STATUTORY INSTRUMENTS

2016 No. 369

CIVIL AVIATION

The Aviation Security and Piracy (Overseas Territories) (Amendment) Order 2016

Made - - - -	*15th March 2016*
Coming into force - -	*1st May 2016*

At the Court at Buckingham Palace, the 15th day of March 2016

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by section 39(3) of the Aviation Security Act 1982(**1**).

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 Aviation Security and Piracy (Overseas Territories) (Amendment) Order 2016 and comes into force on 1st May 2016.

Amendment of order

2. The Aviation Security and Piracy (Overseas Territories) Order 2000(**2**) is amended in accordance with articles 3 and 4.

Amendments to Schedule 2 (provisions of the Aviation Security Act 1982 extended to the Territories specified in Schedule 1)

3.—(1) Schedule 2 is amended in accordance with paragraphs (2) to (20).

(2) In section 8, after "consent" insert "of the Attorney-General of the Territory or".

(3) In subsection 12(1), for paragraph (b) substitute—

(**1**) 1982 c.36; section 39(2) was amended by section 26(5) Merchant Shipping and Maritime Security Act 1997 (c.28).
(**2**) S.I 2000/3059.

"(b) not to cause or permit any such aircraft to fly in or into the Territory unless such searches (of persons or property or of the aircraft itself) as are specified in the direction have been carried out by police officers or by other persons of a description so specified.".

(4) After subsection 12(1), insert—

"(2) Subject to subsection (3) below, the Governor may give a direction in writing to the operator of any one or more aircraft registered in the Territory, requiring him not to cause or permit the aircraft to fly unless such modifications or alterations of the aircraft, or of apparatus or equipment installed in the aircraft, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in the aircraft.

(3) Before giving any direction under subsection (2) above, the Governor shall inform, and shall take account of any advice given by—

(a) any person that he has designated to carry out any of the functions of the Governor in accordance with article 6 of the Air Navigation (Overseas Territories) Order 2013(**3**);

(b) ASSI (as defined in article 3(1) of the Air Navigation (Overseas Territories) Order 2013); and

(c) the Director of Civil Aviation,

as to the modifications, alterations or additional apparatus or equipment proposed to be required.

(4) In giving any direction under subsection (2) above, the Governor shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.".

(5) In subsection 12(5)—

(a) in paragraph (c) for "direction." substitute "direction,"; and

(b) after paragraph (c) insert—

"and a direction given to an operator of aircraft under subsection (2) above may be given so as to relate either to all aircraft registered in the Territory of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction.".

(6) In subsection 12(8), in paragraph (a), after "subsection (1)" insert "or (2)".

(7) After subsection 15(1), insert—

"(2) A direction under section 12(2) of this Act must require all the persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to be persons approved by the Governor or any person that he has designated to carry out any of the functions of the Governor in accordance with article 6 of the Air Navigation (Overseas Territories) Order 2013.".

(8) In subsection 16(5), for paragraph (a) substitute—

"(a) it shall have effect only in relation to—

(i) aircraft registered in the Territory, or

(ii) a requirement not to cause or permit an aircraft to fly in or into the Territory unless certain things have, or have not, been done, and".

(**3**) S.I. 2013/2870, as amended by S.I. 2014/2925 and S.I. 2014/3281.

(9) After subsection 18A(2), insert—

"(2A) Before serving any enforcement notice which relates to a direction given under section 12(2) of this Act, the authorised person shall inform, and shall take account of any advice given to him by, the Governor or any person that he has designated to carry out any of the functions of the Governor in accordance with article 6 of the Air Navigation (Overseas Territories) Order 2013 as to the measures proposed to be specified in the notice.".

(10) In section 18B(3)—

(a) before the words "An enforcement notice" insert "Subject to subsection (4) below,"; and

(b) after the words "subsection (1)(a) or (b)" insert "or (2)".

(11) After subsection 18B(3), insert—

"(4) In serving an enforcement notice which relates to a direction under section 12(2) of this Act, the authorised person shall allow, and specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice and the notice shall not take effect before the end of the period so specified.".

(12) After section 18D(3) insert—

"(3A) On receipt of an objection to an enforcement notice under subsection (1) the Governor must—

(a) give a copy of the objection to the authorised person who served the enforcement notice,

(b) consider the objection,

(c) allow the person making the objection and the authorised person who served the enforcement notice an opportunity to make written or oral representations to the Governor or a person appointed by the Governor,

(d) give a decision notice to the person who made the objection, and

(e) give a copy of the decision notice to the authorised person who served the enforcement notice.".

(13) In section 18D(4)—

(a) for the words from "Where" to "either" substitute—

"In this section "decision notice" means a notice in writing either"; and

(b) in paragraph (b) for "notice under this subsection" substitute "decision notice".

(14) In section 18D(5)(a) and (b) for "notice under subsection (4) above" substitute "decision notice".

(15) After section 20 insert—

"**Detention direction**

20B.—(1) An authorised person may give a detention direction in respect of an aircraft if he is of the opinion that—

(a) a person has failed to comply or is likely to fail to comply with a requirement of a direction under section 12 or 14 of this Act in respect of the aircraft,

(b) a person has failed to comply with a requirement of an enforcement notice in respect of the aircraft,

(c) a threat has been made to commit an act of violence against the aircraft or against any person or property on board the aircraft, or

(d) an act of violence is likely to be committed against the aircraft or against any person or property on board the aircraft.

(2) A detention direction in respect of an aircraft—

(a) shall be given in writing to the operator of the aircraft, and

(b) shall require him to take steps to ensure that the aircraft does not fly while the direction is in force.

(3) An authorised person who has given a detention direction in respect of an aircraft may do anything which he considers necessary or expedient for the purpose of ensuring that the aircraft does not fly while the direction is in force; in particular, the authorised person may—

(a) enter the aircraft;

(b) arrange for another person to enter the aircraft;

(c) arrange for a person or thing to be removed from the aircraft;

(d) use reasonable force;

(e) authorise the use of reasonable force by another person.

(4) The operator of an aircraft in respect of which a detention direction is given may object to the direction in writing to the Governor.

(5) On receipt of an objection to a detention direction under subsection (4) the Governor shall—

(za) give a copy of the objection to the authorised person who gave the direction,

(a) consider the objection,

(b) allow the person making the objection and the authorised person who gave the direction an opportunity to make written or oral representations to the Governor or to a person appointed by him,

(c) confirm, vary or cancel the direction, and

(d) give notice of his decision in writing to the person who made the objection, and

(e) give a copy of the notice to the authorised person who gave the direction.

(6) A detention direction in respect of an aircraft shall continue in force until—

(a) an authorised person cancels it by notice in writing to the operator of the aircraft, or

(b) the Governor cancels it under subsection (5)(d).

(7) A person commits an offence if—

(a) without reasonable excuse he fails to comply with a requirement of a detention direction, or

(b) he intentionally obstructs a person acting in accordance with subsection (3).

(8) A person who is guilty of an offence under subsection (7) shall be liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both.

(9) A detention direction may be given in respect of—

(a) any aircraft in the Territory, and

(b) any aircraft registered or operating in the Territory.

(10) A detention direction may be given in respect of a class of aircraft; and for that purpose —

(a) a reference to "the aircraft" in subsection (1) shall be treated as a reference to all or any of the aircraft within the class or of that type, and