



**Briefing Pack
on aviation safety regulation
in the Overseas Territories
and the role of Air Safety
Support International (ASSI)**

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1. Introduction

The purpose of this document is to provide the Governor of an Overseas Territory with an understanding of his/her role with regard to civil aviation; the role of ASSI and the aviation environment. It also contains guidance material on situations that may arise on specific topics.

The current version of this document will be stored on the ASSI website at www.airsafety.aero.

Below is a short summary of each of the sections:

Section	Overview summary
2. All About ICAO	<i>ICAO is the international organisation responsible for setting standards of regulation for international aviation safety. As part of this role, ICAO monitors National Aviation Authorities to determine their overall safety oversight capability. The UK, including the OTs, was last subject to an ICAO Universal Safety Oversight Audit Programme (USOAP) audit in February 2009.</i>
3. The Role of the Governor in Aviation Regulation	<i>As the Queen's representative, the Governor is responsible for ensuring the adequacy of the safety regulation oversight within an Overseas Territory. The Governor normally designates a specialist regulator to discharge this responsibility.</i>
4. The Role of the Director of Civil Aviation	<i>The Director of Civil Aviation (DCA) is employed by the Overseas Territory (OT) Government and is responsible to the OT Governor for safety regulatory oversight within that OT.</i>

5. The Role of Air Safety Support International	<i>Air Safety Support International is the organisation established by HMG and funded through the Department for Transport and OT Governments. It is a subsidiary company of the UK Civil Aviation Authority and is charged with supporting the development of civil aviation safety regulation in the Overseas Territories.</i>
6. OTAA Assessments	<i>ASSI conducts regular assessments of the OTAAs to ensure that aviation regulation in a Territory is being conducted effectively.</i>
7. Specific Aviation Topics	<i>Information on particular aviation subjects:</i> <i>Aircraft accidents</i> <i>Aircraft registers</i> <i>OTARs</i> <i>Drones</i> <i>Starting an airline</i> <i>Fees/charging</i> <i>Governor’s Direction</i> <i>Foreign aircraft operators</i> <i>Domestic v international aerodromes</i> <i>Domestic v international flights</i>

More detailed information on some of the areas can be found in the appendices:

Appendix A	DfT Directions establishing ASSI
Appendix B	List of abbreviations
Appendix C	Useful website addresses
Appendix D	Contact details – ASSI & DfT
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Appendix F	Law and regulation in the OTs
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2. All about ICAO

Summary: The International Civil Aviation Organisation is the international organisation responsible for setting standards of regulation for international aviation safety. As part of this role, ICAO monitors National Aviation Authorities to determine their overall safety oversight capability. The UK, including the OTs, was subject to an ICAO Universal Safety Oversight Audit Programme (USOAP) audit in February 2009. A USOAP audit of Bermuda was conducted in May 2019.

ICAO is concerned with setting the standards for the safety, regularity and efficiency of international civil aviation. It is an agency of the UN and was created with the signing in Chicago in 1944 of The Convention on International Civil Aviation. The Chicago Convention established the privileges and restrictions of all the Contracting States and provides for the adoption of International Standards and Recommended Practices (SARPs) regulating international air transport set out in Annexes to the Convention (see Appendix I).

The aims and objectives of ICAO are as follows:

- Ensure the safe and orderly growth of civil aviation throughout the world
- Encourage the arts of aircraft design and operation for peaceful purposes
- Encourage the development of airways, airports and air navigation facilities for international civil aviation
- Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport
- Prevent economic waste caused by unreasonable competition
- Ensure that the rights of Contracting States are fully respected and that every Contracting State has a fair opportunity to operate international airlines
- Avoid discrimination between Contracting States

- Promote safety of flight in international air navigation
- Promote generally the development of all aspects of international civil aeronautics

As part of its remit, ICAO implemented a programme of international audits – the Universal Safety Oversight Audit Programme - which examines the overall safety oversight capability of all member States. ICAO is now moving towards a continuous assessment philosophy called the Continuous Monitoring Approach (CMA) which will require States to submit on a regular basis information about its safety policies, processes and achievement of safety objectives.

The origins of ASSI stem from the ICAO audit of the UK in 2000 when it was established that in signing the Chicago Convention, the UK government accepted responsibility for aviation safety regulation in the Territories on the same basis as it does for the UK. The most recent audit of the UK, its Territories and Dependencies was undertaken in February 2009 although an audit of Bermuda, which included the regulatory framework established by ASSI, took place in 2019. This latter audit resulted in some actions for both Bermuda and ASSI and the resulting Corrective Action Plan has been lodged with ICAO. USOAP reports are available to other contracting states on the ICAO website.

3. The Role of the Governor in Aviation Regulation

Summary: As the Queen’s representative, the Governor is responsible for ensuring the adequacy of the safety regulation oversight within an Overseas Territory. The Governor normally designates a specialist regulator to discharge this responsibility.

As the appointed representative of the Queen in a Territory, the Governor has specific responsibilities regarding the regulation of civil aviation.

There are two important legal aspects which form the backbone of the structure for aviation safety oversight for the Overseas Territories. These are the International Civil Aviation Organisation (ICAO) Chicago Convention and the Air Navigation (Overseas Territories) Order. The former defines signatory States’ responsibilities with regard to international civil aviation safety standards and the latter enshrines the obligations of the Convention into law for the Overseas Territories (OT).

The foundation of these responsibilities lies in the UK government being a signatory to the Chicago Convention. This places an obligation on the UK government to abide by specific standards for international civil aviation. These standards are contained in a series of Annexes to the Convention and are listed in Appendix I. The Governor is therefore responsible for fulfilling the obligations of UK government in this area within an OT.

In practice this means that the Governor is responsible for the safety regulation of civil aviation in an OT in the following areas:

- Registration of aircraft
- Air Operator Certification
- Certification of airworthiness of aircraft
- Licensing of aviation personnel
- Approval of maintenance organisations
- Approval of air traffic services provision
- Meteorological services

- Aeronautical charts
- Aeronautical Information Services
- Certification of aerodromes
- Search and Rescue
- Approval of training
- Revocation, suspension or variation of licences, certificates or approvals
- Restriction of flying
- Power to prevent aircraft flying and to detain aircraft for breaches of the Order
- Enforcement of the Order and any instructions or directions given thereunder
- Grant of exemptions from the provisions of the Order
- Publication of the Requirements (OTARs)
- Power to review the decision of a designated officer under Article 13

The Governor is required under the AN(OT)O to designate the above responsibilities (except the last two) to an agency with the appropriate ability to fulfil the regulatory oversight in these areas – this may be the Civil Aviation Authority/Director of Civil Aviation (referred to as the OTAA) within an OT or it may be to ASSI.

Although the AN(OT)O and OTARs refer to ‘the Governor’, in most cases it is the regulator designated under Article 6 of the AN(OT)O for the particular purpose by the Governor and so in practice it is either the OTAA or ASSI. The exception to this is where there is a right of appeal to the Governor under Article 13 of the AN(OT)O where ‘Governor’ does actually mean the Governor of the Territory.

The Governor is also able to issue instructions regarding the manner of operation of an aircraft (Article 74). These instructions are contained in OTAR Part 91 – General Operating Instructions but specific instructions may also be issued to deal with a specific situation, such as for flight into a particular aerodrome where operational restrictions are required in the interest of safety.

Governor's Designations

A regulator needs to be appointed in the Territory for the technical areas covered by each of the ICAO Annexes (apart from Annex 9, which deals with Facilitation) as implemented through the relevant legislation. This process of designating a regulator is the responsibility of the Governor. There are separate provisions regarding accident investigation (see item 7 on page 17 and Appendix J).

To provide a basis for the Governor to make this designation, ASSI undertakes an assessment of the OT Aviation Authority (OTAA) and makes recommendations based on the capability of the OTAA. There are three options for designation:

- 1) Full designation to the OTAA - The OTAA is recommended for designation unconditionally.
- 2) Full designation to ASSI - ASSI is recommended for designation unconditionally.
- 3) Conditional Designation - The OTAA is recommended for designation dependent upon it satisfactorily completing the action specified in the conditional designation. There is a process of review and re-designation or extension as appropriate.

In Territories with a local aviation authority, ASSI will keep the Governor informed of any issues relating to designations. This will also be covered in the routine calls (usually quarterly) established between ASSI's CEO and each Governor. These calls are the opportunity to exchange information on a variety of aviation issues. Governors are also strongly advised to hold regular meetings with the Director of Civil Aviation as a means to assure themselves of the efficacy of the regulatory oversight in the Territory.

In Territories where ASSI is the designated regulator, ASSI's CEO will offer monthly calls to each Governor as a means to highlight issues of significance to HE. These calls also enable ASSI to

supplement information gained through periodic audit through the insights provided by the Governor on local issues that may have an impact on aviation.

Aviation Security

The Department for Transport sets overall policy for aviation security. The Governor chairs the National Civil Aviation Security Committee (NACASC) for the Territory which produces a Civil Aviation Security Programme (NACASP) for the Territory. ASSI is responsible under a designation from the Governor for the oversight of aviation security conducted by aircraft operators and airports in the Territory.

4. The Role of the Director of Civil Aviation (or equivalent)

Summary: The Director of Civil Aviation (DCA) is employed by the OT Government and is responsible to the Governor for safety regulatory oversight within that OT.

The Director of Civil Aviation (the exact title varies between OTs but the term DCA is used for simplicity) is appointed by the Government of the OT and, where the OTAA is designated, is responsible to the OT Governor for the safety and regulatory oversight of the aviation industry within that OT. A list of DCAs is at Appendix E.

The DCA is responsible for the management of the staff of his OTAA to regulate the industry in compliance with the legislation and applicable requirements.

Bermuda, Cayman Islands and Turks & Caicos have established under statute a semi-independent Civil Aviation Authority to carry out the functions of the DCA. In the Falkland Islands the DCA is part of a department of the Territory government.

