



Jersey

# **CIVIL AVIATION ACT 1982 (JERSEY) ORDER 1990**

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**APPENDIX**



Jersey

# **CIVIL AVIATION ACT 1982 (JERSEY) ORDER 1990**

**Jersey Order in Council 17/1990**

**THE CIVIL AVIATION ACT 1982 (JERSEY) ORDER 1990**

*(Registered on the 30th day of November 1990)*

**At the Court at Buckingham Palace**

31st day of October 1990

**PRESENT**

**The Queen's Most Excellent Majesty in Council**

**HER MAJESTY**, in pursuance of section 108(1) of the Civil Aviation Act 1982, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows –

1. This Order may be cited as the Civil Aviation Act 1982 (Jersey) Order 1990 and shall come into force on 1st December 1990.
2. The provisions of the Civil Aviation Act 1982 which are listed in Part I of Schedule 1 to this Order shall extend to the Bailiwick of Jersey with the modifications specified in Part II of that Schedule.
3. The Orders specified in Schedule 2 to this Order are hereby revoked to the extent that they relate to the extension to the Bailiwick of Jersey of any enactment which is repealed by and re-enacted in the Civil Aviation Act 1982.

**G.I. DE DENEY**

*Clerk of the Privy Council.*

**SCHEDULE 1****(Article 2)****EXTENSION OF PROVISIONS OF THE CIVIL AVIATION ACT 1982 TO THE BAILIWICK OF JERSEY****PART 1****PROVISIONS EXTENDED**

Section 2 (constitution of CAA), together with paragraphs 11 and 17 of Schedule 1.

Section 24 (Eurocontrol), together with Schedule 4.

Subsection (1) of section 38 (fixing by reference to noise factors the charges for using licensed aerodromes).

Section 60 (power to give effect to Chicago Convention and to regulate air navigation, etc.

Subsections (1) and (2) of section 61 (Air Navigation Orders etc.: supplemental).

Section 62 (control of aviation in time of war or emergency).

Section 63 (control of CAA and air transport undertakings in time of war or emergency).

Section 64 (restriction of unlicensed carriage by air for reward).

Subsection (6) of section 67 (supplementary provisions relating to air transport licensing).

Section 71 (regulation of provision of accommodation in aircraft).

Section 74A (enforcement of foreign judgments etc. in respect of route charges).

Section 75 (investigation of accidents).

Section 76 (liability of aircraft in respect of trespass, nuisance and surface damage).

Section 77 (nuisance caused by aircraft on aerodromes).

Subsections (1) to (5) and (12) of section 78 (regulation of noise and vibration from aircraft).

Section 81 (dangerous flying).

Section 84 (provision by others of information for the CAA and the Secretary of State).

Section 87 (application of law of wreck and salvage to aircraft).

Section 89 (exemption of aircraft and parts thereof from seizure on patent claims), together with Schedule 12.

Section 90 (power to give effect to Convention on rights in aircraft).

Section 92 (application of criminal law to aircraft).

Section 94 (powers of commander of aircraft).

Section 95 (provisions as to evidence in connexion with aircraft).

Section 96 (use of records and documentary evidence).

Section 97 (seaplanes).

Section 98 (construction of certain provisions of Part IV).

Section 99 (offences).

Section 101 (power to apply certain provisions to Crown aircraft).

Subsections (1) and (2) of section 102 (powers to make Orders in Council, orders and regulations), together with Schedule 13.

Section 105 (general interpretation).

Section 106 (application of Act to territorial waters).

Section 109 (transitional provisions, consequential amendments, repeals etc.), together with paragraphs 1, 2, 3, 6, 7 and 13 of Schedule 14, paragraphs 6, 10, 13 and 21 of Schedule 15 and Schedule 16.

Subsection (1) of section 110 (citation and commencement).

## *PART II*

### **MODIFICATIONS (INCLUDING ADDITIONS, OMISSIONS AND AMENDMENTS) TO THE PROVISIONS OF THE CIVIL AVIATION ACT 1982 WHICH ARE EXTENDED TO THE BAILIWICK OF JERSEY BY PART I OF THIS SCHEDULE**

**1.** Any reference in the Act to the Act or a provision of it is a reference to the Act or provision as extended to the Bailiwick of Jersey.

**2.** In section 2 (constitution of CAA) –

(a) in subsection (1) for the words “the following provisions of this section” there shall be substituted “this section as it has effect in the United Kingdom”; and

(b) subsection (2) shall be omitted.

**3.** In section 38(1) (fixing by reference to noise factors the charges for using licensed aerodromes) –

(a) for the words “any aerodrome authority” and “an aerodrome authority” there shall be substituted “the Committee”; and

- (b) for the words “its charges” there shall be substituted “the charges it makes for the use of an aerodrome”.

- 4. After section 38 there shall be inserted the following section –

**“Order in respect of property**

**38A.** The Committee may by order make provision for securing the safe custody and redelivery of any property which, while not in its proper custody, is found on any such premises, and any such order may in particular provide for –

- (a) requiring charges to be paid in respect of any such property before it is redelivered; and
- (b) authorising the disposal of any such property if it is not redelivered before the expiration of such period as may be specified in the order.”

- 5. Section 60 (power to give effect to Chicago Convention and to regulate air navigation, etc.) shall be amended as follows –

- (a) in subsection (1) the words “Subject to section 11(7) above,” shall be omitted;
- (b) in subsection (3), for the words “the United Kingdom” wherever those words, except in paragraph (a), occur there shall be substituted “Jersey”;
- (c) in subsection (4), for the words “the United Kingdom” in the first place where those words occur there shall be substituted “Jersey”; and
- (d) subsection (5) shall be omitted.

- 6. In subsection (2) of section 61 (Air Navigation Orders etc.: supplemental), paragraphs (a) and (b) and the words “on indictment” in paragraph (c) shall be omitted.

- 7. Section 62 (control of aviation in time of war or emergency) shall be amended as follows –

- (a) in subsection (1)(a) for the words “the United Kingdom” there shall be substituted “Jersey”;
- (b) in subsection (3) for the words “by the Lands Tribunal” there shall be substituted “by reference to arbitration in accordance with subsections (4) and (5) below”; and
- (c) for subsection (4) there shall be substituted the following subsections –

“(4) For the purpose of subsection (3) above there shall be two arbitrators, one appointed by the Secretary of State and the other appointed by the person claiming to have suffered direct injury or loss; before the arbitration is proceeded with, the Royal Court shall appoint an umpire.

(5) The award of the arbitrators, or, in default of agreement between them, the umpire, appointed under subsection (4) above, shall be final and binding.

(6) No compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in Jersey or any part thereof or over any area of sea.”.

**8.** Section 63 (control of CAA and air transport undertakings in time of war or emergency) shall be amended as follows –

- (a) in subsection (1), paragraph (a) shall be omitted;
- (b) in subsection (2), for the words “the United Kingdom” there shall be substituted “Jersey”;
- (c) subsection (3) shall be omitted;
- (d) in subsection (5), paragraph (a) and, in paragraph (b), the words “on indictment” shall be omitted;
- (e) in subsection (6), for the words “by the Lands Tribunal” to the end of the subsection there shall be substituted “by reference to arbitration conducted in accordance with sub-sections (7) and (8) below”; and
- (f) after subsection (6) there shall be inserted the following subsections –

“(7) For the purpose of subsection (6) above there shall be two arbitrators, one appointed by the Secretary of State and the other appointed by the person claiming to have suffered direct injury or loss; before the arbitration is proceeded with, the Royal Court shall appoint an umpire.

(8) The award of the arbitrators, or, in default of agreement between them, the umpire, appointed under subsection (7) above, shall be final and binding.”.

**9.** Section 64 (restriction of unlicensed carriage by air for reward) shall be amended as follows –

- (a) in subsection (1)(a) after the word “below” there shall be inserted “as it has effect in the United Kingdom”;
- (b) in subsection (2), for the words “the United Kingdom” in the second place where those words occur there shall be substituted “Jersey”;
- (c) in subsection (3) for the words “prescribed manner”, in both places where those words occur, there shall be substituted “in the manner prescribed by regulations made or having effect as if made under this section as it applies in the United Kingdom”;
- (d) at the end of subsection (6) there shall be added –

“In this subsection any reference to the United Kingdom, except references to a United Kingdom national, shall be construed as including a reference to Jersey.”;

- (e) in subsection (7), for the words “the United Kingdom” there shall be substituted “Jersey”; and

- (f) in subsection (8) paragraph (a) and the words “on conviction on indictment” in paragraph (b) shall be omitted.

**10.** In section 67(6) (supplementary provisions relating to air transport licensing), paragraph (a) and the words “on conviction on indictment” in paragraph (b) shall be omitted.

**11.** Section 71 (regulation of provision of accommodation in aircraft) shall be amended as follows –

- (a) for any reference to regulations there shall be substituted a reference to an order or the order, as appropriate;
- (b) for the words “Secretary of State”, wherever those words occur, there shall be substituted “Committee”;
- (c) in subsection (1), for the words “the United Kingdom” there shall be substituted “Jersey”; and
- (d) in subsection (2) –
  - (i) the words “after consultation with the CAA” shall be omitted;
  - (ii) in paragraph (d) the words “a Minister of the Crown” shall be omitted;
  - (iii) in paragraph (e) the words “a fine of the statutory maximum on summary conviction and” and “on conviction on indictment” shall be omitted; and
  - (iv) paragraph (f) shall be omitted.

