
STATUTORY INSTRUMENTS

2011 No. 237

CIVIL AVIATION

The Air Navigation (Overseas Territories) (Amendment) Order 2011

<i>Made</i>	- - - -	<i>9th February 2011</i>
<i>Laid before Parliament</i>		<i>16th February 2011</i>
<i>Coming into force</i>	- -	<i>11th March 2011</i>

At the Court at Buckingham Palace, the 9th day of February 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 8, 57, 58 and 59 of the Civil Aviation Act 1949⁽¹⁾, as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969⁽²⁾, as amended by the Civil Aviation Act 1982 (Overseas Territories) Order 2001⁽³⁾ and of the powers conferred on Her by section 61 of the Civil Aviation Act 1982⁽⁴⁾, as extended to certain territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001⁽⁵⁾, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and Commencement

1. This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2011 and shall come into force on 11th March 2011.

Amendment of the Air Navigation (Overseas Territories) Order 2007

2. The Air Navigation (Overseas Territories) Order 2007⁽⁶⁾ shall be amended as follows.

3. In article 14 for the title “Approval of maintenance organisations” there shall be substituted “Maintenance approval” and in paragraphs (1) and (3) after the words “certificate of approval” there shall be inserted the words, “or validation”.

(1) 1949 c. 67.

(2) S.I. 1969/592.

(3) S.I. 2001/1452.

(4) 1982 c. 16.

(5) S.I. 2001/1452.

(6) S.I. 2007/3468, amended by S.I. 2008/3125.

4. In article 15, paragraph (2)(a) for the words “that specified in Schedule 4” there shall be substituted “in accordance with instructions given by the Governor under article 41(d) and with requirements published by him under article 152”; and paragraph (2)(b) and Schedule 4 shall be omitted and paragraphs 2(c) and (d) shall be re-lettered accordingly.

5. In article 16(2) for the words “that specified in Schedule 5” there shall be substituted “in accordance with instructions given by the Governor under article 41(d) and with requirements published by him under article 152”; and Schedule 5 shall be omitted.

6. In article 20(4) at the end of subparagraphs (a) and (b) after the semicolon there shall in each case be inserted the word, “and”; and in subparagraph (c) after the words “Instrument Flight Rules” there shall be inserted the words, “or is flying by night”.

7. In article 32(1) at the beginning of subparagraph (b) there shall be inserted the words “subject to paragraph (4)” and for paragraph (4) there shall be substituted:

“(4) Paragraph (1)(b) shall not apply to the operator of an aircraft registered in the Territory of the classes or used in the cases identified in article 83(2).”

8. For article 40 there shall be substituted the following article and article 156(1) shall be amended by the omission of the definition of “Small aircraft”:

“Regulation of small unmanned aircraft

40.—(1) A person must not cause or permit any article or animal (whether or not attached to a parachute) to be dropped from a small unmanned aircraft so as to endanger persons or property.

(2) The person in charge of a small unmanned aircraft may only fly the aircraft if reasonably satisfied that the flight can safely be made.

(3) The person in charge of a small unmanned aircraft must maintain direct, unaided visual contact with the aircraft sufficient to monitor its flight path in relation to other aircraft, persons, vehicles, vessels and structures for the purpose of avoiding collisions.

(4) The person in charge of a small unmanned aircraft which 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, must not fly the aircraft—

- (a) in Class A, C, D or E airspace unless the permission of the appropriate air traffic control unit has been obtained;
- (b) within an aerodrome traffic zone during the notified hours of watch of the air traffic control unit (if any) at that aerodrome unless the permission of any such air traffic control unit has been obtained; or
- (c) at a height of more than 400 feet above the surface unless it is flying in airspace described in sub-paragraph (a) or (b) and in accordance with the requirements for that airspace.

(5) The person in charge of a small unmanned aircraft must not fly the aircraft for the purposes of aerial work except in accordance with a permission granted by the Governor.

(6) A person in charge of a small unmanned surveillance aircraft must not fly the aircraft in any of the circumstances described in paragraph (7) except in accordance with a permission issued by the Governor.

(7) The circumstances referred to in paragraph (6) are —

- (a) over or within 150 metres of any congested area;
- (b) over or within 150 metres of an organised open-air assembly of more than 1,000 persons;

(c) within 50 metres of any vessel, vehicle or structure which is not under the control of the person in charge of the aircraft; or

(d) subject to paragraphs (8) and (9), within 50 metres of any person.