Where there are references in the AN(OT)O and the OTARs to 'Governor', this will, in most cases, be the regulator designated under Article 6 of the AN(OT)O for the particular purpose by the Governor and so in practice it is either the OTAA or ASSI.

5. The Role of Air Safety Support International

Summary: Air Safety Support International is the organisation established by HMG and funded through the Department for Transport and OT Governments. It is a subsidiary company of the UK Civil Aviation Authority and is charged with supporting the development of civil aviation safety regulation in the Overseas Territories.

Air Safety Support International (ASSI) is a not-for-profit, wholly-owned, subsidiary company of the UK Civil Aviation Authority, established under Directions from the UK's Department for Transport in 2003. The company's primary objective is to help provide a more cohesive system of civil aviation safety regulation in the UK Overseas Territories.

In particular, the Directions require ASSI to assist Governors in exercising the functions of aviation safety oversight and regulation; to develop a set of Overseas Territories Aviation Requirements (OTARs) designed to implement the standards and recommended practices contained in the Annexes to the Convention; to audit the OTAA functions within an OT; and to regulate in an OT when designated to do so.

ASSI is responsible for supporting the Territories' existing aviation authorities in the safety regulation of all aspects of civil aviation, including the licensing of personnel and the certification of aircraft, airlines, airports and air traffic services. In Territories where the civil aviation regulators do not have the resources to undertake the task themselves, ASSI can be designated by the Governor to perform the civil aviation regulatory tasks on behalf of the Governor. ASSI therefore has to perform the role of policy setting, regulator and advisor/mentor depending on the situation in the Territory.

DfT originally provided full funding of ASSI with the longer-term aim of having OT Governments contribute to the cost. However, a cost recovery process has been established whereby the OT Governments pay DfT for the support that ASSI provides.

Where ASSI has direct regulatory responsibilities in the Territory, the OT Government will pay the cost of that oversight. All Territories contribute to the cost of the regulatory system established by ASSI through the framework charge.

ASSI is based in Crawley, West Sussex, a few miles from Gatwick Airport. It is headed by a Chief Executive Officer who reports to the Board of ASSI on which sit representatives from the DfT and FCO.

The governance arrangements comprise the ASSI Board, the Aviation Policy Consultative Committee (APCC) chaired by DfT, and the Overseas Territories Safety Performance Council (OTSPC). The OTSPC is the working level group tasked with managing safety performance.

A large proportion of ASSI's staff are technical, with expertise in the following areas.

- Airworthiness
- Flight Operations
- Aerodromes
- Personnel Licensing
- Air Traffic Control
- Air Traffic Engineering

ASSI also has its own Legal Adviser who can provide advice to Governors and OTAA's and with the OTs' own legal officers on legislative and enforcement matters.

Most ASSI staff work flexibly across the company's range of responsibilities and provide support to the Overseas Territories on technical issues as they arise. Contact details for all staff are in Appendix D.

A Chief Operating Officer (COO) heads the five main functional areas of ASSI. A short profile of each of these areas follows:

Policy and Rulemaking

- Create, publish and keep up to date the Overseas Territories Aviation Requirements (OTARs)
- Maintain the Air Navigation (Overseas Territories) Order and Air Navigation (Overseas Territories) (Environmental Standards) Order
- Standardise operational-level policy across the OTs
- Provide advice to OTAAs

Regulatory

Under a Regulatory Manager, and in accordance with a designation from the Governor, ASSI staff are responsible for direct aviation safety regulation of all areas in Anguilla, Montserrat and the British Virgin Islands, for certain functions in the Falkland Islands and for aviation security oversight in all Territories where there is civil aviation activity. ASSI is also responsible under a designation for the oversight of aviation security conducted by aircraft operators and airports in the Territory.

Security

ASSI regulates security as far as possible using the normal approval and certification processes applicable to air operators, airports and air traffic services. Where the Territory DCA has been designated for safety elements of these approvals and certificates, ASSI works with the DCA and staff to pursue any necessary enforcement measures. ASSI also routinely briefs Governors on security issues arising from its oversight visits.

Training

ASSI has a small team which arranges group and individual training for ASSI and OTAA staff to increase their capabilities and is instrumental in helping the OTAAs achieve full 'Fitness for Purpose'.

OT Liaison

This manages the OTAA assessment programme and follow-up activity as well as ensuring that Governors receive a regular briefing about aviation matters. It also coordinates the representation of the UK and ASSI at ICAO regional meetings.

Technical Planning and Quality

ASSI also has a small team responsible for internal planning and quality management.

6. OTAA Assessments

Summary: ASSI conducts regular assessments of the OTAA's to ensure that aviation regulation in a Territory is being conducted effectively. A report is sent to the Governor and DfT.

Under the Secretary of State's Directions, ASSI is required: *'regularly to audit aviation safety regulation in each Overseas Territory and to advise the Secretary of State, the Governor of that Territory and those responsible for aviation safety regulation in that Territory on whether that Territory is complying with the United Kingdom's obligations under the Chicago Convention, on the standard of aviation safety regulation in that Territory, on the adequacy of the resources employed in that Territory on such regulation and on any remedial measures that may be necessary'*.

To achieve this, ASSI conduct assessments of each OTAA as part of a programme which covers approximately a two-year period. The scope and areas assessed depends to a large extent on the scale of the responsibilities of the individual OTAA and the scale and complexity of the industry that it regulates.

The assessment team leader will arrange a briefing with the Governor at the end of the assessment visit and, if possible, at the beginning. A report is produced for the DfT and Governor which contains rectification actions agreed with DCA to resolve any shortcomings found. The DCA has the opportunity to comment on the report before it is finalised. In certain circumstances, the report may recommend a change to the designation.

7. Specific Aviation Topics

Aircraft accidents

Under section 75 of the Civil Aviation Act 1982, as extended to the Territories by Order in Council in 2001, Governors are responsible for making Regulations relating to the investigation of accidents. In response to changes to international standards, ASSI in cooperation with the AAIB drafts a standard instrument which can be enacted by the Governor in each Territory.

Details of the procedures to follow in the event of an aircraft accident or serious incident are contained in **Appendix J**.

Aircraft registers

The Aircraft Register records the identity of the owner or operator of an aircraft and determines who is therefore responsible for ensuring the airworthiness of the aircraft.

Registering an aircraft in a Territory gives that aircraft the nationality of the Territory and that is reflected in the registration allocated. Acceptance of an aircraft on to its register places the responsibility upon that Territory for the issue of a Certificate of Airworthiness in respect of the aircraft and for the oversight of its continuing airworthiness. That means the Territory is responsible for the annual and periodical checks on the airworthiness of the aircraft and for ensuring that it is maintained in accordance with the approved maintenance schedule. This is a heavy responsibility and involves the commitment of significant resources. DfT has a policy on the prerequisites for the establishment of an offshore register by a Territory.

OTARs

The OTARs are the Overseas Territories Aviation Requirements and these provide the means of compliance with the rules and regulations in the AN(OT)O for industry within the Overseas Territories. The AN(OT)O provides the framework for the OTARs and underpins their enforcement. The OTARs are unique to the Territories and are written to comply with the requirements of

ICAO, as agreed in the Chicago Convention, and to ensure that they are appropriate to the industries and environment within the Territories.

The OTARs have been gazetted (published) in each Territory and so are the legal means of compliance within that Territory. OTARs are regularly updated to incorporate changes to international standards.

The OTARs describe the means by which aircraft operators, aviation personnel and providers of services can gain approvals and licences and the process through which these are maintained to ensure adequate levels of safety and internationally-agreed standards are met. They are supported by guidance material, Overseas Territories Aviation Circulars (OTACs), but these do not need to be gazetted.

The current version of, and further information on, the OTARs is on the ASSI website: www.airsafety.aero - look under 'Legislation and OTARs'.

Drones

Drones are classed as Small Unmanned Aircraft (SUAs) in the AN(OT)O. There are certain weight limits which apply and restrictions on airspace in and heights at which they are allowed to fly. In addition, many Territories have issued specific airspace restrictions under the AN(OT)O to prohibit the flying of drones in certain sensitive areas, such as around airports or prisons. Commercial operators require a permission to use them for photography. A forthcoming amendment to the AN(OT)O gives the Governor power to make regulations requiring the registration of locally-based drone operators.

Starting up an airline in the Territory

An organisation wishing to start an airline will have to obtain an air operator's certificate and meet all of the technical standards imposed in accordance with the AN(OT)O and the means of compliance that have been gazetted in the Territory. The means of

compliance is likely to be the OTAR Parts relevant to aircraft operations. It will be necessary for the organisation to submit an application to the OTAA or to ASSI, whichever is designated for that purpose, together with a full exposition of the organisation's arrangements for the operation of an aircraft. This will all be examined by the OTAA or ASSI and will have to be found acceptable before the grant of a certificate can be considered. The process is likely to take several months and is dependent upon the quality of the documentation submitted to the regulator.

Fees/charging schemes

It is the Governor's responsibility under the AN(OT)O to publish Schemes of Charges for the provision of aeronautical services and for civil aviation regulatory activities. The level and scope of such charges should be set in agreement with the Government of the Territory.

Regulatory charges may include the issue of:

- certificates of airworthiness
- personnel licences
- air traffic control unit approvals
- air operator's certificates
- approval of aircraft maintenance organisations

Service charges which in general relate to services provided by the main airport authority within the Territory may include:

- landing fees
- aircraft parking fees
- air traffic services related fees

There are political considerations to take into account when establishing Schemes of Charges and ASSI can provide advice and support if required. As a general guide, international standards recommend that the level of charges should be set at a level sufficient only to cover the cost of providing the service, including the cost of capital investment and provision for future investment.

Governor's Direction

Under the AN(OT)O a Governor is able to give directions, or impose conditions, with regard to the exercise of any of his functions under the Order or the manner of operation of an aircraft or the exercise by any person of any of the privileges accorded to him, her or it. Failure to comply with Directions issued by the Governor, without reasonable excuse, means that the person to whom the Directions are given will be deemed to have contravened the provision(s) of the Order under which the Directions were given.

