
STATUTORY INSTRUMENTS

2016 No. 765

The Air Navigation Order 2016

PART 2

Application of the Order

Extra-territorial effect of the Order

17.—(1) Except where the context otherwise requires, the provisions of this Order, in so far as they apply (whether by express reference or otherwise)—

- (a) to aircraft registered in the United Kingdom, apply to such aircraft wherever they may be; and
- (b) to other aircraft, apply to such aircraft when they are within the United Kingdom or on or in the neighbourhood of an offshore installation.

(2) Except where the context otherwise requires, the provisions of this Order in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything—

- (a) by persons in, or by any of the crew of, any aircraft registered in the United Kingdom, apply to such persons and crew, wherever they may be;
- (b) in relation to any aircraft registered in the United Kingdom by other persons, where such persons are Commonwealth citizens, British protected persons or citizens of the Republic of Ireland, apply to them wherever they may be; and
- (c) in relation to any aircraft on or in the neighbourhood of an offshore installation, apply to every person irrespective of their nationality or, in the case of a body corporate, of the law under which it was incorporated and wherever that person or body may be.

(3) Nothing in this article is to be construed as extending to make any person guilty of an offence in any case in which it is provided by section 3(1) of the British Nationality Act 1948⁽¹⁾ that that person will not be guilty of an offence.

Aircraft in transit over certain United Kingdom territorial waters

18.—(1) This article applies to any aircraft which is registered elsewhere than in the United Kingdom when flying over the territorial waters adjacent to the United Kingdom within any part of a strait specified in Schedule 2.

(2) If an aircraft is flying solely for the purpose of continuous and expeditious transit of the strait, only the articles and Schedules specified in paragraph (3) apply to that aircraft.

(3) These articles and Schedules are—

- (a) article 77 and Schedule 5 to the extent necessary for the monitoring of the appropriate distress radio frequency;
- (b) article 249(2), (3), and (4) and the regulations made under that article;

⁽¹⁾ 1948 c.56. Section 3(1) was amended by paragraph 22 of Schedule 13 to the Merchant Shipping Act 1995 (c.21).

(c) article 265 and Part 2 of Schedule 13; and

(d) article 266.

(4) The powers conferred by the provisions referred to in paragraph (3) may not be exercised in a way which would hamper the transit of the strait by an aircraft registered elsewhere than in the United Kingdom, but without prejudice to action needed to secure the safety of aircraft.

(5) In this article—

“transit of the strait” means overflight of the strait from an area of high seas at one end of the strait to an area of high seas at the other end, or flight to or from an area of high seas over some part of the strait for the purpose of entering, leaving or returning from a State bordering the strait; and

“an area of high seas” means any area outside the territorial waters of any State.

Application of the Order to British-controlled aircraft registered elsewhere than in the United Kingdom

19.—(1) The CAA may direct that such of the provisions of this Order and of any regulations made or having effect under this Order as may be specified in the direction have effect as if reference in those provisions to aircraft registered in the United Kingdom included references to the aircraft specified in the direction.

(2) A direction under paragraph (1) may only specify an aircraft registered elsewhere than in the United Kingdom but for the time being under the management of a person who, or of persons each of whom, is qualified to hold a legal or beneficial interest by way of ownership in an aircraft registered in the United Kingdom.

Application of the Order to the Crown

20.—(1) Subject to the provisions of this article and article 22, the provisions of this Order apply to or in relation to aircraft belonging to or exclusively employed in the service of Her Majesty as they apply to or in relation to other aircraft.

(2) For the purposes of such application, the Department or other authority for the time being responsible on behalf of Her Majesty for the management of the aircraft is deemed to be the operator of the aircraft and, in the case of an aircraft belonging to Her Majesty, to be the owner of the interest of Her Majesty in the aircraft.

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

Application of the Order to visiting forces

21.—(1) This article applies to the naval, military and air force authorities and members of any visiting force and any international headquarters and the members and property held or used for the purpose of such a force or headquarters.

(2) Except as otherwise expressly provided in this Order, every body and person and any property to which this article applies is exempt from the provisions of this Order and of any regulations made under this Order to the same extent as if it formed part of the forces of Her Majesty raised in the United Kingdom and for the time being serving there.

Application of the Order to military aircraft

22.—(1) Except as otherwise provided by paragraph (2), and articles 174(3), 249(1)(a), 86(7) and (17) and 218, nothing in this Order applies to or in relation to any military aircraft.

(2) If a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of that person's duty as a member of any of Her Majesty's naval, military or air forces or as a member of a visiting force or international headquarters, the provisions specified in paragraph (3) apply to that flight.

(3) The provisions referred to in paragraph (2) are articles 239, 240, 241 and 242 and in addition article 249 (so far as applicable) applies unless the aircraft is flown in compliance with MAA01: Military Aviation Authority Regulatory Policy (Issue 4, published on 17th December 2014 and updated on 1st April 2015) and Regulatory Articles 2000 Series Flying Regulations (published on 11th November 2014 and updated on 21st April 2015) issued by the Secretary of State⁽²⁾.

Exceptions from application of provisions of the Order for certain classes of aircraft

23.—(1) This article applies to—

- (a) any small balloon;
- (b) any kite weighing not more than 2kg;
- (c) any small unmanned aircraft; and
- (d) any parachute including a parascending parachute.

(2) Subject to paragraph (3), nothing in this Order applies to or in relation to an aircraft to which this article applies.

(3) Articles 2, 91, 92, 94, 95, 239, 241 and 257 (except 257(2)(a)) apply to or in relation to an aircraft to which this article applies, and article 265 applies in relation to those articles.

(2) MAA01: Military Aviation Authority Regulatory Policy (Issue 4) and Regulatory Articles 2000 Series Flying Regulations are published by the Military Aviation Authority on behalf of the Secretary of State and are available at <https://www.gov.uk/government/collections/maa-regulatory-publications> or by writing to MAA regulation enquiries, Juniper 1, Abbey Wood North, Bristol, BS34 8QW.