STATUTORY INSTRUMENTS

2017 No. 1112

CIVIL AVIATION

The Air Navigation (Amendment) Order 2017

Made - - - -	*15th November 2017*
Laid before Parliament	*22nd November 2017*
Coming into force - -	*14th December 2017*

At the Court at Buckingham Palace, the 15th day of November 2017

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 60(1), (2), (3)(a), (b), (c), (d), (e), (f), (g), (h), (j), and (n), (4), 61(1)(a) and 101 of, and Schedule 13 to the Civil Aviation Act 1982(**1**) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**2**).

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

Citation and commencement

1. This Order may be cited as the Air Navigation (Amendment) Order 2017 and comes into force on 14th December 2017.

Amendment of the Air Navigation Order 2016

2. The Air Navigation Order 2016(**3**) is amended as follows.

Categorisation as public transport or commercial operation

3. In article 6(1)—

(a) insert "of this Part" after "Chapter 2"; and

(**1**) 1982 c.16. Section 60 was amended by the Aviation and Maritime Security Act 1990 (c.31), section 47. Section 61 was amended by the Airports Act 1986 (c.31), section 83(5) and Schedule 6, Part 2, and by the Aviation (Offences) Act 2003 (c.19), section 2. There are other amendments but none is relevant.

(**2**) 1972 c.68. Section 2(2) has been amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a); and section 3(3) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28.

(**3**) S.I. 2016/765.

(b) omit sub-paragraph (a) including "or".

4. In article 11(1)—

(a) for "Part 4 and Part 5" substitute "Part 4, Part 5 and Part 6";

(b) in sub-paragraph (b)—

(i) at the beginning insert "there has been no valuable consideration or"; and

(ii) omit "or the purpose of the flight".

5. In article 12—

(a) after "if" insert "there has been no valuable consideration or"; and

(b) omit "or the purpose of the flight".

6. In article 13(1)(a)—

(a) at the beginning insert "there has been no valuable consideration or"; and

(b) omit "or the purpose of the flight".

7. In article 14—

(a) for "an commercial" substitute "a commercial";

(b) in paragraph (a) omit "and which is made under and"; and

(c) for paragraph (b)(ii) substitute—

"(ii) on which no person is carried other than a person permitted to be carried on the flight in accordance with the terms of a parachuting permission granted under article 90; or".

Registration and marking

8. For article 24(4) substitute—

"(4) Paragraph (1) does not apply to any non-EASA kite, non-EASA captive balloon or any aircraft flying in accordance with the terms of any permission given by the CAA.".

9. In article 25(3) for "article" substitute "Chapter".

Airworthiness

10. In article 33(2)(g) omit "under article 269".

11. In article 37(4) omit ", as amended from time to time".

12. In article 38(1) for "paragraph (2)" substitute "paragraph (3)".

13. In article 42(1)(b) for paragraph (i) substitute—

"(i) for commercial operation other than commercial operation which consists of an aircraft flying for the purpose of a flying display, associated practice for a flying display, test and positioning flights or the exhibition or demonstration of the aircraft;".

14. In article 49(2) omit "39,".

15. In article 61(3) omit ", as amended from time to time".

Operations

16. In article 65 after "Chapters 2" insert "(other than articles 77(1) and 79)".

17. In article 69—

(a) for paragraph (2) substitute—

"(2) Before commencing a flight the pilot in command must be satisfied that—

(a) the flight can be made safely, taking into account the latest information available as to the route and aerodrome to be used; and

(b) the ground and water facilities, including any required communication and navigation facilities, are adequate for the intended flight."; and

(b) in paragraph (8)(b) omit "the minimum equipment list or".

18. In article 70(4) for "136" substitute "137".

19. In article 75 omit paragraph (3).

20. In article 77—

(a) at the end of paragraph (2) insert "other than when flying for public transport"; and

(b) after paragraph (6) insert—

"(7) Any equipment installed or carried in an aircraft must be installed, carried, maintained and adjusted so that such equipment—

(a) does not impair the airworthiness of the aircraft or the proper functioning of any other instrument or equipment necessary for the safety of the aircraft; and

(b) is not a source of danger to the aircraft.".

21.—(1) Omit article 78.

(2) Before article 79 insert—

"**Carriage of equipment**

78A.—(1) This article applies to any aircraft registered in the United Kingdom.

(2) The CAA may permit an aircraft or class of aircraft to which this article applies to commence a flight in specified circumstances even though a specified item of equipment, which is required to be carried under articles 77 or 119 in the circumstances of the intended flight, is not carried or is not in a fit condition for use.

(3) An aircraft to which this article applies must not commence a flight if any of the equipment, which is required to be carried under articles 77 or 119 in the circumstances of the intended flight, is not carried or is not in a fit condition for use unless the aircraft does so in accordance with the terms of a permission granted to the operator under paragraph (2).".

