

1999 No. 1123

CIVIL AVIATION

The Air Navigation (Fourth Amendment) Order 1999

<i>Made - - - -</i>	<i>13th April 1999</i>
<i>Laid before Parliament</i>	<i>23rd April 1999</i>
<i>Coming into force</i>	<i>14th May 1999</i>

At the Court at Windsor Castle, the 13th day of April 1999

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 60 (other than sub-section (3)(r)), 61 and 102 of, and Schedule 13 to, the Civil Aviation Act 1982^(a) 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. This Order may be cited as the Air Navigation (Fourth Amendment) Order 1999 and shall come into force on 4th May 1999.

2. The Air Navigation (No. 2) Order 1995^(b) shall be amended in accordance with the following articles.

Article 83 bis of the Chicago Convention

3.—(1) In article 8(1) after “the country in which the aircraft is registered” there shall be inserted “or the State of the operator”.

(2) In article 15(1) after “the country in which the aircraft is registered” there shall be inserted “or the State of the operator”.

(3) In article 21(3)(a) after “the country in which the aircraft is registered” there shall be inserted “or the State of the operator”.

(4) In article 41(1) after “the country in which the aircraft is registered” there shall be inserted “or the State of the operator”.

(5) In article 118(1) after the definition of “Special VFR flight” there shall be inserted:

“ “State of the operator” means the State in which the operator of an aircraft has his principal place of business or, if he has no such place of business, his permanent residence, in circumstances where:

^(a) 1982 c. 16.

^(b) S.I. 1995/1970, amended by S.I. 1996/1301, S.I. 1997/287 and S.I. 1998/753.

- (a) that aircraft is registered in another Contracting State;
- (b) the operator is operating that aircraft pursuant to an agreement for its lease, charter or interchange or any similar arrangement;
- (c) the State in which that aircraft is registered has, by agreement with the State in which the operator of the aircraft has his principal place of business or, if he has no such place of business, his principal residence, agreed to transfer to it its functions and duties as State of registry in respect of that aircraft in relation to, in the case of article 8(1), airworthiness, in the case of article 15(1), aircraft radio equipment, in the case of article 21(3), flight crew licensing or, in the case of article 41(1), radio licensing; and
- (d) the agreement has been registered with the Council of the International Civil Aviation Organisation or the existence and scope of the agreement have been directly communicated to the Authority.”.

Airborne Collision Avoidance Systems

4.—(1) After article 44 there shall be inserted:

“Use of airborne collision avoidance system

44A. On any flight on which an airborne collision avoidance system is required by paragraph 1 of Schedule 5 to this Order to be carried in an aeroplane, the system shall be operated:

- (a) in the case of an aircraft to which article 27 applies, in accordance with procedures contained in the Operations Manual for the aircraft;
- (b) in the case of an aircraft registered in the United Kingdom to which article 27 does not apply, in accordance with procedures which are suitable having regard to the purposes of the equipment; or
- (c) in the case of an aircraft which is not registered in the United Kingdom, in accordance with any procedures with which it is required to comply under the law of the country in which the aircraft is registered.”.

(2) In Schedule 5, for the Table at paragraph 2, there shall be substituted:

“2 Table

<i>Aircraft and Circumstances of Flight</i>	<i>Scale of Equipment Required</i>									
	A	B	C	D	E	F	G	H	J	
(1) All aircraft (other than gliders) within the United Kingdom:										
(a) when flying under Instrument Flight Rules within controlled airspace	A*				E*	F*#				
(b) when flying within controlled airspace	A*									
(c) when making an approach to landing at an aerodrome notified for the purpose of this sub-paragraph							G*			
(2) All aircraft within the United Kingdom:										
(a) when flying at or above flight level 245	A*									
(b) when flying within airspace notified for the purposes of this sub-paragraph	A*									

