

2018 No. 623

CIVIL AVIATION

The Air Navigation (Amendment) Order 2018

Made - - - - - *23rd May 2018*

Laid before Parliament *30th May 2018*

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 23rd day of May 2018

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 60(1), (2)(b), (3)(c), (d), (e), (h), (l), (n) and (q) and (4), 61(1)(a) and 101 of, and Schedule 13 to, the Civil Aviation Act 1982(a).

Her Majesty, by and with the advice of Her Privy Council, orders as follows:

Citation and commencement

1.—(1) This Order may be cited as the Air Navigation (Amendment) Order 2018.

(2) Subject to paragraphs (3) to (5), this Order comes into force on 30th July 2018.

(3) Article 5(b) comes into force on 30th November 2019 for the purposes of inserting into article 23(3) of the Air Navigation Order 2016(b) the references to articles 94D and 94F of that Order(c).

(4) Article 7 comes into force on 30th November 2019 for the purposes of inserting articles 94D and 94F into that Order.

(5) Article 10(a) comes into force on 30th November 2019.

Amendment of the Air Navigation Order 2016

2. The Air Navigation Order 2016 is amended as follows.

Amendment of article 7

3. In article 7 (meaning of “commercial operation”)—

(a) 1982 c. 16. Section 61 was amended by the Aviation (Offences) Act 2003 (c. 19), section 2. There are other amendments but none is relevant.

(b) S.I. 2016/765.

(c) Articles 94D and 94F are inserted by article 7 of this Order.

- (a) in the words before paragraph (a), for “operation of an aircraft other than” substitute “flight by a small unmanned aircraft except a flight for public transport, or any operation of any other aircraft except an operation”;
- (b) in paragraph (b), for “public,” substitute—
 - “public—
 - (i) in the case of a flight by a small unmanned aircraft, is performed under a contract between the SUA operator and a customer, where the latter has no control over the remote pilot; or
 - (ii) in any other case,”.

Amendment of article 20

4. In article 20 (application of the Order to the Crown), in paragraph (2), after “operator of the aircraft” insert “or, in the case of a small unmanned aircraft, to be the SUA operator”.

Amendment of article 23

5. In article 23(3) (articles which apply to small unmanned aircraft etc.)—
- (a) after “92,” insert “93,”;
 - (b) after “94,” insert “94A, 94B, 94C, 94D, 94E, 94F, 94G,”;
 - (c) for “article 265 applies” substitute “articles 253, 265, 266 and 269 apply”.

Amendment of article 94

6. In article 94 (small unmanned aircraft)—
- (a) in the heading, after “aircraft” insert “: requirements”;
 - (b) in paragraph (2), for “person in charge” substitute “remote pilot”;
 - (c) in paragraph (3), for “person in charge” substitute “remote pilot”;
 - (d) in paragraph (4)—
 - (i) for the words before sub-paragraph (a) substitute—

“(4) If a small unmanned aircraft has a mass of more than 7kg excluding its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight, the SUA operator must not cause or permit the aircraft to be flown, and the remote pilot in charge of the aircraft must not fly it—”;
 - (ii) in sub-paragraph (a), at the end insert “or”;
 - (iii) omit sub-paragraph (c) (and the word “or” preceding it);
 - (e) after paragraph (4) insert—

“(4A) Paragraph (4) does not apply to any flight within the flight restriction zone of a protected aerodrome (within the meaning given in article 94B).”;
 - (f) for paragraph (5) substitute—

“(5) The SUA operator must not cause or permit a small unmanned aircraft to be flown for the purposes of commercial operations, and the remote pilot of a small unmanned aircraft must not fly it for the purposes of commercial operations, except in accordance with a permission granted by the CAA.”.

Additional provisions relating to small unmanned aircraft

7. After article 94 insert—

“Small unmanned aircraft: height restrictions on flights

94A.—(1) The SUA operator must not cause or permit a small unmanned aircraft to be flown at a height of more than 400 feet above the surface, and the remote pilot of a small unmanned aircraft must not fly it at a height of more than 400 feet above the surface, unless the permission of the CAA has been obtained.

(2) This article does not apply to any flight within the flight restriction zone of a protected aerodrome (within the meaning given in article 94B).

