

2001 No. 397

CIVIL AVIATION

The Air Navigation (Amendment) Order 2001

<i>Made - - - -</i>	<i>14th February 2001</i>
<i>Laid before Parliament</i>	<i>26th February 2001</i>
<i>Coming into force</i>	<i>20th March 2001</i>

At the Court at Buckingham Palace the 14th day of February 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 60 (other than sub-section (3)(r)), 61 and 102 of, and Schedule 13 to, the Civil Aviation Act 1982(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and Commencement

1. This Order may be cited as the Air Navigation (Amendment) Order 2001 and shall come into force on 20th March 2001.

Amendment of the Air Navigation Order 2000

2. The Air Navigation Order 2000(b) shall be amended as follows.

3. In article 20(3)(c)(i) for "Subject to sub-paragraphs (i) and (ii)" there shall be substituted "Subject to sub-paragraphs (ii) and (iii)".

4. After article 78 there shall be inserted:

"Production of air traffic service equipment documents and records

78A. The holder of an approval under articles 104 or 105 of this Order shall within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person any documents and records relating to any air traffic service equipment used or intended to be used in connection with the provision of a service to an aircraft."

(a) 1982 c. 16; section 60 has been amended by the Airports Act 1986 (c. 31) Schedule 6 Part II, and by the Aviation and Maritime Security Act 1990 (c. 31), section 47 and Schedule 4.

(b) S.I. 2000/1562.

5. For article 88 there shall be substituted:

“Requirement for air traffic control approval for the provision of air traffic services

88.—(1) No person in charge of the provision of an air traffic control service shall provide such a service in respect of United Kingdom airspace or airspace outside the United Kingdom for which the United Kingdom has, in pursuance of international arrangements, undertaken to provide air navigation services otherwise than under and in accordance with the terms of an air traffic control approval granted to him by the CAA.

(2) The CAA shall grant an air traffic control approval if it is satisfied that the applicant is competent, having regard to his organisation, staffing, equipment, maintenance and other arrangements, to provide a service which is safe for use by aircraft.

(3) An air traffic control approval may be granted subject to such conditions as the CAA thinks fit and shall, subject to the provisions of article 81 of this Order, remain in force for the period specified in the approval.”

6. Article 90(2) and (3) shall be omitted.

7. After article 90 there shall be inserted:

“Making of an air traffic direction in the interests of safety

90A.—(1) The CAA may, in the interests of safety, direct the person in charge of an aerodrome that there shall be provided in respect of any aerodrome (other than a Government aerodrome) such an air traffic control service, a flight information service or a means of two way radio communication as the CAA considers appropriate.

(2) The CAA may, in the interests of safety, direct the holder of a licence to provide air traffic services granted under Part I of the Transport Act 2000^(a) that there shall be provided, in respect of United Kingdom airspace or airspace outside the United Kingdom for which the United Kingdom has in pursuance of international arrangements undertaken to provide air navigation services, otherwise than in respect of an aerodrome, such an air traffic control service, a flight information service or a means of two way radio communication as the CAA considers appropriate.

(3) The CAA may specify in a direction made under this article the periods during which, the times at which, the manner in which and the airspace within which such service or such means shall be provided.

(4) The person who has been directed shall cause such a service or means to be provided in accordance with any such direction.

(5)(a) The CAA may, if it thinks fit, make a provisional air traffic direction in accordance with paragraphs (1) or (2) pending inquiry into or consideration of the case.

(b) A provisional air traffic direction shall have effect as though it was an air traffic direction made in accordance with paragraph (1) or (2) as the case may be.

Making of a direction for airspace policy purposes

90B.—(1) After consultation with the Secretary of State the CAA may direct in accordance with paragraphs (2) and (3) any person in charge of the provision of air traffic services to provide air traffic services in respect of United Kingdom airspace or airspace outside the United Kingdom for which the United Kingdom has undertaken in pursuance of international arrangements to provide air traffic services.

(2) A direction under paragraph (1) may be made:

(a) in the interests of ensuring the efficient use of airspace; or

(b) to require that air traffic services are provided to a standard considered appropriate by the CAA for the airspace classification.