(8) Subject to paragraph (9), during take-off or landing, a small unmanned surveillance aircraft may be flown within 50 metres but not within 30 metres of any person.

(9) Paragraphs (7)(d) and (8) do not apply to the person in charge of the small unmanned surveillance aircraft or a person under the control of the person in charge of the aircraft.

(10) In this article “a small unmanned aircraft” means any unmanned aircraft, other than a balloon or kite, having a mass of not more than 20kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight.

(11) In this article ‘a small unmanned surveillance aircraft’ means a small unmanned aircraft that is equipped to undertake any form of surveillance or data acquisition.”

9. For article 42 there shall be substituted:

“Aerodrome operating minima

42.—(1) This article applies to any aircraft that is not operating for the purposes of commercial air transport.

(2) An aircraft to which this article applies shall not conduct a Category II operation, an Other than Standard Category II operation or an approach and landing using minima lower than those for a Category II operation unless—

(a) the aircraft is certificated for operations with decision heights below 200 feet, or no decision height, and is equipped for such operations; and

(b) the operation is conducted under the terms of an approval so to do;

in accordance with the law of the country in which it is registered.

(3) An aircraft to which this article applies shall not—

(a) take off when the relevant runway visual range is less than the specified runway visual range; or

(b) conduct an approach and landing when the visibility or relevant runway visual range is less than that specified for a Category I operation;

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(4) In the case of an aircraft registered in the Territory, an approval referred to in paragraphs (2) and (3) shall be one issued by the Governor.

(5) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies, when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure, shall not descend from a height of 1000 feet or more above the aerodrome to a height less than 1000 feet above the aerodrome if the reported visibility or relevant runway visual range for that runway is at the time less than the specified minimum for landing.

(6) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not—

(a) continue an approach to landing at such a runway by flying below the relevant specified decision height;

(b) descend below the relevant specified minimum descent height;

unless in either case from such height the specified visual reference for landing is established and is maintained.

(7) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing the pilot-in-command of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(8) A flight to be conducted in accordance with the Instrument Flight Rules to an aerodrome when no alternate aerodrome is available shall not be commenced unless—

- (a) a designated instrument approach procedure is available for the aerodrome of intended landing; and
- (b) available current meteorological information indicates that visual meteorological conditions will exist at the aerodrome of intended landing from two hours before to two hours after the estimated time of arrival.

(9) A flight shall not be continued towards the aerodrome of intended landing unless the latest available information indicates that conditions at that aerodrome, or at least one alternate aerodrome, will, at the estimated time of arrival, be at or above the specified aerodrome operating minima.

(10) In this article “specified” in relation to aerodrome operating minima means the particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating the aerodrome operating minima.

(11) In this article “Category I operation”, “Category II operation” and “Other than Standard Category II operation” have the same meaning as in article 76(9).

(12) In this article “designated” in relation to an instrument approach procedure means notified, prescribed or otherwise designated by the relevant competent authority.”

10. For articles 50 to 54 there shall be substituted the following and in article 156(1) the definition “North Atlantic Minimum Navigation Performance Specification airspace” shall be omitted and regulation 3 of Schedule 9 shall be omitted:

“Area navigation and required navigation performance capabilities – aircraft registered in the Territory

50.—(1) An aircraft registered in the Territory shall not fly in areas with specified performance based navigation unless:

- (a) it is equipped with navigation equipment that complies with such instructions and requirements as are published by the Governor under articles 41 and 152 of this Order; and
- (b) the operator has been approved by the Governor; and
- (c) while the aircraft is flying in such airspace, on such routes or in accordance with such procedures, it shall be operated in accordance with operating procedures approved by the Governor.

(2) An aircraft need not comply with the requirements of paragraph (1) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

(3) For the purposes of this article ‘areas with specified performance based navigation’ means airspace, routes or procedures which have 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 there.

Area navigation and required navigation performance capabilities – aircraft not registered in the Territory

51.—(1) An aircraft registered elsewhere than in the Territory shall not fly in areas with specified performance based navigation in the Territory unless:

- (a) it is so equipped with navigation equipment as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying in areas with specified performance based navigation; and
- (b) the said equipment is capable of being operated so as to enable the aircraft to meet the required performance in terms of navigation functionality, accuracy, integrity, availability and continuity, and it is so operated.

