

2021 No. 879

CIVIL AVIATION

The Air Navigation (Amendment) Order 2021

<i>Made</i>	- - - -	<i>21st July 2021</i>
<i>Laid before Parliament</i>		<i>28th July 2021</i>
<i>Coming into force</i>		
<i>Articles 8 and 12(b)</i>		<i>6th September 2021</i>
<i>Remainder</i>		<i>19th August 2021</i>

At the Court at Windsor Castle, the 21st day of July 2021

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 60(1), (2), (3)(b), (e), (h), (1), (n) and (q), (4), 61(1)(a) and 101 of, and Schedule 13 to, the Civil Aviation Act 1982(a).

Her Majesty, by and with the advice of Her Privy Council, orders as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Air Navigation (Amendment) Order 2021 and, subject to paragraph (2), comes into force on 19th August 2021.

(2) Articles 8 and 12(b) come into force on 6th September 2021.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment of the Air Navigation Order 2016

2. The Air Navigation Order 2016(b) is amended as follows.

3. In article 23(3) (exceptions from application), after “94B,” insert “94BA,”.

4. For article 33(2)(f) (certificate of airworthiness), substitute—

“(f) a single-seat deregulated aeroplane which is flying on a non-commercial flight;”.

(a) 1982 c. 16. Section 61 was amended by the Aviation (Offences) Act 2003 (c. 19), section 2. There are other amendments but none is relevant.

(b) S.I. 2016/765; relevant amending instruments are S.I. 2017/1112, S.I. 2018/623, S.I. 2019/261, S.I. 2019/645 and S.I. 2020/1555.

5.—(1) In article 94A(7) (certain unmanned aircraft: permissions for flights that are over or near aerodromes)—

- (a) in the words before the table, for ““flight restriction zone” of a protected aerodrome” substitute ““flight restriction zone of a protected aerodrome””;
- (b) in the table, for “flight restriction zone”, in each place it occurs, substitute “flight restriction zone of a protected aerodrome”.

(2) In article 94B (interpretation of expressions), in the heading and in paragraph (1), for ““flight restriction zone”” substitute ““flight restriction zone of a protected aerodrome””.

(3) After article 94B insert—

“Certain unmanned aircraft: permission for flights that are over or near space sites

94BA.—(1) If the permission that is required under paragraph (2) for a flight, or a part of a flight, by an unmanned aircraft has not been obtained—

- (a) the UAS operator must not cause or permit the unmanned aircraft to be flown on that flight or that part of the flight, and
- (b) the remote pilot must not fly the unmanned aircraft on that flight or that part of the flight.

(2) Subject to paragraph (3), permission for a flight, or part of a flight, by an unmanned aircraft in the flight restriction zone of a protected space site is required from the operator of the protected space site.

(3) Permission is not required under paragraph (2) for a flight, or a part of a flight, by an unmanned aircraft subject to certification.

(4) In this article—

“protected space site” means—

- (a) a spaceport, as defined by section 3(2) of the Space Industry Act 2018(a), or
- (b) an installation at sea, at which controlled and planned landings of spacecraft take place or are to take place, which can be moved from place to place without major dismantling or modification,

which is not a certified aerodrome, a Government aerodrome or a national licensed aerodrome;

“spacecraft” has the meaning given in section 2(6) of the Space Industry Act 2018.

(5) The “flight restriction zone of a protected space site” consists of the airspace extending from the surface to a height of 2,000 feet above the level of the protected space site within the area bounded by a circle centred on the mid-point of the launch pad that has the largest area and which has a radius of five kilometres.”.

(4) In article 96 (rockets)—

- (a) at the end of paragraph (2)(a), omit “or”;
- (b) after paragraph (2)(a) insert—
 - “(aa) an activity to which the Space Industry Act 2018 applies; or”;
- (c) in paragraph (3), for “(5), (6) and (7)” substitute “(5) and (6)”;
- (d) omit paragraph (7);
- (e) after paragraph (8) insert—

“(9) The CAA may only grant permission under paragraph (8) if satisfied that—

- (a) the person launching the rocket—

(a) 2018 c. 5.

