STATUTORY INSTRUMENTS

2007 No. 3468

The Air Navigation (Overseas Territories) Order 2007

PART XVII

GENERAL

Interpretation

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

"The Act" means the Civil Aviation Act 1949(**1**);

"Aerial work" has the meaning assigned to it by article 157;

"Aerial work aircraft" means an aircraft (other than a commercial air transport aircraft) flying, or intended by the operator to fly, for the purpose of aerial work;

"Aerial work undertaking" means an undertaking whose business includes the performance of aerial work;

"Aerobatic manoeuvres" includes loops, spins, rolls, bunts, stall turns, inverted flying and any other similar manoeuvre;

"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 and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically, but shall not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;

"Aerodrome control service" means an air traffic control service for any aircraft on the manoeuvring area or apron of the aerodrome in respect of which the service is being provided or which is flying in, or in the vicinity of, the aerodrome traffic zone of that aerodrome by visual reference to the surface;

"Aerodrome operating minima" in relation to the operation of an aircraft at an aerodrome means the cloud ceiling and runway visual range for take-off, and the decision height or minimum descent height, runway visual range and visual reference for landing, which are the minimum for the operation of that aircraft at that aerodrome;

"Aerodrome traffic zone" means the airspace specified below, being airspace in the vicinity of an aerodrome which is notified for the purposes of rule 39 of the Rules of the Air—

(a) in relation to such an aerodrome at which the length of the longest runway is notified as 1850 metres or less—

(i) subject to sub-paragraph (ii), the airspace extending from the surface to a height of 2000 ft above the level of the aerodrome within the area bounded by a circle centred on the notified mid-point of the longest runway and having a radius of 2 nautical miles;

(**1**) 1949 c. 67.

(ii) where such an aerodrome traffic zone would extend less than 1½ nautical miles beyond the end of any runway at the aerodrome and this sub-paragraph is notified as being applicable, sub-paragraph (b) applies as though the length of the longest runway is notified as greater than 1850 metres;

(b) in relation to such an aerodrome at which the length of the longest runway is notified as greater than 1850 metres, the airspace extending from the surface to a height of 2000 ft above the level of the aerodrome within the area bounded by a circle centred on the notified mid-point of the longest runway and having a radius of 2½ nautical miles;

except any part of that airspace which is within the aerodrome traffic zone of another aerodrome which is notified for the purposes of this Order as being the controlling aerodrome;

"Aeronautical beacon" means an aeronautical ground light which is visible either continuously or intermittently to designate a particular point on the surface of the earth;

"Aeronautical ground light" means any light specifically provided as an aid to air navigation, other than a light displayed on an aircraft;

"Aeronautical radio station" means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft;

"Air traffic control unit" means a person appointed by the Governor or by any other person maintaining an aerodrome or place to give instructions, advice or information by means of radio signals to aircraft in the interests of safety but does not include a person so appointed solely to provide a flight information service to aircraft, and 'air traffic control service' shall be construed accordingly;

"Air transport undertaking" means an undertaking whose business includes the undertaking of flights for the purposes of commercial air transport of passengers or cargo;

"Altitude hold and heading mode" mean aircraft autopilot functions that enable the aircraft to maintain an accurate height and an accurate heading;

"Annual costs" in relation to the operation of an aircraft means the best estimate reasonably practicable at the time of a particular flight in respect of the year commencing on the first day of January preceding the date of the flight, of the costs of keeping and maintaining and the indirect costs of operating the aircraft, such costs in either case excluding direct costs and being those actually and necessarily incurred without a view to profit;

"Annual flying hours" means the best estimate reasonably practicable at the time of a particular flight by an aircraft of the hours flown or to be flown by the aircraft in respect of the year commencing on the first day of January preceding the date of the flight;

"Approach control service" means an air traffic control service for any aircraft which is not receiving an aerodrome control service, which is flying in, or in the vicinity of the aerodrome traffic zone of the aerodrome in respect of which the service is being provided, whether or not the aircraft is flying by visual reference to the surface;

