
STATUTORY INSTRUMENTS

2013 No. 2870

The Air Navigation (Overseas Territories) Order 2013

PART 12

CARRIAGE OF DANGEROUS GOODS

Requirements for the carriage of dangerous goods

110.—(1) An aircraft must not carry or have loaded on to it any dangerous goods unless—

- (a) the operator is approved by the Governor under this Part or has a permission under article 128;
- (b) the goods are carried or loaded in accordance with any conditions to which such approval or permission may be subject; and
- (c) the goods are carried in accordance with the specified requirements or instructions given by the Governor under article 74.

(2) The Governor must grant an approval under paragraph (1)(a) upon being satisfied that the operator is competent to carry dangerous goods safely.

(3) Nothing in this Part, other than paragraph (1), applies to the carriage of dangerous goods by an aircraft flying under and in accordance with the terms of a police air operator's certificate.

(4) Nothing in this Part, other than paragraph (1), applies to any aircraft flying for the purpose of dropping articles for the purposes of public health, agriculture, horticulture, forestry, conservation or pollution control.

Prohibition on carriage of dangerous goods

111. A person must not deliver or cause to be delivered for carriage, or take or cause to be taken on board an aircraft, any dangerous goods which may pose a risk to health, safety, property or the environment when carried by air—

- (a) except in accordance with the specified requirements or the Governor's instructions under article 74; and
- (b) unless the packaging of those goods is in a fit condition for carriage by air.

Operator's obligations

112. The operator of an aircraft that is either an air transport undertaking, or an organisation to which article 133 applies, must ensure—

- (a) that all appropriate manuals, including operations manuals, contain information and instructions about dangerous goods so as to enable the ground staff and crew members to carry out their responsibilities regarding the carriage of dangerous goods;
- (b) that, if applicable, such information and instructions are provided to the operator's handling agent;

- (c) that, before the flight begins, the pilot-in-command is given written information about the dangerous goods and information required for use in responding to an in-flight emergency; and
- (d) that, if an aircraft carrying any dangerous goods is involved in an accident or serious incident, notification of any dangerous goods carried as cargo on the aircraft is given immediately to the Governor and a police officer for the area where the accident or serious incident occurred.

Acceptance of dangerous goods by the operator

- 113.** The operator of an aircraft in which dangerous goods are to be carried must ensure that—
- (a) no package or freight container containing dangerous goods is accepted for carriage until it has been inspected to determine that it complies with the specified requirements;
 - (b) the goods are not forbidden for carriage by air in any circumstances; and
 - (c) any package or freight container is accompanied by a dangerous goods transport document.

Method of loading by the operator

114. The operator of an aircraft in which dangerous goods are to be carried must ensure that such goods are not carried in any compartment occupied by passengers or on the flight deck, except in circumstances permitted by the specified requirements.

Inspections by the operator for damage, leakage or contamination

115. The operator of an aircraft in which dangerous goods are to be carried must ensure that packages and freight containers which contain such goods are inspected for evidence of damage or leakage before being loaded on an aircraft, in accordance with the specified requirements.

Shipper's responsibilities

- 116.** Before consigning any goods for carriage by air the shipper must ensure that—
- (a) the goods are not forbidden for carriage by air;
 - (b) if the goods are forbidden for carriage by air without approval, all such approvals have been obtained;
 - (c) the goods are classified and packed in accordance with the specified requirements;
 - (d) the package is marked and labelled in English, in addition to any other language required by the State of Origin;
 - (e) the package is in a fit condition for carriage by air;
 - (f) a dangerous goods transport document has been completed in English, in addition to any other language required by the State of Origin, containing a declaration that the specified requirements have been complied with; and
 - (g) the operator has been given the dangerous goods transport document.

Pilot-in-command's responsibilities

117. The pilot-in-command of an aircraft carrying dangerous goods as cargo must, in the event of an in-flight emergency and as soon as the situation permits, inform the appropriate air traffic services unit of such goods in detail or as a summary or by reference to the location from where the detailed information can be obtained.

Provision of training by operators and shippers

118.—(1) The operator of an aircraft, its handling agent, a shipper of dangerous goods by air and any agent of the shipper, must establish and undertake training programmes for those of their employees and staff who are involved in the carriage of goods or passengers by air.