**12.** Section 74A (enforcement of foreign judgments etc. in respect of route charges) shall be amended as follows –

- (a) in subsection (1), for the words “the United Kingdom” there shall be substituted “Jersey”;
- (b) in subsection (2) –
  - (i) for the words “any part of the United Kingdom” there shall be substituted “Jersey”;
  - (ii) for the words “sections 2, 3(1) and 5(2) and (3) of the Foreign Judgments (Reciprocal Enforcement) Act 1933” there shall be substituted “Articles 4, 5(1), and 7(2) and (3) of the Judgments (Reciprocal Enforcement) (Jersey) Law 1960<sup>2</sup>”;
  - (iii) for the words “Part I of that Act” there shall be substituted “Part II of that Law”;
  - (iv) for the words “subsection (2) of section 5 of that Act” there shall be substituted “paragraph (2) of Article 7 of that Law”; and

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<sup>2</sup> Tome VIII, page 851.

- (v) for the words “subsection (1) of that section” there shall be substituted “paragraph (1) of that Article”;
- (c) in subsection (3)(c), for the words from “the part” to the end of the subsection there shall be substituted “Jersey”;
- (d) in subsection (4) –
  - (i) for the words “a part of the United Kingdom” there shall be substituted “Jersey”;
  - (ii) in paragraph (c), the words from “in the part” to the end of the paragraph shall be omitted;
  - (iii) in paragraphs (e) and (f), for the words “any part of the United Kingdom” there shall be substituted “Jersey”; and
  - (iv) in paragraph (g), for the words from “the part” to “determination is sought” there shall be substituted “Jersey”; and
- (e) in subsection (9), for the words from “coming into force” to the end of the subsection there shall be substituted “date of the extension of this section to the Bailiwick of Jersey”.

**13.** Section 75 (investigation of accidents) shall be amended as follows –

- (a) in subsection (1) for the words from “the Secretary” to “him” there shall be substituted “Her Majesty may by Order in Council under this section make such provision as appears to Her Majesty” and in paragraph (a) of that subsection for the words from “either” to the end of that paragraph there shall be substituted “occurring in or over Jersey”;
- (b) in subsection (2)(b) for the word “regulations” there shall be substituted “Order in Council”;
- (c) in subsection (3) –
  - (i) for the words “regulations under” there shall be substituted “an Order in Council under”;
  - (ii) in paragraph (a) for the words “the regulations” there shall be substituted “the Order in Council”; and
  - (iii) paragraph (b) shall be omitted; and
- (d) in subsection (5) –
  - (i) for the words “any regulations” there shall be substituted “any provision in an Order in Council”; and
  - (ii) the words “on summary conviction” and “not exceeding level 5 on the standard scale” shall be omitted.



**14.** Section 78 (regulation of noise and vibration from aircraft) shall be amended as follows –

- (a) for the words “Secretary of State”, wherever those words occur, there shall be substituted “Committee” together with (where necessary) the consequential substitution of “it” for “he” or “him”;
- (b) for the words “a designated aerodrome”; wherever those words occur, there shall be substituted “an aerodrome”;
- (c) in subsections (1), (3), (4) and (5) for the words “in the prescribed manner” there shall be substituted “by order made by the Committee”;
- (d) in subsection (2) for the words from “give to the person” to the end of the subsection there shall be substituted “take such steps as may be necessary to ensure that facilities for using the aerodrome are withheld to such extent as the Committee may determine from aircraft of which the person aforesaid is the operator and from his servants”;
- (e) in subsection (3) the words from “and subject to subsection (4) below” to the end of the subsection shall be omitted;
- (f) in subsection (4) for the words “person for the time being managing the aerodrome or a person authorised by him for the purpose,” in paragraph (b) there shall be substituted “Committee” and the words from “but it shall be” to the end of the subsection shall be omitted; and
- (g) in subsection (5) –
  - (i) the words “without prejudice to the powers exercisable by virtue of that subsection by the person managing the relevant aerodrome” in paragraph (c) shall be omitted;
  - (ii) paragraph (d) shall be omitted;
  - (iii) for paragraph (e) there shall be substituted –
 

“(e) nothing in that subsection requires the Committee to prevent an aircraft from landing at an aerodrome;”;
  - (iv) in paragraph (f) the words “to the person managing an aerodrome to which a notice under that subsection relates” shall be omitted.

**15.** In section 81(1) (dangerous flying) the words “on summary conviction” and “not exceeding level 4 on the standard scale” shall be omitted.

**16.** Section 84 (provision by others of information for the CAA and the Secretary of State) shall be amended as follows –

- (a) in subsection (1) –

- (i) for the words “prescribed manner” there shall be substituted “manner prescribed by regulations made or having effect as if made under this section as it applies in the United Kingdom”;
  - (ii) after the words “under this Act” in paragraph (a) there shall be inserted “or an aerodrome licence issued by the Committee”;
  - (iii) for the words “the United Kingdom” in paragraphs (c), (d) and (ii) there shall be substituted “Jersey”; and
  - (iv) for the words “CAA under an Air Navigation Order”, where those words last occur, there shall be substituted “Committee”; and
- (b) in subsection (4) –
- (i) in paragraph (a) the words “on summary conviction” and “of an amount not exceeding level 3 on the standard scale” shall be omitted;
  - (ii) in paragraph (b) the words from “on summary conviction” to “on indictment” shall be omitted; and
  - (iii) for the words “outside the United Kingdom” there shall be substituted “outside Jersey”.

**17.** In section 87 (application of law of wreck and salvage to aircraft) the following provision shall be substituted for subsections (4) and (5) –

“(4) An Order in Council made or having effect as if made under this subsection as it applies in the United Kingdom shall have effect in Jersey as it has effect in the United Kingdom.”.

**18.** Section 89 (exemption of aircraft and parts thereof from seizure on patent claims) shall be amended as follows –

- (a) in subsections (1), (2) and (3) for the words “the United Kingdom”, wherever those words occur, there shall be substituted “Jersey”; and
- (b) in subsection (4) after the words “Order in Council”, in both places where those words occur, there shall be inserted “made, or having effect as if made, under this section as it applies in the United Kingdom”.

**19.** Section 90 (power to give effect to Convention on rights in aircraft) shall be amended as follows –

- (a) in subsection (2)(a), for the words “the United Kingdom” there shall be substituted the word “Jersey”;
- (b) in subsection (2)(b), the words from “including” to the end shall be omitted;
- (c) in subsection (2)(c), for the words “any part of the United Kingdom” there shall be substituted the word “Jersey”; and

- (d) in subsection (2)(e), for the words “the United Kingdom” in the first place where they occur there shall be substituted the word “Jersey”.

**20.** Section 92 (application of criminal law to aircraft) shall be amended as follows

- (a) in subsection (1) for the words “the United Kingdom”, wherever those words occur, there shall be substituted “Jersey” and the words “or in a part of” and “or in that part of” shall be omitted;
- (b) subsection (2) shall be omitted;
- (c) in subsection (3) –
  - (i) for the words “in, or in a part of, the United Kingdom” there shall be substituted “in Jersey”; and
  - (ii) for the words “the United Kingdom (or, as the case may be, in that part thereof)” there shall be substituted “Jersey”;
- (d) in subsection (5) –
  - (i) the definition of “the air navigation enactments” shall be omitted;
  - (ii) in paragraph (b)(ii) of the definition of “British controlled aircraft” for the words “the United Kingdom” there shall be substituted “Jersey”; and
  - (iii) in paragraph (b) of the definition of “military aircraft” after the words “of this act” there shall be inserted “as the section applies in any part of the United Kingdom or as extended to Jersey”; and
- (c) subsection (6) shall be omitted.

**21.** Section 94 (powers of commander of aircraft) shall be amended as follows –

- (a) in subsection (1) for the words “the United Kingdom” there shall be substituted “Jersey”; and
- (b) in subsections (5), (6) and (8) –
  - (i) for the words “the United Kingdom”, in each place where they occur, there shall be substituted “Jersey”;
  - (ii) for the word “constable”, in each place where it occurs, there shall be substituted “police officer”;
  - (iii) for the words “immigration officer”, in each place where they occur, there shall be substituted “aliens officer”;
  - (iv) in subsection (5)(b)(ii) the word “other” shall be omitted;
  - (v) in subsection (6)(b), the word “other”, in the first place where it occurs, shall be omitted; and

- (vi) the subsection (6) the words “on summary conviction” and “not exceeding level 3 on the standard scale” shall be omitted.

**22.** Section 95 (provisions as to evidence in connexion with aircraft) shall be amended as follows –

- (a) in subsection (1) for the words “the United Kingdom”, except in the last place where those occur, there shall be substituted “Jersey”; and
- (b) subsection (4) shall be omitted.

**23.** Section 96 (use of records and documentary evidence) shall be amended as follows –

- (a) in subsection (1) –
  - (i) after the word “made” there shall be inserted “or having effect as if made”;
  - (ii) after the words “Secretary of State” there shall be inserted “under this subsection as it has effect in the United Kingdom”;
  - (iii) before the words “or by the Air Registration” there shall be inserted “or by the Committee”; and
  - (iv) the words “and in Scotland sufficient evidence” shall be omitted;
- (b) in subsection (2) –
  - (i) after the words “regulations made” there shall be inserted “or having effect as if made”;
  - (ii) after the words “Secretary of State” there shall be inserted “under this subsection as it has effect in the United Kingdom”; and
  - (iii) the words “and in Scotland sufficient evidence” shall be omitted;
- (c) in subsection (4) paragraph (a) and the words “on conviction on indictment” in paragraph (b) shall be omitted; and
- (d) for subsection (5) there shall be substituted –

“(5) In this section “record” includes in addition to a record in writing –

- (a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;
- (b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and
- (c) any photograph;

and any reference to a copy of a record includes in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with a still reproduction.”.