"Approach to landing" means that portion of the flight of the aircraft when approaching to land, in which it is descending below a height of 1000 ft above the relevant specified decision height or minimum descent height;

"Appropriate aeronautical radio station" means in relation to an aircraft an aeronautical radio station serving the area in which the aircraft is for the time being;

"Appropriate air traffic control unit" means in relation to an aircraft either the air traffic control unit notified as serving the area in which the aircraft is for the time being, or the air traffic control unit notified as serving the area which the aircraft intends to enter and with which unit the aircraft is required to communicate prior to entering that area, as the case may be;

"Apron" means the part of an aerodrome provided for the stationing of aircraft for the embarkation and disembarkation of passengers, for loading and unloading of cargo and for parking;

"Area control centre" means an air traffic control unit established to provide an area control service to aircraft flying within a notified flight information region which are not receiving an aerodrome control service or an approach control service;

"Area control service" means an air traffic control service for any aircraft which is flying neither in nor in the vicinity of an aerodrome traffic zone except for an aerodrome traffic zone which has been notified as being subject to an area control service;

"Area navigation equipment" means equipment carried on board an aircraft which enables the aircraft to navigate on any desired flight path within the coverage of appropriate ground based navigation aids or within the limits of that on-board equipment or a combination of the two;

"ASSI" means Air Safety Support International, being a wholly owned subsidiary company of the Civil Aviation Authority formed in accordance with a direction given by the Secretary of State to the Civil Aviation Authority under section 6(2)(c) of the Civil Aviation Act 1982(**2**) on 2 January 2003;

"Authorised person" means any person authorised by the Governor either generally or in relation to a particular case or class of cases, and references to a person authorised by the Governor include references to the Director of Civil Aviation in the Territory and the holder for the time being of any office designated by the Governor;

"Beneficial interest" includes interests arising under contract and other equitable interests;

"Cabin crew" in relation to an aircraft means those persons on a flight carried for the purpose of performing in the interests of the safety of passengers duties to be assigned by the operator or the pilot-in-command of the aircraft but who shall not act as a member of the flight crew;

"Captive balloon" means a balloon which when in flight is attached by a restraining device to the surface;

"Captive flight" means flight by an uncontrollable balloon during which it is attached to the surface by a restraining device;

"Cargo" includes mail and animals;

"Certificated aerodrome" means an aerodrome certificated under this Order;

"Certificate of airworthiness" includes any validation thereof and any flight manual, performance schedule or other document, whatever its title, incorporated by reference in that certificate relating to the certificate of airworthiness;

"Certificate of release to service issued under the Order" has the meaning assigned to it by article 12(6);

"Certificated for single pilot operation" means an aircraft that is not required to carry more than one pilot by virtue of any one or more of the following—

(a) the certificate of airworthiness duly issued or rendered valid under the law of the country in which the aircraft is registered;

(b) if no certificate of airworthiness is required to be in force, the certificate of airworthiness, if any, last in force in respect of the aircraft;

(c) if no certificate of airworthiness is or has previously been in force but the aircraft is identical in design with an aircraft in respect of which such a certificate is or has been in force, the certificate of airworthiness which is or has been in force in respect of such an identical aircraft; or

(**2**) 1982 c. 16

(d) in the case of an aircraft flying in accordance with the conditions of a permit to fly issued by the Governor, that permit to fly;

"Circling approach" means an extension of an instrument approach procedure which provides for visual circling by an aircraft of an aerodrome prior to landing;

"The Civil Aviation Authority" means the body corporate constituted in accordance with the provisions of section 2 of the Civil Aviation Act 1982(**3**);

"Class A airspace", "Class B airspace", "Class C airspace", "Class D airspace" and "Class E airspace" mean airspace respectively notified as such;

"Cloud ceiling" in relation to an aerodrome means the vertical distance from the elevation of the aerodrome to the lowest part of any cloud visible from the aerodrome which is sufficient to obscure more than one-half of the sky so visible;

