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STATUTORY INSTRUMENTS

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**2006 No. 1384**

**CIVIL AVIATION**

**The Civil Aviation (Safety of Third-Country Aircraft) Regulations 2006**

<i>Made</i>	- - - -	<i>23rd May 2006</i>
<i>Laid before Parliament</i>		<i>26th May 2006</i>
<i>Coming into force</i>	- -	<i>30th June 2006</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>.

He has been designated<sup>(2)</sup> for the purposes of section 2(2) in relation to measures relating to air transport.

**Citation and commencement**

1. These Regulations may be cited as the Civil Aviation (Safety of Third-Country Aircraft) Regulations 2006 and shall come into force on 30th June 2006.

**Interpretation**

2. In these Regulations—

“authorised person” means any person authorised by the Secretary of State under regulation 5(1); “the CAA” means the Civil Aviation Authority;

“competent authority” means an authority that is authorised to regulate civil aviation activities in a State;

“the Directive” means Council Directive 2004/36/CE<sup>(3)</sup>;

“European Aviation Safety Agency” means the Agency established by Regulation (EC) No. 1592/2002 of the European Parliament and the Council of 15th July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency<sup>(4)</sup>;

“international safety standards” has the same meaning as in Article 2(b) of the Directive;

“ramp inspection” means the inspection of an aircraft in accordance with these Regulations;

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(1) 1972 c. 68

(2) S.I.1993/2661

(3) OJ No L 143, 30.4.2004, p 76.

(4) OJ No L 240, 7.9.2002, p 1

“ramp inspection report” means a report prepared pursuant to regulation 7(2)(c) setting out the findings of a ramp inspection;

“safety report” means a record of safety information retained by the Secretary of State in accordance with regulation 9(3);

“State aircraft” has the same meaning as in Article 3 of the Convention on International Civil Aviation (Chicago 1944)(5);

“State of the operator” has the same meaning as in article 155 of the Air Navigation Order 2005; and

“third-country aircraft” has the same meaning as in Article 2(d) of the Directive.

### **Application**

- 3.—(1) Subject to paragraph (2) these Regulations apply to any third-country aircraft that—
- (a) lands at an aerodrome in the United Kingdom, and
  - (b) is suspected by the Secretary of State of non-compliance with international safety standards.
- (2) These Regulations shall not apply to a State aircraft.

### **Performance of ramp inspections etc.**

4. The Secretary of State shall ensure that—
- (a) an aircraft to which these Regulations apply undergoes a ramp inspection; and
  - (b) any ramp inspections or other surveillance measures required pursuant to Article 8(3) of the Directive are performed.

### **Authorised persons**

5.—(1) The Secretary of State may authorise a person (whether by name, class or description), either generally or in relation to a particular case or class of cases, to perform a ramp inspection or to carry out other surveillance measures.

(2) It shall be the duty of an authorised person to perform such an inspection, to carry out such measures, or to do both, as requested or directed by the Secretary of State.

### **Suspicion of non-compliance with international safety standards**

6. In determining whether an aircraft is suspected of non-compliance with international safety standards the Secretary of State shall take into account—

- (a) information regarding poor maintenance of or obvious damage or defects to an aircraft;
- (b) reports that an aircraft has performed abnormal manoeuvres since entering the airspace of a member State which give rise to serious safety concerns;
- (c) safety deficiencies revealed by a previous ramp inspection which give rise to concerns that the deficiencies may not have been corrected and the relevant aircraft does not comply with international safety standards;
- (d) evidence that the State in which an aircraft is registered may not be exercising proper safety oversight;
- (e) concerns about the operator of an aircraft which have arisen from—

- (i) information collected pursuant to regulation 9(1), or
- (ii) safety deficiencies recorded in a ramp inspection report on any other aircraft used by that operator.

### **Requirements for the performance of ramp inspections**

7.—(1) It shall be the duty of an authorised person to perform each ramp inspection in accordance with the requirements set out in this regulation.

(2) An authorised person shall—

- (a) make all possible efforts to avoid unreasonable delay to an aircraft as a result of a ramp inspection;
- (b) perform the ramp inspection activities described in Annex II to the Directive;
- (c) prepare a report on the findings of each ramp inspection containing the information specified in the “Ramp Inspection Report” in Annex II to the Directive;
- (d) on completion of a ramp inspection, inform the commander of the aircraft, or a representative of the operator of the aircraft, of the findings of the inspection; and
- (e) where a ramp inspection reveals that there are significant safety deficiencies on an aircraft inform the Secretary of State.