Small unmanned aircraft: restrictions on flights that are over or near aerodromes

94B.—(1) This article applies to a flight by a small unmanned aircraft within the flight restriction zone of a protected aerodrome.

(2) The “flight restriction zone” of a protected aerodrome consists of the following two zones—

- (a) the “Inner Zone”, which is the area within, and including, the boundary of the aerodrome;
- (b) the “Outer Zone”, which is the area between—
 - (i) the boundary of the aerodrome, and
 - (ii) a line that is 1 km from the boundary of the aerodrome (the “1 km line”).

(3) In the circumstances set out in an entry in column 1 of the following table—

- (a) the SUA operator must not cause or permit the small unmanned aircraft to be flown in the Inner Zone or the Outer Zone, and
- (b) the remote pilot of the small unmanned aircraft must not fly it in the Inner Zone or the Outer Zone,

if the flight breaches a flight restriction set out in the entry in column 3 of the table which relates to that zone in those circumstances.

<i>Circumstances</i>	<i>Zone</i>	<i>Flight restriction(s)</i>
There is an air traffic control unit or a flight information service unit (or both) at the protected aerodrome, and the flight takes place during the notified hours of watch of the air traffic control unit or flight information service unit.	Inner Zone or Outer Zone	A flight at any height is prohibited unless the permission of the air traffic control unit or flight information service unit has been obtained.
(a) There is neither an air traffic control unit nor a flight information service unit at the protected aerodrome; or (b) there is either an air traffic control unit or a flight information service unit at the protected aerodrome, and the flight takes place outside the notified hours of watch of the air traffic control unit or flight information service unit; or	Inner Zone	(1) A flight at a height up to and including 400 feet above the surface is prohibited unless the permission of the operator of the aerodrome has been obtained. (2) A flight at a height of more than 400 feet above the surface is prohibited unless both— (a) the permission of the operator of the aerodrome has been obtained, and (b) the permission of the CAA has been obtained.
	Outer Zone	A flight at a height of more than 400 feet above the surface is prohibited unless the permission of the CAA has been obtained.

<p>(c) there are both an air traffic control unit and a flight information service unit at the protected aerodrome, and the flight takes place outside the notified hours of watch of the air traffic control unit and outside the notified hours of watch of the flight information service unit.</p>		
--	--	--

(4) The 1 km line is to be drawn so that the area which is bounded by it includes every location that is 1 km from the boundary of the aerodrome, measured in any direction from any point on the boundary.

(5) In this article, “protected aerodrome” means—

- (a) an EASA certified aerodrome,
- (b) a Government aerodrome,
- (c) a national licensed aerodrome, or
- (d) an aerodrome that is prescribed or of a prescribed description.

Certain small unmanned aircraft: registration as an SUA operator

94C.—(1) Subject to the following provisions of this article, the CAA must issue a certificate of registration as an SUA operator to a person, or renew that person’s certificate of registration as an SUA operator, if the person—

- (a) has applied to the CAA, in such manner as the CAA may require, to be registered as an SUA operator,
- (b) has supplied such information and evidence as the CAA may require, and
- (c) has, in the case of an individual, attained the age (if any) that is prescribed.

(2) Subject to paragraph (3), a certificate of registration may relate—

- (a) to a particular description of small unmanned aircraft;
- (b) to a particular description of flights by small unmanned aircraft.

(3) No certificate of registration is to be issued in relation to—

- (a) small unmanned aircraft with a mass of less than 250 grams without their fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of their flight, or
- (b) flights by small unmanned aircraft of that description.

(4) A certificate of registration issued, or renewed, under this article is valid for the period shown on the certificate, subject to—

- (a) article 253, or
- (b) the SUA operator notifying the CAA, in such manner as the CAA may require, that the SUA operator surrenders the certificate.

(5) The CAA is not required to accept applications for certificates of registration under this article before 1st October 2019.

Certain small unmanned aircraft: requirement for registration as SUA operator

94D.—(1) This article applies to a flight by a small unmanned aircraft only if it has a mass of 250 grams or more without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight.

(2) The SUA operator must not cause or permit the small unmanned aircraft to be flown unless—

- (a) the CAA has issued the SUA operator with a certificate of registration which is valid for that flight at the time of the flight, and
- (b) the SUA operator's registration number is displayed on the aircraft in the manner (if any) that is prescribed.