"Commercial air transport" has the meaning assigned to it by articles 157 to 163;

"Commercial air transport aircraft" means an aircraft flying, or intended by the operator of the aircraft to fly, for the purpose of commercial air transport;

"the Commonwealth" means the United Kingdom, the Channel Islands, the Isle of Man, the countries mentioned in Schedule 3 to the British Nationality Act 1981(**4**) and all other territories forming part of Her Majesty's dominions or in which Her Majesty has jurisdiction;

"Competent authority" means in relation to the Territory, the Governor, and in relation to any other country the authority responsible under the law of that country for promoting the safety of civil aviation;

"Conditional sale agreement" has the same meaning as in section 189 of the Consumer Credit Act 1974(**5**);

"Congested area" in relation to a city, town or settlement, means any area that is substantially used for residential, industrial, commercial or recreational purposes;

"Contracting State" means any State (including the United Kingdom and any of the Territories) that is a party to the Convention on Civil Aviation signed on behalf of the Government of the United Kingdom at Chicago on 7 December 1944;

"Controllable balloon" means a balloon, not being a small balloon, which is capable of free controlled flight;

"Controlled airspace" means airspace that has been notified as Class A, Class B, Class C, Class D or Class E airspace;

"Control area" means controlled airspace that has been further notified as a control area and which extends upwards from a notified altitude or flight level;

"Control zone" means controlled airspace which has been further notified as a control zone and which extends upwards from the surface;

"Co-pilot" in relation to an aircraft means a pilot who in performing his duties as such is subject to the direction of another pilot carried in the aircraft;

"Country" includes a territory, except in paragraph (3)(b);

"Crew" means a member of the flight crew, a person carried on the flight deck whom the operator of the aircraft appoints to give or to supervise the training experience, practice and periodical tests required in respect of the flight crew under article 70(3) of this Order, or a member of the cabin crew or a task specialist;

(**3**) 1982 c. 16
(**4**) 1981 c. 61.
(**5**) 1974 c. 39.

"Danger area" means airspace which has been notified as such within which activities dangerous to the flight of aircraft may take place or exist at such times as may be notified;

"Day" means the time from half an hour before sunrise until half an hour after sunset (both times exclusive), sunset and sunrise being determined at surface level;

"Decision height" in relation to the operation of an aircraft at an aerodrome means the height in a precision approach at which a missed approach must be initiated if the required visual reference to continue that approach has not been established;

"Declared distances" has the meaning that has been notified;

"Designated required navigation performance airspace" means airspace that has been notified, prescribed or otherwise designated by the competent authority for the airspace as requiring specified navigation performance capabilities to be met by aircraft flying within it;

"Direct costs" means, in respect of a flight, the costs actually and necessarily incurred in connection with that flight without a view to profit but excluding any remuneration payable to the pilot for his services as such;

"Director" has the same meaning as in section 53(1) of the Companies Act 1989(**6**);

"Flight" and "to fly" have the meanings respectively assigned to them by paragraph (4);

"Flight crew" means, in relation to an aircraft, those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radiotelephony operator of the aircraft;

"Flight information service unit" means a person appointed by the Governor 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, under 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;

"Flight level" means one of a series of levels of equal atmospheric pressure, separated by notified intervals and each expressed as the number of hundreds of feet which would be indicated at that level on a pressure altimeter calibrated in accordance with the International Standard Atmosphere and set to 1013.2 hectopascals;

"Flight manual" means a manual approved by the state of type certification for the aircraft, associated with the certificate of airworthiness, containing limitations within which the aircraft may be considered airworthy, and instructions and information necessary to the flight crew for the safe operation of the aircraft;

"Flight plan" means such information as may be notified in respect of an air traffic control service unit being information provided or to be provided to that unit, relative to an intended flight or portion of a flight of an aircraft;

"Flight recording system" means a system comprising either a flight data recorder or a cockpit voice recorder or both;

"Flight simulator" means apparatus by means of which flight conditions in an aircraft are simulated on the ground;

(**6**) 1989 c. 40.

