



CONSULTATION ON THE PROPOSALS TO AMEND THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2013

Introduction

This document has been prepared by ASSI in connection with proposals for amendments to the Air Navigation (Overseas Territories) Order 2013 (hereafter referred to as ‘the Order’). ASSI has considered various issues, suggestions and proposals received to date and given careful thought to other areas requiring attention, including forthcoming ICAO Annex amendments.

The Order was last amended on 10 April 2024.¹ DfT decided that action be taken to consolidate the Order to accommodate Standards & Recommended Practices, (SARPS) of the Convention’s 19 Annexes which have not been fully complied with – such as Annex 12 (Search & Rescue), Annex 19 (Data Protection) - including recent amendments, and to insert new provisions regarding the operation of “drones” (unmanned aircraft), regarding which legislation and rules are still being fully developed globally.

The Order has been amended five times since its publishing in 2013.² It had been the intention to produce an official consolidated order in 2022/23, however this did not proceed due to pressures on legal resources following EU exit. ASSI did however produce an informal consolidated version following the enactment of the 2024 Amendment Order on 10 April 2024, which is currently published on the ASSI website for the convenience of the Territories’ Governors, regulators, and industries.³ That version contains footnotes which refer to the respective amendment orders and the amendments made by the 2024 order are in blue text.

The changes proposed below are presented as amendments to that informal consolidated version. We would propose creating a new official consolidated 2025 Order that encompasses both these changes proposed in this document along with the amendments made previously to the 2013 Order.

Proposed amendment areas

The current amendment proposal covers changes to the Order in the following broad subject areas:

1. **Unmanned Aircraft Systems (UAS):** amendments to existing provisions in the Order to create a legal basis for specific regulations. This legal basis must be sufficiently robust yet flexible to allow future developments but also take advantage of powers that the Governors already possess.
2. **Psychoactive substances:** in response to a growing concern about the use of such substances by on-duty personnel engaged in safety critical activities, new requirements are imposed on employers such as approved Air Traffic Services organisations.
3. **Safety data collection and protection:** new Part 22 to adopt the provisions of Chapter 5 to Annex 19 (Safety Management) to the Chicago Convention on International Civil Aviation.
4. **Search & Rescue (SAR):** new Part 24 to adopt the provisions of Annex 12 (Search & Rescue) to the Chicago Convention.
5. **Documents & records:** minor amendments to article 172 to reflect the use of digital filing solutions via the ASSI data management systems such as Centrik.
6. **Principal Place of Business:** minor amendments to article 94 to provide increased clarity in this area, to facilitate the regulation of Air Operator Certificate holders.

¹ The Air Navigation (Overseas Territories) (Amendment) Order 2024, UK Statutory Instrument (SI) 2024 No.384, 10 Apr 2024 <https://www.legislation.gov.uk/ukxi/2024/384/made>

² In addition to the last one referred to in Note 1, the amendment orders are as follows: UK SI 2014 No.2925 made 12 Nov 2014; UK SI 2014 No.3281 made 10 Dec 2014; UK SI No.1769 made 8 Oct 2015; and UK SI No.755 made 23 June 2021. For links to all these SIs, see <https://www.airsafety.aero/requirements-and-policy/legislation/anoto>

³ The Air Navigation (Overseas Territories) Order 2013 (2013 No.2870) (as amended and consolidated), Issue 2.00, April 2024 <https://www.airsafety.aero/requirements-and-policy/legislation/consolidated-anoto-2013>

1. Unmanned aircraft systems

Proposed redrafting of article 73 “Regulation of small unmanned aircraft” and deletion of article 73A “Regulation of large unmanned aircraft”

Delete the whole of existing articles 73 and 73A and replace with the following at article 73:

Regulation of unmanned aircraft systems

73.—(1) The Governor may require that a person, who intends to operate an unmanned aircraft in the Territory, provide the Governor with such information regarding the purpose, scope, location and manner of operation as the Governor shall prescribe.

