

CONSULTATION

PROPOSALS TO AMEND THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2007

Introduction

Air Safety Support International (ASSI) is proposing a number of amendments to the key aviation legislation in the UK Overseas Territories, the Air Navigation (Overseas Territories) Order 2007. The proposed amendment Order will be the second such Order and will take account of some of the findings arising from the recent ICAO Safety Oversight Audit of the UK, its Dependencies and Territories.

This consultation document explains the proposed amendments. Impact Assessments will be undertaken where it is considered appropriate.

Comments on the proposals are welcomed. If alternative proposals are offered, please include replacement text if possible. Responses may be submitted by email to:

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Comments should be submitted by **7 February 2010**. A list of the comments received and ASSI's response to them will be published on its website following the consultation period.

1. WHY A FURTHER AMENDMENT?

Background

The Chicago Convention and ICAO

The Convention on International Civil Aviation ("the Convention") is the founding instrument of ICAO – the International Civil Aviation Organisation. The Convention establishes a number of basic provisions for the conduct of international civil aviation and includes provision for uniform rules for the regulation of civil aviation. These rules are established by ICAO through the Annexes to the Convention by way of Standards and Recommended Practices (SARPs) for various aspects of aviation operations. Member States – signatories to the Convention - are expected to comply, so far as they reasonably can. The UK Overseas Territories are, in effect, parties to the Convention by virtue of the UK's signature, which is on behalf of the UK and its Territories and Dependencies.

The issues

ASSI is required to produce the Overseas Territories Aviation Requirements (OTARs) for publication by each of the Governors - as the “means of compliance” with the SARPs and the AN(OT)O - and to maintain the currency of the AN(OT)O. The Annexes to the Convention are the subject of regular updating and amendment; the current Order does not reflect changes that have occurred since the end of 2006. There is therefore a need to ensure that the Order is brought into alignment with the SARPs contained in the latest editions of the Annexes.

In addition, the Order is constantly being reviewed in the light of experience and in conjunction with the development of the OTARs. This review process frequently brings to light the need for amendment or, sometimes, corrections in cases where the present text does not, for example, accurately reflect the original intent. It is also necessary to consider amendments from time to time so that the OT legislation is kept in alignment with that in force in the UK, so far as is necessary or desirable.

In drafting the OTARs, ASSI has employed ICAO terminology wherever possible with the intention of making the Requirements easier to interpret and in line with the rules used elsewhere in the world.

Summary

In summary, the amendments proposed are intended to ensure:

- That the AN(OT)O provides a sound legal framework for the adoption of the OTARs as a modern package of regulatory requirements capable of being used on a stand-alone basis wherever possible;
- That the AN(OT)O provides a legal basis for, and facilitates the application and implementation of, the whole suite of OTARs;
- Consistency and compliance of the legislation with the Annexes to the Convention.

2. OTARs – PURPOSE, STATUS AND SCOPE

The basic philosophy underlying the OTARs is that they should comprise a “stand-alone” system of regulation that largely eliminates the need for cross-reference to the Order or to the ICAO Annexes.

In general, the OTARs are not Regulations but they do have legal force. Under article 152 of the Order, Governors shall publish the requirements that must be met by applicants for and holders of licences, permits, approvals and certificates; service providers and others. They therefore constitute the means by which the industry can meet its obligations under the Order and through the Order comply with the standards contained in the Annexes to the Convention. Failure to comply with a provision in an OTAR may not by itself constitute a breach of the Order. However it may, in fact, result in a breach of the Order if the Governor can no longer be satisfied, as a consequence of that failure to comply, that the person concerned should be issued with, or continue to enjoy the privileges of, a licence, certificate, permit or other document.

Furthermore, the Governor may, under article 41 of the Order, give instructions in respect of the operation and safety of aircraft, the instruments and equipment to be installed and the safety of persons and property carried. Article 37 also empowers the Governor to make supplementary rules of the air. In certain cases the OTARs are the means of publishing these instructions or rules.