(3) Where a ramp inspection report contains information provided voluntarily by an individual the ramp inspection report shall not reveal his identity.

### **Duty to inform the operator etc. of significant safety deficiencies**

8. Where a ramp inspection has revealed significant safety deficiencies the Secretary of State shall inform:

- (a) the operator of the aircraft, and
- (b) the competent authority of the State of the operator and, where necessary, of the State in which the aircraft is registered.

### **Collection of information**

9.—(1) The Secretary of State shall collect such information as appears to him to be useful for securing the effective enforcement of international safety standards in the Community, which shall include the information described in paragraph (2).

(2) The information referred to in paragraph (1) is—

- (a) significant information relating to aircraft safety, including such information derived from the following sources:
  - (i) pilots' reports,
  - (ii) reports prepared by aircraft maintenance organisations,
  - (iii) reports on reportable occurrences submitted to the CAA pursuant to article 142 of the Air Navigation Order 2005,
  - (iv) complaints made in relation to an aircraft or the operator of an aircraft,
  - (v) any organisation other than a competent authority of any member State;
- (b) information on actions taken by or on behalf of the Secretary of State following a ramp inspection; and

- (c) information concerning any actions taken by and the subsequent safety standards of the operator of an aircraft in respect of which a ramp inspection has revealed safety deficiencies.

(3) The Secretary of State shall retain a report of any information collected pursuant to paragraph (1) in the form set out in Annex I to the Directive.

#### **Use of reports**

##### **10. Where—**

- (a) a safety report indicates that there is a potential safety threat, or
- (b) a ramp inspection report states that an aircraft does not comply with international safety standards and may pose a potential safety threat

the Secretary of State shall without delay send a copy of the report to the competent authority in each member State and to the Commission.

**11.** The Secretary of State shall without delay provide a copy of every safety report or ramp inspection report other than a report set out in regulation 10:

- (a) to the Commission,
- (b) to the competent authority in each member State at the request of that authority, and
- (c) to the European Aviation Safety Agency at its request.

#### **Provision of information to competent authorities**

**12.** At the request of the competent authority in a member State the Secretary of State shall provide that authority and the competent authorities in all other member States with:

- (a) a list of aerodromes in the United Kingdom open to international traffic, and
- (b) the number of ramp inspections and third-country aircraft movements at each such aerodrome in any year.

#### **Treatment of ramp inspection reports and safety reports**

**13.—(1)** Where the Secretary of State is in receipt of a report set out in paragraph (2) he may disclose such a report only for the purposes of these Regulations and the Directive and only to:

- (a) the CAA, or
- (b) an authorised person.

(2) The reports referred to in paragraph (1) are any report prepared by the competent authority in another member State or retained by another member State pursuant to the Directive.

(3) Information disclosed by the Secretary of State pursuant to paragraph (1) shall not be disclosed by the CAA, a member or employee of the CAA, or an authorised person to any other person.

#### **Amendment of the Air Navigation Order 2005**

**14.** The Air Navigation Order 2005 shall be amended as follows.

**15.** After article 144 there shall be inserted:

##### **“Power to prevent third-country aircraft taking off**

**144A** Where it appears to an authorised person that a third-country aircraft:

- (a) has a safety deficiency and does not comply with international safety standards,

- (b) would obviously be hazardous to flight safety and
- (c) is intended or is likely to be flown without completion by the operator of the appropriate corrective action

that authorised person shall give to the person appearing to be in command of the aircraft a direction in writing that he shall not permit the aircraft to take off until further notice and take such steps as may be necessary to detain that aircraft.

#### **Notifying competent authority of the detention of a third-country aircraft**

**144B** An authorised person shall immediately inform the competent authority of the State of the operator of the detention and, where necessary, of the State in which the aircraft is registered.

#### **Validity of certificate of airworthiness**

**144C** Where—

- (a) an aircraft has been prohibited from taking off pursuant to article 144A,
- (b) the safety deficiency affects the validity of the certificate of airworthiness of the aircraft and
- (c) the CAA has granted the operator of the aircraft an exemption from the requirement that the aircraft have a valid certificate of airworthiness

an authorised person shall not revoke a direction issued pursuant to article 144A unless he is satisfied that the operator has obtained permission for the flight from all States over which it is intended to fly the aircraft.”