**24.** Section 97 (seaplanes) shall be amended as follows –

- (a) subsections (2) and (3) shall be omitted;
- (b) for subsection (4) there shall be substituted the following subsection –

“(4) Subject to subsection (5) below, any power or duty to regulate ships or vessels exercisable by any authority in Jersey shall be construed as including a power or duty to regulate seaplanes when on the surface of the water and a power to authorise a harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised to exercise as respects ships or vessels.”;

- (c) in subsection (5) for the words from the beginning to “authorise” there shall be substituted “The powers conferred by subsection (4) above do not include power to require, or to authorise”;
- (d) the first subsection (6) shall be omitted; and
- (e) in the second subsection (6) the definitions of “byelaws”, conservancy authority”, “harbour authority” and “enactment” shall be omitted.

**25.** At the end of section 98 (construction of certain provisions of Part IV) there shall be added –

“An order made or having effect as if made under this section as it applies in the United Kingdom shall have effect in Jersey as it has effect in the United Kingdom.”.

**26.** Section 99 (offences) shall be amended as follows –

- (a) in subsection (4) the words “44, 45, 50”, “82, 83” and “or under regulations made by virtue of section 7(2)(b) or 71 above” shall be omitted;
- (b) in subsection (5) –
  - (i) in paragraph (b) the words “44, 45, 50, 83 or” shall be omitted; and
  - (ii) paragraphs (d) and (e) shall be omitted.

**27.** In subsection (2) of section 101 (power to apply certain provisions to Crown aircraft) –

- (a) for the word “73” there shall be substituted “74A”; and
- (b) the word “91” shall be omitted.

**28.** Section 102 (powers to make Orders in Council, orders and regulations) shall be amended as follows –

- (a) in subsection (1) the words “other than a power conferred by a provision of this Act specified in Part I of Schedule 13 to this Act” shall be omitted; and
- (b) in subsection (2), paragraph (a) shall be omitted.

**29.** Section 105 (general interpretation) shall be amended as follows –

- (a) in subsection (1) –
  - (i) the definitions of “accounting year”, “enactment”, “the initial debt”, “the Land Compensation Act”, “the Lands Tribunal”, “local authority”, “prescribed”, “the statutory maximum”, “statutory undertaker”, “statutory undertaking” and “subsidiary” shall be omitted;
  - (ii) after the definition of “the Chicago Convention” there shall be inserted the following –
    - ‘ “the Committee” means the Harbours and Airport Committee of the States of Jersey;’;
  - (iii) after the definition of “functions” there shall be inserted the following –
    - ‘ “Jersey” means the Bailiwick of Jersey;’;
  - (iv) after the definition of “operator” there shall be inserted the following –
    - ‘ “police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force or the Airport Commandant or any person having the powers of the Airport Commandant by virtue of Article 2 of the Aerodromes (Administration) (Jersey) Law 1952<sup>3</sup>;’; and
  - (v) after the definition of “reward” there shall be inserted the following –
    - ‘ “the Royal Court” means the Inferior Number of the Royal Court of Jersey;’; and

- (b) subsections (5), (6) and (7) shall be omitted.

**30.** Section 106 (application of Act to territorial waters) shall be amended as follows –

- (a) in subsection (1) for the words “the United Kingdom” in both places where they occur there shall be substituted “Jersey”; and
- (b) in subsections (2) for the words “63 to 74” there shall be substituted “63, 64, 67(6) and 71”.

**31.** Paragraph 11 of Schedule 1 (additional provisions relating to constitution, etc. of CAA) shall be amended as follows –

<sup>3</sup> Tome VIII, page 69, and Volume 1982–1983, page 37.

- (a) after the word “member” there shall be inserted “of the CAA”; and
- (b) for the word “above” there shall be substituted “of this Schedule as it applies in the United Kingdom”.

**32.** Schedule 4 (Eurocontrol) shall be amended as follows –

- (a) in paragraph 1(4) for the word “constable” in both places where it occurs there shall be substituted “police officer”;
- (b) in paragraph 1(4B) for the words “the United Kingdom” there shall be substituted “Jersey”;
- (c) in paragraph 1(5), in the definition of “record”, for the word “73” there shall be substituted “96(5)”;
- (d) paragraph 2 shall be omitted; and
- (e) in paragraph 3(1) for the words “the United Kingdom” there shall be substituted “Jersey”.

**33.** Schedule 12 (patent claims against aircraft not protected under Chicago Convention) shall be amended as follows –

- (a) for the words “the United Kingdom”, wherever those words occur, there shall be substituted “Jersey”; and
- (b) for the words “Secretary of State”, wherever these words occur, there shall be substituted “the Committee”.

**34.** Schedule 13 (subordinate instruments) shall be amended as follows –

- (a) Part I shall be omitted –
- (b) in Part II –
  - (i) all the entries, except those referring to sections 60, 62, 63, 71, 75, 90 and 101, shall be omitted;
  - (ii) the entry relating to section 63 –
    - (A) in column 2, shall be amended by omitting the words “CAA’s undertaking or other”;
    - (B) in column 3, shall be omitted;
    - (C) in column 4, shall be replaced by the words “Paragraph 4 applies”;
  - (iii) in the entry in column 2 relating to section 75 for the word “Regulations” there shall be substituted “Order in Council”; and

(iv) the entries in column 3 relating to sections 60, 71, 90 and 101 shall be omitted; and

(c) in Part III –

(i) in paragraph 4(2), the reference to sections 73 and 74 shall be omitted; and

(ii) in paragraph 6(1), for the words “the United Kingdom” in the first place where they occur, there shall be substituted the word “Jersey”.

**35.** In Schedule 14 –

(a) in paragraph 7 (lighthouse authorities), for the words “sections 39, 41, 43, 47, 60, 62, 73 to 77, 81, 87, 89, 96, 97 and 107(2)” there shall be substituted the words “60, 62, 74A to 77, 81, 87, 89, 96 and 97”; and

(b) paragraph 13 (interpretation) for the words “this Act” there shall be substituted “the Civil Aviation Act 1982 (Jersey) Order 1990”.

**36.** Paragraph 6 of Schedule 15 (consequential amendments) shall be amended as follows –

(a) after the words “Convention Act” there shall be inserted “as extended to Jersey by the Tokyo Convention Act 1967 (Jersey) Order 1969<sup>5</sup>”; and

(b) after the words “said section 92” there shall be inserted, so as to be included in the passage quoted “References to the Civil Aviation Act 1982 (Jersey) Order 1990<sup>6</sup>”.

**37.** Paragraph 10 of Schedule 15 shall be amended as follows –

(a) after the words “Act 1971” there shall be inserted “as extended to Jersey by the Hijacking Act 1971 (Jersey) Order 1971”;

(b) after the words “Act 1967” there shall be inserted, so as to be included in the passage quoted, “as extended to Jersey by the Tokyo Convention Act 1967 (Jersey) Order 1969<sup>5</sup>”; and

(c) after the words “Act 1982” there shall be inserted, so as to be included in the passage quoted, “as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990<sup>6</sup>”.

**38.** Paragraph 13 of Schedule 15 shall be amended as follows –

(a) after the words “Act 1973” there shall be inserted “as extended to Jersey by the Protection of Aircraft Act 1973 (Jersey) Order 1973<sup>8</sup>”;

(b) paragraph (a) shall be omitted; and

<sup>5</sup> Volume 1968–1969, page 223.

<sup>7</sup> Volume 1970–1972, page 279

<sup>8</sup> Volume 1973–1974, page 135.



- (c) in paragraph (b) after the words “Act 1982” there shall be inserted, so as to be included in the passage quoted, “as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990”.

**39.** Paragraph 21 of Schedule 15 shall be amended as follows –

- (a) after the words “Act 1978” there shall be inserted the words “as extended to Jersey by the Suppression of Terrorism Act 1978 (Jersey) Order 1978 ; and
- (b) after the words “Act 1982” there shall be inserted the words “as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990”.

**40.** In Schedule 16 (repeals) all of the entries, except those relating to the Civil Aviation Act 1949, the Civil Aviation (Licensing) Act 1960, the Tokyo Convention Act 1967 and the Civil Aviation Act 1971, shall be omitted and references to those Acts shall be construed as references to them as extended to the Bailiwick of Jersey by the Civil Aviation Act (Channel Islands) Order 1953<sup>11</sup> , the Civil Aviation (Licensing) Act 1960 (Channel Islands) Order 1961<sup>12</sup> , the Tokyo Convention Act 1967 (Jersey) Order 1969<sup>13</sup> and the Civil Aviation Act 1971 (Channel Islands) Order 1972<sup>14</sup> , respectively, and the repeal by Schedule 16 of any provision which was not extended to the Bailiwick of Jersey by those Orders shall be disregarded.

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<sup>10</sup> Volume 1979–1981, page 91.

<sup>11</sup> Tome VIII, page 209.

<sup>12</sup> Volume 1961–1962, page 45.

<sup>13</sup> Volume 1968–1969, page 223.

<sup>14</sup> Volume 1970–1972, page 335.

*Jersey Order in Council 17/1990**The Civil Aviation Act 1982 (Jersey) Order 199***SCHEDULE 2****(Article 3)****Orders revoked<sup>15</sup>**

The Civil Aviation Act (Channel Islands) Order 1953.

The Civil Aviation Act (Channel Islands) Order 1966.

The Tokyo Convention Act 1967 (Jersey) Order 1969.

The Civil Aviation Act 1971 (Channel Islands) Order 1972.

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<sup>15</sup> Tome VIII, page 209, Volume 1966–1967, page 213, Volume 1968–1969, page 223, and Volume 1970–1972, page 335.