<i>Aircraft and Circumstances of Flight</i>	<i>Scale of Equipment Required</i>						
(3) All aircraft (other than gliders) within the United Kingdom:							
(a) when flying at or above flight level 245					E*	F*	
(b) when flying within airspace notified for the purposes of this sub-paragraph					E*		
(c) when flying at or above flight level 100					E*		
(4) All aircraft registered in the United Kingdom, wherever they may be:							
(a) when flying for the purpose of public transport under Instrument Flight Rules:							
(i) while making an approach to landing	A		C	D			H
(ii) on all other occasions	A		C				H
(b) subject to sub-paragraph (d), multi-engined aircraft when flying for the purpose of public transport under Visual Flight Rules	A						H
(c) subject to sub-paragraph (d), single engined aircraft when flying for the purpose of public transport under Visual Flight Rules:							
(i) over a route on which navigation is effected solely by visual reference to landmarks	A						
(ii) on all other occasions	A	B					
(d) aircraft which come within paragraphs (4)(b) and (4)(c) above solely by virtue of the provisions of article 119(2) (c) may carry instead of the requirements of the said paragraphs (4)(b) and (4)(c);							
(i) over a route on which navigation is not effected solely by visual reference to landmarks	A	B					
(ii) over water, beyond gliding distance from any land	A						
(e) when flying under Instrument Flight Rules within controlled airspace and not required to comply with paragraph (3)(a) above	A*						

<i>Aircraft and Circumstances of Flight</i>	<i>Scale of Equipment Required</i>								
(5) On and after 1 January 2000 all aeroplanes registered in the United Kingdom, wherever they may be, and all aeroplanes wherever registered when flying in the United Kingdom, powered by one or more turbine jets or turbine propeller engines and either having a maximum take-off weight exceeding 15,000 kg or which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 30 passengers									J

*Unless the appropriate air traffic control unit otherwise permits in relation to the particular flight and provided that the aircraft complies with any instructions which the air traffic control unit may give in the particular case.

#Provided that non-public transport aircraft flying in Class D and E airspace shall not be required to be provided with distance measuring equipment.”.

(3) In Schedule 5, paragraph 3, after Scale H there shall be inserted:

“Scale J

An airborne collision avoidance system.”.

(4) In Schedule 5, paragraph 4, after sub-paragraph (4) there shall be inserted:

“(5) “Airborne collision avoidance system” means an aeroplane system which conforms to requirements prescribed for the purpose; is based on secondary surveillance radar transponder signals; operates independently of ground based equipment and which is designed to provide advice and appropriate avoidance manoeuvres to the pilot in relation to other aeroplanes which are equipped with secondary surveillance radar and are in undue proximity.”.

(5) In Schedule 10, Part A, paragraph (a), after sub-paragraph (xvii) there shall be inserted:

“(xviii) procedures for the operation of any airborne collision avoidance system carried on the aircraft.”.

(6) In Schedule 12, Part A in the column headed “Article of Order” before “45” there shall be inserted “44A” and adjacent thereto in the column headed “Subject Matter” there shall be inserted “Requirement for airborne collision avoidance system”.

Flying Displays

5.—(1) For article 61 there shall be substituted:

“Flying Displays

61—(1) No person shall act as the organiser of a flying display (in this article referred to as “the flying display director”) unless he has obtained the permission in writing of the Authority under paragraph (4) for that flying display and complies with any conditions therein specified.

(2)(a) The commander of an aircraft intending to participate in a flying display shall take all reasonable steps to satisfy himself before he participates that:

- (i) the flying display director has been granted an appropriate permission under paragraph (4);
- (ii) the flight can comply with any relevant conditions subject to which that permission may have been granted; and
- (iii) the pilot has been granted an appropriate pilot display authorisation.

(b) The commander of an aircraft participating in a flying display for which a permission has been granted shall comply with any conditions subject to which that permission may have been granted.