The Governor is also able to issue instructions regarding the manner of operation of an aircraft (Article 74 of the AN(OT)O). These instructions are contained in OTAR Part 91 – General Operating Instructions.

Foreign Aircraft Operator Permissions/Permits

Foreign (Aircraft) Operator Permissions are issued to enable foreign air carriers to provide commercial air transport services to, from and sometimes within a Territory. The permits are required by Articles 135 and 137 of the Air Navigation (Overseas Territories) Order (AN(OT)O) and are issued locally by a person delegated by the Governor to do so in accordance with any guidance issued by the Department for Transport and in accordance with the various bilateral or other Air Service Agreements signed by the UK with other States. Foreign Operator permits, required under Article 135, are not focussed upon safety but merely the right to undertake commercial activities within the Territories. Nevertheless, the Permit requires the air carrier to comply with the ICAO Annexes, and many of the safety related provisions of the AN(OT)O apply to foreign registered aircraft operating in Territory airspace. Foreign air operators may not operate services in a Territory unless they are in possession of such a permit.

Further details of this are found on the ASSI website at www.airsafety.aero under 'Foreign Operator Permissions'.

Foreign Operator Permissions, required under Article 137, are required for any operator (commercial or not) who wishes to carry out:

- aerial photography

- aerial survey
- any other type of aerial work.

The AN(OT)O defines Aerial Work in Article -126 as “any purpose (other than commercial air transport) for which an aircraft is flown if valuable consideration is given or promised in respect of the flight or the purpose of the flight”. As for Foreign Operator Permissions (Article 135), ‘valuable consideration’ means, amongst other things, payment in cash or kind or a contribution to the running costs of the aircraft. It is worth noting that a Foreign Operator permission for Article 135, rather than for 137, is required for an aircraft carrying out aerial work if the aircraft carries passenger(s) (for example, a photographer) not employed by the aircraft operator as this is classified as a commercial air transport flight. There are no cases where the issue of a Foreign Operator permission, for both Articles 135 and 137, for the same flight is appropriate – one case or the other will always apply.

Unlike Foreign Operator Permissions required under Article 135, a Permission required under Article 137 is granted by the Governor. The Designation of the Article 137 process is combined with that for aircraft operations. Thus, if a local OTAA is designated for regulating aircraft operations, then it will process the applications and issue the permit. If ASSI is designated, then it will be responsible.

Any applications received by the Governor’s Office should be referred to the appropriate designated authority.

Difference between domestic and international aerodrome

All aerodromes handling international operations are required to be certificated. This means that they must meet, so far as is possible, the standards and specifications laid down in OTAR Part 139. In addition, purely domestic aerodromes that handle larger aircraft (i.e. those with 10 or more seats or those with a maximum take-off weight exceeding 15,000kg) should also be certificated.

There is also an option for an aerodrome to be certificated if it is deemed to be in the public interest.

The other major difference between international and domestic aerodromes will be in respect of the procedures for the handling of passengers and baggage. At purely domestic aerodromes there will no requirement for immigration and customs although passengers will still be subject to security checks.

International flights

From one OT to another OT or the UK

A flight from one OT to another is not an international flight for the purposes of traffic rights under the Chicago Convention 1944; the route (e.g. Anguilla-BVI) would be a cabotage route as both points served are within the territory of a single Contracting State, i.e. the UK.

A flight from the UK to an OT (e.g. London-Cayman) is not an international flight on the same basis as above. Again, it is a cabotage flight.

For the purposes of the Convention generally, however, such a flight may be classified as an international flight if the definition in Article 96 of the Convention is adopted. Article 96 defines “international air service” as “an air service which passes through the airspace over the territory of more than one State”. However, that definition is conditioned by the fact that Article 96 defines “air service” as being “any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo”. Because of the reference in Article 96 to “scheduled” the matter is not free from doubt with regard to air services generally. Some lawyers argue that any flight is international if it transits international airspace or the sovereign airspace of a third country.

For the purposes of the Warsaw Convention on liability of air carriers such a flight would not be an international one. The Warsaw Convention defines “international transportation” as “any transportation in which (according to the contract) the place of departure and the place of destination (whether or not there is a break in the transportation) are situated within the territories of two High Contracting Parties (States) or within the territory of a single

State if there is an agreed stopping place within the territory of another State”.

Although from the point of view of some aspects of the Chicago Convention and for the purposes of the Warsaw Convention an OT-to-OT flight would not be international it may be considered international for other purposes of the Chicago Convention and for the purposes of security, customs and immigration controls.

The above interpretations should not affect the applicability of Departure Tax in an OT, even though in many states there are varying amounts payable depending upon whether the flight is an international one or a domestic one.

Flight from one OT to another OT that diverts to a non-OT

A flight from one OT to another via a planned stop in a third country (e.g. Anguilla-St Maarten-BVI) would be an international flight but it would not automatically become an international flight if the aircraft merely diverted to St Maarten for technical reasons.

Flight from an OT to an oil rig in international waters

A flight from an OT to an off-shore oil rig is not an international flight if the rig is within the territorial waters of the OT concerned. Normally territorial waters would extend to 12 miles from the shoreline but can extend further under international treaty or by a claim of sovereignty. Normally, therefore, operations between an OT and an oil rig in international waters that do not pass through the airspace of another country will not be international.

If the rig were located in the undisputed territorial waters of another Contracting State then the flight would become an international one.

Appendices

Department for Transport Directions for ASSI

The Civil Aviation Authority (Overseas Territories) Directions 2014*

* as amended by the Civil Aviation Authority (Overseas Territories) (Variation) Directions 2015 effective 1 April 2015

The Secretary of State, makes the following Directions in exercise of the powers conferred by sections 6(2)(b), (c) and (d) of the Civil Aviation Act 1982 in order to ensure that the United Kingdom discharges its obligations under the Convention on International Civil Aviation, done in Chicago on 7 December 1944 ("the Chicago Convention") in respect of the Overseas Territories.

The Secretary of State has consulted with the Civil Aviation Authority ("the CAA") and hereby directs the CAA as follows:

Commencement and Citation

1. These Directions may be cited as the Civil Aviation Authority (Overseas Territories) Directions 2014 and shall come into force on 14 March 2014.

Revocation

2. The Directions specified in Schedule 1 are hereby revoked.

Interpretation

3. Unless the contrary intention appears or the context otherwise requires, words and expressions used in these Directions shall be construed as if they were in an Act of Parliament and the Interpretation Act 1978 applied to them and references to an enactment shall include any statutory modification or re-enactment thereof after the date of the coming into effect of these Directions.

4. Any word or expression defined for the purposes of any provision of the Air Navigation (Overseas Territories) Order 2013 ("the 2013 Order") shall, unless the contrary intention appears, have the same meaning when used in these Directions.

5. In these Directions: "Overseas Territory" means any Territory to which the 2013 Order applies.

Air Safety Support International and its functions

6. There shall continue to be a body corporate called Air Safety Support International (ASSI), which shall be constituted in accordance with the following provisions of this section.

7. The CAA shall require ASSI to perform the following functions:

a) to audit aviation safety and security regulation in each Overseas Territory and to provide advice to the Secretary of State, the Governor and those responsible for such regulation, including advice as to whether that Overseas Territory is complying with the United Kingdom's obligations under the Chicago Convention (save for those matters covered by Annex 9 of the said Convention). For the purpose of this function, ASSI shall assess the standards of aviation safety and security regulation, the adequacy of the resources employed on such regulation; and make recommendations as to any remedial measures that may be necessary;

b) to produce and submit to the Secretary of State for approval draft amendments to the 2013 Order and to the Air Navigation (Overseas Territories) (Environmental Standards) Order as and when necessary, in particular, so as to enable timely effect to be given (unless agreed otherwise with the Secretary of State) to Standards and Recommended Practices contained in Annexes to the Chicago Convention, save for those matters covered by Annex 9 of the said Convention;

c) to produce OTARs;

d) to provide assistance, training and advice to the Governor or any person designated as responsible for aviation safety and security regulation in each Overseas Territory; and

e) to carry out aviation safety and security regulation functions in an Overseas Territory when so designated by the Governor of that Territory under the powers granted to the Governor by article 6 of the 2013 Order.

8. The Memorandum and Articles of Association of ASSI may permit it to carry out functions unrelated to those specified in paragraph 7 provided that the Secretary of State consents to its so doing.

9. The Memorandum and Articles of Association of ASSI shall not be altered without the consent of the Secretary of State.

10. The CAA shall appoint no fewer than 5 directors, of whom 2 will be executive directors. One of the non-executive directors shall be appointed as Chairman and one of the executive directors shall be appointed as Chief Executive. The appointments of the Chairman and the Chief Executive shall be subject to approval by the Secretary of State and the CAA. The Chief Executive shall be recruited following public advertisement for the post including advertisement in appropriate Overseas Territories.

11. The CAA shall ensure that ASSI makes no charge to any person in respect of its functions save for such charges:

a) by way of reimbursement of its costs as it may make directly to the Government of an Overseas Territory in respect of assistance, training or advice undertaken pursuant to paragraph 7(d) of these Directions, or safety regulation or security functions undertaken pursuant to paragraph 7(e) of these Directions;

b) agreed with the Government of the Overseas Territory concerned; or

c) which the Secretary of State agrees that ASSI may charge the Secretary of State.

12. The CAA shall require ASSI to submit its budget, which shall include a forecast of any income and expenditure which ASSI expects to arise as a result of any activities permitted under paragraph 8 which are unrelated to those functions specified at paragraph 7, to the Secretary of State for approval 3 months before the beginning of each financial year. The CAA shall require ASSI to provide to the Secretary of State quarterly returns showing its performance against budget.

13. The CAA shall require ASSI to comply with any directions made by the Secretary of State to the CAA in exercise of the Secretary of State's powers under the Civil Aviation Act 1982 in so far as they are applicable to ASSI.