(2) An aircraft need not comply with the requirements of paragraph (1) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

(3) For the purposes of this article ‘areas with specified performance based navigation’ shall have the same meaning as in article 50.

Minimum navigation performance

52.—(1) An aircraft registered in the Territory shall not fly in minimum navigation performance specifications airspace unless:

- (a) it is equipped with navigation equipment that complies with such instructions and requirements as are published by the Governor under article 41 and 152 of this Order; and
- (b) the operator has been approved by the Governor; and
- (c) while the aircraft is flying in the said airspace, it shall be operated in accordance with operating procedures approved by the Governor.

(2) For the purposes of this article ‘Minimum navigation performance specifications airspace’ means airspace which has been notified, prescribed or otherwise designated as such by the competent authority for the airspace, based on the ICAO Regional Air Navigation Agreement currently in force.

Height keeping performance - aircraft registered in the Territory

53.—(1) An aircraft registered in the Territory shall not fly in reduced vertical separation minimum airspace unless:

- (a) the aircraft has been approved by the Governor under Part II of this Order for operations in such airspace; and
- (b) the operator has been approved by the Governor; and
- (c) while the aircraft is flying in the said airspace, it shall be operated in accordance with operating procedures approved by the Governor.

(2) An aircraft need not comply with the requirements of paragraph (1) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

(3) For the purposes of this article ‘Reduced vertical separation minimum airspace’ means airspace which has been notified, prescribed or otherwise designated as such by the competent authority for the airspace and where a reduced vertical separation minimum of 1000 feet (300 m) applies above flight level 290.

Height keeping performance - aircraft not registered in the Territory

54.—(1) An aircraft registered elsewhere than in the Territory shall not fly in notified reduced vertical separation minimum airspace in the Territory unless:

- (a) it is so equipped with height keeping systems as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying in any specified areas; and
- (b) the said equipment is capable of being operated so as to enable the aircraft to maintain the height keeping performance prescribed in respect of the airspace in which the aircraft is flying, and it is so operated.

(2) An aircraft need not comply with the requirements of paragraph (1) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.”

11. In article 56 for paragraphs (1) and (2) there shall be substituted:

“(1) On any flight on which a flight recorder is required in accordance with article 15 to be carried in an aeroplane, it shall be operated continuously from the time the first engine is started for the purpose of making a flight until the time the last engine is shut down after landing.

(2) On any flight on which a flight recorder is required in accordance with article 15 to be carried in a helicopter, it shall be operated continuously from the time the rotors first turn for the purpose of making a flight until the rotors are next stopped.”

12. In article 70, paragraph (1)(c)(ii) there shall be omitted the words in parentheses “(including such manning and equipment as is specified in regulation 2 to Schedule 9 to this Order)”; and paragraph (2) shall be omitted and the remaining paragraphs renumbered accordingly; and regulation 2 of Schedule 9 shall be omitted.

13. For articles 72 and 73 there shall be substituted:

“Commercial air transport – aeroplane operating conditions and performance requirements

72.—(1) Without prejudice to the provisions of article 41, an aeroplane registered in the Territory shall not fly for the purpose of commercial air transport unless it complies with such data as may be approved by the State of design and contained in the flight manual for the aeroplane and such requirements as are published by the Governor under article 152 of this Order—

- (a) in respect of its weight and related performance; and
- (b) for flight in specified meteorological conditions; and
- (c) for flight at night.

(2) An aeroplane need not comply with paragraph (1) if it is flying under and in accordance with an approval granted to the operator by the Governor under paragraph (3).

(3) The Governor may grant to the operator in respect of any aeroplane an approval authorising it to comply with alternative performance standards appropriate to the aeroplane and specified in the approval.

(4) An aeroplane registered in the Territory when flying over water for the purpose of commercial air transport shall fly, except as may be necessary for the purpose of take-off or landing, at such an altitude as would enable the aeroplane—

- (a) if it has one engine only, in the event of the failure of that engine; or
- (b) if it has more than one engine, in the event of the failure of one of those engines and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness or flight manual for the aeroplane;

to reach a place at which it can safely land at a height sufficient to enable it to do so, unless it is flying under and in accordance with the terms of an approval granted by the Governor.

