)”;

(b) in Table (10):

(i) in paragraph (c) under the column headed “Circumstances of Flight” after the words “1st January 1991” there shall be added the words “until 31st July 1992”;

(ii) after paragraph (c) in the column headed “Description of Aircraft” there shall be added the following new paragraph—

“(d) in respect of which there is in force a certificate of airworthiness issued in the Transport Category (Passenger or Cargo) and helicopters and gyroplanes in respect of which application has been made and not withdrawn or refused for such a certificate of airworthiness and which fly under the “A” conditions or which have a certificate of airworthiness in the Special Category and

(i) which have a maximum weight authorised exceeding 2,730 kg. but not exceeding 7,000 kg. or which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 9 passengers or both

- (ii) which have a maximum total weight authorised exceeding 7,000 kg.”;
  - (iii) in paragraph (d) in the column headed “Circumstances of Flight” opposite each of sub-paragraphs (i) and (ii) there shall be added the following—
    - “when flying on any flight on or after 31st July 1992”;
  - (iv) in paragraph (d) in the column headed “Scale of Equipment Required” opposite sub-paragraph (i) there shall be added the following—
    - “SS(i) or (iii)”;
  - (v) in paragraph (d) in the column headed “Scale of Equipment Required” opposite sub-paragraph (ii) there shall be added the following—
    - “SS(ii) or (iii)”;
- (c) in paragraph 5 after Scale S there shall be added the following new Scale—
  - “SCALE SS
    - (i) A 4 channel cockpit voice recorder capable of recording and retaining the data recorded during at least the last 30 minutes of its operation and a flight data recorder capable of recording and retaining the data recorded during at least the last 8 hours of its operation being the data required to determine by reference to a time scale the following matters accurately in respect of the helicopter or gyroplane:
      - (a) flight path;
      - (b) speed;
      - (c) attitude;
      - (d) engine power;
      - (e) main rotor speed;
      - (f) outside air temperature;
      - (g) position of pilot’s primary flight controls;
      - (h) use of VHF transmitters;
      - (j) use of automatic flight controls (if any);
      - (k) use of stability augmentation system (if any);
      - (l) cockpit warnings relating to the master warning system; and
    - (m) selection of hydraulic system and cockpit warnings of failure of essential hydraulic systems.
      - (ii) A 4 channel cockpit voice recorder capable of recording and retaining the data recorded during at least the last 30 minutes of its operation and a flight data recorder capable of recording and retaining the data recorded during at least the last 8 hours of its operation being the data required to determine by reference to a time scale the information specified in paragraph (i) of this Scale together with the following matters accurately in respect of the helicopter or gyroplane:
        - (n) landing gear configuration;
        - (p) indicated sling load force if an indicator is provided in the helicopter or gyroplane of such a nature as to enable this information to be recorded with reasonable practicability;
        - (q) radio altitude;

- (r) instrument landing system deviations;
- (s) marker beacon passage;
- (t) ground speed/drift angle or latitude/longitude if the navigational equipment provided in the helicopter or gyroplane is of such a nature as to enable this information to be recorded with reasonable practicability; and
- (u) main gear box oil temperature and pressure.

(iii)

- (a) A combined cockpit voice recorder/flight data recorder which meets the following requirements—

- (aa) in respect of a helicopter or gyroplane which is otherwise required to carry a flight data recorder specified at paragraph (i) of this Scale the flight data recorder shall be capable of recording the data specified therein and retaining it for the duration therein specified;

- (bb) in the case of a helicopter or gyroplane which is otherwise required to carry a flight data recorder specified at paragraph (ii) of this Scale, the flight data recorder shall be capable of recording the data specified therein and retaining it for the duration therein specified;

- (cc) the cockpit voice recorder shall be capable of recording and retaining at least the last hour of cockpit voice recording information on not less than three separate channels.

- (b) In any case when a combined cockpit voice recorder/flight data recorder specified at paragraph (iii)(a) of this Scale is required to be carried by or under this Order, the flight data recorder shall be capable of retaining as protected data the data recorded during at least the last 5 hours of its operation or the maximum duration of the flight, whichever is the greater. It shall also be capable of retaining additional data as unprotected data for a period which together with the period for which protected data is required to be retained amounts to a total of 8 hours:

Provided that the flight data recorder need not be capable of retaining the said additional data if additional data is retained which relates to the period immediately preceding the period to which the required protected data relates or for such other period or periods as the Governor may permit pursuant to Article 37 of this Order and the additional data is retained in accordance with arrangements approved by the Governor.