(2) An unmanned aircraft may only be operated—

(a) in accordance with—

- (i) the relevant operational category, conditions and rules specified in paragraphs (11), (12), (13) and (14); and
- (ii) any regulations made by the Governor; and
- (iii) any instructions or directions issued by the Governor; and
- (iv) the requirements published by the Governor; and

(b) in such a manner as to minimise hazards to persons, property, or other aircraft.

(3) A person in charge of an unmanned aircraft may only fly the aircraft if satisfied the flight can safely be made, and in accordance with any—

- (a) applicable airspace restrictions; and
- (b) air traffic control conditions and instructions; and
- (c) Governor's instructions or directions in force.

(4) A person must not cause any article to be dropped from an unmanned aircraft so as to endanger persons or property.

(5) No person may act as an operator of an unmanned aircraft whilst under the influence of any psychoactive substance which renders that person unable to perform that person's duties or renders that person a risk to the safety of any other person.

(6) Except with the permission of the Governor, operators of unmanned aircraft must not fly the aircraft—

- (a) at a height of more than 400 feet above the surface;
- (b) within 400 feet of an open-air assembly of more than 400 persons;
- (c) within 90 feet of any person, other than the operator or any person associated with the operation;
- (d) within 90 feet of any vehicle, vessel or structure which is not under the control of the person having management or control of an unmanned aircraft;
- (e) within the boundary of an aerodrome;
- (f) in a prohibited or restricted area;

- (g) over an area where a fire, police or other public safety, humanitarian or emergency operation is being conducted without the approval of a person in charge of the operation;
 - (h) beyond visual line of sight (VLOS) of the person in charge of the unmanned aircraft;
 - (i) with dangerous goods on board;
 - (j) at night, or in conditions other than visual meteorological conditions;
 - (k) on swarm operations.
- (7) An application for the grant of permission under paragraph (6) shall be made to the Governor in such form and with such information regarding the applicant and the proposed aircraft as the Governor specifies.
- (8) The Governor shall grant an application under paragraph (6) on such terms and conditions as the Governor determines.
- (9) Other than in respect of operations specified in paragraph (6), the Governor may approve operations undertaken in accordance with the provisions of any of paragraphs (11), (12), (13) or (14), in accordance with the provisions in paragraph (10).
- (10) Pursuant to paragraph (9), an application for the grant of approval shall be made to the Governor in such form and with such information regarding the applicant and the proposed aircraft as the Governor specifies, accompanied by an acceptable risk assessment for the operations which shall incorporate adequate and acceptable mitigating measures.
- (11) “Open” Category operations are operations with unmanned aircraft—
- (a) which have a maximum take-off mass of 25kg or less; and
 - (b) do not require permission(s) under this article.
- (12) “Specific” Category operations are operations with unmanned aircraft—
- (a) which have a maximum take-off mass of 25kg or less, and
 - (b) which require permission(s) under this article.
- (13) “Certified” Category operations are operations with unmanned aircraft:
- (a) which have a maximum take-off mass of 25kg or less; and
 - (b) require permission(s) under this article; and
 - (c) where the Governor considers that the safety risk is such that the operation should be included in this category; or
 - (d) which have a maximum take-off mass greater than 25kg.
- (14) “International Certified” Category operations are operations with unmanned aircraft:
- (a) which are operated, or intended to be operated, across international borders or over the high seas; and
 - (b) require permission under this article.

(15) For the purposes of this article—

“maximum take-off mass” (“MTOM”) means the maximum unmanned aircraft mass, as defined by the manufacturer or the builder, at which the unmanned aircraft can be operated or, if no such mass is defined, the mass of the aircraft at the time of take-off;

“operator” means the pilot or other person having the management or control of the operation of the aircraft;

“unaided”, in this context means without the use of any equipment, such as binoculars, telescopes, cameras or any other such equipment, but does not include corrective lenses, which may be worn;

“visual line of sight (VLOS)” means an unmanned aircraft operation in which, the unmanned aircraft pilot is able to maintain continuous unaided visual contact with the unmanned aircraft, allowing the pilot to control the flight path of the unmanned aircraft in relation to other aircraft, people and obstacles for the purpose of avoiding collisions;

“swarm operations” means the operation of more than one unmanned aircraft controlled collectively rather than individually.