Commercial air transport - helicopters - operating conditions and performance requirements

73.—(1) Without prejudice to the provisions of article 41, a helicopter registered in the Territory shall not fly for the purpose of commercial air transport unless it complies with such data as may be approved by the State of design and contained in the flight manual for the helicopter and such requirements as are published by the Governor under article 152 of this Order —

- (a) in respect of its weight and related performance; and
- (b) flight in specified meteorological conditions; and
- (c) for flight at night.

(2) A helicopter need not comply with paragraph (1) if it is flying under and in accordance with an approval granted to the operator by the Governor under paragraph (3).

(3) The Governor may grant to the operator in respect of any helicopter an approval authorising it to comply with alternative performance standards appropriate to the helicopter and specified in the approval.

(4) Except as provided in paragraph (5), and except as may be necessary for the purpose of take-off or landing, a helicopter registered in the Territory when flying over water for the purpose of commercial air transport shall fly at such an altitude as would enable the helicopter—

- (a) if it has one engine only, in the event of the failure of that engine; or
- (b) if it has more than one engine, in the event of the failure of one of those engines and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness or flight manual for the helicopter;

to reach a place at which it can safely land at a height sufficient to enable it to do so.

(5) A helicopter carrying out Performance Class 3 operations shall not fly over water for the purpose of commercial air transport in the specified circumstances unless it is equipped with the required apparatus.

(6) A helicopter which is equipped with the required apparatus and which is flying under and in accordance with the terms of an air operator's certificate granted under article 64 shall not fly in the specified circumstances except in accordance with any additional requirements specified by the Governor in relation to its equipment.

(7) A helicopter which is equipped with the required apparatus and which is flying under and in accordance with the terms of a police air operator's certificate—

- (a) on which any passenger is carried who is not a permitted passenger, shall not fly in the specified circumstances on any flight for more than 20 minutes; or
- (b) on which no passenger is carried other than a permitted passenger, shall not fly over water on any flight for more than 10 minutes so as to be more than 5 minutes from a point from which it can make an autorotative descent to land at a place suitable for an emergency landing.

(8) For the purposes of paragraph (7) flying time shall be calculated at normal cruising speed.

(9) For the purposes of this article—

- (a) "permitted passenger" means—
 - (i) a police officer;
 - (ii) an employee of a police authority;
 - (iii) a medical attendant;
 - (iv) the holder of a valid pilot's licence who intends to act as a member of the flight crew of an aircraft flying under and in accordance with the terms of a police air operator's certificate and who is being carried for the purpose of training or familiarisation; or
 - (v) such other person being carried for purposes connected with police operations as may be permitted in writing by the Governor;
- (b) "required apparatus" means apparatus approved by the Governor enabling the helicopter to which it is fitted to land safely on water;
- (c) "specified circumstances" means circumstances in which a helicopter is flying beyond a point from which it can make an autorotative descent to land at a place suitable for an emergency landing."

14. For articles 75 and 76 there shall be substituted:

"Commercial air transport aircraft registered in the Territory – aerodrome-operating minima

75.—(1) This article applies to commercial air transport aircraft registered in the Territory.

(2) An aircraft to which this article applies shall not conduct a Category II operation, an Other than Standard Category II operation or an approach and landing using minima lower than those for a Category II operation unless—

- (a) the aircraft is certificated for operations with decision heights below 200 feet, or no decision height, and is equipped for such operations; and
- (b) the operation is conducted under and in accordance with the terms of an approval issued by the Governor.

(3) An aircraft to which this article applies shall not—

- (a) take off when the relevant runway visual range is less than the specified runway visual range; or
- (b) conduct an approach and landing when the visibility or relevant runway visual range is less than that specified for a Category I operation;

otherwise than under and in accordance with the terms of an approval so to do issued by the Governor.

(4) The operator of every aircraft to which this article applies shall establish and include in the operations manual or the police operations manual relating to the aircraft the particulars (in this sub-paragraph called “the said particulars”) of the aerodrome operating minima appropriate to every aerodrome of intended departure or landing and every alternate aerodrome.