**CIVIL AVIATION ACT 1982****CHAPTER 16***ARRANGEMENT OF SECTIONS**PART I***ADMINISTRATION****Section**

1. \* \* \* \* \*

**Constitution and functions of CAA**

2. Constitution and functions of CAA.

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**Eurocontrol**

24. Eurocontrol.

*PART II*

## AERODROMES AND OTHER LAND

- 25. \* \* \* \* \*
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- 37. \* \* \* \* \*
- 38. Fixing by reference to noise factors the charges for using  
licensed aerodromes.
- 38A. Order in respect of property.
- 39. \* \* \* \* \*
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### *PART III*

## REGULATION OF CIVIL AVIATION

### **General**

60. Power to give effect to Chicago Convention and to regulate air navigation, etc.
61. \* \* \* \* \*

### **War and emergencies**

62. Control of aviation in time of war or emergency.
63. \* \* \* \* \*

### **Air transport, etc.**

64. Restriction of unlicensed carriage by air for reward.
65. \* \* \* \* \*
66. \* \* \* \* \*
67. Supplementary provisions relating to air transport licensing.
68. \* \* \* \* \*
69. \* \* \* \* \*
70. \* \* \* \* \*
71. Regulation of provision of accommodation in aircraft.

### **Air navigation services**

72. \* \* \* \* \*
73. \* \* \* \* \*
74. \* \* \* \* \*
- 74A. Enforcement of foreign judgments, etc. in respect of route charges.
75. Investigation of accidents.

### **Trespass by aircraft and aircraft nuisance, noise, etc.**

76. Liability of aircraft in respect of trespass, nuisance and surface damage.
77. Nuisance caused by aircraft on aerodromes.
78. Regulation of noise and vibration from aircraft.

79. \* \* \* \* \*
80. \* \* \* \* \*
81. Dangerous flying.
82. \* \* \* \* \*

**Records and provision of information, etc.**

83. \* \* \* \* \*
84. Provision by others of information for the CAA and the Secretary of State.

*PART IV*

**AIRCRAFT**

**Design, construction and maintenance of aircraft**

85. \* \* \* \* \*

**Rights, etc. in relation to aircraft**

86. \* \* \* \* \*
87. Application of law of wreck and salvage to aircraft.
88. \* \* \* \* \*
89. Exemption of aircraft and parts thereof from seizure on patent claims.
90. Power to give effect to Convention on rights in aircraft.

**Jurisdiction, etc.**

91. \* \* \* \* \*
92. Application of criminal law to aircraft.
93. \* \* \* \* \*

**Powers of commander of aircraft**

94. Powers of commander of aircraft.

**Evidence, etc.**

95. Provisions as to evidence in connexion with aircraft.
96. Use of records and documentary evidence.
97. \* \* \* \* \*
98. \* \* \* \* \*

*PART V*

\* \* \* \* \*

**SCHEDULES**

Schedule 1	Additional provisions relating to constitution, etc. of CAA.
Schedule 2	* * * * *
Schedule 3	* * * * *
Schedule 4	Eurocontrol.
Schedule 5	* * * * *
Schedule 6	* * * * *
Schedule 7	* * * * *
Schedule 8	* * * * *
Schedule 9	* * * * *
Schedule 10	* * * * *
Schedule 11	* * * * *
Schedule 12	Patent claims against aircraft not protected under Chicago Convention.
Schedule 13	Subordinate instruments.
Schedule 14	* * * * *
Schedule 15	Consequential amendments.
Schedule 16	Repeals.

**ELIZABETH II****1982 CHAPTER 16**

**AN ACT** to consolidate certain enactments relating to civil aviation.

[27th May 1982]

**BE IT ENACTED** by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows<sup>16</sup> –

*PART I***ADMINISTRATION**

**1.** \* \* \* \* \*

**Constitution and functions of CAA**

**2.-(1)** There shall continue to be a body corporate called the Civil Aviation Authority (in this Act referred to as “the CAA”), which shall be constituted in accordance with [this section as it has effect in the United Kingdom].

**(2)** \* \* \* \* \*

**(3)** Schedule 1 of this Act shall have effect with respect to the CAA.

**(4)** It is hereby declared that the CAA is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that its property is not to be regarded as property of, or held on behalf of, the Crown.

**3.** \* \* \* \* \*

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<sup>16</sup>

Deletions and words in square brackets indicate adaptations and modifications made by the Civil Aviation Act 1982 (Jersey) Order 1990.



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### **Eurocontrol**

24. Schedule 4 to this Act shall have effect in relation to the European Organisation for the Safety of Air Navigation established by the International Convention relating to co-operation for the safety of air navigation (entitled Eurocontrol) concluded at Brussels on 13th December 1960 (copies of which Convention were laid before Parliament by Command of Her Majesty on 13th June 1961); and in this Act –

“Eurocontrol” means that organisation, including, except where the context otherwise requires, the Permanent Commission for the Safety of Air Navigation and the Air Traffic Services Agency comprised in that Organisation; and

“the Eurocontrol Convention” means that Convention [as from time to time amended with the agreement of the contracting parties thereto].

### *PART II*

#### **AERODROMES AND OTHER LAND**

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#### **Fixing by reference to noise factors the charges for using licensed aerodromes**

38.-(1) Without prejudice to any power of [the Committee] to enter into an agreement on such terms as it thinks fit, [the Committee] may, for the purpose of encouraging the use of quieter aircraft and of diminishing inconvenience from aircraft noise, fix [the charges it makes for the use of an aerodrome] by reference, among other things, to any fact or matter relevant to –

(a) the amount of noise caused by the aircraft in respect of which the charges are made; or

(b) the extent or nature of any inconvenience resulting from such noise.

(2) \* \* \* \* \*

(3) \* \* \* \* \*

#### **[Order in respect of property]**

38A. The Committee may by order make provision for securing the safe custody and redelivery of any property which, while not in its proper custody, is found on any premises belonging to the Committee or under its control, or in any aircraft on any such premises, and any such order may in particular provide for –

(a) requiring charges to be paid in respect of any such property before it is delivered; and

(b) authorising the disposal of any such property if it is not redelivered before the expiration of such period as may be specified in the order.]

39. \* \* \* \* \*

*Jersey Order in Council 17/1990**The Civil Aviation Act 1982 (Jersey) Order 199*

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*PART III*

## REGULATIONS OF CIVIL AVIATION

**General****Power to give effect to Chicago Convention and to regulate air navigation, etc**

**60.-(1)** \* \* \* \* \* Her Majesty may by Order in Council under this section (in this Act referred to as “an Air Navigation Order”) make such provision as is authorised by subsections (2) and (3) below or otherwise by this Act or any other enactment.

(2) An Air Navigation Order may contain such provision as appears to Her Majesty in Council to be requisite or expedient –

- (a) 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
- (b) generally for regulating air navigation.

(3) Without prejudice to the generality of subsection (2) above or to any other provision of this Act, an Air Navigation Order may contain provision –

- (a) as to the registration of aircraft in the United Kingdom;
- (b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under the Order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the Order;
- (c) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof and for prohibiting or regulating the use of unlicensed aerodromes;
- (d) for prohibiting persons from engaging in, or being employed in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connexion with commercial, industrial or other gainful purposes) in connexion with, air navigation in such capacities as may be specified in the Order except in accordance with provisions in that behalf contained in the Order, and for the licensing of those employed at aerodromes licensed under the Order in the inspection or supervision of aircraft;
- (e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving [Jersey] may fly, and as to the conditions under which aircraft may fly from one part of [Jersey] to another;
- (f) as to the conditions under which passengers and goods may be carried by air and which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be specified in the Order;
- (g) for minimising or preventing interference with the use or effectiveness of apparatus used in connexion with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (h) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;

- (i) for requiring persons engaged in, or employed in or in connexion with, air navigation to supply meteorological information for the purposes of air navigation;
- (j) for regulating the making of signals and other communications by or to aircraft and persons carried therein;
- (k) for regulating the use of the civil air ensign and any other ensign established by Her Majesty in Council for purposes connected with air navigation;
- (l) for prohibiting aircraft from flying over such areas in [Jersey] as may be specified in the Order;
- (m) for applying, adapting or modifying the enactments for the time being in force relating to customs or excise in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting in connexion with air navigation, subject to such conditions as appear to Her Majesty in Council to be requisite or expedient for the protection of the revenue, the importation of goods into [Jersey] without payment of duty;
- (n) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the Order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (o) \* \* \* \* \*
- (p) for specifying, subject to the consent of the Treasury, the fees to be paid in respect of the issue, validation, renewal, extension or variation of any certificate, licence or other document or the undergoing of any examination or test required by the Order and in respect of any matters in respect of which it appears to Her Majesty in Council to be expedient for the purpose of the Order to charge fees;
- (q) for exempting from the provisions of the Order or any of them any aircraft or persons or classes of aircraft or persons;
- (r) for prohibiting aircraft from taking off or landing in [Jersey] unless there are in force in respect of those aircraft such certificates of compliance with standards as to noise as may be specified in the Order and except upon compliance with the conditions of those certificates; and
- (s) for regulating or prohibiting the flight of aircraft over [Jersey] at speeds in excess of Flight Mach 1.

(4) An Air Navigation Order may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of [Jersey] but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the United Kingdom operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

- (5) \* \* \* \* \*

- (6) In this section a reference to goods shall include a reference to mails or animals.

### **Air Navigation Orders etc.: supplemental**

**61.**-(1) An Air Navigation Order may, for the purpose of securing compliance with its provisions, provide –

- (a) subject to subsection (2) below, for persons to be guilty of offences in such circumstances as may be specified in the Order and to be liable on conviction of those offences to such penalties as may be so specified; and
- (b) in the case of a provision having effect by virtue of paragraph (1) of subsection (3) of section 60 above, for the taking of such steps (including firing on aircraft) as may be specified in the Order.