14. The CAA shall set objectives for ASSI which shall be approved in advance by the Secretary of State. They shall include provision for ASSI to assess aviation safety regulation in each Overseas Territory against the ability of each Overseas Territory to carry out the functions designated to it; against the rules, requirements and procedures applicable in that territory; and against the Standards and Recommended Practices contained in the Annexes to the Chicago Convention.

15. The CAA shall undertake at least annually an audit of ASSI's activities and shall submit a report thereon to the Secretary of State.

Signed:

Adam Simmons

Deputy Director, International Aviation Safety and Environment
Division, Department for Transport

10 March 2014

Schedule 1

Directions revoked:

- The Civil Aviation Authority (Overseas Territories) Directions 2003 (signed 2 January 2003).
- The Civil Aviation Authority (Overseas Territories) (Variation) Direction 2008 (signed 15 July 2008).
- The Civil Aviation Authority (Overseas Territories) (Variation) (No 2) Direction 2008 (signed 16 December 2008).
- The Civil Aviation Authority (Overseas Territories) (Variation) Direction 2009 (signed 21 July 2009).
- The Civil Aviation Authority (Overseas Territories) (Amendment) Direction 2013 (signed 17 July 2013).

List of Abbreviations

AAIB	Air Accidents Investigation Branch
ACSA	Aviation Safety Authority for Central America
AFIM	Antarctic Flight Information Manual
AFISO	Aerodrome Flight Information Service Officer
AGL	Above Ground Level
AIP	Aeronautical Information Publication
AIS	Aeronautical Information Service
AME	Aircraft Maintenance Engineer
AMO	Approved Maintenance Organisation
ANO	Air Navigation Order
AN(OT)O	Air Navigation (Overseas Territories) Order
AOC	Air Operator's Certificate
APCC	Aviation Policy Consultative Conference
ASSI	Air Safety Support International Ltd
ATC/ATS/ATCC	Air Traffic Control/Services/Control Centre
ATLB	Air Transport Licensing Board
ATM	Air Traffic Movement
ATPL	Air Transport Pilot's Licence
BAA	Bermuda Airport Authority
BAS	British Antarctic Survey
BAT	British Antarctic Territories
BCAA	Bermuda Civil Aviation Authority
BIOT	British Indian Ocean Territory
BVI	British Virgin Islands
BVIAA	British Virgin Islands Airports Authority
CAACI	Civil Aviation Authority of the Cayman Islands
CAD	Civil Aviation Department
CAP	Civil Aviation Publication
CAR	Civil Aviation Regulation or Canadian Aviation Regulation
CARICOM	Caribbean Community
CARSAM	Caribbean and South American (ICAO region)
CI	Cayman Islands
CIAA	Cayman Islands Airports Authority
C of A	Certificate of Airworthiness
CPL	Commercial Pilot's Licence

DCA	Directorate (or Director) of Civil Aviation
DDCA	Deputy Director of Civil Aviation
DFID	Department for International Development
DfT	Department for Transport
DGCA	Director-General of Civil Aviation
DME	Distance Measuring Equipment (navigational aid)
DOD	Department of Defence (USA)
EASA	European Aviation Safety Agency
EC	European Commission
ECCAA	Eastern Caribbean Civil Aviation Authority
EU	European Union
FAA	Federal Aviation Administration (USA)
FAR	Federal Aviation Regulations (USA)
FBU	Flight Briefing Unit
FCL	Flight Crew Licensing
FCO	Foreign and Commonwealth Office
FI	Falkland Islands
FIG	Falkland Islands Government
FIGAS	Falkland Islands Government Air Service
FOI	Flight Operations Inspector
GA	General Aviation
GBAS	Ground-Based Augmentation System
GOA	Government of Anguilla
GOM	Government of Montserrat
GNSS	Global Navigation Satellite System
GPS	Global Positioning System
IATA	International Air Transport Association
ICAO	International Civil Aviation Organisation
ILS	Instrument Landing System
IR	Instrument Rating (pilot qualification)
IR	Implementing Rule (EASA)
JAA	Joint Aviation Authorities
JAR	Joint Aviation Requirements
MATS	Manual of Air Traffic Services
MCW	Ministry of Communications and Works
MET	Meteorology
METAR	Meteorological Aerodrome Report
MOE	Maintenance Organisation Exposition
MOR	Mandatory Occurrence Report

MPA	Mount Pleasant Airfield (FI)
NAA	National Aviation Authorities
NASP	National Aviation Security Programme
NDB	Non-directional beacon
NFPA	National Fire Protection Association
NOTAM	Notices to Airmen
OECS	Organisation of Eastern Caribbean States
OJT	On the Job Training
OT(s)	UK Overseas Territory/Territories
OTAC	Overseas Territories Aviation Circulars
OTAR	Overseas Territories Aviation Requirements
OTAA	Overseas Territories Aviation Authority
OTIDS	Overseas Territories Institutional Development Study
OTSPC	Overseas Territories Safety Performance Council
PEL	Personnel Licensing
PPL	Private Pilot's Licence
RASOS	Regional Aviation Safety Oversight System, an organisation formed by the members of the Association of Civil Aviation Authorities of the Caribbean (ACAAC)
RFFS	Rescue and Fire Fighting Services
RVR	Runway Visual Range
SARPs	Standards and Recommended Practices (ICAO)
SATCO	Senior Air Traffic Control officer
SMS	Safety Management System
STOL	Short Take Off and Landing
SYNOPS	Synoptic Met Report
TAF	Terminal Aerodrome Met Forecast
TCI	Turks and Caicos Islands
TCICAA	Turks and Caicos Islands Civil Aviation Authority
TCIAA	Turks and Caicos Islands Airport Authority
TMA	Terminal Manoeuvring Area
UKCAA	Civil Aviation Authority (UK)
USOAP	Universal Safety Oversight Audit Programme
VOR	VHF Omnidirectional Range (navigational aid)
WAFC	World Area Forecasting Centre
WSI	Weather Services Incorporated

Useful Website Addresses

Organisation	Web address
Air Safety Support International	www.airsafety.aero
Department for Transport	www.dft.gov.uk
Foreign and Commonwealth Office	www.fco.gov.uk
ICAO	www.icao.int
Bermuda CAA	www.bcaa.bm
CAA of the Cayman Islands	www.caacayman.com
Falkland Islands Civil Aviation Department	www.fig.gov.fk/aviation
Turks and Caicos Islands CAA	www.tcicaa.org

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Air Accidents Investigation Branch 24 hour Accident Reporting Line	Tel: +44 (0) 1252 512299

APPENDIX E

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Law and Regulation in the Overseas Territories

Introduction and legislation

This note provides an overview of the legal structure governing civil aviation safety oversight and regulation in the Territories.

The UK is a Contracting State under the Convention on International Civil Aviation (signed at Chicago on 7th December 1944), generally referred to as the Chicago Convention.

Pursuant to that Convention the UK is required to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organisation in relation to aircraft, personnel, airways and services with a view to facilitating and improving air navigation. Accordingly, the UK is obliged to put in place a system of law and regulation that applies the standards and recommended practices adopted by the International Civil Aviation Organisation (ICAO) and incorporated in the nineteen (19) Annexes to the Convention (a list of which appears in Appendix I).

For the purposes of the Convention, the OTs are an integral part of the UK and the law and regulations applied in the UK should be applied consistently within the OTs.

The initial ICAO Universal Safety Oversight Audit of the UK and its OTs in 2000 produced findings critical of the UK in relation to the regulation of civil aviation in the OTs. In particular the audit found that the legislation applied in the OT was not kept up to date and aligned with that applicable in the UK and, furthermore, that the means of compliance with the requirements contained in the Annexes to the Convention were not clearly defined and published.

As a result HM Government gave instructions for the creation of Air Safety Support International Limited (ASSI) as a subsidiary of the UK Civil Aviation Authority (CAA) under a Direction from the Secretary of State for Transport.

UK legislation in the OT

The UK legislation dealing with civil aviation in the OT is somewhat fragmented. The structure of the legislation applicable in the OTs is illustrated in the diagram attached to this Appendix.

The primary legislation applicable in the OTs is the Civil Aviation Act 1949 (the Act), some sections of which were extended to the OTs by The Civil Aviation Act 1949 (Overseas Territories) Order 1969 (Statutory Instrument SI 1969 No. 592). This Order extended to the OTs some of the principal elements of the Act, and in particular section 8, which provides:

“Her Majesty may by Order in Council make such provision as appears to Her to be requisite or expedient for carrying out the Chicago Convention, any annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or generally for regulating air navigation.”

The primary legislation was consolidated in the UK by the enactment of the Civil Aviation Act 1982. Some parts of that Act have been extended to the OT by the Civil Aviation Act 1982 (Overseas Territories) Order 2001 (SI 2001 No. 1452) which applied in the OTs sections 61 (offences and penalties) and section 75 (investigation of accidents). This Order also made some amendments to the 1969 Order referred to above. The Order empowers Governors to make Accident Investigation Regulations.

To give effect to the Convention Annexes in the OTs the Air Navigation (Overseas Territories) Order 2001 was enacted to bring the OT legislation up to date. It was amended by the Air Navigation (Overseas Territories) (Amendment) Order 2003 that brought ASSI into existence and made a number of changes relating to the definition of Governor and designation by Governors of their functions and introduced procedures for a review of the exercise of a Governor’s functions in relation to licensing, certification, authorisations and approvals.

Subsequently a consolidated Air Navigation (Overseas Territories) Order 2013 was enacted and this has been subject to further Amendment Orders.