(5) In relation to any flight where neither an operations manual nor a police operations manual is required under articles 66(3) or 67(3) respectively, or it is not practicable to include the said particulars in the operations manual or police operations manual, the operator of the said aircraft shall, prior to the commencement of the flight, cause to be furnished in writing to the pilot-in-command of the aircraft the said particulars calculated in accordance with the required data and instructions (as defined in paragraph (6) of this article) and the operator shall cause a copy of the said particulars to be retained outside the aircraft for a minimum period of three months.

(6) The operator of every aircraft to which this article applies for which an operations manual or a police operations manual is required by this Order, shall include in that operations manual such data and instructions (in this article called ‘the required data and instructions’) as will enable the pilot-in-command of the aircraft to calculate the aerodrome operating minima appropriate to aerodromes the use of which cannot reasonably have been foreseen by the operator prior to the commencement of the flight.

(7) The operator of every such aircraft to which this article applies for which neither an operations manual nor a police operations manual is required by this Order shall, prior to the commencement of the flight, cause to be furnished in writing to the pilot-in-command of the aircraft the required data and instructions; and the operator shall cause a copy of the required data and instructions to be retained outside the aircraft for a minimum period of three months.

(8) The specified aerodrome operating minima shall not permit a landing or take-off in circumstances where the relevant aerodrome operating minima declared by the competent authority would prohibit it, unless that authority otherwise permits in writing.

(9) In establishing aerodrome-operating minima for the purposes of this article the operator of the aircraft shall take into account the following matters—

- (a) the type and performance and handling characteristics of the aircraft and any relevant conditions in its certificate of airworthiness;
- (b) the composition of its crew;
- (c) the physical characteristics of the relevant aerodrome and its surroundings;
- (d) the dimensions of the runways which may be selected for use; and
- (e) whether or not there are in use at the relevant aerodrome any aids, visual or otherwise, to assist aircraft in approach, landing or take-off, being aids which the crew of the aircraft are trained and equipped to use; the nature of any such aids that are in use; and the procedures for approach, landing and take-off which may be adopted according to the existence or absence of such aids;

and shall establish in relation to each runway which may be selected for use such aerodrome operating minima as are appropriate to each set of circumstances which can reasonably be expected.

(10) An aircraft to which this article applies shall not commence a flight at a time when—

- (a) the cloud ceiling or the runway visual range at the aerodrome of departure is less than the relevant minimum specified for take-off; or

- (b) according to the information available to the pilot-in-command of the aircraft it would not be able without contravening paragraphs (11) or (12), to land at the aerodrome of intended destination at the estimated time of arrival there and at any alternate aerodrome at any time at which according to a reasonable estimate the aircraft would arrive there.

(11) An aircraft to which article 66 of this Order applies, when making a descent to an aerodrome, shall not descend from a height of 1000 feet or more above the aerodrome to a height less than 1000 feet above the aerodrome if the reported visibility or relevant runway visual range at the aerodrome is at the time less than the specified minimum for landing.

(12) An aircraft to which this article applies, when making a descent to an aerodrome, shall not—

- (a) continue an approach to landing at any aerodrome by flying below the relevant specified decision height; or
- (b) descend below the relevant specified minimum descent height;

unless in either case from such height the specified visual reference for landing is established and is maintained.

(13) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing, the pilot-in-command of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(14) In this article ‘specified’ in relation to aerodrome operating minima means such particulars of aerodrome operating minima as have been specified by the operator in, or are ascertainable by reference to, the operations manual relating to that aircraft, or furnished in writing to the pilot-in-command of the aircraft by the operator in accordance with paragraph (5).

(15) In this article “Category I operation”, “Category II operation” and “Other than Standard Category II operation” have the same meaning as in article 76(9).

Commercial air transport aircraft not registered in the Territory – aerodrome-operating minima

76.—(1) This article applies to commercial air transport aircraft registered in a country other than the Territory.

(2) An aircraft to which this article applies shall not conduct a Category II operation, an Other than Standard Category II operation or an approach and landing using minima lower than those for a Category II operation unless—

- (a) the aircraft is certificated for operations with decision heights below 200 feet, or no decision height, and is equipped for such operations; and
- (b) the operation is conducted under the terms of an approval so to do;

in accordance with the law of the country in which it is registered.