- (2) The power conferred by virtue of subsection (1)(a) above shall not include power –

(a) \* \* \* \* \*

(b) \* \* \* \* \*

- (c) to authorise the imposition, on conviction \* \* \* of an offence, of a term of imprisonment exceeding two years.

(3) \* \* \* \* \*

(4) \* \* \* \* \*

(5) \* \* \* \* \*

(6) \* \* \* \* \*

(7) \* \* \* \* \*

(8) \* \* \* \* \*

### **War and emergencies**

#### **Control of aviation in time of war or emergency**

**62.**-(1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of State –

- (a) may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order and notwithstanding the provisions of any enactment relating to civil aviation or any Order in Council or regulations made thereunder, the navigation of all or any descriptions of aircraft over [Jersey] or any portion thereof or over any area of sea specified in the order; and
- (b) may by order provide for taking possession of and using for the purposes of Her Majesty's naval, military or air forces any aerodrome, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting

the use, erection, building, maintenance or establishment of any aerodrome, or flying school, or any class or description thereof.

(2) An order under this section may make, for the purposes of the order, such provision as an Air Navigation Order may make by virtue of subsection (1) of section 61 above for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (1) of subsection (3) of section 60 above.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Secretary of State under this section, shall be entitled to receive compensation from the Secretary of State, the amount thereof to be fixed in default of agreement [by reference to arbitration conducted in accordance with subsection (4) and (5) below].

[(4) For the purpose of subsection (3) above there shall be two arbitrators, one appointed by the Secretary of State and the other appointed by the person claiming to have suffered direct injury or loss; before the arbitration is proceeded with, the Royal Court shall appoint an umpire.

(5) The award of the arbitrators, or, in default of agreement between them, the umpire, appointed under subsection (4) above, shall be final and binding.

(6) No compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in Jersey or any part thereof or over any area of sea].

### **Control of CAA and air transport undertakings in time of war or emergency**

**63.**-(1) In time of war, whether actual or imminent, or of great national emergency, the Secretary of States may by order require that –

- (a) \* \* \* \* \*
- (b) the whole or any part of the relevant undertaking of any British air transport business,
- (c) all or any property or rights under the control of any such business which appertain to that undertaking.

shall be placed at the disposal of the Secretary of State.

(2) References in this section to a British air transport business are references to any person or body appearing to the Secretary of State to have his or its principal place of business in [Jersey] whose business includes the provision of commercial air transport services; and in relation to any such business “the relevant undertaking” in subsection (1)(b) above means that part of its undertaking which consists of the provision of commercial air transport services.

In this subsection “commercial air transport services” means services for the carriage by air of passengers or cargo for hire or reward.

- (3) \* \* \* \* \*

(4) While an order under this section is in force with respect to any British air transport business, the Secretary of State may give to the persons managing that business such directions as he thinks fit for conducting, managing or dealing with any part of its undertaking,

or any property or rights, placed at his disposal by virtue of the order; and it shall be the duty of those persons to comply with those directions.

(5) An order under this section may, for the purpose of securing compliance with its provisions, provide for the imposition –

(a) \* \* \* \* \*

(b) on conviction \* \* or a fine or imprisonment for a term not exceeding two years or both.

(6) Any person who suffers direct injury or loss owing to the operation of an order under this section shall be entitled to receive compensation from the Secretary of State of which the amount shall be fixed, in default of agreement, [by reference to arbitration conducted in accordance with sub-sections (7) and (8) below].

[(7) For the purpose of subsection (6) above there shall be two arbitrators, one appointed by the Secretary of State and the other appointed by the person claiming to have suffered direct injury or loss; before the arbitration is proceeded with, the Royal Court shall appoint an umpire.

(8) The award of the arbitrators, or, in default of agreement between them, the umpire, appointed under subsection (7) above, shall be final and binding].

### **Air transport, etc**

#### **Restriction of unlicensed carriage by air for reward**

**64.**-(1) No aircraft shall be used for the carriage for reward of passengers or cargo on a flight to which this subsection applies unless –

- (a) the operator of the aircraft holds a licence granted to him by the CAA in pursuance of section 65 below [as it has effect in the United Kingdom] (in this Act referred to as an “air transport licence”) authorising him to operate aircraft on such flights as the flight in question; and
- (b) the terms of the licence are complied with so far as they relate to that flight and fall to be complied with before or during the flight.

(2) Subsection (1) above applies to any flight in any part of the world by an aircraft registered in the United Kingdom and to any flight beginning or ending in [Jersey] by an aircraft registered in a relevant overseas territory or an associated state, except that it does not apply to –

- (a) a flight of a description specified in an instrument made by the CAA for the purposes of this paragraph and in force in accordance with subsection (3) below;
- (b) a particular flight or series of flights specified in an instrument made by the CAA for the purposes of this paragraph;
- (c) a flight by an aircraft of which the CAA is the operator.

(3) An instrument made in pursuance of paragraph (a) of subsection (2) above shall not come into force until it is published [in the manner prescribed by regulations made or having



effect as if made under this section as it applies in the United Kingdom] and it shall be the duty of the CAA forthwith after making an instrument in pursuance of paragraph (b) of that subsection to publish the instrument; and an instrument made in pursuance of paragraph (a) or (b) of that subsection may be revoked or varied by a subsequent instrument made in pursuance of that paragraph.

(4) Where an aircraft is used for the carriage of passengers or cargo in pursuance of an arrangement made between a member of an incorporated or unincorporated body of persons and that body or another member of it, then, if by reason of relationships arising from membership of the body the carriage is not apart from this subsection carriage for reward, it shall be treated for the purposes of this section as carriage for reward.

(5) Where an aircraft is used on a flight in contravention of subsection (1) above or, after an aircraft has been used in pursuance of an air transport licence on a flight to which that subsection applies, any term of the licence relating to the flight and falling to be complied with at or after the end of the flight by the operator of the aircraft or by another person who made available such accommodation as is mentioned in paragraph (b) of this subsection is contravened, then –

- (a) if before the flight began the operator of the aircraft knew or ought to have known that the use of the aircraft on that flight was likely to be in contravention of that subsection or, as the case may be, that the term in question was likely to be contravened, he shall be guilty of an offence under this subsection; and
- (b) if any other person, either by negotiating a contract or otherwise howsoever, made available accommodation for the carriage of passengers or cargo on the aircraft on the flight when he knew or ought to have known before the flight began that the accommodation was likely to be provided on an aircraft when used on a flight in contravention of the said subsection (1) or, as the case may be, that such a term as the term in question was likely to be contravened, that person shall be guilty of an offence under this subsection;

but a person shall not (except in pursuance of section 99(1) below or the law relating to persons who aid, abet, counsel or procure the commission of offences) be guilty of an offence by virtue of paragraph (b) above in consequence of the contravention by another person of a term of a licence.

(6) For the purpose of determining in pursuance of subsection (5) above whether an offence relating to a flight has been committed by the operator of the aircraft used on the flight, it is immaterial that the relevant contravention mentioned in that subsection occurred outside the United Kingdom if when it occurred the operator –

- (a) was a United Kingdom national, or
- (b) was a body incorporated under the law of any part of the United Kingdom or the law of a relevant overseas territory or an associated state, or
- (c) was a person (other than a United Kingdom national or such a body) maintaining a place of business in the United Kingdom;

and for the purpose of determining in pursuance of that subsection whether an offence relating to a flight has been committed by a person who made available such accommodation as is mentioned in that subsection it is immaterial that the relevant contravention there mentioned

occurred outside the United Kingdom and that at any relevant time that person was not a United Kingdom national or such a body as aforesaid if any part of the negotiations resulting in the making available of the accommodation in question took place, whether by means of the post or otherwise, in the United Kingdom. [In this subsection any reference to the United Kingdom, except references to a United Kingdom national, shall be construed as including a reference to Jersey].

(7) Where the CAA has reason to believe that an aircraft is intended to be used in contravention of subsection (1) above on a particular flight beginning in [Jersey] or that any term of an air transport licence relating to such a flight and falling to be complied with at or after the end of the flight may not be complied with, the CAA may –

- (a) give to the person appearing to it to be in command of the aircraft a direction that he shall not permit the aircraft to take off until it has informed him that the direction is cancelled;
- (b) whether or not it has given such a direction, detain the aircraft until it is satisfied that the aircraft will not be used on the flight in contravention of the said subsection (1) or, as the case may be, that the term aforesaid will be complied with;

and a person who fails to comply with a direction given to him in pursuance of this subsection shall be guilty of an offence under this subsection.

(8) A person guilty of an offence under subsection (5) or (7) above shall be liable –

- (a) \* \* \* \* \*
- (b) on conviction \* \* to a fine or to imprisonment for a term not exceeding two years or to both.

**65.** \* \* \* \* \*

**66.** \* \* \* \* \*

### **Supplementary provisions relating to air transport licensing**

**67.-(1)** \* \* \* \* \*

(2) \* \* \* \* \*

(3) \* \* \* \* \*

(4) \* \* \* \* \*

(5) \* \* \* \* \*

(6) A person who, for the purpose of obtaining for himself or another person either an air transport licence or a variation of an air transport licence or the cancellation of the suspension of an air transport licence, knowingly or recklessly furnishes the CAA or the Secretary of State with any information which is false in a material particular shall be guilty of an offence and liable –

- (a) \* \* \* \* \*

- (b) \* \* \* \* to a fine or to imprisonment for a term not exceeding two years or to both.

68. \* \* \* \* \*

69. \* \* \* \* \*

70. \* \* \* \* \*

### **Regulation of provision of accommodation in aircraft**

**71.-(1)** Provision may be made by [an order] made by the [Committee] for securing that a person does not in [Jersey] –

- (a) make available, as a principal or an agent, accommodation for the carriage of persons or cargo on flights in any part of the world, or
- (b) hold himself out as a person who, either as a principal or an agent or without disclosing his capacity, may make such accommodation available,

unless he is the operator of the relevant aircraft or holds and complies with the terms of a licence issued in pursuance of the regulations or is exempted by or under the regulations from the need to hold such a licence.