(2) In the case of an operator or its agents, the training programme must be approved by, or acceptable, to the Governor.

(3) In the case of a shipper or its agent, the training programme must meet the specified requirements.

Provision of information to passengers

119.—(1) This article applies to—

- (a) any airport operator in the Territory;
- (b) the operator of an aircraft flying for the purpose of commercial air transport of passengers or its agent; and
- (c) any person who in the Territory makes available flight accommodation and for this purpose “flight accommodation” means accommodation for the carriage of persons on flights in any part of the world.

(2) Any person to whom paragraph (1) applies must ensure that persons who are or may become passengers on an aircraft flying for such purposes are warned as to the types of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them in accordance with the specified requirements.

Provision of information in respect of cargo

120. The operator of an aircraft in which cargo is to be carried and any agent of the operator must ensure that notices giving information about the carriage of dangerous goods are displayed in accordance with the specified requirements.

Keeping of documents and records

121. The operator of an aircraft carrying dangerous goods as cargo must ensure that a copy of the dangerous goods transport document required by article 116(f) and the written information to the pilot-in-command required by article 112(c) are retained at a readily accessible location until after completion of the flight on which the goods are carried and to produce them upon request.

Preservation of documents and records

122. The operator of an aircraft on which dangerous goods are carried must preserve in a legible form for not less than three months any dangerous goods transport document or other document prescribed in the specified requirements.

Enforcement powers

123.—(1) An authorised person may—

- (a) examine, take samples of and seize any goods which the authorised person has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of this Part have not been complied with;

- (b) open or require to be opened any baggage or package which the authorised person has reasonable grounds to suspect may contain dangerous goods in respect of which the provisions of this Part have not been complied with;
- (c) retain or detain any sample taken or goods seized under this article for so long as the Governor considers necessary for use as evidence at a trial for any offence or for forensic examination or investigation in connection with any offence; and
- (d) dispose of such goods in such manner as the Governor considers appropriate.

(2) Any person from whom goods have been seized by an authorised person under this article may make application to the Governor for the goods to be released, accompanied by evidence of ownership, and if the Governor is satisfied that the applicant is the owner and that the retention of the goods is not necessary for the purpose of any criminal proceedings the Governor must arrange for the goods to be returned to the applicant.

(3) Where further retention of the goods is, in the opinion of the Governor, no longer necessary and no application has been made under paragraph (2), or any such application has been unsuccessful, the goods must be destroyed or otherwise disposed of as directed by the Governor.

Dangerous goods occurrence reporting

124.—(1) Any dangerous goods accident, incident or finding of undeclared or misdeclared dangerous goods in cargo or passengers’ baggage must be reported to the Governor in accordance with the specified requirements by—

- (a) a Territory operator, wherever it occurs;
- (b) a non-Territory operator, if it occurs in the Territory.

(2) A report required under paragraph (1) must contain such information specified by the Governor as is appropriate to the occurrence.

(3) Nothing in this article requires a person to report any occurrence which has been reported under article 174 or which the person has reason to believe has been or will be reported by another person to the Governor in accordance with that article.

Definitions and interpretation

125. In this Part—

“dangerous goods” means any article or substance which is identified as such in the specified requirements;

“dangerous goods accident” means an occurrence associated with and related to the carriage of dangerous goods by air which results in fatal or serious injury to a person or major property or environmental damage;

“dangerous goods incident” means an occurrence, other than a dangerous goods accident, which—

- (a) is associated with and related to the carriage of dangerous goods by air, not necessarily occurring on board an aircraft, which results in injury to a person, property or environmental damage, fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained; or
- (b) relates to the carriage of dangerous goods and which seriously jeopardises the aircraft or its occupants;

“dangerous goods transport document” means a document which is specified in the specified requirements;

“handling agent” means an agent who performs on behalf of the operator some or all of the functions of the latter including receiving, loading, unloading, transferring or other processing of passengers or cargo;

“package” means the complete product of the packing operation consisting of the packaging and its contents prepared for carriage;

“packaging” means the receptacles and any other components or materials necessary for the receptacle to perform its containment function;

“serious injury” means an injury which is sustained by a person in an accident and which—

- (a) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received; or
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose); or
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or
- (d) involves injury to any internal organ; or
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or
- (f) involves verified exposure to infectious substances or injurious radiation.