Explanatory notes:

International standards governing UAS operations that cross national borders are still being developed. Given however the geographic nature of the Territories, we have taken the view to prioritise rulemaking governing domestic operations, but with the ability to implement rules for international operations in accordance with the standards contained in Annex 6 Part 4 in due course. We have minimised and simplified the basic provisions in the Order so that the sector's needs can be met through the much more flexible Overseas Territory Aviation Requirements (OTARs) as well as Governor's Regulations, Instructions and/or Directions.

This means the Order requires mandatory and legally binding provisions enabling the implementation of any national and international standards that are developed in the subordinate instruments and rules. These would be enforceable against any operator of such aircraft (whether domestic or foreign), as well as being subject to any criminal penalties. The Order must provide the legal basis from which any of those subordinate instruments such as OTARs and Governor Instructions, Supplemental Rules of the Air (under article 67(2)), or Instructions can be implemented.

2. Psychoactive substances

Proposed changes to article 138 “Requirement for approval for the provision of air traffic services”:

Revise article 138 to add paragraphs (6) and (7):

138.— (1) A person in charge of the provision of an air traffic control service, other than at a military aerodrome, must not provide such a service in the Territory except under and in accordance with the terms of an air traffic control approval granted by the Governor.

(2) The Governor must grant an air traffic control approval upon being satisfied that the applicant meets the specified requirements and is competent to provide a service which is safe for use by aircraft.

(3) The person in charge of the provision of an air traffic control service in a Territory, other than at a military aerodrome, must establish, implement and maintain a security programme that meets the specified requirements for security for an air traffic control service.

- (4) A person in charge of the provision of a flight information service, other than at a military aerodrome, may only provide that service in accordance with the terms of a flight information service approval granted by the Governor.
- (5) The Governor must grant a flight information service approval if satisfied that the applicant for such approval meets the specified requirements and is competent to provide a flight information service which is safe for use by aircraft.
- (6) The holder of an approval must not permit any person to act as an air traffic controller, or act as a student air traffic controller, in the provision of the service unless—
- (a) such a person holds and appropriate licence; and
 - (b) the holder is satisfied that such person is competent to perform the duties commensurate with the provision of the service.
- (7) The person in charge of the provision of an air traffic control service in the Territory, other than at a military aerodrome, shall ensure that:
- (a) there are enough personnel, at all levels, to manage, support and provide safe aerodrome operations, maintenance and any associated training or assessment listed in the applicant's aerodrome manual; and
 - (b) personnel are trained and competent to perform their duties in accordance with job-specific training programmes, appropriate to each individual's involvement in the aerodrome operations; and
 - (c) operating staff, who have access, do not access the aerodrome movement areas and aprons:
 - (i) unless they are familiar with all relevant and current procedures and information; and
 - (ii) when any decrease in their medical fitness occurs which renders that person unable to safely perform their duties and/or makes that person a risk to the safety of any other person, property or asset.

Delete existing article 139. Re-number article 139A as article 139.

Explanatory notes:

Proposed changes to article 178 (now article 182) “Prohibition on the use of psychoactive substances”:

Revise article 178 (now article 182) to amend paragraph (3) and add a new paragraphs (4) and (5):

182(178).—(1) No person may board an aircraft whilst under the influence of any psychoactive substance which renders that person a risk to the safety of any other person on board.

(2) No person on board an aircraft may be under the influence of any psychoactive substance which renders that person a risk to the safety of any other person.

(3) Without prejudice to paragraphs (1) and (2), no person may act as a member of the crew of an aircraft whilst under the influence of any psychoactive substance, or any medication, which renders that person unable to safely perform that person's duties or makes that person a risk to the safety of any other person on board the aircraft.