With the exception of flight data which it is expressly stated above may be unprotected, the cockpit voice recorder, flight data recorder or combined cockpit voice recorder and flight data recorder, as the case may be, shall be so constructed and installed that the record (herein referred to as “protected data”) would be likely to be preserved in the event of an accident and each cockpit voice recorder, flight data recorder or combined cockpit voice recorder/ flight data recorder required to be carried on the helicopter or gyroplane shall have attached an automatically activated underwater sonar location device or an emergency locator radio transmitter as appropriate:

Provided that a helicopter or gyroplane shall not be required to carry the said equipment if, before take-off, the equipment is found to be unserviceable and the aircraft flies in accordance with arrangements approved by the Governor.”;

- (d) in paragraph 5 after paragraph (ii) of Scale Z there shall be added the following new paragraph—

“(iii) An emergency floor path lighting system in the passenger compartments sufficient to facilitate the evacuation of the aircraft notwithstanding the failure

of the lighting systems specified in paragraph (ii) of Scale G. Provided that if the equipment becomes unserviceable the aircraft may fly or continue to fly in accordance with arrangements approved by the Governor.”.

(14) In Schedule 8—

(a) for paragraph (4) of the Privileges of Basic Commercial Pilot’s Licence (Aeroplanes) there shall be substituted the following paragraph—

(a) “(4) In the case of a person who is the holder of such a licence on 4th March 1991 then for so long as that licence or a renewal thereof is valid but not after 30th November 1995 he shall be entitled to fly as co-pilot of any aeroplane of a type specified in the aircraft rating included in the licence when the aeroplane is engaged on a flight for any purpose whatsoever, provided that he shall not be entitled to fly as co-pilot of an aeroplane which is engaged on a flight for the purpose of public transport unless he has more than 400 hours of flying experience as pilot in command of aeroplanes other than self-launching motor gliders and microlight aircraft and the maximum total weight authorised of the aeroplane does not exceed 5,700 kg.

(b) On and after 1st December 1995 and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall be entitled to fly as co-pilot of any aeroplane of a type specified in the aircraft rating included in the licence when the aeroplane is engaged on a flight for any purpose whatsoever, provided that he shall not be entitled to fly as co-pilot of an aeroplane which is engaged on a flight for the purpose of public transport unless he has more than 400 hours of flying experience as pilot in command of aeroplanes other than self-launching motor gliders and microlight aircraft and the aeroplane is certificated for single pilot operation.”;

(b) for sub-paragraph (d) of paragraph (2) the Privileges of Commercial Pilot’s Licence (Aeroplanes) there shall be substituted in the following sub-paragraph—

“(d) (i) in the case of a person who is the holder of such a licence on 4th March 1991 then for so long as that licence or a renewal thereof is valid but not after 30th November 1995 he shall not fly such an aeroplane on a flight for the purpose of public transport if its maximum total weight authorised exceeds 5,700 kg;

(ii) on and after 1st December 1995, and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall not fly such an aeroplane on a flight for the purpose of public transport unless it is certified for single pilot operation.”;

(c) under the heading Senior Commercial Pilot’s Licence (Aeroplanes)—

(i) after the words “Maximum Period of Validity — 10 years” there shall be inserted the words “or until 30th November 1995 (whichever is the earlier)”;

(ii) for the sentence concerning Privileges there shall be substituted the following sentence— “The holder of the licence shall be entitled to exercise the privileges of a Commercial Pilot’s Licence (Aeroplanes) except that proviso (d) to paragraph (2) of those privileges shall not apply and he shall not act as pilot in command of an aeroplane on a flight for the purpose of public transport if its maximum total weight exceeds 20,000 kg.”;

(d) for sub-paragraph (b) of paragraph (2) of the Privileges of Commercial Pilot’s Licence (Helicopters and Gyroplanes) there shall be substituted the following—

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- “(b) (i) in the case of a person who is the holder of such a licence on 4th March 1991, then for so long as that licence or a renewal thereof is valid but not after 30th November 1995, he shall not fly such a helicopter or gyroplane on a flight for the purpose of public transport if its maximum total weight authorised exceeds 5,700 kg.;
- (ii) on and after 1st December 1995, and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall not fly such a helicopter or gyroplane on a flight for the purpose of public transport unless it is certificated for single pilot operation;”.