3. PROPOSALS FOR AMENDMENTS AND REVISION

In light of the objectives outlined above the final phase of the AN(OT)O amendment process is now under way. The ultimate aim is to create an Order that contains the fundamental legal obligations and prohibitions pertaining to civil aviation, and those engaging in civil aviation activity, whilst leaving the detailed standards and requirements to be implemented and applied through the OTARs. The detailed proposals for this set of amendments are shown in the table below and in the appendices to this document.

No	Subject	Art. No.	Proposed amendment or addition
1	Approval of modifications	8	The provision within the Order concerning the approval of modifications to aircraft on the OT registers is contained within article 8 which relates to Cs of A. It is suggested that this is extracted to form a separate provision using the term 'Design Change' which is increasing being used to cover modifications, repairs etc.
2	Continuing airworthiness	10	This article may need some editorial changes to take account of the work undertaken by the Airworthiness Working Group in the latest developments of airworthiness OTARs.
3	Approval of maintenance organisations	14	There appears to be some confusion concerning the applicability of this article. It is clear from the terms of paragraph (1) that it applies to "any person" which includes both an individual as well as an organisation. Therefore it is proposed to amend the title to read: "Maintenance approval" and to add after the words "certificate of approval" in paragraph (1) of the article the words "or validation" .
4	Equipment	15, 16 and Schedules 4 & 5	It is considered that the aircraft operations OTAR Parts are now sufficiently comprehensive in their requirements for the carriage of equipment and, in their latest versions shortly to be put to consultation, accurately reflect what is required under Annex 6 in this respect. It is now thought possible to remove Schedules 4 & 5 as proposed in earlier consultations on amendment to the Order.
5	Number of flight crew	20(4)	The requirements in article 20(4) are cumulative; the word "and" should therefore be inserted at the end of subparagraphs (a) & (b).
6	Number of flight crew	20(4)(c)	The words "or is flying by night" should be added to the end of subparagraph (c) to align it with the similar provisions in article 20(7)(c).
7	Number of flight crew	20(9) & (10) Sch. 6	Views are sought on whether it is still necessary to retain the references to Flight Navigator in these subparagraphs and in

			Schedule 6. Territories are requested to advise whether any aircraft on their registers still require a Flight Navigator or are likely to do so.
8	Unmanned aerial vehicles	40, 156	There is a need to consider the provisions dealing with UAVs generally and the definition of small aircraft in article 156 (see Appendix A).
9	Aerodrome operating minima - non CAT	42	It is proposed to rewrite paragraphs 2, 3 & 9 to simplify the description of minima for non-commercial operations and to adopt the terminology of 'Other than Standard Category II operation' from EU-Ops. A similar approach is proposed for articles 75 & 76 which deal with CAT operations. See Appendix B.
10	Navigation performance	50 - 54	Following completion of the new draft aircraft operations OTARs and a review of the navigation performance requirements it is proposed to rewrite articles 50-54 completely as shown in Appendix C. The new drafts of these articles use the current ICAO terminology of Performance Based Navigation (PBN) and they rely, for Territory-registered aircraft, on the equipment specifications and requirements for approval contained in the OTARs. The provisions relating to flight in RVSM airspace are given separate articles.
		156 & Sch 9	The definition of "North Atlantic Minimum Navigation Performance Specification airspace" in article 156 and regulation 3 of Schedule 9 is superfluous and can be deleted.
11	Transport of Dangerous Goods	58 & Sch 10	There are some inconsistencies between the provisions in the Order and those in OTAR Part 92 and the ICAO Technical Instructions (TI), to which the regulations in Schedule 10 refer. It is proposed to revise article 58 so that the article links directly to OTAR Part 92. The OTAR would be amended to incorporate all of the essential elements of the regulations presently in Schedule 10 which could then be repealed. This approach would also avoid the need to amend the Order each time a new edition of the TI is published.
12	SMS	64, 14, 86	There is a need to consider whether any additional provisions should be made in the Order to require aircraft operators, maintenance organisations and air traffic service providers to have an effective SMS. One option is to have a general article requiring an SMS when prescribed and leave all of the

