
STATUTORY INSTRUMENTS

2004 No. 3337

**The Air Navigation (Overseas Territories)
(Environmental Standards) Order 2004**

PART V

Offences, Penalties and General

Offences in relation to noise certificates and emissions certification

18.—(1) A person shall not with intent to deceive—

- (a) use any noise certificate issued under this Order which has been revoked or suspended, or to which he is not entitled; or
- (b) lend any such certificate to, or cause or permit it to be used by, any other person; or
- (c) make any false representation for the purpose of procuring for himself or any other person the issue, renewal or variation of any such certificate or of emissions certification issued in accordance with article 10 or 11 of this Order.

(2) A person shall not purport to issue any noise certificate or emissions certification under this Order unless he has been authorised to do so by the Governor.

Power to prevent aircraft flying

19.—(1) If it appears to the Governor or an authorised person that any aircraft is intended or likely to be flown in such circumstances that articles 3, 4, 10 or 11 would be contravened, the Governor or that authorised person may direct the operator or the commander of the aircraft that he is not to permit the aircraft to make the flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Governor or by an authorised person, and, if the aircraft is in the Territory, the Governor or that authorised person may take such steps as are necessary to detain the aircraft.

(2) The operator or, as the case may be, the commander of an aircraft shall comply with any direction given to him pursuant to paragraph (1), unless he has reasonable excuse.

(3) For the purposes of paragraph (1), the Governor or any authorised person may enter upon and inspect any aircraft.

Right of access to aerodromes and other places

20.—(1) Subject to paragraph (2), for the purpose of ascertaining whether the provisions of this Order are being complied with, the Governor and any authorised person shall have the right of access at all reasonable times to any aerodrome or any other place in the Territory where an aeroplane has landed for the purpose of inspecting any aircraft or any document which he has power to demand under this Order, and for the purpose of detaining any aircraft under this Order.

(2) In relation to any Government aerodrome the Governor or the authorised person (as the case may be) shall obtain the permission of the person in charge of that aerodrome before exercising the right of access referred to in paragraph (1).

Obstruction of persons

21. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Order.

Penalties

22.—(1) If any provision of this Order is contravened in relation to an aircraft the operator of that aircraft and the commander thereof shall (without prejudice to the liability of any other person under this Order for that contravention) be deemed for the purposes of the following provisions of this article to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Order was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) If any person contravenes any provisions of this Order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

Liability of persons other than principal offender

23.—(1) Where an offence under this Order has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a partnership is guilty of an offence under this Order or any regulations made thereunder and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Application of the Order to the Crown and visiting forces

24.—(1) Subject to the following provisions of this article, the provisions of this Order shall apply to, or in relation to, aircraft belonging to or exclusively employed in the service of Her Majesty, as they apply to or in relation to other aircraft and for the purposes of such application the Department or other authority for the time being responsible on behalf of Her Majesty for the management of the aircraft shall be deemed to be the operator of the aircraft.

(2) Nothing in this article shall render liable to any penalty any Department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(3) The naval, military and air force authorities and members of any visiting force and any international headquarters and the members thereof and property held or used for the purpose of such a force or headquarters shall be exempt from the provisions of this Order to the same extent as

if that force or headquarters formed part of the forces of Her Majesty raised in the United Kingdom and for the time being serving there.

(4) Nothing in this Order shall apply to or in relation to any military aircraft.

Extra-territorial effect of the Order

25.—(1) Except where the context otherwise requires, the provisions of this Order—

- (a) insofar as they apply (whether by express reference or otherwise) to aircraft registered in the Territory, shall apply to such aircraft wherever they may be;
- (b) insofar as they apply as aforesaid to other aircraft shall apply to such aircraft when they are within the Territory;
- (c) insofar as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by the commander of any aircraft registered in the Territory, shall apply to him wherever he may be; and
- (d) insofar as they prohibit, require or regulate as aforesaid the doing of anything in relation to any aircraft registered in the Territory by other persons shall, where such persons are Commonwealth citizens, British protected persons or citizens of the Republic of Ireland, apply to them wherever they may be.

(2) Nothing in this article shall be construed as extending to make any person guilty of an offence in any case in which it is provided by section 3(1) of the British Nationality Act 1948 (which limits the criminal liability of citizens of certain countries) that that person shall not be guilty of an offence.

Acceptance of reports

26. The Governor may, for the purposes of this Order, accept reports furnished to him by a person whom he may approve, either absolutely or subject to such conditions as he thinks fit, as qualified to furnish such reports.

Application of Order

27. The provisions of this Order apply to the Territories mentioned in the Schedule to this Order, any one of which is in this Order referred to in the expression “the Territory”.