(3) The remote pilot of the small unmanned aircraft must not fly it unless the remote pilot has reasonably formed the view that the SUA operator complies with the requirements in paragraph (2) in relation to that flight.

(4) In this article—

“certificate of registration” means a certificate issued under article 94C;

“registration number” means the ten digit registration number assigned by the CAA in relation to an SUA operator's registration under article 94C.

Certain small unmanned aircraft: competency of remote pilots

94E.—(1) Subject to the following provisions of this article, the CAA must issue an acknowledgement of competency to an individual, or renew that individual's acknowledgement of competency, if the individual—

- (a) has applied to the CAA, in such manner as the CAA may require, for an acknowledgement of competency,
- (b) has supplied such information and evidence as the CAA may require,
- (c) has undertaken such training as the CAA may require, and
- (d) has undergone such tests as the CAA may require.

(2) That training or those tests may relate to matters which include—

- (a) the practical operation of small unmanned aircraft;
- (b) matters connected with the operation of small unmanned aircraft (such as respect for privacy, data protection, safety, security and environmental protection).

(3) Subject to paragraph (4), an acknowledgement of competency may relate—

- (a) to a particular description of small unmanned aircraft;
- (b) to a particular description of flights by small unmanned aircraft.

(4) No acknowledgement of competency is to be issued in relation to—

- (a) small unmanned aircraft with a mass of less than 250 grams without their fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of their flight, or
- (b) flights by small unmanned aircraft of that description.

(5) An acknowledgement of competency issued, or renewed, under this article is valid for the period shown on the acknowledgement, subject to article 253.

(6) The CAA may issue an acknowledgement of competency subject to such conditions as it deems appropriate.

(7) The CAA is not required to accept applications for acknowledgements of competency under this article before 1st October 2019.

Certain small unmanned aircraft: requirement for acknowledgement of competency

94F.—(1) This article applies to a flight by a small unmanned aircraft only if it has a mass of 250 grams or more without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight.

(2) The remote pilot of the small unmanned aircraft must not fly it unless the CAA has issued the remote pilot with an acknowledgement of competency which is valid for that flight at the time of the flight.

(3) The SUA operator must not cause or permit the small unmanned aircraft to be flown unless the SUA operator has reasonably formed the view that the remote pilot of the aircraft complies with the requirements in paragraph (2) in relation to that flight.

(4) In this article “acknowledgement of competency” means an acknowledgement issued under article 94E.

Meaning of “remote pilot” and “SUA operator”

94G. In this Order—

- (a) the “remote pilot”, in relation to a small unmanned aircraft, is an individual who—
 - (i) operates the flight controls of the small unmanned aircraft by manual use of remote controls, or
 - (ii) when the small unmanned aircraft is flying automatically, monitors its course and is able to intervene and change its course by operating its flight controls;
- (b) the “SUA operator”, in relation to a small unmanned aircraft, is the person who has the management of the small unmanned aircraft.”.

Amendment of article 95

8. In article 95 (small unmanned surveillance aircraft)—

- (a) for paragraph (1) substitute—

“(1) The SUA operator must not cause or permit a small unmanned surveillance aircraft to be flown in any of the circumstances described in paragraph (2), and the remote pilot of a small unmanned surveillance aircraft must not fly it in any of those circumstances, except in accordance with a permission issued by the CAA.”;
- (b) in paragraph (2)(c), for “the person in charge” substitute “the SUA operator or the remote pilot”;
- (c) in paragraph (4), for “person in charge”, both times it appears, substitute “remote pilot”.

Amendment of Schedule 1

9. In Schedule 1 (interpretation)—

- (a) after the definition of “Relevant overseas territory” insert—

““Remote pilot” has the meaning assigned to it by article 94G(a);”;
- (b) after the definition of “State of the operator” insert—

““SUA operator” has the meaning assigned to it by article 94G(b);”.

Amendment of Schedule 13

10. In Schedule 13 (penalties)—

- (a) in Part 1, Chapter 1, after the entry relating to article 70(4) insert—

“94D	Requirement for SUA operator of certain small unmanned aircraft to be registered
94F	Requirement for remote pilot of certain small unmanned aircraft to have acknowledgement of competency”;
- (b) in Part 2, Chapter 1, after the entry relating to article 94 insert—

“94A	Height restrictions on flights by small unmanned aircraft
94B	Restrictions on flights by small unmanned aircraft over or near aerodromes”.