- (4) The operator or other person having the management or control of an unmanned aircraft shall not operate the aircraft within the Territory whilst under the influence of any psychoactive substance, or any medication, which renders that person unable to safely operate the aircraft or makes that person a risk to the safety of any other person or property.
- (5) No persons engaged in aircraft or aerodromes related activities within the movement areas of aerodromes, such as—
- (i) aircraft refuellers,
 - (ii) aircraft caterers,
 - (iii) aircraft and baggage handlers,
 - (iv) aircraft marshallers, or
 - (v) third party contractors,
- shall engage in such activities whilst under the influence of any psychoactive substance, or any medication, which renders that person unable to safely undertake that person's activities or makes that person a risk to the safety of any other person or property.

Explanatory note:

Paragraph (4) reflects the new provisions in article 73.

Paragraph (5) is designed to cover all those persons engaged in aircraft or aerodrome related activities on the movement areas of an aerodrome.

3. Safety data collection and protection

Proposed new Part 22 “Safety Data Collection and Protection”:

Add the following new text:

PART 22

SAFETY DATA COLLECTION AND PROTECTION

176.—(1) The Governor may, by notice in writing, require any person referred to in article 174(4) to promptly provide such safety data as the Governor may require for the purposes of safety data monitoring, hazard identification and safety risk assessment.

(2) The Governor shall establish safety data collection and processing systems (“SDCPS”) to capture, store, aggregate and enable the analysis of safety data and safety information.

(3) The Governor shall establish and maintain a process to analyse the safety data and safety information from the SDCPS and associated safety databases.

(4) The Governor shall accord protection to safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources in accordance with the Governor's requirements.

(5) The Governor shall not make available or use safety data or safety information collected, stored, or analysed in accordance with paragraphs (3) or (4) for purposes other than maintaining or improving safety, unless the Court or other competent authority of the Territory determines that a principle of exception applies.

- (6) Notwithstanding paragraph (5), the Governor shall not be prevented from using safety data or safety information to take any preventive, corrective or remedial action that is necessary to maintain or improve aviation safety.
- (7) The Governor shall take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the systems referred to in paragraphs (2) and (4).
- (8) If the Governor, in the analysis of the information contained in its SDCPS, identifies safety matters considered to be of interest to other States, the Governor shall forward such safety information to them as soon as possible.
- (9) Prior to sharing such information, the Governor shall specify the level of protection and conditions on which safety information will be shared in order to ensure that—
- (a) a balance is struck between the need for protection of safety data, safety information and related sources to maintain or improve aviation safety, and the need for the proper administration of justice;
 - (b) safety data, safety information and related sources are protected;
 - (c) safety data and safety information remain available for the purpose of maintaining or improving aviation safety;
- in accordance with the specified requirements.

Explanatory note:

New Part to adopt the provisions of Chapter 5 to Annex 19 (Safety Management) to the Convention. Aviation Security is presently Part 19A and will be relocated as Part 23.

4. Search and rescue

Proposed new Part 24“Search and rescue”:

Add the following new text:

PART 24

SEARCH AND RESCUE

- 180.** — (1) In accordance with article 7(2)(c), the Governor shall designate an organisation responsible for the establishment and prompt provision, on a 24-hour basis, of a search and rescue service in the Territory to ensure that assistance is rendered to persons in distress.
- (2) The Governor shall delineate the search and rescue regions within which the Territory will provide search and rescue services.
- (3) The Governor shall ensure the coordination of the Territory’s search and rescue organisation with those of neighbouring States.
- (4) Subject to such international agreements which the United Kingdom has entered into with other States, the Governor shall, subject to such conditions as may be prescribed, permit immediate entry into the Territory of search and rescue units of other States for the purpose of searching for the site of aircraft accidents and rescuing of survivors of such accidents.

(5) Without prejudice to any other provision of this Order, any authority or any element of the search and rescue organization having reason to believe that an aircraft is in an emergency shall immediately give all available information to the rescue coordination centre concerned and 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.

(6) To achieve and maintain maximum efficiency in search and rescue, the Governor shall ensure the provision of regular training and exercises for search and rescue personnel, which include both land and maritime environments as appropriate.