			detail to be dealt with through the respective OTAR Parts.
13	AOC - Operator's responsibilities	70(2)	This paragraph provides that the operator of a CAT aircraft shall not be required to satisfy himself as to the adequacy of the RFFS at the aerodrome of intended destination. The alleviation that this provision was intended to apply was removed from Annex 6 Part 1 by amendment 21 in 1995. It is proposed that paragraph (2) should be removed from the article and the remaining paragraphs renumbered.
14	Performance requirements	72 and 73	There are some discrepancies between the provisions of articles 72 and 73 of the Order and those in OTAR Parts 91, 121 and 135. It is possible to simplify the provisions of paragraphs (1) and (2) of both of articles 72 (aeroplanes) and 73 (helicopters) to refer to "requirements" published by the Governor as well as the Flight Manual concerning performance and operational limitations. We should also see how much further we could trim back the provisions, including the deletion of article 73(9) that is no longer required. (Note that article 73(8) was deleted by the 2008 Amendment Order). Details are set out in Appendix D.
15	Aerodrome operating minima - CAT	75 and 76	It is proposed to rewrite these articles, on the same principles as for article 42, to simplify the description of minima for non-commercial operations and to adopt the terminology of 'Other than Standard Category II operation' from EU-Ops.
16	Helicopter weight	83(2)(d)	The weight break in paragraph (2)(d) should be 3,175kg and not 3,180kg , so as to align it with the weight specified elsewhere in the Order and in the OTARs.
17	Air Traffic Controller Licensing	92	To comply with changes to Annex 1 and PANS-ATM replace the term " radar equipment " with the term " surveillance equipment ".
18	Aerodromes	105	It is suggested that in article 105(2) a new subparagraph (c) is added as follows: " (c) an effective safety management system is in place ", and the present (c) renumbered as (d). This will tie in with the reference to SMS in paragraph (7) of the same article.
19	Aerodromes	105	Schedule 11 – Aerodrome Manual – appears superfluous as the content of the manual is specified in OTAR Part 139.53. It is therefore proposed that the words "including" to the end of paragraph (8) and Schedule 11 are deleted.

20	Instrument Flight Procedures	106	A review of the contents of OTAR Part 176 has been conducted in the light of experience gained in dealing with the approval of an IFP design and its use in operation. As a consequence, it is proposed to amend article 106 of the Order as shown in Appendix E.
21	Use of Lasers against aircraft	112	Article 112 makes provisions relating to dangerous lights generally but does not specifically refer to lasers. There is a growth worldwide in the practice of shining lasers at aircraft. Therefore an addition to the article in the following terms is proposed: “(5) A person shall not, in the Territory, direct or shine any light at any aircraft in flight so as to dazzle or distract the pilot of the aircraft”. Alternatively this provision could be added as a new subparagraph to article 125 – Endangering safety of aircraft.
22	Documents and records	115, 117, 120, 124	Some general tidying up is required as to the form and durability of documents such as technical logs, journey log, maintenance records etc. Many of the provisions in the Order do not take account of the extensive use now made of electronic media and recording. A specific proposal on this subject will be published in due course but in the meantime it is proposed that article 115(3) (Journey Log) be amended in order to match JAR-OPS 1 terminology that is used in the aircraft operations OTARs: (3) An operator shall ensure that all entries in a journey log are made concurrently in an indelible form and that they are permanent in <u>nature</u> .
23	SAFA Ramp Checks	135	Insertion of an additional paragraph into this article to make provision for the conduct of SAFA Ramp Checks and related procedures. The UK has adopted legislation by means of SI 2006 No 1384 to comply with the European Directive on safety of third country aircraft and, whilst the Territories are not bound by that legislation, OTAAs are undertaking ramp checks in accordance with its provisions. There is also a need to comply with certain Standards now included in Annex 6, Parts I paragraph (3.2) and III, paragraph 1.2.1. The suggested additional paragraphs are set out in Appendix F.
24	Mandatory and voluntary incident reporting	139	ICAO raised a finding concerning the absence of a clear basis for voluntary incident reporting, even though there are references to it in OTAR Part 13. Agreement has now been reached