"Flight visibility" means the visibility forward from the flight deck of an aircraft in flight;

"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;

"Free balloon" means a balloon which, when in flight, is not attached by any form of restraining device to the surface;

"Free controlled flight" means flight during which a balloon is not attached to the surface by any form of restraining device (other than a tether not exceeding 5 metres in length which may be used as part of the take-off procedure) and during which the height of the balloon is controllable by means of a device attached to the balloon and operated by the pilot-in-command of the balloon or by remote control;

"General lighthouse authority" has the same meaning as in section 193 of the Merchant Shipping Act 1995(**7**);

"Governor" means the person for the time being administering the Government of the Territory and, in relation to such of the functions of the Governor under this Order as are specified in a designation made by the Governor under article 153, includes any person specified in that designation to carry out those functions;

"Hire-purchase agreement" has the same meaning as in section 189 of the Consumer Credit Act 1974(**8**);

"Holding approach" means a predetermined manoeuvre which keeps an aircraft within a specified area of airspace while awaiting further clearance;

"Instructor's rating" means a flying instructor's rating, an assistant flying instructor's rating, a flight instructor rating (aeroplane), a flight instructor rating (helicopter), a type rating instructor rating (multi-pilot aeroplane), a type rating instructor rating (helicopter), a class rating instructor rating (single pilot aeroplane), an instrument rating instructor rating (aeroplane) or an instrument rating instructor rating (helicopter);

"Instrument approach procedure" means a series of predetermined manoeuvres by reference to flight instruments, with specified protection from obstacles, from a specified point to a point from which a landing can be completed and thereafter, if a landing is not completed, to a position at which holding or other obstacle clearance criteria apply;

"Instrument flight procedure" means a generic term to include individually, in whole or in part, "instrument approach procedure", "standard instrument arrival", "standard instrument departure", "circling approach" and "holding procedure" designed in accordance with International Civil Aviation Organisation Procedures for Air Navigation Services (PANS-OPS);

"IFR" means the Instrument Flight Rules;

"Instrument Flight Rules" means Instrument Flight Rules specified in the Rules of the Air;

"Instrument Meteorological Conditions" means weather that precludes flight in compliance with the Visual Flight Rules;

"International headquarters" means an international headquarters designated by Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964(**9**), as extended to the Territory;

"To land" in relation to aircraft includes alighting on the water;

"Legal personal representative" means the person so constituted executor, administrator, or other representative, of a deceased person;

(**7**) 1995 c. 21.
(**8**) 1974 c. 39.
(**9**) 1964 c. 5.

"Licence" includes any certificate of competency or certificate of validity issued with the licence or required to be held in connection with the licence by the law of the country in which the licence is granted;

"Lifejacket" includes any device designed to support a person individually in or on the water;

"Log book" in the case of an aircraft log book, engine log book or variable pitch propeller log book, or personal flying log book, includes a record kept either in a book, or by any other means approved by the Governor in the particular case;

"Maintenance" means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;

"Manoeuvring area" means the part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding the apron and any part of the aerodrome provided for the maintenance of aircraft;

"Maximum approved passenger seating configuration" means the maximum passenger seating capacity of an individual aircraft, excluding pilot seats or flight deck seats and cabin crew seats, as applicable, used by the operator, approved by the appropriate authority and specified in the operations manual or, if no such approval has been given, the maximum number of passengers that may be carried in an aircraft under and in accordance with its certificate of airworthiness, its flight manual and this Order;

"Maximum total weight authorised" in relation to an aircraft means the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances in accordance with the certificate of airworthiness in force in respect of the aircraft;

"Medical attendant" means a person carried on a flight for the purpose of attending to any person in the aircraft in need of medical attention, or to be available to attend to such a person;