(2) [An order] made by the Secretary of State for the purposes of subsection (1) above may contain such provisions as the [Committee] \* \* \* \* considers appropriate for those purposes and may, without prejudice to the generality of the preceding provisions of this subsection, include provision –

- (a) as to the circumstances in which licences shall or shall not be issued in pursuance of [the order];
- (b) as to the terms of licences, which may include terms as to the minimum charges which are to be made and the goods, services and other benefits which are or are not to be furnished by any person whatsoever under or in connexion with any contract which includes provision for the making available of accommodation on flights to which the licences in question relate;
- (c) for the variation, suspension and revocation of licences;
- (d) for appeals against refusals, variations, suspensions or revocations of licences to lie to a prescribed body or person (which may be a court, \* \* \* \* a body or person constituted or appointed by or under the regulations or such other body or person as the [Committee] thinks fit) and for applying the provisions of any enactment, with or without modifications, in relation to such appeals;
- (e) for imposing penalties for contraventions of [the order] not exceeding in the case of each contravention \* \* \* \* a fine and imprisonment for a term not exceeding two years \* \* \*;

(f) \* \* \* \* \*

72. \* \* \* \* \*

73. \* \* \* \* \*

74. \* \* \* \* \*

### **Enforcement of foreign judgments etc in respect of route charges**

**74A.**-(1) Subject to the following provisions of this section, where a relevant authority in a Contracting State, has made a determination as to whether or not any sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or by some other person, that determination shall, in [Jersey], be enforceable or, as the case may be, recognised in accordance with the following provisions of this section, but not otherwise.

(2) For the purpose of the enforcement in [Jersey] of any determination which is enforceable by Eurocontrol under this section, the provisions of [Articles 4, 5(1) and 7(2) and (3) of the Judgments (Reciprocal Enforcement) (Jersey) Law 1960<sup>17</sup>] (registration or judgments, rules of court and powers of court on application to set aside registration) shall apply, with the necessary modifications, in relation to the determination as they apply in relation to a judgment to which [Part II of that Law] applies; and accordingly, for the purposes of this section, in [paragraph (2) of Article 7 of that Law] –

- (a) the reference to [paragraph (1) of that Article] shall have effect as a reference to subsection (7) below; and
- (b) the reference to an appeal shall include a reference to an application for review of a determination;

(3) On an application for the purpose made by any person against whom a determination registered by virtue of subsection (2) above may be enforced, the registration shall (subject to subsection (7) below) be set aside if the court to which the application to register is made is satisfied –

- (a) that the determination is not a determination to which this section applies;
- (b) that the determination was registered in contravention to any provision applied by subsection (2) above; or
- (c) that, by virtue of any of the following provisions of this section, the determination is not to be enforced in [Jersey].

(4) Subject to subsection (7) below, a determination in respect of any sum by a relevant authority in a Contracting State shall not under this section be enforced or recognised in [Jersey] if –

- (a) that Contracting State is not the country, or one of the countries, in which, under subsection (5) below, proceedings in respect of that sum should have been brought; or
- (b) the determination is not final; or
- (c) the determination is manifestly contrary to public policy \* \* \* \* \*; or

<sup>17</sup> Tome VIII, pages 855, 856 and 860.

- (d) the person against whom the proceedings resulting in the determination were brought did not (notwithstanding that process may have been duly served on him in the Contracting State in which those proceedings were brought) receive notice of the proceedings in sufficient time to enable him to defend them or, as the case may require, to apply for the proceedings to be reviewed; or
  - (e) proceedings relating to the same have been brought previously, and are pending, in [Jersey]; or
  - (f) the determination is incompatible with the judgment of any court in [Jersey]; or
  - (g) the determination –
    - (i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in [Jersey]; and
    - (ii) was different from the determination which would have been made if those corresponding rules had been applied.
- (5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum –
- (a) in the Contracting State (if any) in which that person's residence or, as the case may be, his registered office is situated;
  - (b) if that person's residence, or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business;
  - (c) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting State, in any Contracting State in which he has assets;
  - (d) if that person's residence, or, as the case may be, his registered office is not situated in a contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.
- (6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say –
- (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal;
  - (b) the time within which an appeal must be brought, or an application for review must be made, has expired;

- (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn; or
- (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.

(7) If, on an application to set aside the registration by virtue of subsection (2) above of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either –

- (a) set aside the registration; or
- (b) adjourn the application to set aside the registration until such time as the determination has become final,

but nothing in this section shall require that court to take either of these courses where there is no ground for setting aside the registration and the court is not satisfied that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.

- (8) In this section –

“Contracting State” means a country designated in an Order in Council which has been laid before Parliament as a party to the Multilateral Agreement relating to Route Charges signed at Brussels on 12th February 1981 at the Diplomatic Conference on the Protocol amending the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation of 13th December 1960;

“relevant authority”, in relation to a Contracting State, means –

- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person;
- (b) any administrative authority which, under that law, has jurisdiction to make, or is otherwise authorised to make, determinations in respect of such questions, being determinations which in that State are subject to appeal to, or review by, a court or tribunal;
- (c) any court or tribunal which, under that law, has jurisdiction to determine any appeal from, or carry out any review of, a determination made in respect of any such question by another relevant authority.

(9) This section shall not affect the enforceability or recognition of any determination made before the [date of the extension of this section to the Bailiwick of Jersey].]

### **Investigation of accidents**

**75.-(1)** Without prejudice to section 60 above, the [Her Majesty may by Order in Council under this section make such provision as appears to Her Majesty] to be requisite or expedient –

- (a) for the investigation of any accident arising out of or in the course of air navigation and [occurring in or over Jersey];
- (b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as “the Annex”).

(2) Without prejudice to the generality of subsection (1)(b) above, the provision there authorised includes provision with respect to any of the following matters, that is to say –

- (a) the definition of “accident” for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex;
- (b) the participation of any persons authorised for the purpose in accordance with the [Order in Council] in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other state; and
- (c) the investigation of any accident other than one to which subsection (1)(a) above applies for the purpose of securing any information, articles or other material which it is the duty of the United Kingdom in accordance with any requirements of the Annex to furnish to any other state.

(3) Without prejudice to the generality of subsection (1) above, [an Order in Council under] this section may contain provisions –

- (a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) above in such manner and by such persons as may be specified in [the Order in Council];
- (b) \* \* \* \* \*
- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under an Air Navigation Order or an order under section 62 above where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered and requiring the production of any such licence or certificate for the purpose of being so dealt with.

(4) Without prejudice to subsection (2)(a) above, in this section “accident” shall be construed as including any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened.

(5) If any person contravenes or fails to comply with [any provision in an Order in Council] under this section he shall be liable \* \* to a fine \* \* \* \* \* or to imprisonment for a term not exceeding three months.

(6) Nothing in this section shall limit the powers of any authority under sections 530 to 537 of the Merchant Shipping Act 1894 or any enactment amending those sections.

**Trespass by aircraft and aircraft nuisance, noise, etc.**

**76.-(1)** No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of any Air Navigation Order and of any orders under section 62 above have been duly complied with and there has been no breach of section 81 below.

(2) Subject to subsection (3) below, where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft.

(3) Where material loss or damage is caused as aforesaid in circumstances in which –

- (a) damages are recoverable in respect of the said loss or damage by virtue only of subsection (2) above, and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(4) Where the aircraft concerned has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

**Nuisance caused by aircraft on aerodromes**

**77.-(1)** An Air Navigation Order may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) below shall apply to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this subsection applies by virtue of an Air Navigation Order, as long as the provisions of any such order are duly complied with.

**Regulation of noise and vibration from aircraft**

**78.-(1)** The [Committee] may by a notice published [by order made by the Committee] provide that it shall be the duty of the person who is the operator of an aircraft which is to take off or land at [an aerodrome] to secure that, after the aircraft takes off or, as the case may be,



before it lands at the aerodrome, such requirements as are specified in the notice are complied with in relation to the aircraft, being requirements appearing to the [Committee] to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the taking off or landing of aircraft at the aerodrome.

(2) If it appears to the [Committee] that any requirement specified in relation to [an aerodrome] in a notice published in pursuance of subsection (1) above has not been complied with as respects any aircraft [it] may, after affording to the person who at the relevant time was the operator of the aircraft an opportunity of making representations to him with respect to the matter and after considering any representations then made by that person, [take such steps as may be necessary to ensure that facilities are withheld to such extent as the Committee may determine from aircraft of which the person aforesaid is the operator and from his servants].

(3) If the [Committee] considers it appropriate, for the purpose of avoiding, limiting or mitigating the effect of noise and vibration connected with the taking-off or landing of aircraft at [an aerodrome], to prohibit aircraft from taking off or landing, or limit the number of occasions on which they may take off or land, at the aerodrome during certain periods, [it] may by a notice published [by order made by the Committee] do all or any of the following, that is to say –

- (a) prohibit aircraft of descriptions specified in the notice from taking off or landing at the aerodrome (otherwise than in an emergency of a description so specified) during periods so specified;
- (b) specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land at the aerodrome (otherwise than as aforesaid) during periods so specified;
- (c) determine the persons who shall be entitled to arrange for aircraft of which they are the operators to take off or land at the aerodrome during the periods specified under paragraph (b) above and, as respects each of those persons, the number of occasions on which aircraft of a particular description of which he is the operator may take off or land at the aerodrome during those periods.