The current legislation comprises the following:

The Civil Aviation Act 1949 (Overseas Territories) Order 1969 (SI 1969/592)

The Civil Aviation Act 1971 (Overseas Territories) Order 1976 (SI 1976/1912)

The Civil Aviation Act 1982 (Overseas Territories) Order 2001 (SI 2001/1452)

The Civil Aviation Act 1982 (Overseas Territories) (No 2) Order 2001 (SI 2001/3367)

The Air Navigation (Overseas Territories) Order 2013 (SI 2013/2870)

The Air Navigation (Overseas Territories) (Environmental Standards) Order 2015 (SI 2015/236)

The Air Navigation (Overseas Territories) (Amendment) Order 2014 (SI 2014/2925)

The Air Navigation (Overseas Territories) (Amendment) (No 2) Order 2014 (SI 2014/3281)

The Air Navigation (Overseas Territories) (Amendment) Order 2015 (SI 2015/1769)

The Aviation Security & Piracy (Overseas Territories) Order 2000 (SI 2000/3059)

The Aviation Security & Piracy (Overseas Territories) (Amendment) Order 2016 (SI 2016/369)

Contrast between the UK/OT situations

The power of the Secretary of State under the UK legislation to issue regulations is not matched, in general terms, by a similar power on the part of the Governor under the OT legislation. Within the OTs, the Governor is the Queen's representative and acts on

behalf of the UK Government in relation to the general governance of the Territory, within the scope of the respective Constitution, and in relation to international affairs which are reserved to the UK under the Constitution.

Articles 4(1) and (2) of the Air Navigation (Overseas Territories) Order 2013 (AN(OT)O) provide as follows:

4(1) – The Governor may make regulations for prescribing anything which, under the provisions of this Order, is to be prescribed.

The above Articles do not confer a general power on the part of the Governor to make regulations. It is necessary to look at the specific provisions of the Order to identify areas in which the Governor may issue regulations.

The Governor has power to make regulations in the following areas:

- Article 67 – Supplemental Rules of the Air;
- Article 68 – Restriction or prohibition of flying;
- Article 158 – Aerodrome charges.

Under Article 5 the Governor is required to publish requirements relating to any of his functions of licensing, certification and approval.

UK requirements relating to Regulations and the OTARs

Regulations or Orders in Council issued pursuant to statute are Statutory Instruments. Consequently, such regulations must follow the rules laid down in the Statutory Instruments Act 1946 and the Statutory Instruments Regulations 1947 as well as the legislative drafting practices established by the Houses of Parliament Joint Committee on Statutory Instruments.

It is clear, therefore, that the process for the making and adoption of regulations is frequently complex and lengthy. Accordingly, it has been agreed that the OTARs should take the form of “Requirements” rather than “Regulations”. This means that such

requirements can be issued by Governors without them having to be structured and processed in accordance with the legislation relating to Statutory Instruments.

To understand what OTARs are, it is necessary to refer to the Direction given by the Secretary of State in which it is stated:

*3. No later than 31 January 2003 the CAA shall form a subsidiary company (ASSI) with the following functions: (b) to produce, in respect of each function of each Governor of an OT under the AN(OT)O which provides for him to issue a certificate, licence or other document if he is satisfied as to specified matters, **the means of compliance which will enable the Governor to be and remain satisfied as to those matters.***

Summary

The DfT is the UK Government Department having responsibility for implementing the requirements of the Chicago Convention.

The FCO is the UK Government Department having responsibility for the governance of the OTs.

The CAA exercises the functions relating to civil aviation in the UK on behalf of the DfT under the Civil Aviation Acts 1949-1982 and the Air Navigation Order 2009.

Governors are responsible for governance of the OT on behalf of the UK and are accountable to the FCO.

Governors have responsibility for the discharge of the functions relating to civil aviation and compliance with the Convention under the AN(OT)O.

‘Governor’ by definition under Article 3 of the Order includes any person (such as an OTAA or ASSI) designated by him (under Article 6) to exercise his functions under the AN(OT)O.

The Governor's functions include the following:

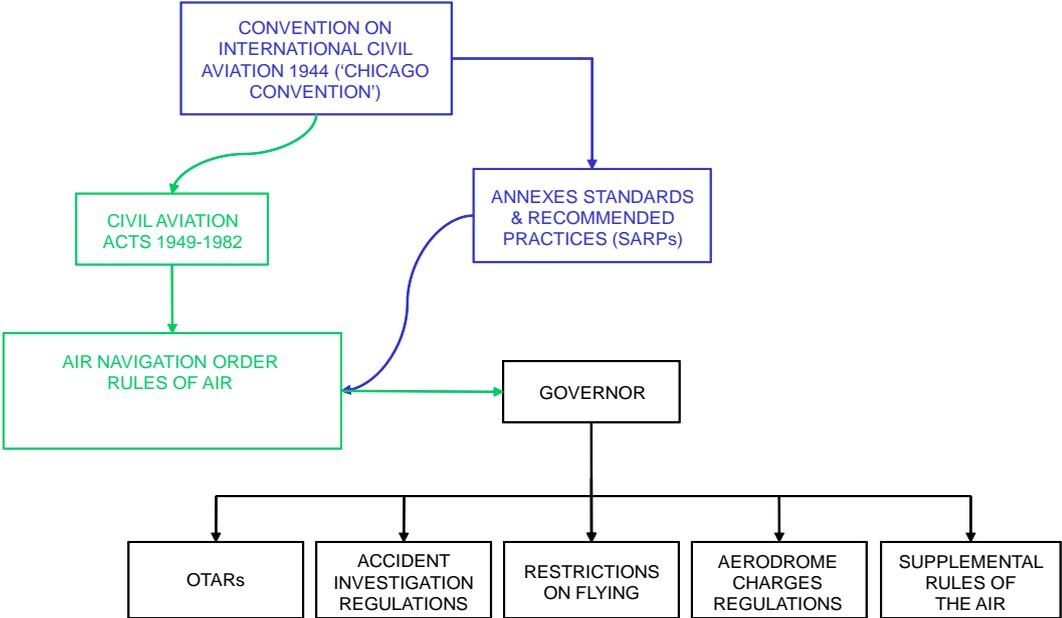
- Registration of aircraft;
- Air operator certification;
- Certification of airworthiness of aircraft;
- Licensing of aviation personnel;
- Approval of maintenance organisations;
- Approval of air traffic services provision;
- Licensing of aerodromes or notification of Government aerodromes;
- Approval of training;
- Revocation, suspension or variation of licences, certificates or approvals;
- Restriction of flying;
- Power to prevent aircraft flying or to detain aircraft for breaches of the Order;
- Enforcement of the Order and any instructions or directions given thereunder;
- Grant of Exemptions from the provisions of the Order;
- Publication of Requirements (OTARs);
- Power to review the decision of a designated officer under Article 13.

Some of the Annexes to the Convention (e.g. Annexes 3, 4, 5, 12 and 15) impose obligations on the State to provide certain services and these are discharged through a requirement, in Article 7 of the Order, for the Governor to ensure that these services are provided as called for by these Annexes. These provisions are also addressed through the OTARs. The exception to this is Annex 12 Search and Rescue which, in practice extends beyond the realms of aviation and involves other organisations such as coastguards, police and other agencies with responsibilities for dealing with disasters. The legal instrument which instructs that this service be provided is a Direction from the Governor to the lead agency.

Article 13 of the Order provides a means whereby Governors are able, on the request of an applicant or licence/certificate holder, to review a decision of a designated OTAA or ASSI to refuse an application or to suspend, revoke or vary a licence, certificate or

approval. This procedure mirrors to a large extent the provisions of Regulation 6 of the Civil Aviation Authority Regulations 1991. Guidance on the application of the review process is at Appendix G.

STRUCTURE OF AVIATION LAW AND REGULATION - OTs



**GUIDANCE ON THE CONDUCT OF REVIEWS
UNDER ARTICLE 13 OF THE AIR NAVIGATION
(OVERSEAS TERRITORIES) ORDER 2013**

REVIEWS UNDER ARTICLE 13 OF THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2013

PART 1 OVERVIEW

1.1 Law and discretion

The Governors of the Overseas Territories have a wide variety of discretionary powers. For example, the law may require that certificates, licences or approvals of one kind or another be granted if a Governor is satisfied that the aircraft is fit to fly, the organisation can operate safely or an individual is competent. The basis on which he satisfies himself is generally not specified in law. It is a matter of discretion.

Where a Governor is given a discretionary power, that discretion must be exercised properly and reasonably. He cannot declare that he will always exercise a discretionary power in a particular way. That is called “fettering a discretion” and is not permissible. If it is desired that a specific requirement be complied with without any debate it must be made a rule and reliance cannot be placed on discretion plus policy statement.

Governors should establish and promulgate Requirements and a clear policy in support of each discretionary power and apply the published policy in a systematic (but not inflexible) manner. They can certainly have a strong predisposition to following their policy. This is particularly likely to be the case when applying an ICAO standard or recommended practice by way of policy. It may be that Governors rarely in practice depart from established policy. Nevertheless, Governors must be prepared to consider any argument that a departure from policy is appropriate in particular circumstances. Typically, Governors (through ASSI) will have published and adopted OTARs as the Requirements and policy in support of a particular discretionary power.

1.2 Decision making by the Governors

The discretionary powers are as a matter of law given to “the Governor” meaning the persons defined by Article 3 of the AN(OT)O 2013.

In practice of course these powers are exercised on behalf of the Governors by officials working in OTAAAs or ASSI. For each of these Groups, there is an authorisation document authorising specified officials to exercise specified powers on behalf of a Governor. Such an authorisation is permitted by Article 3 of the AN(OT)O.

In the case of a wide variety of certificates, licences, approvals etc, officials are authorised to issue or refuse an application or to propose to vary, suspend or revoke. If the individual concerned does not challenge a refusal or proposal within a specified time that refusal or proposal becomes final as being the decision of the Governor.

The individual is however entitled to seek a review of such a refusal or proposal in accordance with Article 13 of the AN(OT)O 2013.

Where such a review is sought, it has the effect of turning the decision into one which can only be made by the Governor and not by officials.