- (c) No person shall act as pilot of an aircraft participating in a flying display unless he holds an appropriate pilot display authorisation and he complies with any conditions subject to which the authorisation may have been given.
- (3) The flying display director shall not permit any person to act as pilot of an aircraft which participates in a flying display unless such person holds an appropriate pilot display authorisation.
- (4)(a) The Authority shall grant to any person applying therefor a permission required by virtue of paragraph (1) if it is satisfied that that person is a fit and competent person, having regard in particular to his previous conduct and experience, his organisation, staffing and other arrangements, to safely organise the proposed flying display.
- (b) The permission may be granted subject to such conditions, which may include conditions in respect of military aircraft, as the Authority thinks fit and shall, subject to the provisions of article 71 of this Order, remain in force for the period specified in the permission.
- (5) The Authority shall, for the purposes of this article, either unconditionally or subject to such conditions as it thinks fit:
- (a) grant a pilot display authorisation authorising the holder to act as pilot of an aircraft taking part in a flying display upon it being satisfied that the applicant is a fit person to hold the authorisation and is qualified by reason of his knowledge, experience, competence, skill, physical and mental fitness to fly in accordance therewith and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests as the Authority may require; and
- (b) authorise a person to conduct such examinations or tests as it may specify.
- (6) A pilot display authorisation granted in accordance with this article shall, subject to the provisions of article 71 of this Order, remain in force for the period indicated in the pilot display authorisation.
- (7)(a) Subject to paragraph (b), for the purposes of this article, an appropriate pilot display authorisation shall mean such an authorisation which is valid and appropriate to the intended flight and which has been either:
- (i) granted by the Authority pursuant to paragraph (5)(a); or
- (ii) granted by the competent authority of a Member State of JAA.
- (b) A pilot display authorisation granted by the competent authority of a Member State of JAA shall not be an appropriate pilot display authorisation for the purposes of this article if the Authority has given a direction to that effect.
- (c) A direction may be issued under sub-paragraph (b) either in respect of a particular authorisation, a specified category of authorisations or generally.
- (8) Paragraph (1) shall not apply to either:
- (a) a flying display which takes place at an aerodrome in the occupation of the Ministry of Defence or of any visiting force or any other premises in the occupation or under the control of the Ministry of Defence; or
- (b) a flying display at which the only participating aircraft are military aircraft.
- (9) The flying display director shall not permit any military aircraft to participate in a flying display unless he complies with any conditions specified in respect of military aircraft subject to which permission for the flying display may have been granted.
- (10) Nothing in this article shall apply to an aircraft race or contest or to an aircraft taking part in such a race or contest or to the commander or pilot thereof whether or not such race or contest is held in association with a flying display.”
- (2) In article 75(1)(a)(ii) for “an exhibition of flying” there shall be substituted “a flying display”.
- (3) In article 118(1) there shall be inserted after the definition of “flight visibility”:
- “ “Flying display” means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public;”.

(4) In article 119(6)(a)(i)(aa) and (ii)(cc) for “exhibition of flying” there shall be substituted “flying display”.

(5) In Part A of Schedule 12 in the column headed “Subject Matter” adjacent to “61” for “Exhibitions of flying” there shall be substituted “Flying displays”.

Recording of military flight time

6.—(1) For article 62(2)(a) there shall be substituted:

“(a) “flight time”, in relation to any person, means all time spent by that person in:

- (i) a civil aircraft whether or not registered in the United Kingdom (other than such an aircraft of which the maximum total weight authorised does not exceed 1600 kg and which is not flying for the purpose of public transport or aerial work); or
- (ii) a military aircraft (other than such an aircraft of which the maximum total weight authorised does not exceed 1600 kg and which is flying on a military air experience flight),

while it is in flight and he is carried therein as a member of the crew thereof;”.

(2) For article 62(3) there shall be substituted:

“(3) For the purposes of this Part of the Order:

- (a) a helicopter shall be deemed to be in flight from the moment the helicopter first moves under its own power for the purpose of taking off until the rotors are next stopped; and
- (b) a military air experience flight is a flight by a military aircraft operated under the auspices of the Royal Air Force Air Cadet Organisation for the purpose of providing air experience to its cadets.”.

(3) In article 115(3), after “article 61(4) and (8),” there shall be inserted “article 62(2)(a),”.

Flight Information Service

7.—(1) In article 87(3)(a) for “a place” there shall be substituted “an aerodrome or area control centre” and for “that place” on each occasion on which it appears there shall be substituted “that aerodrome or area control centre”.

(2) In article 87(3)(b) for “180” there shall be substituted “90” and for “place” on each occasion on which it appears there shall be substituted “aerodrome or area control centre”.