(15) In Schedule 9 after paragraph 2(6) there shall be added the following new sub-paragraph—

“(7) Area Radar Control (Aerodrome) Rating shall entitle the holder of the licence, at any aerodrome for which the rating is valid, to provide air traffic control service with the aid of any type of surveillance radar equipment for which the rating is valid.”.

*G. I. de Deney*  
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 (Overseas Territories) Order 1989. In addition to minor and drafting amendments the following changes are made—

(1) A glider, flying for the purpose of aerial work consisting of the giving of instruction in flying or the conduct of flying tests in circumstances where the glider is owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving such instruction or undergoing such test are both members, does not now need to be registered or have a certificate of airworthiness. (Article 3(1) proviso (i)(b) and article 7(1) proviso (a)).

(2) The Governor is now required to cancel the registration of an aircraft within two months of being satisfied that there has been a change of ownership thereof. (Article 4(13)).

(3) A flight crew licence is no longer required by a member of the crew of a glider flying for the purpose of aerial work which consists of the conducting of flying tests in the same circumstances as outlined in (1) above. (Article 19(8)(b)).

(4) With effect from 5th March 1991, no further Senior Commercial Pilot's Licences (Aeroplanes) will be granted by the Governor except renewals for persons holding such a licence on 4th March 1991. Any such licences which would not otherwise expire on or before 30th November 1995 will be deemed to expire on that date. (Article 20(2)).

(5) On flights for the purpose of public transport of passengers by aircraft registered in the Territory capable of seating more than thirty passengers, certain items of accompanied baggage may be carried in the passenger cabin, with the permission of the Governor, secured to seats rather than being stowed in approved stowage spaces. (Article 28(6), article 34(2)(e)(ii)).

(6) Specified categories of aircraft registered in the Territory flying for the purpose of public transport of passengers must now be equipped in the passenger compartment with an emergency floor path lighting system able to facilitate the evacuation of the aircraft notwithstanding the failure of any other required emergency lighting system in the passenger compartment. An aircraft commander is now required to familiarise passengers with the position and use of the system when it is required to be fitted. (Article 34(2)(a), Schedule 4 paragraph 4 Table (8)(c) and paragraph 5 Scale Z).

(7) Requirements are established with effect from 1st February 1992 for the carriage of flight data recorders and cockpit voice recorders by helicopters and gyroplanes registered in the Territory which have a certificate of airworthiness in the Transport Category. Different requirements are established for specified categories of helicopters and gyroplanes based on their weight and/or passenger carrying capacity. Requirements are also established for the duration and protection of the data which must now be retained. (Article 37(3), (4), (5) and (6), Schedule 4 paragraph 4 Table (10)(d) and Schedule 4 paragraph 5 Scale SS).

(8) If hire or reward is given or promised for the purpose of conferring on a member of a flying club the right to fly a glider owned or operated by the flying club it is not now deemed to be a flight for the purpose of public transport for airworthiness purposes. (Article 99(7)(a)(iii)).

(9) Apart from certain specified provisions the Order no longer applies to very small aircraft falling below a specified weight limit. (Article 101(c)).

(10) The Governor may now approve persons as qualified to furnish reports to him and to accept such reports in relation to any of the Governor's functions under the Order. (Article 102).

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(11) The privileges of certain categories of pilot's licence are altered. The previous aircraft weight criterion required to be satisfied before certain licensed pilots were permitted to act as co-pilots or pilots in command is replaced by the criterion of whether or not the relevant aircraft is certificated for single pilot operation. Different time limits are established for the applicability of the altered privileges. The Governor can now permit a person to act as pilot of an aircraft certificated for single pilot operation although that aircraft was not included in that person's aircraft rating when he was tested for the purposes of certain provisions of the Order. (Schedule 8).

(12) An Area Radar Control (Aerodrome) Rating is now introduced entitling the holder of an Air Traffic Controller's Licence at an aerodrome for which the new rating is valid to provide a radar service for aircraft whether or not they are within forty nautical miles of the aerodrome. (Schedule 9 paragraph 2(7)).