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STATUTORY INSTRUMENTS

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**2013 No. 2870**

**The Air Navigation (Overseas Territories) Order 2013**

**PART 7**

**OPERATION OF AIRCRAFT**

**Operation of aircraft**

**74.**—(1) A person must not operate an aircraft registered in the Territory, or an aircraft registered elsewhere than in the Territory in or over the Territory, unless that person complies with—

- (a) the operating limitations specified in the aircraft flight manual or equivalent document, except as provided in paragraph (4);
- (b) the Rules of the Air and any supplemental Rules of the Air made by the Governor under article 67(1);
- (c) any instructions given or published by the Governor for the operation and safety of aircraft and the safety of persons and property carried in an aircraft including instructions in respect of the instruments and equipment to be installed in or carried on an aircraft.

(2) Subject to article 156, an aircraft must not take off or land at any place unless—

- (a) the aerodrome or operating site is satisfactory, taking account of the physical characteristics of the place, the operating environment and the performance of the aircraft; and
- (b) for operations at an aerodrome, at the expected time of use the aerodrome will be available and equipped with necessary ancillary services.

(3) For the purposes of this article “ancillary services” means some or all of air traffic services, lighting, communications, weather reporting, navigation aids and emergency services, as appropriate to the circumstances.

(4) An aircraft flying clear of cloud and with the surface in sight is, for the purposes of paragraph (1)(a), deemed to be flying in accordance with the Visual Flight Rules.

**Non-commercial air transport aircraft – aerodrome operating minima**

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

(2) Except under and in accordance with the terms of an approval to do so, an aircraft to which this article applies must not conduct—

- (a) a Category II operation; or
- (b) an Other than Standard Category II operation; or
- (c) an approach and landing using minima lower than those for a Category II operation;

unless, under the law of the country in which it is registered, the aircraft is certificated for operations with decision heights below 200 feet, or no decision height, and is equipped for such operations.

(3) Except under and in accordance with the terms of an approval to do so, granted in accordance with the law of the country in which it is registered, an aircraft to which this article applies must 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.

(4) In the case of an aircraft registered in the Territory, an approval referred to in paragraphs (2) and (3) is 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, must 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.

(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 must not—

- (a) continue an approach to landing at such a runway 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.

(7) If, according to the information available, an aircraft would, as regards any flight, be required by any of rules 18(1), 19(1) or 20 of 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 must select prior to take-off an alternative 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 must not be commenced unless—

- (a) a designated instrument approach procedure is available for the aerodrome of intended landing; and
- (b) the 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 must 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 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 105(9).

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

### **Pilot to remain at controls**

**76.—**(1) The pilot-in-command of a flying machine registered in the Territory must ensure that one pilot remains at the controls at all times while it is in flight.

(2) If the aircraft is required by or under this Order to carry two pilots, the pilot-in-command must ensure that both pilots remain at the controls during take-off and landing.

(3) If the aircraft carries two or more pilots (whether or not it is required to do so) and is engaged on a flight for the purpose of the commercial air transport of passengers, the pilot-in-command must remain at the controls during take-off and landing.

(4) An operator must not permit a helicopter rotor to be turned under power for the purpose of making a flight unless there is a person at the controls entitled in accordance with article 44 to act as pilot-in-command of the helicopter.

(5) Each pilot at the controls must be secured in his seat by either a safety belt with or without one diagonal shoulder strap, or a safety harness, except that during take-off and landing a safety harness must be worn if it is required by article 35 to be provided.

### **Wearing of survival suits by crew**

77. Each member of the crew of an aircraft registered in the Territory must wear a survival suit if the specified requirements demand that such a suit is to be worn.

### **Pre-flight action by pilot-in-command of an aircraft**

78. The pilot-in-command of an aircraft must take all reasonable steps so as to be satisfied before the aircraft takes off—

- (a) that the flight can safely be made, taking into account the latest information available as to the route and aerodrome to be used, the weather reports and forecasts available and any alternative course of action which can be adopted in case the flight cannot be completed as planned;
- (b) either—
  - (i) that the equipment (including radio equipment) required by or under this Order to be carried in the circumstances of the intended flight is carried and is in a fit condition for use; or
  - (ii) that the flight may commence under and in accordance with the terms of an approval granted to the operator under article 37;
- (c) that the aircraft is in every way fit for the intended flight;
- (d) that the load carried by the aircraft is of such weight, and is so distributed and secured, that it may safely be carried on the intended flight;
- (e) that sufficient fuel, oil and engine coolant (if required) are carried for the intended flight, and that a safe margin has been allowed for contingencies;
- (f) in the case of an airship or balloon, that sufficient ballast is carried for the intended flight; and
- (g) that, having regard to its performance in the conditions to be expected on the intended flight and to any obstructions at the places of departure and intended destination and on the intended route, it is capable of safely taking off, reaching and maintaining a safe height and making a safe landing at the place of intended destination.