- (i) has provided a safety case which demonstrates that the risks to public safety and to property are as low as reasonably practicable; and
 - (ii) has in place adequate insurance arrangements in respect of those risks for each proposed launch; and
 - (b) the level of risk to public safety and to property is acceptable to the CAA.”.
6. For article 162 (requirement for a medical certificate), substitute—
- “**162.** The holder of a Part-FCL licence is not entitled to exercise any of the privileges of the licence unless the holder—
- (a) has a valid medical certificate in accordance with point MED.A.030 of Part-MED, or
 - (b) has made a medical declaration in accordance with article 163(3) and complies with the conditions in article 163(5).”.
7. For the heading to Part 8, substitute “Aerodromes, lighting and en-route obstacles”.
8. After article 225, insert—

“CHAPTER 3

Notifications relating to en-route obstacles

Notifications relating to en-route obstacles

- 225A.**—(1) In respect of an existing en-route obstacle, the relevant person must, as soon as reasonably practicable, notify the CAA in writing of—
- (a) the obstacle’s type;
 - (b) the obstacle’s position, represented by geographical coordinates in degrees, minutes and seconds;
 - (c) the obstacle’s elevation above mean sea level and height above ground level to the nearest metre or foot; and
 - (d) the type and colour of any obstacle lighting.
- (2) Paragraph (1) does not apply where the CAA has already been notified.
- (3) In respect of planned works which have a confirmed commencement date, the relevant person must notify the CAA in writing of the information specified in paragraph (4) in accordance with paragraph (5).
- (4) The information referred to in paragraph (3) is—
- (a) the obstacle’s type, or planned type;
 - (b) the obstacle’s position, represented by geographical coordinates in degrees, minutes and seconds;
 - (c) the obstacle’s elevation above mean sea level and height above ground level to the nearest metre or foot prior to and upon completion of the necessary works;
 - (d) the type and colour of any lighting to be fitted to it, or to be removed from it; and
 - (e) the scheduled dates of commencement and completion of the works.
- (5) Notice under paragraph (3) must be given—
- (a) at least 8 weeks before the commencement of the planned works; or
 - (b) as soon as reasonably practicable where there is insufficient time to give 8 weeks’ notice or there is an urgent need to commence the planned works.
- (6) The relevant person must notify the CAA in writing of the completion of the planned works and whether there has been any change to the information provided under paragraph (4) no later than 30 days after the completion of the works.
- (7) In this article—

“en-route obstacle” means any building, structure or erection, the height of which is 100 metres or more above ground level;

“planned works” means works to—

- (a) erect a new en-route obstacle;
- (b) increase the height of an existing en-route obstacle;
- (c) decrease the height of an existing en-route obstacle;
- (d) develop an existing building, structure or erection into an en-route obstacle;
- (e) remove an existing en-route obstacle;
- (f) fit obstacle lighting to an en-route obstacle; or
- (g) remove previously fitted obstacle lighting from an en-route obstacle;

“relevant person” means—

- (a) in relation to paragraph (1), the person in charge of an existing en-route obstacle;
- (b) in relation to paragraphs (3) and (6), the person in charge of the planned works which would, on completion of those works, result in the creation, modification or removal of an en-route obstacle.”.

9. In article 265E(6) (offences: tethered small unmanned aircraft), for “small tethered unmanned aircraft” substitute “tethered small unmanned aircraft”.

10. In Schedule 1 (interpretation)—

- (a) in paragraph 1, for the definition of “Microlight aeroplane”, substitute—

““Microlight aeroplane” has the meaning given in paragraph 4;”;

- (b) in paragraph 1, after the definition of “Service Provision Regulation” insert—

““Single-seat deregulated aeroplane” means a non-Part 21 aircraft, other than an unmanned aircraft, which is designed to carry not more than one person, which has—

- (a) a maximum take-off mass not exceeding—

- (i) 300kg for a landplane (or 390kg for a landplane of which at least 51% was built by an amateur, or non-profit making association of amateurs (“the association”), for the amateur or the association’s own purposes and without any commercial objective, in respect of which a permit to fly issued by the CAA was in force prior to 1st January 2003);

- (ii) 330kg for an amphibian or floatplane; or

- (iii) 315kg for a landplane equipped with an airframe mounted total recovery parachute system; and

- (b) a stalling speed, or minimum steady flight speed in the landing configuration, at the maximum take-off mass not exceeding 35 knots calibrated airspeed.”;

- (c) after paragraph 3, insert—

“**4.**—(1) “Microlight aeroplane” means an aircraft described in sub-paragraph (2), (3), (4) or (5).

(2) An aircraft is a microlight aeroplane if it is a non-Part 21 aircraft, other than an unmanned aircraft, that is designed to carry not more than two persons, which—

- (a) has a stalling speed, or maximum steady flight speed in the landing configuration, at the maximum take-off mass not exceeding 35 knots calibrated airspeed; and

- (b) has a maximum take-off mass not exceeding—

- (i) 450kg for a two-seat landplane;

- (ii) 495kg for a two-seat amphibian or floatplane; or

- (iii) 475kg for a two-seat landplane equipped with an airframe mounted total recovery parachute system.