(3) An aircraft to which this article applies shall not—

- (a) take off when the relevant runway visual range is less than the specified runway visual range; or
- (b) conduct an approach and landing when the visibility or relevant runway visual range is less than that specified for a Category I operation;

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(4) An aircraft to which this article applies shall not fly in or over the Territory unless the operator thereof has made available to the flight crew aerodrome operating minima that comply with paragraph (5) in respect of every aerodrome at which it is intended to land or take off and every alternate aerodrome.

(5) The aerodrome operating minima provided for the purposes of paragraph (4) shall be no less restrictive than either—

- (a) minima calculated in accordance with the notified method for calculating aerodrome operating minima; or
- (b) minima which comply with the law of the country in which the aircraft is registered;

whichever are the more restrictive.

(6) An aircraft to which this article applies shall not take off or land at an aerodrome in the Territory in contravention of the specified aerodrome operating minima.

(7) Without prejudice to the provisions of paragraphs (3)(b) and (6) an aircraft to which this article applies, when making a descent to an aerodrome, shall not descend from a height of 1000 feet or more above the aerodrome to a height of less than 1000 feet above the aerodrome if the reported visibility or relevant runway visual range at the aerodrome is at the time less than the specified minimum for landing.

(8) Without prejudice to the provisions of paragraphs (3)(b), (6) and (7) an aircraft to which this article applies, when making a descent to an aerodrome shall not—

- (a) continue an approach to landing at any aerodrome by flying below the relevant specified decision height; or
- (b) descend below the relevant specified minimum descent height;

unless in either case from such height the specified visual reference for landing is established and is maintained.

(9) In this article—

- (a) ‘specified’ means specified by the operator in the aerodrome operating minima made available to the flight crew under paragraph (4);
- (b) ‘Category I operation’ means a precision instrument approach and landing with a decision height not lower than 200 feet and with either a visibility not less than 800 metres or a runway visual range not less than 550 metres;
- (c) ‘Category II operation’ means a precision approach and landing using an Instrument Landing System or Microwave Landing System with—
 - (i) a decision height below 200 feet but not lower than 100 feet; and
 - (ii) a runway visual range of not less than 300 metres;
- (d) ‘Other than Standard Category II operation’ means a Category II operation to a runway where some or all of the elements of the ICAO Annex 14 precision approach Category II lighting system are not available.”

15. In article 83, paragraph (2)(d) for the words “3,180kg” there shall be substituted the words “3,175kg”.

16. In article 85, paragraph (1)(c) there shall be omitted the words “submitted under paragraph (6)” and for paragraph (6) there shall be substituted:

“(6) Every applicant for and holder of an approval granted under this article shall make available to the Governor if requested to do so a copy of his operations manual.”

17. In article 85, paragraphs (7) and (8) shall be omitted and paragraph (9) shall be renumbered paragraph (7); and in paragraph (7) as so renumbered the words “Without prejudice to paragraphs (7) and (8)” shall be omitted and “the operator” shall be changed to “The operator”.

18. In article 92, paragraphs (5), (6) and (8) for the word “radar” there shall be substituted the word “surveillance”.

19. In article 105, paragraph (8) the words “including, in particular, information and instructions relating to the matters specified in Schedule 11” shall be omitted; and Schedule 11 shall be omitted.

20. For article 106 there shall be substituted:

“Instrument Flight Procedures

106.—(1) No person may establish an instrument flight procedure in relation to an aerodrome in the Territory otherwise than under and in accordance with an approval granted by the Governor to the aerodrome certificate holder or to the person having the management of the aerodrome.

(2) An approval shall be granted under paragraph (1) upon the Governor being satisfied—

- (a) as to the intended purpose of the procedure; and
- (b) that the person applying for approval is competent to operate the procedure; and
- (c) that any equipment associated with such procedure is fit for its intended purpose; and
- (d) that the procedure has been designed by a person approved by him under paragraph (5) and according to the requirements and conditions specified in relation to that approval.

(3) The aerodrome certificate holder or the person having the management of an aerodrome shall cause an instrument flight procedure to be notified as a procedure available for the operation of aircraft at that aerodrome.

(4) No person may use an instrument flight procedure otherwise than in accordance with the published conditions for such use.

(5) The Governor shall approve a person to design an instrument flight procedure for the purposes of paragraph 2(d) of this article if he is satisfied that the person meets his requirements in relation thereto published pursuant to article 152 of this Order.