Ceri King
Deputy Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends provisions of the Air Navigation Order 2016 (S.I. 2016/765) (“the 2016 Order”), in particular in relation to small unmanned aircraft. “Small unmanned aircraft” is defined in Schedule 1 to that Order and includes the type of aircraft commonly known as small drones.

The flying of small unmanned aircraft is currently regulated by articles 94 and 95 of the 2016 Order, which mainly apply to the “person in charge of” the aircraft. The amendments made by this Order change this approach, so that provisions in the 2016 Order about small unmanned aircraft (including provisions added by this Order) will instead apply to two new categories of person defined in new article 94G (inserted by article 7 of this Order): the “remote pilot” (defined as an individual who remotely operates the aircraft’s flight controls, or who monitors its course while it is flying automatically and is able to intervene by operating the flight controls) and the “SUA operator” (defined as the person who has the management of the aircraft).

Article 94(4)(c) of the 2016 Order currently prohibits flying a small unmanned aircraft over 400 feet above ground, but this applies only to aircraft with a mass of more than 7kg. Article 7 of this Order replaces this with wider prohibitions applying to all small unmanned aircraft with effect from 30th July 2018. These prohibit the remote pilot from flying the small unmanned aircraft, and the SUA operator from causing or permitting it to be flown, more than 400 feet above ground (see new article 94A), or over or within 1km of a protected aerodrome at certain times (see new article 94B), unless permission has been obtained from the person set out in the new provisions. “Protected aerodrome” is defined in article 94B(5) and the Secretary of State will have power to make regulations adding additional aerodromes or descriptions of aerodrome to this list.

The restrictions on flying over or near aerodromes differ depending on whether the flight takes place during the notified hours of watch of any air traffic control unit or flight information service unit at the aerodrome. “Air traffic control unit”, “flight information service unit” and “notified” are defined in Schedule 1 to the 2016 Order. “Notified” means notified in the United Kingdom Aeronautical Information Publication, which is available at www.nats-uk.ead-it.com by selecting “IAIP” and then “eAIP AIRAC”, or in printed form (or on DVD) by writing to Aeronautical Information Service (AIS), NATS Swanwick, Room 3115, Sopwith Way, Southampton, Hants SO31 7AY.

Article 7 of this Order also introduces new procedural requirements applying to small unmanned aircraft with a mass of 250 grams or more. From 30th November 2019 these provisions will prohibit the remote pilot from flying the small unmanned aircraft, and the SUA operator from causing or permitting it to be flown, unless the SUA operator has a valid certificate of registration and the registration number is displayed on the aircraft (see new articles 94C and 94D) and the remote pilot has a valid acknowledgement of competency (see new articles 94E and 94F). Certificates of registration and acknowledgements of competency will be issued by the Civil Aviation Authority, but they will not be required to accept applications before 1st October 2019. The Secretary of State will have power to make regulations prescribing the minimum age requirement for registration as an SUA operator (see new article 94C(1)(c)) and the manner in which the registration number must be displayed on the aircraft (article 94D(2)(b)).

Article 10 of this Order amends Schedule 13 of the 2016 Order so as to include the new prohibitions affecting SUA operators and remote pilots in the list of provisions which, if breached, give rise to an offence under article 265 of the 2016 Order.

Article 5(b) makes a consequential change to insert references to the new provisions into article 23(3) of the 2016 Order. In addition article 5(a) inserts into article 23(3) of that Order a missing cross-reference to article 93 (release of small balloons), and article 5(c) clarifies that certain ancillary articles of the 2016 Order also apply to small unmanned aircraft and certain other small craft (small balloons, kites weighing not more than 2kg, and parachutes).

An Impact Assessment has not been produced for this instrument as only minimal impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum is available alongside this instrument on www.legislation.gov.uk.

© Crown copyright 2018

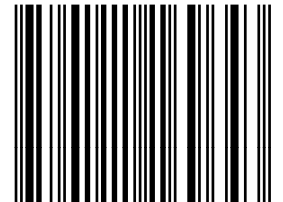
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.00

UK201805171005 05/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/623>

ISBN 978-0-11-116964-3



9 780111 169643