(3) An aircraft is a microlight aeroplane if it is a non-Part 21 aircraft, other than an unmanned aircraft, that is designed to carry not more than two persons, which—

- (a) is of an approved design;
- (b) either has, or has been subsequently modified to have, a stalling speed, or minimum steady flight speed in the landing configuration, at the maximum take-off mass not exceeding 45 knots calibrated airspeed; and
- (c) either has, or has been subsequently modified to have, a maximum take-off mass not exceeding—
 - (i) 600kg for a landplane; or
 - (ii) 650kg for an amphibian or floatplane.

(4) An aircraft is a microlight aeroplane if it is a single-seat deregulated aeroplane.

(5) An aircraft is a microlight aeroplane if it is being flown, or is intended to be flown, for the purpose of a flight test to establish that it complies with the requirements of sub-paragraph (2), (3) or (4).

(6) For the purposes of sub-paragraph (3)(a), an “approved design” is a design which is approved by the CAA for the purposes of the issue of a permit to fly under article 40.”.

11.—(1) In Schedule 8, Part 2, Chapter 2 (aircraft and instructor ratings and certificates), after the heading “Microlight class rating”, paragraph (3) is amended as follows.

- (2) In the words before sub-paragraph (a), after “If the aeroplane” omit “has”.
- (3) In sub-paragraph (a), at the beginning insert “has”.
- (4) In sub-paragraph (b), at the beginning insert “has”.
- (5) At the end of sub-paragraph (b), omit “or”.

(6) In sub-paragraph (c), for “more than one engine” substitute “has a maximum take-off mass of more than 475kg (or more than 495kg if the aeroplane is an amphibian or floatplane) and the holder’s previous training and experience has only been in a microlight aeroplane with a maximum take-off mass of 475kg or less (or 495kg or less if the aeroplane is an amphibian or floatplane);”.

(7) After sub-paragraph (c), insert—

“(d) has a maximum take-off mass of 600kg or less (or 650kg or less if the aeroplane is an amphibian or floatplane) and the holder’s previous training and experience has only been in aeroplanes with a maximum take-off mass of more than 600kg (or more than 650kg if the aeroplane is an amphibian or floatplane);

- (e) is fitted with—
 - (i) a tricycle undercarriage;
 - (ii) a tailwheel;
 - (iii) a supercharger or turbo-charger;
 - (iv) a variable pitch propeller;
 - (v) one or more Electronic Flight Information Systems;
 - (vi) an autopilot system;
 - (vii) more than one engine; or
 - (viii) an electric engine,

and the holder does not have training or experience in aeroplanes with such fitted features;
or

- (f) has a maximum continuous cruising speed in excess of 140 knots indicated airspeed and the holder does not have experience in aeroplanes capable of that speed.”.

12. In Schedule 13 (Penalties), Part 2, Chapter 1—

(a) after the entry for article 94A(1), insert—

“94BA(2)	Permission for unmanned aircraft flights over or near space sites”;
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(b) after the entry for article 225, insert—

“225A(1), (3) and (6)	Notifications relating to en-route obstacles”.
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Ceri King
Deputy Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Air Navigation Order 2016 (S.I. 2016/765) (“the 2016 Order”).

Article 5 provides for flight restriction zones around space sites and certain installations at sea by inserting a new article 94BA into the 2016 Order and article 3 makes a consequential amendment. In addition, article 5 amends article 96 of the 2016 Order to (i) remove from its scope rockets regulated under the Space Industry Act 2018, (ii) remove the requirement for a rocket operator to seek permission from the CAA where the rocket’s purpose is commercial and (iii) add a requirement for operators of large rockets seeking permission from the CAA under article 96 to provide a safety case and have in place adequate insurance.

Article 6 amends article 162 of the 2016 Order to reflect changes to the retained Commission Regulation (EU) No 2011/1178 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 2016/2008 of the European Parliament and of the Council, regarding use of medical declarations on Part 21 aircraft. Article 8 creates a new requirement to notify the CAA of en-route obstacles, and to update the CAA of relevant changes.

Article 9 makes a small amendment to correct a reference in article 265E(6) of the 2016 Order to align with a term defined in paragraph 1 of Schedule 1 to the 2016 Order.

Article 10 amends paragraph 1 of Schedule 1 to the 2016 Order to change the definition of “microlight aeroplane” to reflect new weight and performance limits and to insert a new definition of “single-seat deregulated aeroplane”. Articles 4 and 11 make consequential amendments.

Article 12 amends Schedule 13 to the ANO 2016 to provide for new penalties in relation to flight restriction zones of protected space sites and en-route obstacles in consequence of the insertion of new articles 94BA and 225A into the 2016 Order.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or business sector is foreseen. An Explanatory Memorandum has been published alongside this Order and is available at www.legislation.gov.uk.

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