### **Passenger briefing by pilot-in-command**

79. The pilot-in-command of an aircraft registered in the Territory must take all reasonable steps to ensure—

- (a) before the aircraft takes off on any flight, that all passengers are made familiar with the position and method of use of emergency exits, safety belts, safety harnesses and oxygen

equipment, lifejackets and the floor path lighting system and all other devices required by or under this Order and intended for use by passengers individually in the case of an emergency occurring to the aircraft; and

- (b) that in an emergency during a flight, all passengers are instructed in the emergency action which they should take.

#### **Survival equipment - non-commercial air transport flights**

**80.**—(1) This article applies to any aircraft registered in the Territory that is flying for a purpose other than commercial air transport.

(2) The pilot-in-command of an aircraft to which this article applies must be satisfied on reasonable grounds before take-off that the aircraft carries such additional equipment as the pilot-in-command reasonably considers necessary for the purpose of facilitating the survival of the persons carried in the aircraft.

(3) In complying with paragraph (2), the pilot-in-command must have regard to the circumstances of the intended flight, including in particular the likelihood of ditching and the availability of search and rescue facilities.

#### **Use of oxygen - non-commercial air transport flights**

**81.**—(1) This article applies to any aircraft registered in the Territory that is flying for any purpose other than commercial air transport.

(2) Except where the cabin pressure altitude does not exceed 10,000 feet during the flight, on every flight to which this article applies the pilot-in-command of the aircraft must take all reasonable steps to ensure that—

- (a) before the aircraft reaches flight level 130 the method of use of the oxygen provided in the aircraft in compliance with the requirements of article 35 is demonstrated to all passengers;
- (b) when flying above flight level 130 all passengers and crew members are instructed to use oxygen;
- (c) during any period when the aircraft is flying above flight level 100 up to and including flight level 130 oxygen is used by all the flight crew of the aircraft for any part of the flight between those altitudes that is of more than 30 minutes duration; and
- (d) during any period when the aircraft is flying above flight level 130 oxygen is used continuously by all the flight crew of the aircraft.

#### **Operation of radio in aircraft**

**82.**—(1) A radio station in an aircraft must not be operated, whether or not the aircraft is in flight, except in accordance with the conditions of the licence issued for that radio station under the law of the country in which the aircraft is registered or the State of the operator and by a person duly licensed or otherwise permitted to operate the radio station under that law.

(2) Whenever an aircraft is in flight in such circumstances that it is required by or under this Order to be equipped with radio communication equipment, a continuous radio watch must be maintained by a member of the flight crew listening to the signals transmitted on the frequency notified or designated for use by that aircraft by a message received from an appropriate aeronautical radio station.

(3) The radio watch referred to in paragraph (2)—

- (a) may be discontinued or continued on another frequency if a message from an appropriate aeronautical radio station permits this; or

- (b) may be kept by a device installed in the aircraft if—
  - (i) the appropriate aeronautical radio station has been informed to that effect and has raised no objection; and
  - (ii) that station is notified or, in the case of a station situated in a country other than the Territory, otherwise designated as transmitting a signal suitable for that purpose.

(4) Whenever an aircraft is in flight in such circumstances that it is required by or under this Order to be equipped with radio or radio navigation equipment, a member of the flight crew must operate that equipment in such a manner as instructed by the appropriate air traffic control unit or as may be notified in relation to any notified airspace in which the aircraft is flying.

(5) The radio station in an aircraft must not be operated so as to cause interference with, or impair the efficiency of, aeronautical telecommunications or navigational services, and in particular emissions must not be made except as follows—

- (a) emissions of the class and frequency for the time being in use, in accordance with general international aeronautical practice, in the airspace in which the aircraft is flying;
- (b) distress, urgency and safety messages and signals, in accordance with general international aeronautical practice;
- (c) messages and signals relating to the flight of the aircraft, in accordance with general international aeronautical practice; and
- (d) such public correspondence messages as may be permitted by or under the aircraft radio station licence referred to in paragraph (1).

(6) In any aircraft operating under instrument flight rules and in any flying machine registered in the Territory which is engaged on a flight for the purpose of commercial air transport, those flight crew members required to be on flight deck duty must not make use of a hand-held microphone (whether for the purpose of radio communication or of intercommunications within the aircraft) when below the transition altitude.

#### **Use of airborne collision avoidance system**

**83.** On any flight on which an airborne collision avoidance system is required to be carried in an aeroplane in accordance with article 35, the system must be operated—

- (a) in the case of an aircraft to which article 96 applies, in accordance with procedures contained in the operations manual for the aircraft;
- (b) in the case of an aircraft registered in the Territory to which article 96 does not apply, in accordance with procedures which are suitable having regard to the purposes of the equipment; or
- (c) in the case of an aircraft which is registered elsewhere than in the Territory, in accordance with any procedures with which it is required to comply under the law of the country in which the aircraft is registered.

#### **Use of flight recording systems and preservation of records**

**84.—(1)** On any flight on which a flight recorder is required to be carried in an aeroplane in accordance with article 35, it must 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 under article 35 to be carried in a helicopter, it must be operated continuously from the time the rotors first turn for the purpose of making a flight until the rotors are next stopped.