(7) The Governor shall ensure that search and rescue personnel that may be required to respond to an aircraft accident site are trained in the management of related occupational health risks.

5. Documents and records

Proposed amendments to article 172: validity of certificates, licences, authorisations, approvals and permissions

Revise article 172 to amend paragraph (2) and add new paragraph (3):

172. —(1) Wherever in this Order there is provision for the giving of an instruction or the issue or grant of a certificate, licence, authorisation, approval or permission by the Governor, unless otherwise provided, such an instruction or a certificate, licence, authorisation, approval or permission—

- (a) must be in writing;
- (b) may be issued or granted subject to such conditions as the Governor thinks fit;
- (c) may be issued or granted, subject to article 11, for such periods as the Governor thinks fit; and
- (d) may be renewed from time to time upon such conditions and for such further period or periods as the Governor thinks fit.

(2) Subject to verification, wherever this Order provides for signing by the holder or issuer of the certificate, licence, approval, [permit](#) or other document or other document, [referred to \(i\), and any entry made in a logbook or other record](#), a digital copy of the document which includes a secure e-signature may be accepted.

(3) All entries made in writing in any logbook or record referred to in paragraph (2) must be made in ink or in other permanent form.

Explanatory note:

Many documents, such as applications and submissions, are now filed digitally directly onto the ASSI data management system, Centrik. It is proposed to introduce on-line examinations and filings, which will be supported by copies of documents loaded digitally. It is therefore suggested that there should be some amendments to article 172.

6. Principal Place of Business

Proposed amendments to article 94: Issue of air operator's certificates

Revise article 94 to amend paragraphs (2) and (3) and delete paragraph (4):

94—(1) An aircraft registered in the Territory must not fly on any flight for the purpose of commercial air transport except under and in accordance with the terms of an air operator's certificate granted to the operator of the aircraft under paragraph (2).

(2) The Governor must grant an air operator's certificate to an operator, **which is incorporated and domiciled, and with** its principal place of business in the Territory, upon being satisfied that the applicant is competent to secure the safe and secure operation of aircraft of the types specified in the certificate on flights of the description and for the purposes specified, having regard in particular to the applicant's—

- (a) previous conduct and experience;
- (b) equipment;
- (c) organisation and staffing; and
- (d) maintenance, security and other arrangements;

in accordance with the Governor's requirements.

(3) The operator of an aircraft to which this article applies must establish, implement and maintain to the satisfaction of the Governor—

- (a) a safety management system appropriate to the size and complexity of the operation; and
- (b) a security programme that meets the specified requirements for security for commercial air transport aircraft; **and**
- (c) **an acceptable place in the Territory with acceptable arrangements for inspection of all operational, safety and security records; and**
- (d) **a suitable, accessible place, and acceptable arrangements and appropriate facilities for inspection of aircraft and their continuing maintenance;**

in accordance with the Governor's requirements.

~~(4) For the purposes of this article "principal place of business" means the primary location from which flight operations and maintenance management and control are exercised; where the majority of the operational and safety related records are kept and at which accountable managers are based.~~

(4) A person must not hold himself or herself, or any other person, out as being a person who may offer flights on an aircraft registered in the Territory for the purpose of commercial air transport unless the person, or that other person (as the case may be), holds a valid air operator's certificate granted under this article.

Explanatory note:

The above text is the subject of ongoing discussions internally and with the Department for Transport (DfT), regarding the development of their revised offshore operations policy.⁴ The above text is drafted to facilitate the adoption of the policy via the medium of the OTARs or other OT subordinate instruments. In that context, we have drafted the current article 94 with suggested amendments to cater for the outcome of the debate. This approach enables the DfT to apply its policy through the OTARs, which would therefore reflect the Policy Statements issued from time-to-time by DfT as situations evolve. This approach would avoid the need to amend the Order in future. That way full use can be made of the Governors' rule making powers under the Order. This is an initial first draft, and will agree the final text as a result of the consultation.

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END

⁴ *Offshore Aircraft Registers in the UK Overseas Territories and Crown Dependencies* (last published Jan 2013)

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