			with CHIRP ¹ for reports to be received into its database. It may therefore be necessary to introduce some provision) into the Order - along the same lines as paragraphs (19) and (20) of Article 142 of the ANO - and revise the remainder of article 139 to make it more compatible with the ANO in anticipation of the adoption of ECCAIRS and access to CHIRP. The details are set out in Appendix G.
25	Definitions	156	The Order contains an error in that the definition of “Aerodrome traffic zone” should refer to rule 45, and not rule 39, of Schedule 8.
26	- ditto -	156(5)	The definition of “Operator” in this paragraph should be amended by the addition of the words “for the purposes of Part II” (Airworthiness) at the end of subparagraph (c).
27	ACAS – Annex 2 amendment	Sch. 8, rule 8	ICAO has made a number of amendments (39 to 42) to Annex 2 including amendment 39 which made changes to the rules for avoiding aerial collisions, in particular in relation to compliance with ACAS Resolution Advisories. This latter revision was made following the mid-air collision over Uberlingen, Germany in 2002. It is proposed to amend Rule 8 of Schedule 8 (Rules of the Air) to reflect the provisions, in particular paragraph 3.2, of Annex 2, as follows: “(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.”

¹ Confidential Human Factors Information Reporting Programme

APPENDICES - GENERAL

Key:

Existing provisions to be replaced are ruled through.
Replacement or new provisions and articles are underlined.

APPENDIX A UAVs - item 8 in table

It is understood that the article in the AN(OT)O, as in the UK Order, referring to small aircraft was intended to apply primarily to unmanned aircraft. The UK ANO is being amended to reflect that understanding and to add provisions relating to unmanned surveillance aircraft. It is proposed that the AN(OT)O should be amended broadly in line with the ANO.

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 (3) and (4), 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) 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.

(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.

APPENDIX B Aerodrome Operating Minima - item 9 in table

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

Replacement paragraphs 2 & 3:

(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 150 m; 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.

~~(3)~~ (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.

Renumber subsequent paragraphs.

Delete paragraph (10) and substitute new paragraph 11:

~~(10)~~ (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).

Paragraph (11) – becomes (12)

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.

Replacement paragraphs 2 & 3:

(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 150 m; 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.

Renumber subsequent paragraphs

New paragraph:

(14) 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.

Replacement paragraphs 2 & 3:

(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 150 m; 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.

Renumber subsequent paragraphs and cross references as follows:

~~(2)~~ (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 ~~(3)~~ (5) in respect of every aerodrome at which it is intended to land or take off and every alternate aerodrome.

~~(3)~~ (5) The aerodrome operating minima provided in accordance with paragraph ~~(2)~~ (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.

~~(5)~~ (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. *etc*

~~(6)~~ (7) Without prejudice to the provisions of paragraphs ~~(4)~~ and ~~(5)~~, (6) and (7) 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.

~~(7)~~ (8) Without prejudice to the provisions of paragraphs ~~(4)~~ and ~~(5)~~, (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.

delete existing paragraph (8) and substitute:

~~(8)~~ (9) In this article—

- (a) 'specified' means specified by the operator in the aerodrome operating minima made available to the flight crew under paragraph ~~(2)~~ (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.

APPENDIX C RNAV & RNP – item 10 in table

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 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 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. 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.

APPENDIX D Operating conditions and performance requirements – item 14

Commercial air transport – aeroplane operating conditions and performance requirements

72. —(2) 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 requirements data as may be specified 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.

~~are complied with.~~

~~(3) In the event the flight manual of an aeroplane registered in the Territory does not specify requirements—~~

- ~~(a) in respect of the weight and related performance of the aeroplane;~~
- ~~(b) for flight in all types of meteorological conditions; or~~
- ~~(c) for flight at night;~~

~~it shall not fly for the purpose of commercial air transport otherwise than in accordance with—~~

- ~~(d) such requirements as are so specified; and~~
- ~~(e) such instructions as may be given by the Governor to the operator of the aeroplane based upon such data as may have been provided to him by that operator.~~

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

(4) 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.