"Microlight aeroplane" means an aeroplane designed to carry not more than two persons which has—

(a) a maximum total weight authorised not exceeding—
  (i) 300 kg for a single seat landplane;
  (ii) 450 kg for a two seat landplane;
  (iii) 330 kg for a single seat amphibian or floatplane; or
  (iv) 495 kg for a two seat amphibian or floatplane; and

(b) either a wing loading at the maximum total weight authorised not exceeding 25 kg per square metre or a stalling speed at the maximum total weight authorised not exceeding 35 knots calibrated airspeed;

"Military aircraft" means the naval, military or air force aircraft of any country and—

(a) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and

(b) any aircraft in respect of which there is in force a certificate issued by the Secretary of State that the aircraft is to be treated for the purposes of this Order as a military aircraft;

"Minimum descent height" in relation to the operation of an aircraft at an aerodrome means the height in a non-precision approach below which descent may not be made without the required visual reference;

"Multi-crew co-operation" means the functioning of the flight crew as a team of co-operating members led by the pilot-in-command;

"Nautical mile" means the International Nautical Mile, that is to say, a distance of 1852 metres;

"Night" means the time from half an hour after sunset until half an hour before sunrise (both times inclusive), sunset and sunrise being determined at surface level;

"Non-precision approach" means an instrument approach using non-visual aids for guidance in azimuth or elevation but which is not a precision approach;

"Non-revenue flight" means—

(a) in the case of a flight by an aeroplane, any flight which the holder of a Territory Private Pilot's Licence (Aeroplanes) may undertake under paragraph (2)(a) and (b) of the privileges of that licence set out in Schedule 6;

(b) in the case of a flight by a helicopter, any flight which the holder of a Territory Private Pilot's Licence (Helicopters) may undertake under paragraph (2)(a) and (b) of the privileges of that licence set out in Schedule 6; and

(c) in the case of a flight by a gyroplane, any flight which the holder of a Territory Private Pilot's Licence (Gyroplanes) may undertake under paragraph (2)(a) and (b) of the privileges of that licence set out in Schedule 6;

"North Atlantic Minimum Navigation Performance Specification airspace" means the airspace specified as such in regulation 3 in Schedule 9;

"Notified" means shown in any of the following publications for the time being in force and issued in the Territory whether before or after the coming into operation of this Order, that is to say, "Notams (Notices to Airmen)", "Aeronautical Information Publications (AIP)", "OTARs (Overseas Territories aviation requirements)", or such other official publications so issued for the purpose of enabling any of the provisions of this Order to be complied with;

"Operator" has the meaning assigned to it by paragraph (5);

"Operating staff" means the servants and agents employed by the operator, whether or not as members of the crew of the aircraft, to ensure that the flights of the aircraft are conducted in a safe manner, and includes an operator who himself performs those functions;

"OTAR" means Overseas Territories Aviation Requirements published by the Governor under article 152;

"Parascending parachute" means a parachute which is towed by cable in such a manner as to cause it to ascend;

"Passenger" means a person other than a member of the crew;

"Performance Class 1 operations" means flights where, in the event of the failure of a power unit, the helicopter will be able to safely continue the flight and land at an appropriate landing area unless the power unit failure recognition occurs during take-off at or prior to reaching the take-off decision point in which case the helicopter will be able to safely land back within the area from which it has taken off;

"Performance Class 2 operations" means flights where, in the event of the failure of a power unit, the helicopter will be able to safely continue the flight to an appropriate landing area or, where the failure occurs at a point during the take-off manoeuvre or the landing manoeuvre when it cannot do so, the helicopter will be able to carry out a forced landing;

"Performance Class 3 operations" means flights where, in the event of the failure of a power unit at any time during the flight, the helicopter will be required to carry out a forced landing;

"Period of duty" means the period between the commencement and end of a shift during which an air traffic controller performs, or could be called upon to perform, any of the functions specified in respect of a rating included in his licence;