(6) Any approval under this article shall be granted on such conditions as the Governor shall think fit.

(7) Nothing in paragraph (1) applies to any aerodrome in the Territory that is under the control of Her Majesty’s naval, military or air force or of any visiting force.”

21. After article 112(1)(b) there shall be inserted:

“(c) is directed or shone at any aircraft in flight so as to dazzle or distract the pilot of the aircraft.”

22. After article 135(4) there shall be inserted:

“(5) The Secretary of State, or the Governor as the case may be, 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 in relation to any aircraft referred to in paragraph (1).

(6) If a ramp inspection or other surveillance measure identifies a case of non-compliance or suspected non-compliance of an aircraft referred to in paragraph (1) with the laws,

regulations and procedures applicable within the Territory or a similar serious safety issue with the operator of such an aircraft, the person authorised under paragraph (5) shall immediately notify the operator and, if the issue warrants it, the State of the Operator and, where the State of Registry and the State of the Operator are different, such notification shall also be made to the State of Registry.

(7) In the case of notification to States in accordance with paragraph (6), if the issue and its resolution so warrant, the Secretary of State or the Governor, as the case may be, shall engage in consultations with the State of the Operator and the State of Registry, as applicable, concerning the safety standards maintained by the operator.”

23. At the end of article 148 there shall be inserted a new paragraph (2) that shall read: “Without prejudice to paragraph (1), article 2 of this Order shall also apply to the British Antarctic Territory.” and the existing paragraph shall accordingly be numbered (1).

24. In article 156(1) in the definition of “Aerodrome traffic zone” reference to “rule 45” shall be substituted for reference to “rule 39”.

25. In article 156(1) the definition of “Flight recording system” shall be substituted by: ““Flight recorder” means any type of recorder installed in the aircraft for the purpose of complementing accident or incident investigation.”

26. In article 156(5), subparagraph (c) there shall be inserted after the words “considered to be the operator” the words “for the purposes of Part II – Airworthiness and Equipment of Aircraft”.

27. In Schedule 6 (Licences) under the title “Commercial Pilot’s Licence (Aeroplanes)” and under the heading “Privileges” in paragraph (1) for all of the words following “Private Pilot’s Licence (Aeroplanes)”, including sub-paragraphs (a) and (b), there shall be substituted the words “except that paragraphs (4) and (5) of those privileges shall not apply”.

28. In Schedule 8, Rules of the Air, Rule 1 (Interpretation), in the definition of “IFR flight”, the reference to “Section 7” shall be substituted by a reference to “Section VI”.

29. In Schedule 8, Rules of the Air, Rule 8 (Avoiding Aerial Collisions), after paragraph (7) there shall be inserted:

“(8) Nothing in these Rules shall relieve the pilot-in-command of an aircraft from the responsibility of taking such action, including collision avoidance manoeuvres based on resolution advisories provided by ACAS equipment, as will best avert a collision.”

30. In Schedule 10, Air Navigation (Dangerous Goods) Regulations, Regulation 18, for “Subject to the provisions of regulation 4(1)(a) nothing in these Regulations” there shall be substituted “Nothing in these Regulations other than regulation 2(1)(a)”.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Air Navigation (Overseas Territories) Order 2007 (referred to below as “the Order”). In addition to minor corrective amendments, the following changes are made, many of which are determined as a result of the findings and recommendations of the safety oversight audit carried out by the International Civil Aviation Organisation (ICAO) in February 2009, and the corrective action plan established thereafter, or as a result of amendments to the Annexes to the Chicago Convention (“the Convention”) – including amendments in terminology - and completion of the revision of the Aircraft Operational Parts of the Overseas Territories Aviation Requirements (OTAR). (The articles of this Order that reflect a revision of OTAR are articles 6, 7, 9, 10, 14, 16 and 21):

(1) The title to article 14 of the Order is amended in order to eliminate some confusion as to its applicability, in that it is applicable to individuals as well as to organisations.

(2) Articles 15 and 16 are amended to reflect the fact that all the instrument and equipment requirements, in compliance with Annexes 6 and 8 to the Convention, are now contained within the up-to-date version of the respective OTAR Parts, appropriate to the nature and circumstances of the flights. This means that there is no longer a requirement to retain Schedules 4 and 5 to the Order.