(3) In the event of an incident or accident the pilot-in-command and the operator of the aircraft must ensure that flight recorders are de-activated and must, subject to article 171, preserve the flight recorder and records in accordance with such requirements as the Governor may prescribe or as the Governor directs.

(4) The operator of the aircraft must ensure that operational checks and evaluations of recordings from the flight data recorder and cockpit voice recorder systems are conducted in accordance with the specified requirements, to ensure the continued serviceability of the recorders.

#### **Duties of pilot-in-command – search and rescue**

**85.** Without prejudice to any other provision of this Order, the pilot-in-command of an aircraft that is either registered in the Territory or, if not so registered, is flying within the Territory airspace shall cooperate in fulfilling the instructions of the Governor in relation to the provision of assistance to aircraft in distress or in relation to search and rescue.

#### **Method of carriage of persons**

**86.**—(1) A person must not—

- (a) be in or on any part of an aircraft in flight which is not a part designed for the accommodation of persons and in particular a person must not be on the wings or undercarriage of an aircraft; or
- (b) be in or on any object, other than a glider or flying machine, towed by or attached to an aircraft in flight.

(2) A person may have temporary access to—

- (a) any part of an aircraft for the purpose of taking action necessary for the safety of the aircraft or of any person, animal or goods in it; and
- (b) any part of an aircraft in which cargo or stores are carried, being a part which is designed to enable a person to have access thereto while the aircraft is in flight.

#### **Exits – commercial air transport aircraft**

**87.**—(1) This article applies to every Territory registered commercial air transport aeroplane or helicopter.

(2) Subject to paragraph (10), whenever an aeroplane or helicopter to which this article applies is carrying passengers, every exit and every internal door in the aeroplane or helicopter must be in working order.

(3) Subject to paragraph (4) during take-off and landing and during any emergency, every exit and door must be kept free of obstruction and must not be fastened by locking or otherwise so as to prevent, hinder or delay its use by passengers.

(4) In the case of—

- (a) an exit which, in accordance with arrangements approved by the Governor either generally or in relation to a class of aeroplane or helicopter or a particular aeroplane or helicopter, is not required for use by passengers, the exit may be obstructed by cargo;
- (b) a door between the flight crew compartment and any adjacent compartment to which passengers have access, the door may be locked or bolted if the pilot-in-command of the aeroplane or helicopter so determines, for the purpose of preventing access by passengers to the flight crew compartment;

- (c) an internal door which is so placed that it cannot prevent, hinder or delay the exit of passengers from the aeroplane or helicopter in an emergency if it is not in working order, paragraph (3) does not apply.
- (5) Every exit from an aeroplane or helicopter must be marked on interior surfaces with the words “exit” or “emergency exit” in capital letters, which must be red in colour and if necessary outlined in white to contrast with the background.
- (6) Every exit from an aeroplane or helicopter must be marked on exterior surfaces with the words “exit” or “emergency exit” in capital letters, which must be located on a background that provides adequate contrast.
- (7) Every exit from an aeroplane or helicopter must be marked on interior surfaces on or near the inside surface of the door or other closure of the exit with instructions in English and with diagrams to indicate the correct method of opening the exit, which must be red in colour and located on a background which provides adequate contrast.
- (8) Every exit from the aeroplane or helicopter which may be opened from the outside must be marked on or near the exterior surface of the door or other closure of the exit with instructions in English and with diagrams to indicate the correct method of opening the exit which must be located on a background which provides adequate contrast.
- (9) The markings required by this article must be—
  - (a) painted, or fixed by other equally permanent means; and
  - (b) kept clean and un-obscured at all times.
- (10) Subject to compliance with paragraph (11), if one, but not more than one, exit from an aeroplane or helicopter becomes inoperative at a place where it is not reasonably practicable for it to be repaired or replaced, nothing in this article prevents that aeroplane or helicopter from carrying passengers until it next lands at a place where the exit can be repaired or replaced.
- (11) Paragraph 10 is complied with if—
  - (a) the number of passengers carried and the position of the seats which they occupy are in accordance with arrangements approved by the Governor either in relation to the particular aeroplane or helicopter or to a class of aeroplane or helicopter; and
  - (b) in accordance with arrangements so approved, the inoperative exit is fastened by locking or otherwise, the words “Exit” or “Emergency Exit” are covered, and the exit is marked by a red disc at least 23 centimetres in diameter with a horizontal white bar across it bearing the words “No Exit” in red letters.

### **Marking of break-in areas**

- 88.**—(1) This article applies to all aircraft registered in the Territory.
- (2) An operator must ensure that, if areas of the fuselage suitable for break-in by rescue crews in emergency are marked on aircraft to which this article applies, such areas are marked upon the exterior surface of the fuselage with markings to show the areas (in this article referred to as “break-in areas”) which can, for purposes of rescue in an emergency, be most readily and effectively broken into by persons outside the aircraft.
  - (3) The break-in areas must be marked in accordance with the specified requirements.