\* \* \* \* \*

(4) Without prejudice to subsection (5)(f) below, a particular occasion or series of occasions on which aircraft take off or land at an aerodrome shall be disregarded for the purposes of any notice under subsection (3) above in respect of that aerodrome if –

- (a) on that occasion or series of occasions the aircraft take off or land in circumstances specified for the purposes of this subsection in relation to that aerodrome by the [Committee] in a notice published [by order made by the Committee]; and
- (b) the [Committee] determines that that occasion or series of occasions should be so disregarded,

\* \* \* \* \*

(5) The following supplementary provisions shall have effect for the purposes of subsection (3) above, that is to say –

- (a) it shall be the duty of the [Committee], before [it] makes a determination in respect of an aerodrome in pursuance of paragraph (c) of that subsection, to consult any body appearing to him to be representative of operators of aircraft using the aerodrome;
- (b) a notice under that subsection may make, in relation to [an aerodrome], provision as respects any period notwithstanding that the period is included in or that there is included in the period, any other period as respects which provision relating to the aerodrome is made by the notice or by another notice under that subsection;
- (c) if it appears to the [Committee] that an aircraft is about to take off in contravention of any prohibition or restriction imposed in pursuance of that subsection, then \* \* \* \* \*, any person authorised by the [Committee] for the purpose may detain the aircraft for such period as that person considers appropriate for preventing the contravention and may, for the purpose of detaining the aircraft, enter upon the land;
- (d) \* \* \* \* \*
- [(e) nothing in that subsection requires the Committee to prevent an aircraft from landing at an aerodrome]; and
- (f) the [Committee] may, by a notice given [by order made by the Committee] \* \* \* \* \* determine that a particular occasion or series of occasions on which aircraft take off or land at the aerodrome shall be disregarded for the purposes of the notice under that subsection.
- (6) \* \* \* \* \*
- (7) \* \* \* \* \*
- (8) \* \* \* \* \*
- (9) \* \* \* \* \*
- (10) \* \* \* \* \*
- (11) \* \* \* \* \*

(12) Any notice published in pursuance of subsection (1), (3) or (4) above may contain such incidental or supplementary provisions as the [Committee] considers appropriate for the purposes of that subsection and may be varied or revoked by a subsequent notice published in pursuance of that subsection.

**79.** \* \* \* \* \*

**80.** \* \* \* \* \*

### **Dangerous flying**

**81.-(1)** Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the court that the

aircraft was so flown without his actual fault or privity, shall be liable \* \* \* to a fine \* \* \* \* or to imprisonment for a term not exceeding six months or to both.

(2) In this section the expression “owner” in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(3) The provisions of this section shall be in addition to and not in derogation of the powers conferred on Her Majesty in Council by section 60 above.

**82.** \* \* \* \* \*

**83.** \* \* \* \* \*

### **Provision by others of information for the CAA and Secretary of States**

**84.-(1)** The CAA may, by a notice in writing served in the [manner prescribed by regulations made or having effect as if made under this section as it applies in the United Kingdom] on a person of any of the following descriptions, that is to say –

- (a) a holder of a licence issued by the CAA under this Act [or an aerodrome licence issued by the Committee] or a licence or certificate issued by the CAA under an Air Navigation Order,
- (b) a recipient of an approval given by the CAA under an Air Navigation Order,
- (c) a person who in [Jersey] has, at any time during the period of two years ending with the date of service of the notice, held himself out as one who may as a principal or otherwise enter into a contract to make available accommodation for the carriage of persons or cargo on flights in any part of the world in aircraft of which he is not the operator,
- (d) a person carrying on business in [Jersey] as a manufacturer of aircraft or engines or other equipment for aircraft or as an insurer of aircraft,

require him to furnish to the CAA, in such form and at such times as may be specified in the notice, information of such descriptions as may be so specified, being –

- (i) in the case of such a holder or recipient as aforesaid (other than the holder of an aerodrome licence), descriptions of information which relates to his past, present or future activities as the holder or recipient of the licence, certificate or approval in question or his past activities as the holder or recipient of any similar licence, certificate or approval or is of a kind which the CAA considers that it requires for the purpose of reviewing the licence, certificate or approval in question,
- (ii) in the case of such a person as is mentioned in paragraph (c) of this subsection, descriptions of information which relates to his past, present or future activities in [Jersey] connected with the making available of accommodation so mentioned,
- (iii) in the case of such a person as is mentioned in paragraph (d) of this subsection or the holder of an aerodrome licence, descriptions of information which relates to his past, present or future activities (including, in the case of the holder of an aerodrome licence, information as to the numbers of aircraft and passengers and the quantity of cargo passing and expected to pass through the relevant aerodrome)

and is of a kind which the CAA considers that it requires for the purpose of performing any of its functions.

In this subsection “aerodrome licence” means a licence to operate an aerodrome issued by the [Committee].

(2) Without prejudice to the generality of subsection (1) above, the information relating to the activities of the holder of an air transport licence which the CAA may require him to furnish in pursuance of that subsection includes particulars of any contract or arrangement –

- (a) to which he is or was at any time a party and, if he is not or was not then an operator of aircraft registered in the United Kingdom or a relevant overseas territory or an associated state, to which such an operator is or was then a party; and
- (b) which constitutes or relates to an agreement or understanding between operators of aircraft or such operators and other persons with respect to any of the following matters, that is to say –
  - (i) the provision of flights or of accommodation in aircraft,
  - (ii) the sharing or transfer of revenue from flights on particular routes,
  - (iii) the sale by a party to the contract or arrangement of tickets for flights in aircraft operated by another party to it,
  - (iv) the making available by a party to the contract or arrangement of staff, equipment or other facilities for use by another party to it.

(3) Provision may be made by regulations made by the Secretary of State for requiring a person of any description specified in subsection (1) above to furnish the Secretary of State, in such form and at such times as may be prescribed, with information of such descriptions as may be prescribed, being descriptions of information relating to civil aviation which the Secretary of State considers that he requires for the purpose of performing any of his functions or descriptions of information which he considers that he requires in order to facilitate the performance by the CAA of any of its functions.

(4) If a person required to furnish information by virtue of any of the preceding provisions of this section fails to comply with the requirement or in purported compliance with the requirement knowingly or recklessly furnishes information which is false in a material particular, then –

- (a) in the case of a failure to comply with the requirement he shall be guilty of an offence and liable \* \* \* to a fine of an amount not exceeding \* \* \* \*; and
- (b) in any other case he shall be guilty of an offence and liable \* \* \* to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both; and
- (c) if the requirement was made by virtue of subsection (1) or (2) above, the CAA may, whether or not any proceedings in respect of the requirement have been brought in pursuance of paragraph (a) or (b) of this subsection, revoke any licence

or certificate or approval which was issued or given by the CAA and to which the requirement related;

and a person who fails to comply with a requirement imposed on him in pursuance of this section shall be guilty of an offence by virtue of paragraph (a) of this subsection notwithstanding that at any relevant time he is [outside Jersey] and is neither a United Kingdom national nor a body incorporated under the law of a part of the United Kingdom or of a relevant overseas territory or an associated state.

#### *PART IV*

#### AIRCRAFT

85. \* \* \* \* \*

86. \* \* \* \* \*

#### **Application of law of wreck and salvage to aircraft**

87.-(1) Any services rendered in assisting, or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel.

(2) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

(3) Subsections (1) and (2) above shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of Her Majesty's dominions.

[(4) An Order in Council made or having effect as if made under this subsection as it applies in the United Kingdom shall have effect in Jersey as it has effect in the United Kingdom].

(5) \* \* \* \* \*

88. \* \* \* \* \*

#### **Exemption of aircraft and parts thereof from seizure on patent claims**

89.-(1) Any lawful entry into [Jersey] or any lawful transit across [Jersey], with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in [Jersey] on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(2) Subject to subsection (3) below, the importation into, and storage in, [Jersey] of spare parts and spare equipment for an aircraft to which this section applies and the use and

installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in [Jersey] on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(3) Subsection (2) above shall not apply in relation to any spare parts or spare equipment which are sold or distributed in [Jersey] or are exported from [Jersey] for sale or distribution.

(4) This section applies –

- (a) to an aircraft other than an aircraft used in military, customs or police services, registered in any country or territory in the case of which there is for the time being in force a declaration made by Her Majesty by Order in Council [made, or having effect as if made, under this section as it applies in the United Kingdom] with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory; and
- (b) to such other aircraft as Her Majesty may by Order in Council [made, or having effect as if made, under this section as it applies in the United Kingdom] specify.

(5) Schedule 12 of this Act shall have effect with respect to detention on patent claims in respect of foreign aircraft other than aircraft to which this section applies.

#### **Power to give effect to Convention on rights in aircraft**

**90.-(1)** Her Majesty may by Order in Council make such provision as appears to Her Majesty in Council to be necessary or expedient for giving effect to the Convention on the International Recognition of Rights in Aircraft which was signed at Geneva on behalf of the United Kingdom on 19th June 1948.

(2) Without prejudice to the generality of the powers conferred by subsection (1) above, an Order in Council under this section may, in particular, make provision –

- (a) for the recognition in [Jersey] of rights of the kind specified in the Convention in or over aircraft registered in other states party to the Convention, being rights registered or recorded in those states in accordance with the Convention and recognised as valid by the law of the state party to the Convention in which the aircraft in question was registered when the rights were constituted;
- (b) for subordinating to any such rights as aforesaid, to such extent as may be required under the Convention, any other rights in or over such aircraft as aforesaid, \* \* \* \*
- (c) as respects the operation, in relation to such aircraft as aforesaid, of any of the enactments in force in [Jersey] relating to bills of sale or the registration of charges on the property or undertaking of companies;

- (d) for prohibiting the sale in execution of any such aircraft as aforesaid without an order of a court, and otherwise for safeguarding in the case of such a sale any such rights as are mentioned in paragraph (a) above;
- (e) for the recognition in [Jersey] in priority to other rights in or over any such aircraft as aforesaid or any aircraft registered in the United Kingdom or a relevant overseas territory, of any charge consequent on salvage or similar operations in respect of the aircraft, being a charge arising in accordance with the law of any other state party to the Convention in which those operations terminated;
- (f) for the application, in accordance with the Convention, of provisions corresponding to those made by virtue of paragraphs (a) to (d) above to cases where a right such as is mentioned in the said paragraph (a) (being a right created as security for the payment of indebtedness) extends to any store of spare parts for the aircraft in question.