#### **Definitions**

**16.** In article 155 of the Air Navigation Order 2005 there shall be added—

- (a) in the definition of “authorised person”:
  - “(d) in article 144A any person authorised by the Secretary of State pursuant to regulation 5 of the Civil Aviation (Safety of Third-Country Aircraft) Regulations 2006(6);”
- (b) after the entry related to “international headquarters”, the following:
  - ““international safety standards” means the safety standards contained in the Chicago Convention as in force from time to time;”
- (c) after the entry related to “tethered flight”, the following:
  - ““third-country aircraft” means any aircraft, other than a State aircraft, which is not used or operated under the control of the competent authority of a member State;“”.

#### **Schedule 14**

**17.** In Part B of Schedule 14 to the Air Navigation Order 2005 there shall be inserted—

- (a) as the last entry in column 1 “144A” and
- (b) as the last entry in column 2 “Flight by a third-country aircraft in contravention of a direction not to fly”.

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**Right of access to aerodromes etc.**

**18.** For the purposes of these Regulations an authorised person may enter upon any aerodrome and may enter and inspect an aircraft to which these Regulations apply.

Signed by authority of the Secretary of State

23rd May 2006

*Gillian Merron*  
Parliamentary Under Secretary of State  
Department for Transport

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision to comply with Directive 2004/36/CE of the European Parliament and of the Council of 21st April 2004 on the safety of aircraft from outside the Community using Community airports. The Directive makes provision for the performance of ramp inspections on such aircraft and also provides for the collection and retention of safety information.

Regulation 3 describes the aircraft to which the Regulations apply.

Regulation 4(a) requires the Secretary of State to ensure that aircraft to which the Regulations apply are subject to a ramp inspection. Article 8(3) of the Directive makes provision for the performance of ramp inspections or other measures in certain circumstances. Regulation 4(b) of the Regulations requires the Secretary of State to ensure that such specific inspections and measures are performed.

Regulation 5(1) of the Regulations permits the Secretary of State to authorise a person to perform a ramp inspection or carry out other surveillance measures. By virtue of regulation 5(2) of the Regulations an authorised person must carry out such an inspection or measures at the Secretary of State's request or direction.

In determining whether a third-country aircraft is suspected of non-compliance with international safety standards the Secretary of State must take into account the matters set out in regulation 6.

Regulation 7 places an obligation on an authorised person to perform a ramp inspection in accordance with specified requirements.

Regulation 8 requires the Secretary of State to inform the operator of an aircraft and that operator's regulatory authority that a ramp inspection has revealed significant safety deficiencies.

Regulation 9 provides for the collection and retention of safety-related information by the Secretary of State.

Regulations 10 and 11 provide for the use of ramp inspection reports and safety reports by the Secretary of State.

Regulation 12 places an obligation on the Secretary of State to provide certain types of information to the competent authorities in a Member State.

Regulation 13 provides that the Secretary of State may only disclose a ramp inspection report or safety report that he has received from the competent authority of another Member State to a limited category of people. Recipients of such information may not disclose it further.

Regulations 14 to 17 make amendments to the Air Navigation Order 2005, which provide for the detention by an authorised person of a third-country aircraft that does not comply with international safety standards (*article 144A*), the notification of the relevant competent authority (*article 144B*), and certain conditions under which a direction to detain such an aircraft may be revoked (*article 144C*). A penalty is also provided for the contravention of a direction to detain an aircraft. Appropriate definitions are also inserted. By virtue of articles 146 and 148 of and Schedule 14 to the Air Navigation Order 2005 it is an offence to obstruct a person performing duties under the Order and to contravene a direction given under the Order.

Regulation 18 provides for the powers of entry available to an authorised person for the purposes of these Regulations.

By virtue of article 144 of the Air Navigation Order 2005 the Civil Aviation Authority, or a person authorised by the Civil Aviation Authority, may inspect and ground aircraft (including those from

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Member States and third countries) when the aircraft is in a condition unfit for a flight. Accordingly, no provision has been made in these Regulations for carrying out spot-checks, as permitted by Article 4(2) of the Directive.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.