(3) In article 20, paragraph (4) it was always intended to provide for the requirements of subparagraphs (a) and (b) to be cumulative rather than alternative and the amendment addresses that intent. The amendment to subparagraph (c) is intended to eliminate a potential conflict with the provisions of paragraph (7)(c) as well as to give full effect to the ICAO standards.

(4) The revision to article 32 links with the revision to article 85(6) (see point 12 of this Note below) and is designed to harmonise the provisions to reflect the fact that formal approval of the operations manual by the Governor is not required in respect of non-commercial air transport operators.

(5) A revised article replaces article 40, in order to align the provisions with those contained in the UK Air Navigation Order 2009.

(6) A revised article replaces article 42 in order to align the provisions more precisely with those contained in the Annexes to the Convention and the revised Aircraft Operational OTAR Parts.

(7) The substitution of the new articles 50 – 54 is made in order to align the provisions with those contained in the UK Air Navigation Order 2009 and in order to adopt the terminology prescribed by ICAO.

(8) The revision to article 56 reflects recent amendments to the ICAO standards to group all data recording systems installed on aircraft under the generic title of “flight recorders” in place of the previous individual references to specific items of equipment. The consequential amendment to article 156(1) (see point 18 of this Note below) reflects that change.

(9) The substitution of articles 72 and 73 is for the purpose of providing compliance with the ICAO standards contained in Annex 6 to the Convention and also for the purpose of facilitating the introduction of the revised Aircraft Operational OTAR Parts.

(10) The substitution of articles 75 and 76 is for the purpose of ensuring full compliance with the ICAO standards and in order to rationalise the provisions contained in the revised Aircraft Operational OTAR Parts.

(11) The amendment to article 83(2)(d) is purely to correct an error in relation to the certificated weight of certain categories of helicopter, so as to ensure compliance with ICAO standards.

(12) The amendment to article 85(6) arises out of a review of the final provisions of ICAO Annex 6, Part II Section III; and in the light of comments received in the consultation on the revision to the Aircraft Operational OTAR Parts, including Part 125. It became clear that the requirement for the formal approval of a private operator's operations manual was both over-burdensome and unnecessary and the amendment merely requires that the operator provide a copy of its manual if requested.

(13) The amendment to article 105(8), and the consequential deletion of Schedule 11, is made in recognition of the fact that the revised edition of the Aerodrome Certification OTAR Part 139 contains all the material required by the certificate holder in relation to the development of an aerodrome manual.

(14) The substitution of article 106 is for the purpose of aligning the provisions more precisely with the recommended practices of ICAO.

(15) The addition of paragraph (1)(c) to article 112 is for the purpose of aligning the provisions with those contained in the UK Air Navigation Order 2009 and for the purpose of facilitating a prosecution of those using lasers with the intention of endangering the safety of an aircraft.

(16) The addition of paragraphs (5), (6) and (7) to article 135 is for the purpose of providing a firm legal basis for the conduct of ramp checks on foreign registered aircraft in accordance with article 16 of the Chicago Convention and in order to align the provisions with those applied in the UK under the EC Directive on the Safety Assessment of Foreign Aircraft (SAFA).

(17) The amendment to article 148 is to correct a failure of the present Order to revoke previous Air Navigation (Overseas Territories) Orders with respect to the British Antarctic Territory.

(18) The amendments to article 156(1) and (5) are for the purpose of correcting errors or for implementing ICAO revised definitions.

(19) The amendment to Schedule 6 is to correct an anomaly derived from previous adoption of the text of the UK Air Navigation Orders in a situation in which the Territories do not follow UK practice by including in a Private Pilot's Licence an instrument rating (aeroplanes). In that situation the provisions of sub-paragraphs (a) and (b) do not therefore apply.

(20) The amendment to Rule 1 of the Rules of the Air is for the purpose of correcting an error.

(21) The amendment by way of addition to rule 8 of the Rules of the Air in Schedule 8 is for the purpose of complying with a new provision in Annex 2 to the Convention.

(22) The amendment to regulation 18 of the Air Navigation (Dangerous Goods) Regulations contained in Schedule 10 is intended to correct an error in order to bring the regulation into alignment with the provisions of regulation 19 and the corresponding provisions of the UK Regulations.

No Impact Assessment has been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.