(5) 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 requirements data as may be specified 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.

~~are complied with.~~

~~(6) In the event the flight manual of a helicopter registered in the Territory does not specify requirements—~~

- ~~(a) in respect of the weight and related performance of the helicopter;~~
- ~~(b) for flight in all types of meteorological conditions; or~~

~~(c) for flight at night;~~

it shall not fly for the purpose of commercial air transport otherwise than in accordance with—

~~(d) such requirements as are so specified; and~~

~~(e) such instructions as may be given by the Governor to the operator of the helicopter based upon such data as may have been provided to him by that operator.~~

(2) A helicopter need not comply with paragraphs (1) ~~and (2)~~ if it is flying under and in accordance with an approval granted to the operator by the Governor under paragraph ~~(3) (4)~~.

(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—

(i) 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

(ii) 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.

~~(7) A helicopter carrying out Performance Class 1 or Performance Class 2 operations—~~

~~(a) which is flying under and in accordance with the terms of an air operator's certificate granted under article 64 shall not fly over water for the purpose of commercial air transport for more than 15 minutes during any flight unless it is equipped with the required apparatus;~~

~~(b) which is not equipped with the required apparatus and which is flying under and in accordance with the terms of a police air operator's certificate on which any passenger is carried who is not a permitted passenger, shall not fly over any water on any flight for more than 15 minutes.~~

~~(8) A helicopter specified in its flight manual as being in either Group A or Category A may fly for the purpose of commercial air transport in accordance with the weight and related performance requirements specified for helicopters carrying out—~~

~~(a) Performance Class 2 operations if—~~

~~(i) the maximum total weight authorised of the helicopter is less than 5700 kg;
and~~

~~(ii) the total number of passengers carried on the helicopter does not exceed 15;
or~~

~~(b) Performance Class 3 operations if—~~

~~(i) the maximum total weight authorised of the helicopter is less than 3175 kg;
and~~

~~(ii) the total number of passengers carried does not exceed 9.~~

(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.

APPENDIX E Instrument Flight Procedures – item 20 in table

Instrument Flight Procedures

106.—(1) No person may ~~design, establish or use~~ an instrument flight procedure at 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 ~~and control of a government~~ 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) An approval under paragraph (1) shall be granted on such conditions as the Governor shall think fit and he~~ The aerodrome certificate holder or the person having the management of an aerodrome shall cause such procedure to be notified as a procedure available for the operation of aircraft at that an aerodrome in the Territory.

(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 ~~is competent to design an instrument flight procedure that is safe for use by aircraft~~ meets his requirements in relation thereto published pursuant to article 152 of this Order.

~~(6) The Governor may, for the purposes of this article, either absolutely or subject to such conditions as he thinks fit—~~

~~(a) approve any course of training;~~

~~(b) authorise a person to conduct such examinations or tests as he may certify;~~

~~(c) approve a person to provide any course of training.~~

(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.

APPENDIX F SAFA Ramp Checks - item 23 in table

The proposed amendments provide a clear basis for the conduct of SAFA Ramp Checks and also satisfy the ICAO Standards contained in Annex 6 Parts I and III as referenced in item 1 of the table in section 3.

“(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.”

APPENDIX G Mandatory and voluntary incident reporting - item 24 in table

In accordance with the Recommendation made by ICAO in its Audit Report – that a system of voluntary incident reporting should be introduced - it is proposed to add the following paragraphs to article 139 on Mandatory Reporting and to amend the title to read “Mandatory and voluntary reporting of occurrences”:

“(11) The Governor shall put in place a system of voluntary reporting to collect and analyse information on observed deficiencies in aviation that are not required to be reported under the system of mandatory reporting, but which are perceived by the reporter as an actual or potential hazard.

(12) Voluntary reports presented to the Governor under paragraph (11) must be subjected to a process of disidentification by him where the person making the report requests that his or her identity is not recorded on the databases.

(13) The Governor must ensure that relevant safety information deriving from the analysis of reports, which have been subjected to disidentification, are stored and made available to all parties so that they can be used for improving safety in aviation.”