PART 2 CONDUCT OF REVIEWS

2.1 Article 13 of the AN(OT)O

Article 13 of the AN(OT)O provides a procedure for reviewing decisions or proposals made by officials of the DCA or ASSI arising out of the Order. Under this Article, a panel comprising the Governor, and any technical assessors appointed by the Governor, sit as a review panel, reviewing decisions or proposals made by officials of the OTAA/ASSI. Article 13 is set out in full at Annex A.

2.2 When an Article 13 review may be brought

A review may be brought under Article 13 in a variety of cases namely when:

- a decision is taken to refuse to register an aircraft in the Territory on the grounds that it is inexpedient in the public interest to do so or when a proposal is made, on that ground, to cancel the registration of an aircraft already on the Territory register;
- an application for the grant, validation or variation of a certificate, licence, approval or rating has been refused or granted in terms other than those requested by the applicant or it is proposed to revoke, suspend or vary a certificate, licence, approval, validation or rating (otherwise than on the application of the holder); or
- a person has failed a test or examination which he is required to pass before he is granted, or can exercise the privileges of, a personnel licence.

2.3 The types of licence, certificate etc in relation to which an Article 13 Review may be brought

An Article 13 review may arise in relation to the following functions of the Governor:

- registration of aircraft;
- certification of operators of aircraft;
- certification of airworthiness of aircraft;
- personnel licensing;
- certification of aerodromes;
- validation of any certificate or licence;

- approval of equipment and approval or authorisation of persons;
- approval of schemes for the regulation of the flight times of aircraft crew;
- receiving reports of reportable occurrences.

2.4 Timing and priority of appeal procedure

It is difficult to find time to deal with Article 13 reviews expeditiously. Nevertheless, it is imperative that a hearing be held as soon as reasonably possible. This means that a demanding timetable for the preparation of the Brief and subsequent steps will need to be established and adhered to. It is the responsibility of the review panel lawyer (see 2.12.3 below) to establish a timetable which is consistent with the Governor's responsibilities, to set appropriate milestones and to ensure that the milestones are met. It must be a managed process.

2.5 Procedure leading up to an Article 13 Hearing

When following the procedure leading up to an Article 13 Hearing, the Governor must, so far as possible conduct the review in accordance with the rules of natural justice. In particular, an appellant must have the right to state his case and challenge that of the OTAA/ASSI officials before a final decision by the Governor is made. To enable an appellant to properly exercise that right, it is essential that he has had adequate notice of the case against him and adequate time to prepare his representations. Whenever the staff of the DCA/ASSI inform a person of a decision or a proposal which is subject to a review, they must set out the reasons for that decision or proposal and explain the right to a review.

Governors should satisfy themselves that the appellant has been properly and fairly treated.

2.6 Public hearing considerations

Hearings should generally be held in public unless the Governor considers it appropriate in the public interest to conduct the hearing in private.

2.7 Review without an oral hearing

There is not always a hearing at which the appellant puts his case orally. Some appellants prefer to put their case in writing and it is then for the Governor, deciding the case, to decide it on the basis of the written material provided by the appellant and the OTAA/ASSI personnel.

OTAA or ASSI Staff must not discuss a case with the Governor in the absence of the appellant, whether before or after a hearing, until a decision has been made and notified to the appellant. If the appellant chooses not to appear at a hearing, then the staff may not discuss the case with the Governor at all before informing the appellant of the decision.

2.8 The Task for the Governor

The Governor (and any technical assessors) will of course need to read the documents carefully before the hearing. They should identify in particular issues of fact or points of law where there is a dispute between the parties which they may be required to determine. They should however avoid coming to any concluded views at this stage so that their minds are open to argument by the parties at the hearing.

In reaching a decision, the Governor must consider all relevant matters (and must not consider any irrelevant matters). The Governor will need to determine which matters are relevant and which are not.

2.9 The decision required of the Governor

The decision required of the Governor should be expressly set out in the brief which will be prepared for each review (see below). The

type of decision required will vary according to whether the review is in relation to:

- a refusal of an application or the grant of an application in terms other than applied for, in which case the Governor has to review the decision;
- a proposal to revoke, suspend or vary a licence, certificate or approval or to make an air traffic or airspace policy direction, in which case the Governor has to decide whether to proceed to revoke, suspend, vary or make the direction in accordance with the proposal;
- a failure of an examination or test, in which case the Governor has to decide whether the examination or test was properly conducted. He is not in a position to decide whether the examinee should have passed or failed. If the Governor decides that the examination or test was not properly conducted, the only consequence is that the failed test is set aside and the appellant is entitled to a free retest.

The Governor will be entitled to uphold the refusal or proposal of the OTAA/ASSI officials, to reverse that refusal or proposal or to substitute such other decision as the Governor is lawfully entitled to make.

2.10 Licence action not permanent

The appellant may ask what he can do in order to get the licence, certificate or approval he is seeking or to have his licence etc restored and any helpful advice that he can be given should be offered. Except in some medical cases, the OTAA/ASSI cannot say that a person can never have a licence etc. If he can satisfy the OTAA/ASSI at some time in the future that he has acquired the necessary skills, met the required standards or that he has rehabilitated himself (depending on the circumstances of the case) he will be entitled to one.

In this connection, it is very important to remember that licensing action cannot be taken as a punishment. It is not therefore legitimate to take the line that revocation of for example a pilot's licence for a specified period will be an adequate punishment and teach the pilot a salutary lesson. If licensing action is justified, it must take effect until such time as the pilot satisfies the OTAA/ASSI that he has acquired the necessary skills or that he has become a fit person to hold a licence.

Where licence action is taken on grounds of fitness (of character as opposed to medical fitness) it is particularly difficult to predict when the OTAA/ASSI might be prepared to grant a licence. It may be helpful, depending upon the circumstances, to indicate that the OTAA/ASSI is unlikely to be satisfied as to fitness until the appellant has achieved a period of say, two or three years of unblemished conduct. However, it must always be made clear that the appellant has a right to apply at any future time and that such an application would be considered on its merits.

2.11 Rights of appeal to the Court from the decision of the Governor under Article 193 of the AN(OT)O

If a personnel licence is refused, revoked, suspended or varied on the grounds that the Governor, directly or through an OTAA or ASSI and whether as a result of an Article 13 review or otherwise, does not consider the person concerned a fit person to hold such a licence, that person has a right of appeal to the Supreme Court of the Territory against the decision of the Governor under Article 193 of the AN(OT)O. It is for the Court to consider whether, on the evidence submitted to the Governor, he was wrong in deciding that the person concerned was unfit to hold a licence. There is no such appeal in relation to a decision taken by the Governor on the grounds of competence or medical fitness.

If an appellant considers that there has been any breach by the Governor (or DCA/ASSI) of the rules of natural justice, he can seek judicial review of the decision by the Court which will examine the proceedings and quash the decision if it feels that there was any breach of the rules or that the Governor has reached a conclusion which no reasonable tribunal could have reached.

2.12 Summary of the review procedure

1. A date for a hearing will be fixed.
2. The Governor and any Technical Assessor(s) will comprise the members of a review panel. The Members will have had no prior involvement in the matter. Members who may hear reviews (including any person on the staff of the OTAA or ASSI) should be aware of the importance of absenting themselves from internal discussions on cases which may come before them.
3. One lawyer from the Chambers of the Attorney-General for the Territory will be appointed to advise the Members and to manage the review (“the review panel lawyer”). Another lawyer may be appointed by the OTAA or ASSI to advise the OTAA/ASSI officials in preparing the Brief and generally in connection with the review (“the OTAA lawyer”).
4. Officials from OTAA or ASSI will prepare a Brief. The appellant is invited to prepare his written representations. These documents will then be exchanged through the review panel lawyer.
5. The OTAA/ASSI officials will prepare comments on the Appellant’s submissions. The Appellant will be entitled to prepare comments on the OTAA/ASSI Brief. The four documents (Brief, Appellant’s representations, officials’ comments on the representations and Appellant’s comments on the Brief), will be supplied to the officials, the Appellant and the Members at least two weeks prior to the hearing.
6. The relevant OTAA/ASSI officials responsible for the Brief will attend the hearing together with the OTAA lawyer. External Counsel may be instructed to represent the officials at the hearing.

7. The Appellant has the right to be legally represented. The Appellant may attend with whatever witnesses he wishes and shall have the right to put before the Members whatever written or oral evidence he wishes, subject of course to relevance.
8. The Appellant with his legal representative has the right to put questions to the officials.
9. The review panel lawyer will advise the Members constituting the panel on matters of law and procedure. The review panel lawyer will have had no prior involvement in the case, will not have discussed it with his or her colleague acting as the OTAA/ASSI lawyer or with those officials.
10. The review panel lawyer should agree with the Members an Agenda setting out the hearing procedure to be followed at the hearing. This should reflect the above Guidance. This Agenda should be distributed to the parties at the commencement of the hearing. An example of an Agenda which may be adopted is at Annex B.
11. A shorthand writer will attend and prepare a transcript of the hearing which will be made available to all parties.

PART 3 RELATED ISSUES

3.1 Quasi Article 13 Reviews

From time to time, a dispute may arise between OTAA/ASSI and a person whom it regulates, the subject matter of which does not fall within Article 13.

Good administrative practice and the rules of natural justice may however require the OTAA/ASSI to offer some form of review to an aggrieved party. Sometimes, it will be adequate to deal with this informally, perhaps by referring the matter to higher management. Occasionally however the matter may be of such significance and/or sensitivity that it will be appropriate to deal with it as though it were covered by Article 13. This can have a number of advantages. It offers an established procedure. It avoids a lengthy ad hoc correspondence which can take up more time than a review. Perhaps most importantly it offers closure. Whether or not to adopt this approach will be a matter for OTAA/ASSI management in consultation with the Legal Adviser and the Governor.

3.2 Provisional Suspension

Article 11(1)(a) of the AN(OT)O provides that the Governor may, if he thinks fit, provisionally suspend or vary any certificate, licence etc issued under the Order pending enquiry into or consideration of the case.

