

CAYMAN ISLANDS



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NOTICE

**THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2013, S.I.
2013 NO. 2870**

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NOTICE is hereby given that the Air Navigation (Overseas Territories) Order 2013, S.I. 2013 No. 2870, was made on 6th November 2013, was laid before Parliament on 13th November 2013 and came into force on 1st January 2014.

The full text of the Order can be viewed via the following link:

<http://legislation.data.gov.uk/uksi/2013/2870/made/data.htm?wrap=true>

The Explanatory Note of the Air Navigation (Overseas Territories) Order 2013 is as follows:

“EXPLANATORY NOTE

(This note is not part of the Order)

This Order supersedes the Air Navigation (Overseas Territories) Order 2007 (S.I. 2007 No. 3468) as amended (“the 2007 Order”).

1. This Order sets out the provisions applicable to the Overseas Territories listed in Schedule 6 to enable the United Kingdom to comply with the Convention on International Civil Aviation (known as the Chicago Convention) and, in particular, the Annexes to that Convention. This Order replaces the Air Navigation (Overseas Territories) Order 2007 (S.I. 2007/3468), the Air Navigation (Overseas Territories) (Amendment) Order 2008 (S.I. 2008/3125) and the Air Navigation (Overseas Territories) (Amendment) Order 2011 (S.I. 2011/237).

2. The general approach is to try to make this Order as user-friendly as possible; taking account of the fact that it is a legal instrument and taking account of Statutory Instrument and Government (Better Regulation) Practice. This has involved in particular -

- replacement of unnecessarily legalistic terms and expressions by more commonplace ones - such as “under” in place of “pursuant to” when referring to an article;
- splitting-up long articles with many paragraphs into a number of shorter articles (for example articles 4 and 20 in the 2007 Order);
- reduction in the length and complexity of sentences;
- removing specifications, procedures, details of content (for example in manuals) where adequate provision is made in corresponding Overseas Territories Aviation Requirements (“OTAR”) Parts;

- repeal of some of the Schedules if their content is fully included in the relevant OTAR Parts;
- replacement of “shall” by “must”, where an obligation or prohibition is imposed in the Order upon a person or organisation;
- implementation of gender-neutral drafting; that is avoiding the use of gender specific terms such as “he” and replacement with a gender-neutral alternative such as “the holder”, when referring to a licence or certificate holder;
- modernisation of language generally.

3. As this is intended to be the last major amendment to the regime the opportunity has been taken to carry out some restructuring of it so that its provisions follow a more logical sequence. In particular, the principal powers and duties vested in the Governor have been brought from the General Provisions – Part XVII – in the 2007 Order to a new Part 1 to give them greater visibility and prominence and the Interpretation article (article 156 in the 2007 Order) has been brought to the front, as article 3 of this Order.

4. Registration of aircraft: there is one substantive change relating to the qualifying requirements for registration upon which extensive consultations have taken place: the requirements for the applicant’s principal place of business (in addition to its registered office) to be located in the Territory has been removed, coupled with removal of references to “the Commonwealth” (article 16). It is generally accepted that the previous provisions were somewhat archaic and that, provided that the applicant is incorporated in a Territory, there is no need for that applicant to have its principal place of business there in order to ensure effective oversight. Apart from the above, the previous lengthy article (containing 17 paragraphs) has been divided into seven separate articles (articles 15-21).

5. Equipment of aircraft: this article has been amended by deleting the specific details of the type of instructions to be given regarding the actions to be taken in an emergency. The specific form of such instructions is for the operator to determine according to the type and size of the aircraft, unless otherwise specified in the relevant OTAR Part (article 35).

6. Minimum equipment requirements: this article has been revised to make it clear that the operator’s Minimum Equipment List (“MEL”) requires approval by the regulatory authority (article 37).

7. Composition of crew of aircraft: this article has been broken up into separate elements coupled with the removal of references to pressurisation in relation to crewing requirements and the removal of the provisions relating to flight navigators and flight engineers, neither of which are required on the types of modern aircraft that populate the Territories’ registers (articles 40-43). The

provisions relating to cabin crew have been placed in a separate article (article 42).

8. In relation to restrictions on flying, the term “issue instructions” has been substituted for the term “make regulations” so as to enable the Governor’s [Governors] to act without the need for adoption of the formal process of making and gazetting regulations (article 68).

9. The provisions relating to the increasing unmanned aerial activities have been revised to mirror those applicable in the UK itself and the definition has been revised in line with current International Civil Aviation Organisation practice (articles 3, 73, 191).

10. The provisions relating to weapons and munitions of war have been separated so as to distinguish clearly between purely sporting weapons and those used for military purposes (article 107 to 109).

11. The provisions relating to the transport of dangerous goods by air were previously contained in Schedule 10. The principal obligations and prohibitions contained in that schedule have been lifted up into the body of the Order and the technical instructions and implementing requirements have been set out in OTAR Part 92 (Part 12 and articles 110 to 125).

12. There have been some revisions to the performance requirements relating to aircraft in order to align them more closely with the ICAO Standards and with the provisions contained in the Operations OTARs Parts 91, 121 and 135 (articles 101 and 102).

13. The aerial works provisions have been re-written and re-structured in order to separate the different types of activity and in order to impose requirements relating to the assessment of risk and the development of standard operating procedures as an alternative to an operations manual (articles 126 to 131 and article 137).

14. The articles relating to aeronautical telecommunications were considered to be too complex and cumbersome and have been restructured with the removal of many of the implementing requirements to the relevant OTAR Part (articles 153 and 154).

15. The article relating to the use of aerodromes has been revised in the light of experience and in the context of the development in the Territories of water-borne aircraft operations. The provisions have been revised accordingly so as to apply to aerodromes generally whilst the onus remains upon the aircraft operator to satisfy itself as to their suitability for the proposed operations. The complementary article has been revised accordingly (articles 155 and 156).”