
STATUTORY INSTRUMENTS

2014 No. 2926

**The Air Navigation (Overseas Territories)
(Environmental Standards) Order 2014**

PART V

Offences, Penalties and General

Offences in relation to noise certificates

17.—(1) A person must not with intent to deceive—

- (a) use any noise certificate issued under this Order which has been revoked or suspended, or to which the person is not entitled; or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 the person or for any other person the issue, renewal or variation of any such certificate issued in accordance with article 6 of this Order.

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

Power to prevent aircraft flying

18.—(1) If it appears to the Governor or an authorised person that any aircraft is intended or is likely to be flown in such circumstances that articles 4, 5, 10 or 11 would be contravened, the Governor or an authorised person may make a direction in accordance with paragraph (2).

(2) A direction is to—

- (a) be given to the operator or the pilot-in-command of the aircraft;
- (b) direct that the operator or the pilot in command are 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make the flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Governor or by an authorised person; and
- (c) direct that if the aircraft is in the Territory, the Governor or that authorised person may take such steps as are necessary to detain the aircraft.

(3) The operator or, as the case may be, the pilot-in-command of an aircraft must comply with any direction given to them pursuant to paragraph (1), unless they have reasonable excuse.

(4) For the purposes of paragraph (1) and (2), the Governor or any authorised person may—

- (a) enter upon and inspect any aircraft; and
- (b) require the production of noise certificates and emissions certification for the aircraft.

Right of access to aerodromes, aircraft and other places

19.—(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 have the right of access at all reasonable times to any aerodrome or aircraft or to any other place in the Territory where an aircraft has landed for the purpose of—

- (a) inspecting any aircraft (including an aircraft that has landed) or inspecting any document carried in the aircraft or carried by persons in the aircraft or to demand any document issued under this Order; and
- (b) detaining any aircraft under article 18.

(2) In relation to any military aerodrome the Governor or the authorised person (as the case may be) must 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

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

Penalties

21.—(1) If any provision of this Order is contravened in relation to an aircraft the operator of that aircraft and the commander thereof are (without prejudice to the liability of any other person under this Order for that contravention and subject to paragraph (2)) to be deemed, for the purposes of the paragraph (3), to have contravened that provision.

(2) If it is proved—

- (a) 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; or
- (b) that the contravention occurred without the person's consent or connivance and that the person exercised all due diligence to prevent the contravention,
the act or omission is to be deemed not to be a contravention by that person of that provision.

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

Liability of persons other than principal offender

22.—(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, the director, manager, secretary or other similar officer of the body corporate or other person who was purporting to act in any such capacity, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

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

(3) Where a partnership is guilty of an offence under this Order 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, the partner as well as the partnership is guilty of that offence and is liable to be proceeded against and punished accordingly.

Application of the Order to the Crown and visiting forces

23.—(1) Subject to the following provisions of this article, the provisions of this Order 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.

(2) 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 is deemed to be the operator of the aircraft.

(3) Nothing in this article renders liable to any penalty any department or other authority responsible on behalf of Her Majesty for the management of any aircraft.

(4) The naval, military and air force authorities and the 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 are 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.

(5) Nothing in this Order applies to or in relation to any military aircraft.

Extra-territorial effect of the Order

24.—(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, apply to such aircraft wherever they may be;
- (b) insofar as they apply as aforesaid to other aircraft, 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 pilot-in-command of any aircraft registered in the Territory, apply to the pilot-in-command wherever the pilot 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 another person, where such person is a United Kingdom national, apply to that person wherever they may be.

(2) Nothing in this article is to 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 is not to be guilty of an offence.

Acceptance of reports

25.—(1) The Governor may, for the purposes of this Order, accept reports furnished to the Governor by a person whom the Governor may approve as qualified to furnish such reports.

(2) The Governor may approve the person either absolutely or subject to such conditions as the Governor thinks fit.

Extent of Order

26. This Order extends to the Territories mentioned in the Schedule to this Order.

Publication of requirements

27.—(1) Where any provision of this Order provides for the Governor to grant a certificate, upon being satisfied as to any matters specified in the provision, the Governor must before determining whether to effect that grant or require such a person to keep or do something—

(a) publish or cause to be published the Governor’s requirements as to those matters in the Territory by means of an OTAR; and

(b) take into account those requirements when determining whether to grant the certificate.

(2) Nothing in this article requires the Governor to publish requirements in respect of a certificate if the Governor is not required to exercise the powers to grant the certificate in question.

Designation by the Governor

28.—(1) Subject to paragraphs (3) and (4), the Governor must designate a person to carry out those functions of the Governor under Parts II, III, IV and V of this Order that are specified in the designation, subject to such conditions as the Governor thinks fit.

(2) Subject to paragraph (3) the Governor may revoke or vary a designation made under paragraph (1).

(3) Before making a designation or revoking or varying a designation made the Governor must consult, and take into account any advice given by, ASSI.

(4) The Governor may not include in any designation the functions of the Governor under this article or under article 27.