A provisional suspension is appropriate in two cases:

(1) When a Governor directly or via the OTAA or ASSI has information which raises a real doubt as to the continued competence of the individual or organisation but enquiries are continuing and the officials are not yet in a position to come to a concluded view.

Here we would provisionally suspend “pending inquiry into the case”. Because there is no appeal against a provisional suspension DCA/ASSI must expedite inquiries so as to put itself in

a position to either withdraw the provisional suspension or make a substantive proposal as soon as possible. If the inquiries are likely to be lengthy it may be necessary to offer an informal right to make representations on the question of whether the provisional suspension needs to be maintained during that period.

(2) Where either an OTAA or ASSI has completed inquiries and are in a position to make a proposal to substantively suspend or revoke.

Such a proposal must be coupled with an offer of a right of review under Article 13. The substantive suspension or revocation cannot come into force until the specified period during which a person may lodge an application for review has expired (two weeks). If during that period an application is lodged then the substantive suspension or revocation cannot come into force until the review procedure has been concluded. This may take many weeks. In these circumstances, a provisional suspension will be appropriate if during this period it is considered that the individual or organisation ought not to continue to operate. At the same time as proposing to substantively suspend or revoke therefore the certificate would in the meantime be provisionally suspended “pending consideration of the case”.

3.3 Licensing action cannot be taken for punitive reasons

In conducting a review it is important to bear in mind that licensing action cannot properly be taken in order to punish the licence holder. If the law has been broken, the offender can only be punished by the Courts after a prosecution. Refusal, revocation, suspension or variation of a licence, certificate or approval may only be taken if the conduct of the person concerned is such that he does not meet the criteria for holding such a licence, certificate or approval. For example, if a pilot has contravened the AN(OT)O, he may be prosecuted. If his conduct in committing the offence suggests that he does not have the necessary skills of a pilot or that he is an unfit person to hold a pilot’s licence then his licence may be revoked.

3.4 Conclusion

Article 13 covers a wide variety of circumstances and two cases are seldom alike. This note therefore can only give some general guidance and ground rules. The ASSI Legal Adviser is closely involved in each review and is available to discuss any problems which may arise in a particular case.

ANNEXES

Title	Annex
Extract from The Air Navigation (Overseas Territories) Order 2013	A
Agenda setting out the procedure for the hearing	B
A copy of the Guidance Note which is sent to prospective appellants	C

Designation by the Governor

6. - (1) Subject to paragraphs (3) and (4), the Governor, acting in his discretion, may designate a person to carry out those functions of the Governor under this Order that are specified in the designation, subject to such conditions as he sees fit.

(2) Subject to paragraph (3), the Governor may revoke or vary a designation made under paragraph (1).

(3) Before making, revoking or varying a designation made under paragraph (1), the Governor shall consult with, and take into account any advice given by, ASSI.

(4) The Governor may not include in any designation made under paragraph (1) the functions of the Governor—

(a) to make rules, orders or regulations or give instructions under this Order; or

(b) under this Article or Articles 5, 13 or 161.

Review by the Governor

13. - (1) Where any person designated under Article 6—

(a) decides that it would be inexpedient in the public interest to register an aircraft in the Territory; or

(b) refuses an application for the grant, validation or variation of a licence, certificate, approval, authorisation or rating; or

(c) decides to cancel the registration of an aircraft; or

(d) decides to revoke, suspend or vary a licence, certificate, approval, authorisation, validation or rating otherwise than on the application of the holder;

the person designated must serve on the person concerned a notice stating the reasons for the decision and the person concerned may, within 14 days of the date of the service of the notice, serve on the Governor a request that the decision be reviewed by the Governor.

(2) Where such a request under paragraph (1) has been duly served the Governor must, before making a decision, consider any oral representations which may be made to the Governor or any representations in writing which may have been served upon the Governor by the person concerned within 21 days after the date of service of the request and may, before making a decision, consider the advice of such technical assessors as the Governor may appoint as advisers, provided that the Governor must not appoint as an assessor any person who participated in the decision or proposal or in giving or assessing any test or examination which is to be the subject of the Governor's decision.

AGENDA SETTING OUT THE PROCEDURE FOR HEARING

- 1. Introduction by the Chairman of the Panel**
- 2. Documents for hearing and record of hearing** - the parties and the panel will all have a copy of the bundle containing both parties' representations and further comments. A transcript of the hearing will be taken and will be made available to the parties subsequently.
- 3. Opening statement by the Appellant** - the Appellant may wish to outline his case briefly.
- 4. Opening statement by Officials** - the Officials' representative may outline their case briefly.
- 5. The Appellant's case** - the Appellant will set out his case which should reflect his representations.
- 6. Questioning by Officials of Appellant's case** - the Appellant or his witnesses can answer questions put by the Officials.
- 7. Officials' case** - the Officials will set out their case which should reflect the Officials' Brief.
- 8. Questioning by Appellant of Officials' case** - the appropriate witness for the Officials can answer questions put by the Appellant.
- 9. Questions by the Panel** - the Panel may raise questions with any witnesses at any time.
- 10. Short adjournment** - the panel will adjourn briefly to consider whether there are any further questions they wish to put to the parties or if they need to ask for legal advice

from the review panel lawyer. It will also provide the parties with an opportunity to consider their closing statements.

11. **Final Questions by the Panel** - the Panel may raise any further questions and seek any legal advice it needs in the presence of the parties before retiring to consider its decision.
12. **Closing statement by Officials** - the Officials representatives may make a final comment.
13. **Closing statement by Appellant** - the Appellant may make a final comment.
14. **The Decision** - the members will deliberate and come to their decision. If they require further legal advice from the panel's legal adviser the parties should be given an opportunity to make representations on the point in issue. The legal adviser will draft a decision letter on the instructions of the members. The members will finalise the decision letter and send it to the Appellant and copy it to the Officials.
15. **Dealing with substantial new points** - if substantial new points are raised the Chairman must ask if either party would like an adjournment to deal with them.

GUIDANCE ON REQUESTING A REVIEW OF ADVERSE DECISIONS OR PROPOSALS MADE BY OTAA/ASSI

Introduction

The types of adverse decisions or proposals made by the OTAA or ASSI which are subject to review are defined in Article 13 of the Air Navigation (Overseas Territories) Order 2013 (extract attached as Annex A). When such a decision or proposal is received the 'applicant' may request a review to be undertaken by the Governor.

How do I Request a Review?

The letter containing the notification of the OTAA or ASSI decision/proposal will provide details on whom to contact to request a review.

What Happens Next?

Applicant
Requests Review

The applicant may within 14 days* of a decision or proposal request a review.

Representation
by Applicant

The applicant may within 21 days* of a decision or proposal make written representations of their case, which the DCA/ASSI is bound to consider.

Brief Prepared
by OTAA/ASSI

OTAA/ASSI will produce a Brief (as described below) setting out their case.

Brief and Representations exchanged	The OTAA/ASSI Brief will be supplied to the applicant and the applicant's representations will be supplied to OTAA/ASSI.
Comments prepared and exchanged	OTAA/ASSI will prepare comments on the applicant's representations. The applicant will prepare comments on the OTAA/ASSI Brief. These comments will be exchanged.
Review	Review conducted by Members of the review panel and the decisions normally available within 10 days of the review.

* The Governor will be sympathetic in the matter of extending time limits if requested to do so. However, it should not be assumed that extensions will be granted.

What is in the Brief?

The Brief is compiled by the OTAA/ASSI and will contain the details and facts on how the official's decision/proposal was reached.

What happens during the Review?

The applicant will normally be offered an oral hearing; this will usually be attended by:

- The Governor and any Technical Assessors (the Members)
- A law officer of the Territory acting as Clerk to the review panel and providing legal advice on the conduct of the hearing to the Members
- The applicant
- The applicant's legal adviser, friend and/or witness if required by the applicant

- OTAA/ASSI Staff involved with the decision/proposal
- A OTAA/ASSI legal adviser acting as adviser to OTAA/ASSI
- Shorthand writer.

The hearing will be based on the documents supplied (Brief, Applicant's Representations, Comments by OTAA/ASSI on Applicant's Representations, Comments by Applicant on Brief) and provides the applicant the opportunity to make oral representations, seek clarification and ask questions. OTAA/ASSI staff will be given the opportunity to seek clarifications, make comments on the oral representations and question the applicant. The last word will go to the applicant.

If any new information or arguments are introduced, either by the applicant or DCA/ASSI staff, which were not contained within the documents, the hearing may be adjourned to allow time for all parties to consider the new issues.

A transcript of the hearing will be supplied to applicant.

If the applicant decides not to attend or be represented at the oral hearing, the review will be undertaken by the Members solely based on the documents. This will be without the attendance of DCA/ASSI staff involved with the decision or proposal.

Hearing to be in public

The hearing will be in public unless either the Governor determines otherwise in the public interest or the applicant or OTAA/ASSI request it to be in private and the Governor is satisfied that it may be held in private.

The Decision

The applicant will be informed, in writing, of the decision and the reasons for it, normally within 7 to 10 days of the hearing.

Rights of Appeal to the Court

If a personnel licence is refused, revoked, suspended or varied on the grounds that the OTAA/ASSI does not consider the person concerned a fit person (in terms of character as opposed to medical fitness) to hold such a licence, that person has a right of appeal to the Supreme Court of the Territory against the decision of the Governor. There is no such appeal in relation to decisions taken by the Governor or OTAA/ASSI on the grounds of competence.

Reapplication

It should be noted that after a decision to revoke or refuse a licence, certificate or approval, is made the applicant may at any time in the future reapply. Clearly, if a further application is made quite soon after a decision has been reached then in the absence of any relevant new material in support of the applicant the OTAA/ASSI is likely to reach the same decision. However, it is important that the applicant understands that a refusal or revocation is not for life.

List of OTAR Parts

A list of OTARs is below but reference should be made to the ASSI website for the current versions.