"Pilot-in-command" in relation to an aircraft means the pilot designated by the operator as being in command and charged with the safe conduct of a flight, or, if no such designation has

been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

"Precision approach" means an instrument approach using Instrument Landing System, Microwave Landing System or Precision Approach Radar for guidance in both azimuth and elevation;

"Prescribed" means prescribed by regulations made by the Governor under this Order, and the expression "prescribe" shall be construed accordingly;

"Pressurised aircraft" means an aircraft provided with means of maintaining in any compartment a pressure greater than that of the surrounding atmosphere;

"Private flight" means a flight which is neither for the purpose of aerial work nor commercial air transport;

"Record" includes, in addition to a record in writing—

(a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;

(b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and

(c) any photograph;

and any reference to a copy of a record includes, in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with such a still reproduction;

"Reduced vertical separation minimum airspace" means any airspace between flight level 290 and flight level 410 inclusive designated by the relevant competent authority as being airspace within which a vertical separation minimum of 1000 feet or 300 metres shall be applied;

"Released flight" means flight by an uncontrollable balloon during which it is not attached to the surface by any form of restraining device;

"Replacement" in relation to any part of an aircraft or its equipment includes the removal and replacement of that part whether or not by the same part, and whether or not any work is done on it; but does not include the removal and replacement of a part which is designed to be removable solely for the purpose of enabling another part to be inspected, repaired, removed or replaced or cargo to be loaded;

"Requirements" means requirements published by the Governor under the provisions of article 152;

"Rules of the Air" means the rules in Schedule 8 and any supplementary rules made by the Governor under article 37(1);

"Runway visual range" in relation to a runway means the distance in the direction of take-off or landing over which the runway lights or surface markings may be seen from the touchdown zone as calculated by either human observation or instruments in the vicinity of the touchdown zone or where this is not reasonably practicable in the vicinity of the mid-point of the runway; and the distance, if any, communicated to the pilot-in-command of an aircraft by or on behalf of the person in charge of the aerodrome as being the runway visual range shall be taken to be the runway visual range for the time being;

"Safety management system" means a systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures;

"Scheduled journey" means one of a series of journeys that are undertaken between the same two places and which together amount to a systematic service;

"Seaplane" includes a flying boat and any other aircraft designed to manoeuvre on water;

"Sector" means part of the airspace controlled from an area control centre or other place;

"Small aircraft" means any unmanned aircraft, other than a balloon or a kite, weighing not more than 20 kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight;

"Small balloon" means a balloon not exceeding 2 metres in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon;

"Special VFR flight" means a flight which is a special VFR flight for the purposes of the Rules of the Air;

"Standard instrument arrival" means a designated IFR arrival route linking a significant point, normally on an air traffic service route, with a point from which an instrument approach procedure can be commenced;

"Standard instrument departure" means a designated IFR departure route linking the aerodrome or a specified runway at the aerodrome with a specified significant point, normally on a designated air traffic service route, at which the en-route phase of a flight commences;

"State of the operator" means the State in which the operator of an aircraft has his principal place of business (as defined in article 64(2)) or, if he has no such place of business, his permanent residence, in circumstances where—

(a) that aircraft is registered in another Contracting State;

(b) the operator is operating that aircraft under an agreement for its lease, charter or interchange or any similar arrangement;

(c) the State in which the 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 permanent 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 7(1), airworthiness, in the case of article 16(1), aircraft radio equipment, in the case of article 21(3), flight crew licensing or in the case of article 49(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 Governor.