(a) 2000 c. 38.

(3) The CAA may specify in a direction under paragraph (1) the air traffic services and the standard to which they are to be provided and the periods during which, the times at which, the manner in which, and the airspace within which such services shall be provided.

(4) The person to whom a direction is given shall cause such a service to be provided in accordance with the direction.”.

8. For the title to Part X there shall be substituted:

“PART X AIR TRAFFIC SERVICE EQUIPMENT, AERODROMES, AERONAUTICAL LIGHTS AND DANGEROUS LIGHTS”

9. For articles 104 and 105 there shall be substituted:

“Air traffic service equipment

104.—(1) A person shall not cause or permit any air traffic service equipment to be established or used in the United Kingdom otherwise than under and in accordance with an approval granted by the CAA to the person in charge of the equipment.

(2) An approval shall be granted pursuant to paragraph (1) upon the CAA being satisfied:

(a) as to the intended purpose of the equipment; and

(b) that the person is competent to operate the equipment and that the equipment is fit for its intended purpose.

(3) (a) The person in charge of an aeronautical radio station at an aerodrome for which a licence for public use has been granted shall cause to be notified in relation to that aeronautical radio station the type and availability of operation of any service which is available for use by any aircraft.

(b) An approval granted pursuant to paragraph (1) may include a condition requiring a person in charge of an aeronautical radio station at any other aerodrome or place to cause the information specified in subparagraph (a) to be notified.

(4) An approval granted pursuant to paragraph (1) may include a condition requiring the person in charge of the equipment to use a person approved by the CAA pursuant to paragraph (5) for the provision of particular services in connection with the equipment and in particular but without limitation may include a condition requiring that the equipment be flight checked by such an approved person.

(5) The CAA may approve a person to provide particular services in connection with approved equipment.

(6) For the purpose of paragraphs (1) and (5) an approval:

(a) shall be in writing and may be granted subject to such conditions as the CAA thinks fit; and

(b) may be granted in respect of one or more than one person or generally.

(7) The provisions of this article shall not apply in respect of any air traffic service equipment of which the person solely in charge is the Secretary of State.

(8) In this Part of this Order, air traffic service equipment means ground based equipment, including an aeronautical radio station, used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground which equipment is not otherwise approved by or under this Order but excluding:

(a) any public telecommunication system; and

(b) any equipment in respect of which the CAA has made a direction that it shall be deemed not to be air traffic service equipment for the purposes of articles 104 and 105 of this Order.

Air traffic service equipment records

105.—(1) The person in charge of any air traffic service equipment and any associated apparatus required pursuant to paragraph (2) shall keep in respect of such equipment or

apparatus records in accordance with Part A of Schedule 15, and shall preserve such records for a period of one year or such longer period as the CAA may in a particular case direct.