22. In article 92—

(a) in paragraphs (2) and (3) for each reference to "towed" substitute "ground towed"; and

(b) in paragraph (2)(b) omit "controlled airspace or".

23. In article 93 for paragraph (2) substitute—

"(2) In this article, a specified number of balloons counts as "simultaneously released at a single site" if released during a period of not more than 15 minutes from within an area not more than 1km square.".

24. In article 105(3) for "(5)" substitute "(6)".

25. In article 112(3) for "for every 50 or fraction of 50 passenger seats installed in the aircraft" substitute "and if there are 51 to 100 inclusive passenger seats installed, not less than two members and, if there are 101 to 150 inclusive passenger seats installed, not less than three members and so on".

26. In article 119 after paragraph (4) insert—

"(4A) Any equipment installed or carried in an aircraft must be installed, carried, maintained and adjusted so that such equipment—

(a) does not impair the airworthiness of the aircraft or the proper functioning of any other instrument or equipment necessary for the safety of the aircraft; and

(b) is not a source of danger to the aircraft.".

27. In article 127(4) for "prescribe" substitute "make regulations prescribing".

28. In article 128(1) for "prescribe" substitute "make regulations prescribing".

29. In article 134 after paragraph (4) insert—

"(5) The CAA must grant a police air operator's certificate if it is satisfied that the applicant is competent to secure that the operation of aircraft of the types specified in the certificate will be as safe as is appropriate when flying on flights of the description and for the purposes specified, having regard in particular to the applicant's—

(a) previous conduct and experience; and

(b) equipment, organisation, staffing, maintenance and other arrangements.".

Aircrew

30. In article 150(7) for "under this Order is" substitute "under this Order if".

31. In article 166—

(a) in paragraph (1)—

(i) insert "(P)" after "a person";

(ii) for "they know or suspect their" substitute "P knows or suspects P's"; and

(iii) for "renders them" substitute "renders P";

(b) in paragraph (2) omit "or medical declaration in accordance with article 163(3)"; and

(c) in paragraph (3) omit "or declaration".

32. In article 174(2) for "Article 176" substitute "Article 176(1)".

33. In article 175(3)(a) after "flight times" insert ", duty periods and rest periods".

34. In article 176(1)—

(a) insert "(P)" after "a person";

(b) for "they know or suspect they are" substitute "P knows or suspects P is"; and

(c) for "are likely" substitute "is likely".

Licensing of air traffic controllers

35. In article 188—

(a) omit paragraphs (1) and (3); and

(b) in paragraph (4) for "referred to in paragraphs (1), (2) and (3)" substitute "referred to in paragraph (2)".

36. Omit articles 189 to 197.

Air traffic services

37. In article 198 for "Part" substitute "Chapter".

Documents and records

38. In article 229—

(a) for paragraph (3) substitute—

"(3) Paragraph (2) does not apply to an aircraft flying in accordance with the EASA Air Operations Regulation."; and

(b) omit paragraph (4).

39. In article 231—

(a) in paragraph (1) for ", (5), (6) or (7)" substitute "or (5)"; and

(b) in paragraph (2) for "4(12)" substitute "4(13)".

40. For article 238(2) substitute—

"(2) Subject to paragraph (3), if the first operator ceases to be the operator of an aircraft, they must continue to preserve the document or record until paragraphs (4), (5) and (6) have been complied with, as appropriate.".

Competent authority

41. For article 270(5) substitute—

"(5) The CAA is the competent authority of the United Kingdom for the purposes of the EASA Air Traffic Controller Licensing Regulation.".

Definitions

42. In Schedule 1—

(a) omit the definition for "A to A commercial air transport helicopter operation";

(b) for the definition of "aerobatic manoeuvres" substitute ""aerobatic manoeuvres" includes loops, spins, rolls, bunts, stall turns, inverted flying and any other similar manoeuvre intentionally performed by an aircraft;";

(c) in the definition for "Commercial air transport operation" omit "or an A to A commercial air transport helicopter operation";

(d) after the definition for "Commercial air transport operation" insert—

""commercial operation" has the meaning assigned to it by article 7;";

(e) in the definition of "Controlled airspace" for "Class D airspace, Class E airspace, Class F airspace or Class G airspace" substitute "Class D airspace or Class E airspace";

(f) for the definition of "EASA Air Traffic Controller Licensing Regulation" substitute—

""EASA Air Traffic Controller Licensing Regulation" means Commission Regulation (EU) No 2015/340 of 20th February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011(**4**);";

(g) omit the definition for "MMEL";

(h) in the definition for "Obstacle limitation surfaces" omit ", as amended from time to time";

(i) after the entry for "Part-SPA" insert—

(**4**) O.J. No. L 63, 6.3.2015, p.1.