"Supreme Court" means the highest court exercising original jurisdiction in respect of the Territory;

"Task Specialist" means a member of the crew who is not part of the flight crew or cabin crew and who carries out duties on board the aircraft which are essential to the purpose of the flight;

"The Territory" has the meaning assigned to it by article 148 and includes the dependencies of the Territory and the adjacent territorial waters;

"Territory reduced vertical separation minimum airspace" means Territory airspace that has been notified as reduced vertical separation minimum airspace for the purposes of article 52;

"Tethered flight" means flight by a controllable balloon throughout which it is flown within limits imposed by a restraining device that attaches the balloon to the surface;

"Uncontrollable balloon" means a balloon, not being a small balloon, which is not capable of free controlled flight;

"Valuable consideration" means any right, interest, profit or benefit, forbearance, detriment, loss or responsibility accruing, given, suffered or undertaken under an agreement, which is of more than a nominal nature;

"VFR" means the Visual Flight Rules;

"Visual Flight Rules" means Visual Flight Rules prescribed by the Rules of the Air;

"Visual Meteorological Conditions" means weather that permits flight in accordance with the Visual Flight Rules;

"With the surface in sight" means with the flight crew being able to see sufficient surface features or surface illumination to enable the flight crew to maintain the aircraft in a desired attitude without reference to any flight instrument.

(2) In this Order references to sums expressed in terms of sterling shall be construed as references to the equivalent sums in the currency of the Territory calculated at such rate of exchange as may be prescribed or as the Governor may by order direct.

(a) (3) (a) In its application to any Territory which is mentioned in Schedule 12 to this Order but is not mentioned in the First Schedule to the Visiting Forces Act (Application to Colonies) Order 1954(**10**), as amended from time to time, this Order shall have effect as if—

(i) the whole of paragraph (4) was omitted from article 145;

(ii) the words "or as a member of a visiting force" were omitted from paragraph (6) of article 145; and

(iii) in article 104 paragraph (2) the words "or of any visiting force" were omitted from the definition of "Government aerodrome".

(b) In relation to any Territory which is mentioned in Schedule 12 and is also mentioned in the First Schedule to the Visiting Forces Act (Application to Colonies) Order 1954, as amended from time to time, the expression "visiting force" in this Order means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952)(**11**), which extend to that Territory, in respect of that country, by virtue of any Order in Council made under section 1(2) or under section 15 of that Act.

(4) An aircraft shall be deemed to be in flight—

(a) in the case of a piloted flying machine, from the moment when, after the embarkation of its crew for the purpose of taking off, it first moves under its own power until the moment when it next comes to rest after landing;

(b) in the case of a pilotless flying machine, or a glider, from the moment when it first moves for the purpose of taking off until the moment when it next comes to rest after landing;

(c) in the case of an airship, from the moment when it first becomes detached from the surface until the moment when it next becomes attached thereto or comes to rest thereon;

(d) in the case of a free balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface until the moment it next comes to rest thereon; and

(e) in the case of a captive balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface, apart from a restraining device attaching it to the surface, until the moment when it next comes to rest thereon;

and the expressions "a flight" and "to fly" shall be construed accordingly.

(**10**) SI 1954/636
(**11**) 1952 c. 67.

(5) For the purposes of the application of any provision of this Order in relation to any particular aircraft, "Operator" means—

(a) the person who at the particular time has management of an aircraft, and

(b) when the aircraft is chartered, hired, leased or loaned, responsibility for airworthiness and equipment passes immediately to the charterer, hirer, lessee or borrower; except

(c) when a person other than an air transport undertaking or an aerial work undertaking has chartered, hired, leased or borrowed the aircraft for a period not exceeding 14 days he shall not be considered to be the operator.

(6) The expressions appearing in the general classification of aircraft set forth in Schedule 2 shall have the meanings thereby assigned to them.

(7) A power to make regulations under this Order shall include the power to make different provisions 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 Territory and to make such incidental and supplementary provisions and give instructions as are necessary or expedient for carrying out the purposes of the Order.

(a) (8) (a) Any power conferred by this Order to issue, make, serve or grant any instrument shall be construed as including a power exercisable, in the like manner and subject to the like conditions, if any, to vary, revoke, cancel or otherwise terminate the instrument.

(b) In this paragraph "instrument" includes any regulations, direction, instruction, rule or other requirement, any notice and any certificate, licence, approval, permission, exemption, authorisation, log book record or other document.