- (2) (a) The person in charge of an aeronautical radio station which is used for the provision of an air traffic control service by an air traffic control unit shall provide recording apparatus in accordance with paragraph (3).
- (b) The CAA may direct the person in charge of any other air traffic service equipment to provide recording apparatus in accordance with paragraph (3).
- (3) The person in charge of the air traffic service equipment in respect of which recording apparatus is required to be provided pursuant to paragraph (2) shall, subject to paragraph (5):
 - (a) ensure that when operated the apparatus is capable of recording and replaying the terms or content of any message or signal transmitted or received by or through that equipment or in the case of an aeronautical radio station is capable of recording and replaying the terms or content of any voice radio message or signal transmitted to an aircraft either alone or in common with other aircraft or received from an aircraft by the air traffic control unit;
 - (b) ensure that the apparatus is in operation at all times when the equipment is being used in connection with the provision of a service provided for the purpose of facilitating the navigation of aircraft;
 - (c) ensure that each record made by the apparatus complies with Part B of Schedule 15;
 - (d) not cause or permit that apparatus to be used unless it is approved by the CAA; and
 - (e) comply with the terms of such an approval.
- (4) (a) The CAA may in considering whether or not to grant an approval, without limitation, have regard to the matters specified in Part C of Schedule 15.
- (b) An approval may be granted subject to such conditions as the CAA thinks fit including, without limitation, conditions relating to the matters to which it may have had regard under sub-paragraph (a).
- (c) For the purpose of this article an approval shall be in writing and may be granted in respect of one or more than one person or generally.
- (5) If any apparatus provided in compliance with paragraph (2) ceases to be capable of recording the matters required by this article to be included in the records, the person required to provide that apparatus shall ensure that, so far as practicable, a record is kept which complies with Part B of Schedule 15 and on which the particulars specified therein are recorded together with, in the case of apparatus provided in compliance with paragraph (2)(a), a summary of voice communications exchanged between the aeronautical radio station and any aircraft.
- (6) If any apparatus provided in compliance with paragraph (2) becomes unserviceable, the person in charge of the air traffic service equipment shall ensure that the apparatus is rendered serviceable again as soon as reasonably practicable.
- (7) The person in charge of any air traffic service equipment shall preserve any record made in compliance with paragraphs (3) or (5) for a period of 30 days from the date on which the terms or content of the message or signal were recorded or for such longer period as the CAA may in a particular case direct.
- (8) (a) Subject to sub-paragraph (b), a person required by this article to preserve any record by reason of his being the person in charge of the air traffic service equipment shall, if he ceases to be such a person, continue to preserve the record as if he had not ceased to be such a person, and in the event of his death the duty to preserve the record shall fall upon his personal representative:

(b) If another person becomes the person in charge of the air traffic service equipment the previous person in charge or his personal representative shall deliver the record to that other person on demand, and it shall be the duty of that other person to deal with any such record delivered to him as if he was the previous person in charge.

(9) The person in charge of any air traffic service equipment shall within a reasonable time after being requested to do so by an authorised person produce any record required to be preserved pursuant to this article to that authorised person.

(10) The provisions of this article shall not apply in respect of any air traffic service equipment of which the person solely in charge is the Secretary of State.”.

10. In article 119(1) after sub-paragraph (c) there shall be inserted:

“(d) to any building or place from which an air traffic control service is being provided or where any air traffic service equipment requiring approval under article 104 is situated for the purpose of inspecting:

(i) any equipment used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground, or

(ii) any document or record which it or he has power to demand under this Order.”.

11. In article 129(1):

(1) Before the definition of “Air traffic control unit” there shall be inserted:

“ “Airspace policy direction” means a direction made under article 90B;”

and after that definition there shall be inserted:

“ “Air traffic direction” means a direction made under article 90A;”.

(2) For the definition of “appropriate air traffic control unit” there shall be substituted:

“ “Appropriate air traffic control unit” means in relation to an aircraft either the air traffic control unit notified as serving the area in which the aircraft is for the time being, or the air traffic control unit notified as serving the area which the aircraft intends to enter and with which unit the aircraft is required to communicate prior to entering that area, as the case may be;”.

(3) For the definition of “notified” there shall be substituted:

“ “Notified” means set forth with the authority of the CAA in a document published by or under an arrangement entered into with the CAA and entitled “United Kingdom NOTAM” or “Air Pilot” and for the time being in force;”.

(4) After the definition of “Technical Harmonisation Regulation” there shall be inserted:

“ “Telecommunication system” and “public telecommunication system” have the same meaning as in section 4 and 9(1) of the Telecommunications Act 1984(a);”.

12. In Schedule 8, Part A, Section 1, paragraph 2 under the heading “Commercial Pilot’s Licence (Helicopter and Gyroplanes)” after sub-paragraph (3)(b)(ii) there shall be inserted:

“(iii) He shall not, unless his licence includes an instrument rating (helicopter) fly as co-pilot of a helicopter on any scheduled journey or on a flight for the purpose of public transport other than in visual meteorological conditions.”

(a) 1984 c. 12, to which there are amendments not relevant to the Order.

13. In Schedule 12, Part A, in the column headed “Article of Order”, after “90”, there shall be inserted “90A” and adjacent thereto in the column headed “Subject Matter” there shall be inserted “Requirement to comply with an air traffic direction” and in the column headed “Article of Order” thereafter there shall be inserted “90B” and adjacent thereto in the column headed “Subject Matter” there shall be inserted “Requirement to comply with an airspace policy direction”.