Part No	Title
1	Definitions, Abbreviations and Units of Measurement
13	Occurrence Reporting
21	Certification of Aircraft
36	Aircraft Environmental Standards
39	Continued Airworthiness Requirements
43	General Maintenance Requirements
47	Aircraft Registration and Marking
61	Pilot Licences and Ratings
63	Flight Engineer Licences and Ratings
65	Air Traffic Service Personnel Licences, Ratings & Training
66	Aircraft Maintenance Personnel Licensing & Authorisation
67	Medical Standards and Approval of Medical Examiners
91	General Operating Instructions
92	Carriage of Dangerous Goods
119	Air Operator Certification
121	Commercial Air Transport Operations - Large Aeroplanes
125	Complex General Aviation including Corporate Operations
135	Commercial Air Transport Operations – Helicopters and Small Aeroplanes
139	Certification of Aerodromes
140	Rescue and Fire Fighting Services (RFFS)
145	Aircraft Maintenance Organisation Approval
171	Aeronautical Telecommunication Services

172	Air Traffic Service Organisation Requirements
173	Flight Checking Organisation Approval
174	Meteorological Services for Aviation
175	Aeronautical Information Service
176	Instrument Flight Procedures Approval
177	Aeronautical Charts
178	Aviation Security*
179	Aviation Security Training*

*These documents are classified as Official Sensitive and are not available on the ASSI website. They are distributed by ASSI based on need to know.

Annexes to the Chicago Convention

Annex 1	Personnel Licensing
Annex 2	Rules of the Air
Annex 3	Meteorological services
Annex 4	Aeronautical Charts
Annex 5	Units of measurement
Annex 6	Operation of aircraft
Annex 7	Registration of aircraft
Annex 8	Airworthiness of aircraft
Annex 9	Facilitation
Annex 10	Aeronautical telecommunications
Annex 11	Air traffic services
Annex 12	Search and rescue
Annex 13	Aircraft accident investigation
Annex 14	Aerodromes
Annex 15	Aeronautical information services
Annex 16	Environmental protection
Annex 17	Security
Annex 18	Safe transport of dangerous goods by air
Annex 19	Safety Management

Aircraft Accidents and Serious Incidents

1. Introduction

The role and powers of the UK Air Accident Investigation Branch of the DfT (AAIB) in the event of an aircraft accident or serious incident occurring, are defined in the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, which are made locally by the Governor in each Territory.

An aircraft accident is defined as:

“Accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- (a) a person is fatally or seriously injured as a result of:
 - (1) being in the aircraft; or
 - (2) direct contact with any part of the aircraft, including any part that has become detached from the aircraft; or
 - (3) direct exposure to jet blast

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to passengers and crew; or

- (b) the aircraft sustains damage or structural failure which:
- (1) adversely affects the structural strength, performance, or flight characteristics of the aircraft; and
 - (2) would normally require major repair or replacement of the affected component;

except engine failure or damage that is limited to the engine, its cowlings, or accessories, or damage limited to propellers, wing tips, rotors, antennae, tyres, brakes, fairings, small dents, or puncture holes in the aircraft skin; or minor damage to main rotor blades, tail rotor blades, landing gear; or minor damage resulting from hail or bird strike;

- (c) the aircraft is missing or is completely inaccessible.

A **Serious Incident** is defined as:

“Serious Incident” means an incident involving circumstances indicating that an accident nearly occurred. Note that this encompasses serious incidents involving unmanned aircraft (drones).

The Air Accident Investigation Branch of the UK DfT (AAIB) gives examples of what it considers to be Serious Incidents:

- A near collision requiring the taking of an avoidance manoeuvre or when an avoiding manoeuvre would have been appropriate to avoid a collision or an unsafe situation.
- Controlled flight into terrain only marginally avoided.

- An aborted takeoff on a closed or engaged runway, or a takeoff from such a runway with marginal separation from obstacle(s).
- A landing, or an attempted landing, on a closed or engaged runway.
- Gross failure to achieve predicted performance during takeoff or initial climb.
- All fires and smoke in the passenger compartment or in cargo compartments, or engine fires, even though such fires are extinguished with extinguishing agents.
- Any events that require the emergency use of oxygen by the crew.
- Aircraft structural failure or engine disintegration, which is not classified as an accident.
- Multiple malfunctions of one or more aircraft systems that seriously affect the operation of the aircraft.
- Any case of crew incapacitation in flight.
- Any fuel state that would require the declaration of an emergency by the pilot.
- System failures, weather phenomena, operation outside the approved flight envelope or other occurrences that could have caused difficulties in controlling the aircraft.
- Failure of more than one system in a redundancy system that is mandatory for flight guidance and navigation.

2. Accident and Serious Incident Investigation

2.1 The Aircraft Accident and Serious Incident Regulations

Aircraft Accident and Serious Incident Regulations are made by each Governor in a Territory. The regulations are drafted by ASSI and agreed with AAIB before they are sent

to Governors for enactment. To ensure standardisation and compliance with ICAO SARPs, it is preferable that amendment of the draft by Territory law officers is discouraged as far as possible. The latest Regulations assign responsibility for investigation to the AAIB.

2.2 **Air Accident Investigation Branch (AAIB)**

The Chief Inspector of the AAIB will appoint individual inspectors from within the AAIB to undertake any investigation required under the Regulations and in accordance with such Regulations. The AAIB will not necessarily conduct an on-site investigation in every case; for minor accidents the AAIB may conduct the investigation remotely by correspondence.

2.3. **Local Liaison**

The AAIB encourages Governors to nominate a person or agency in the Territory with whom it can deal pending arrival of the investigators or, if they are not attending in person, with whom they can liaise to obtain evidence etc. Usually this is the agency in the Territory for disaster or emergency management. Such a body should have the skills and experience to deal with a major incident.

2.4. **Accredited Representative(s)**

In the event that an aircraft registered in a Territory has an accident outside the Territory, the AAIB will be entitled to appoint an Accredited Representative to participate in the investigation.

Similarly, if there is an accident in the Territory, other states are entitled to appoint Accredited Representatives; this is an entitlement under both Annex 13 to the Convention on International Civil Aviation and the Regulations. In the event of such an occurrence it is likely that the Accredited Representative will be accompanied by his/her own advisors; the number of advisors and their technical

experience will vary depending on the State concerned and the nature of the accident. Normal immigration requirements may need to be set aside in such cases.

3. **Actions immediately after an accident**

Immediately on receiving notification of an accident, the Governor's office should:

1. Ensure that the **police** have been informed. They should send sufficient officers to the accident scene to secure the site; preserve the evidence (both at the site and in the vicinity); and prevent unauthorised access. It is important to note that the management of an accident site is vested in the On-Scene Commander. This post should be defined in the Territory local emergency plan, but is likely to be the senior fire officer on site until the end of fire fighting and rescue activities, and, thereafter, the senior police officer present. Once the liC is in place (whether on site or not), then all activities will take place under his/her instruction, though in practice this is always in co-operation with the police.
2. Contact the **AAIB** (or ensure someone has contacted them) to advise of the accident.

The AAIB accident reporting line is +44 1252 512299

This number is monitored 24 hours a day. In the unlikely event that there is no response, contact the Department for Transport Duty Officer on **+44 20 7944 5999** who can contact senior AAIB staff at any time.

[*Note:* For routine contact with the AAIB, other than to report an accident, its contact telephone number is +44 1252 510300 and email enquiries@aaib.gov.uk]

AAIB will need to know:

- aircraft type*
- aircraft registration*

- name of the owner or operator
- names of the pilot and crew and the number of persons on board
- date and time of the accident*
- the last departure point of the aircraft and its destination
- location of the accident and access arrangements*
- extent of any injuries to occupants or others*
- nature of the accident and a general description of events*
- extent of damage to the aircraft (in general terms)*
- whether the aircraft was carrying hazardous materials or dangerous goods
- availability of transport to the Territory – particularly where access may be restricted (if the accident is on the airport for example)*
- contact details for the airport management, ATC, senior police officers, marine authorities etc, as appropriate to the accident site.

* The information marked with an asterisk needs to be immediately available on first call (at least as much as can be ascertained – don't delay the call waiting for fine detail) – the rest can be provided later. This information will enable AAIB to determine the nature and level of its response and will help its personnel to provide the Governor with appropriate advice.

4. Accident site security and safety

It is crucial to the investigation that the accident site be preserved until the specialist investigators are on site. Vital evidence is easily destroyed and it is therefore imperative that the police are clear on their responsibilities. These should be clearly stated in the Territory emergency planning documentation. If there are any doubts, then AAIB should be consulted.

AAIB can also provide important advice on health and safety issues around the accident site and, in a major accident, will probably include a site safety specialist in its team.

5. Wreckage

The aircraft wreckage should remain in situ wherever possible, until it has been examined under the authority of the AAIB or AAIB has authorised its removal. This should be done under advice from the AAIB on how to minimise the effects of such removal on the evidence.

6. Welfare arrangements

ICAO expects states to have made comprehensive arrangements for the handling of casualties of an aircraft accident and for the reception of relatives of victims and casualties. While some immediate actions will be covered by the airport's emergency plan (assuming the accident happens there or thereabouts), more thorough arrangements should cover immigration formalities, accommodation availability and transport for relatives and other arrivals associated with the accident. Such planning may usefully fall to the agency responsible for disaster management in the Territory.

7. Accident Report

The AAIB will produce a draft final report on the accident which is sent to interested parties 'whose reputation may be affected' by its content so that they can make representations. These persons may include: the pilot; the owner or operator; the aircraft manufacturer; any relevant maintenance organisations; ATC; aerodrome authorities; regulatory bodies etc. Following this consultation, a final report is produced and published on the AAIB website. During the investigation, particularly where it is a long or complex investigation (and certainly if it takes over a year to complete), the AAIB may issue an initial report and one

or more interim reports. These will be restricted to matters of fact, and may include any urgent safety recommendations, addressed to either regulatory bodies or aircraft manufacturers etc.