(3) In article 88(1) for “place” on each occasion on which it appears there shall be substituted “aerodrome or area control centre”.

(4) In article 89 after “aerodrome” on both occasions on which it appears there shall be inserted “or area control centre”.

(5) In article 117(1) for “aerodrome flight information service officer” there shall be substituted “flight information service officer”.

(6) In article 118(1) the definition of “Aerodrome flight information unit” shall be omitted.

(7) In article 118(1) in the definition of “Air traffic control unit” for “instructions or advice or both instructions and advice” there shall be substituted “instructions, advice or information” and for “to give information” there shall be substituted “to provide a flight information service”.

(8) In article 118(1), after the definition of “flight crew” there shall be inserted:

“ “Flight information service unit” means a person appointed by the Authority or by any other person maintaining an aerodrome or area control centre:

(a) in the case of such a unit appointed in respect of an aerodrome to:

- (i) give information by means of radio signals to aircraft flying in or intending to fly within the aerodrome traffic zone of that aerodrome; and
- (ii) grant or refuse permission, pursuant to Rule 35 or 36(2) of the Rules of the Air;

(b) in the case of such a unit appointed in respect of an area control centre, to give information by means of radio signals to aircraft;
and “flight information service”, “aerodrome flight information service” and “aerodrome flight information service unit” shall be construed accordingly.”.

Reporting of serious incidents

8. For article 106(2)(b) there shall be substituted:

“(b) Any accident or serious incident notified to the Chief Inspector of Air Accidents in pursuance of Regulations made under section 75 of the Civil Aviation Act 1982 shall not constitute a reportable occurrence for the purposes of this article.”.

Penalties for failing to comply with requirements for area navigation equipment

9. In Schedule 12, Part A in the column headed “Article of Order” after “42” there shall be inserted “43 and 44” and adjacent thereto in the column headed “Subject Matter” there shall be inserted “Requirement for area navigation equipment”.

Penalties

10.—(1) In article 111(4) for “liable on summary conviction in Great Britain to a fine not exceeding level 3 on the standard scale, or in Northern Ireland to a fine not exceeding £1,000” there shall be substituted “liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

(2) In article 111(5), for “liable on summary conviction in Great Britain to a fine not exceeding level 4 on the standard scale, or in Northern Ireland to a fine not exceeding £2,000” there shall be substituted “liable on summary conviction to a fine not exceeding level 4 on the standard scale”.

(3) In article 111(6), for “liable on summary conviction in Great Britain to a fine not exceeding the statutory maximum or in Northern Ireland to a fine not exceeding £2,000” there shall be substituted “liable on summary conviction to a fine not exceeding the statutory maximum”.

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Air Navigation (No. 2) Order 1995. In addition to minor and drafting amendments, the following changes are made:

1. Responsibilities in respect of airworthiness, radio equipment, radio licensing and flight crew licensing in connection with an aircraft may be discharged by the State of the operator of that aircraft rather than its State of registration in certain circumstances pursuant to Article 83 bis of the Chicago Convention (article 3).
2. An airborne collision avoidance system which meets specified requirements must be carried by an aircraft flying in specified airspace within the United Kingdom (article 4).
3. A flying display is defined. A person organising a flying display is termed a flying display director and must obtain permission of the Civil Aviation Authority. A pilot in a flying display must hold an appropriate pilot display authorisation granted by the Civil Aviation Authority or by the competent authority of a Member State of the Joint Aviation Authorities (article 5).
4. Flight time, for the purpose of flight time limitation schemes, now includes time spent as the member of the crew of a military aircraft except for small aircraft operated under the auspices of the Royal Air Force Air Cadet Organisation (article 6).
5. (a) If a flight information service officer does not provide a service at a particular aerodrome or area control centre throughout a period of 90 days, the licence shall cease to be valid for that aerodrome or area control centre (article 7(2)).
(b) A flight information service includes the granting or refusing of permission to an aircraft to taxi on the apron or the manoeuvring area of an aerodrome or to a vehicle or person to go on the manoeuvring area of an aerodrome (article 7(8)).
6. A serious incident is required to be notified to the Chief Inspector of Air Accidents and is not a reportable occurrence under the Order (article 8).

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