14. After Schedule 14 there shall be inserted:

“SCHEDULE 15

Article 105

PART A

Records to be kept pursuant to article 105(1)

(1) A record of any functional tests, flight checks and particulars of any maintenance, repair, overhaul, replacement or modification.

(2) (a) Subject to sub-paragraph (b), the record shall be kept in a legible or a non-legible form so long as the record is capable of being reproduced by the person required to keep the record in a legible form and it shall be so reproduced by that person if requested by an authorised person.

(b) In any particular case the CAA may direct that the record is kept or be capable of being reproduced in such a form as it may specify.

PART B

Records required pursuant to article 105(3)(c)

Each record made by the apparatus provided in compliance with article 105(2) shall be adequately identified and in particular shall include:

- (a) the identification of the aeronautical radio station;
- (b) the date or dates on which the record was made;
- (c) a means of determining the time at which each message or signal was transmitted or received;
- (d) the identity of the aircraft to or from which and the radio frequency on which the message or signal was transmitted or received; and
- (e) the time at which the record started and finished.

PART C

Matters to which the CAA may have regard in granting an approval of apparatus pursuant to article 105(4)

- (a) The purpose for which the apparatus is to be used.
- (b) The manner in which the apparatus has been specified and produced in relation to the purpose for which it is to be used.
- (c) The adequacy, in relation to the purpose for which the apparatus is to be used, of the operating parameters of the apparatus (if any).

- (d) The manner in which the apparatus has been or will be operated, installed, modified, maintained, repaired and overhauled.
- (e) The manner in which the apparatus has been or will be inspected.”.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Air Navigation Order 2000 (“the ANO”). In addition to minor and drafting amendments the following changes are made:

- (1) The CAA or an authorised person may require production of any documents and records relating to approved air traffic service equipment (article 4).
- (2) In respect of UK airspace and outside the UK for which the UK provides air navigation services an air traffic control approval granted by the CAA is required, which may be granted subject to such conditions as the CAA thinks fit and shall remain in force for the period specified on it (article 5 provides substitute article 88 of the ANO).
- (3) The CAA may, in the interests of safety, direct the holder of a licence to provide air traffic services granted under Part I of the Transport Act 2000 to provide such air traffic control service, flight information service or means of two way radiocommunication as the CAA considers appropriate (article 7 inserts article 90A of the ANO).
- (4) The CAA may, in the interests of ensuring the efficient use of airspace so as to require that air traffic services are provided to a standard appropriate for the airspace classification, direct any person in charge of the provision of air traffic services to provide such services as the CAA considers appropriate (article 7 inserts article 90B of the ANO).
- (5) Air traffic service equipment is defined to mean ground based equipment including an aeronautical radio station, used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground. Such equipment may not be established or used unless the CAA has approved its intended purpose, the competence of the person in charge and the equipment. Records must be kept in relation to such equipment and associated recording apparatus in accordance with specified requirements. If required recording apparatus becomes unserviceable, the person in charge of the air traffic service equipment must render it serviceable again as soon as reasonably practicable (article 9 provides substitute articles 104 and 105 of the ANO and inserts Schedule 15 into the ANO).
- (6) The CAA and authorised persons have the right of access to any building or place from which an air traffic control service is being provided or where any approved air traffic service equipment is situated (article 10 amends article 119 of the ANO).
- (7) Various definitions are provided for and in particular an air traffic direction is defined as a direction made under article 90A and an airspace policy direction is defined as a direction made under article 90B (article 11 amends article 129 of the ANO).
- (8) Co-pilots of helicopters flying on scheduled journeys for public transport in instrument meteorological conditions must hold an instrument rating (article 12 amends Schedule 8 of the ANO).

A regulatory impact assessment has been prepared in connection with these regulations. It has been placed in the libraries of each of the Houses of Parliament. Copies of the same can be obtained from the Secretary and Legal Adviser, Civil Aviation Authority, CAA House, 45–59 Kingsway, London WC2B 6TE.

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