91. \* \* \* \* \*

### **Application of criminal law to aircraft**

**92.**-(1) Any act or omission taking place on board a British-controlled aircraft while in flight elsewhere than in or over [Jersey] which, if taking place in, \* \* \* \* [Jersey] would constitute an offence under the law in force in, \* \* \* \* [Jersey] shall constitute that offence; but this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside [Jersey].

(2) \* \* \* \* \*

(3) For the purpose of conferring jurisdiction, any offence under the law in force [in Jersey] committed on board an aircraft in flight shall be deemed to have been committed in any place in [Jersey] where the offender may for the time being be.

(4) For the purposes of this section the period during which an aircraft is in flight shall be deemed to include any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends; and any reference in this section to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(5) In this section, except where the context otherwise requires –

“aircraft” means any aircraft, whether or not a British-controlled aircraft, other than –

- (a) a military aircraft; or
- (b) subject to section 101(1)(b) below, an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of Her Majesty in right of the United Kingdom;

\* \* \* \* \*

“British-controlled aircraft” means an aircraft –

- (a) which is for the time being registered in the United Kingdom; or
- (b) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely –
  - (i) that he is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in the United Kingdom; and
  - (ii) that he resides or has his principal place of business in [Jersey]; or
- (c) which, being for the time being registered in some other country, is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the requirements aforesaid;

“military aircraft” means –

- (a) an aircraft of the naval, military or air forces of any country; or
- (b) any other aircraft in respect of which there is in force a certificate issued in accordance with any Order in Council in force under section 60, 87, 89, 91, 101(a) or 107(2) of this Act [as the section applies in any part of the United Kingdom or as extended to Jersey] that the aircraft is to be treated for the purposes of that Order in Council as a military aircraft;

and a certificate of the Secretary of State that any aircraft is or is not a military aircraft for the purposes of this section shall be conclusive evidence of the fact certified.

(6) \* \* \* \* \*

**93.** \* \* \* \* \*

### **Powers of commander of aircraft**

**94.-(1)** The provisions of subsections (2) to (5) below shall have effect for the purposes of any proceedings before any court in [Jersey].

(2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds to believe in respect of any person on board the aircraft –

- (a) that the person in question has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise –
  - (i) the safety of the aircraft or of persons or property on board the aircraft, or
  - (ii) good order and discipline on board the aircraft, or
- (b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,



then, subject to subsection (4) below, the commander may take with respect to that person such reasonable measures, including restraints of his person, as may be necessary –

- (i) to protect the safety of the aircraft or of persons or property on board the aircraft; or
- (ii) to maintain good order and discipline on board the aircraft; or
- (iii) to enable the commander to disembark or deliver that person in accordance with subsection (5) below,

and for the purposes of paragraph (b) of this subsection any British-controlled aircraft shall be deemed to be registered in the United Kingdom whether or not it is in fact so registered and whether or not it is in fact registered in some other country.

(3) Any member of the crew of an aircraft and any other person on board the aircraft may, at the request or with the authority of the commander of the aircraft, and any such member shall if so required by that commander, render assistance in restraining any person whom the commander is entitled under subsection (2) above to restrain; and at any time when the aircraft is in flight any such member or other person may, without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures such as are mentioned in that subsection which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(4) Any restraint imposed on any person on board an aircraft under the powers conferred by the preceding provisions of this section shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to an appropriate authority of the country in which the aircraft so ceases to be in flight, but subject to such notification may be continued after that time –

- (a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (5) below; or
- (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(5) The commander of an aircraft –

- (a) if in the case of any person on board the aircraft he has reasonable grounds –
  - (i) to believe as mentioned in subsection (2)(a) above, and
  - (ii) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,

may disembark that person in any country in which that aircraft may be; and

- (b) if in the case of any person on board the aircraft he has reasonable grounds to believe as mentioned in subsection (2)(b) above, may deliver that person –
  - (i) in [Jersey], to a [police officer] or [aliens officer];
  - (ii) in any \* country which is a Convention country, to an officer having functions corresponding to the functions in [Jersey] either of a [police officer] or of an [aliens officer].
- (6) The commander of an aircraft –
  - (a) if he disembarks any person in pursuance of subsection (5)(a) above, in the case of a British-controlled aircraft, in any country or, in the case of any other aircraft, in [Jersey] shall report the fact of, and the reasons for, that disembarkation to –
    - (i) an appropriate authority in the country of disembarkation; and
    - (ii) the appropriate diplomatic or consular office of the country of nationality of that person;
  - (b) if he intends to deliver any person in accordance with subsection (5)(b) above in [Jersey] or, in the case of a British-controlled aircraft, in any \* country which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor –
    - (i) where the country in question is to a [police officer] or immigration officer or, in the case of any other country, to an officer having functions corresponding to the functions in [Jersey] either of a [police officer] or of an [aliens officer];
    - (ii) in either case to the appropriate diplomatic or consular office of the country of nationality of that person;

and any commander of an aircraft who without reasonable cause fails to comply with the requirements of this subsection shall be liable \* \* \* \* a fine. \* \* \* \* \*

- (7) In this section –

“commander” in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft; and

“pilot in command” in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

and, subject to subsection (8) below, subsections (4) and (5) of section 92 above shall apply for the purposes of this section as they apply for the purposes of that section.

- (8) The time during which an aircraft is in flight shall, for the purposes of this section, be deemed to include, in addition to such a period as is mentioned in subsection (4) of section 92 above –

- (a) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight; and
- (b) if the aircraft makes a forced landing, any period thereafter until the time when competent authorities of the country in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being, if the forced landing takes place in [Jersey], the time when a [police officer] arrives at the place of landing).

### **Evidence, etc**

**95.-(1)** Where in any proceedings before a court in [Jersey] for an offence committed on board an aircraft the testimony of any person is required and the court is satisfied that the person in question cannot be found in [Jersey], there shall be admissible in evidence before that court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside [Jersey] which was so made –

- (a) in the presence of the person charged with the offence; and
- (b) before a judge or magistrate of a country such as is mentioned in Schedule 3 to the British Nationality Act 1981 as for the time being in force or which was part of Her Majesty's dominions at the time the deposition was made or in which Her Majesty had jurisdiction at that time, or before a consular officer of Her Majesty's Government in the United Kingdom.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.

(4) \* \* \* \* \*

(5) In this section –

“deposition” includes any affidavit, affirmation or statement made upon oath; and

“oath” includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing;

and subsections (4) and (5) of section 92 above shall apply for the purposes of this section as they apply for the purposes of that section.

(6) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

### **Use of records and documentary evidence**

**96.-(1)** In any legal proceedings –

(a) a document purporting to be certified by such authority or person as may be designated for the purpose by regulations made [or having effect as if made] by the Secretary of State [under this subsection as it has effect in the United Kingdom] as being, or being a true copy of, or of part of, a document issued or record kept in pursuance of –

(i) an Air Navigation Order, or

(ii) the Civil Aviation (Licensing) Act 1960,

by, or by the Minister in charge of, a government department, by an official of a government department specified for the purpose in an Air Navigation Order [or by the Committee] or by the Air Registration Board or the Air Transport Licensing Board, or

(b) a document printed by either Her Majesty's Stationery Office or the CAA and purporting to be the publication known as the "United Kingdom Air Pilot" or a publication of the series known as "Notam –United Kingdom",

shall be evidence, \*\*\*\*\* of the matters appearing from the document.

(2) In any legal proceedings any record made by any such authority or person as may be designated for the purposes of this subsection by regulations made [or having effect as if made] by the Secretary of State [under this subsection as it has effect in the United Kingdom] or by a person acting under the control of such an authority or person, being a record purporting to show –

(a) the position of an aircraft at any material time, or

(b) the terms or content of any message or signal transmitted to any aircraft, either alone or in common with other aircraft, or received from any aircraft, by the first-mentioned authority or person, or by a person acting under the control of that authority or person,

shall, if produced from the custody of that authority or person be evidence \* \* \* \* \* of the matters appearing from the record.

(3) The references in subsection 92 above to a record made by or under the control of any authority or person include references to a document or article purporting to be a copy of a record so made, and certified to be a true copy by or on behalf of that authority or person; and in relation to such a copy that subsection shall have effect as if the words "if produced from the custody of that authority or person" were omitted.

(4) Any person who wilfully certifies any document or article to be a true copy of any such record as is mentioned in subsection (2) above knowing it not to be a true copy shall be liable –

(a) \* \* \* \* \*

(b) \* \* \* \* \* to a fine or to imprisonment for a term not exceeding two years or to both.

[(5) In this section “record” includes in addition to a record in writing –

- (a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced therefrom;
- (b) any film, tape or other device in which visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom; and
- (c) any photograph;

and any reference to a copy of a record includes in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein, and in the case of a record falling within both those paragraphs, such a transcript together with a still reproduction.].

### **Seaplanes**

**97.-(1)** The power of Her Majesty in Council under subsection (1) of section 418 of the Merchant Shipping Act 1894 to make regulations for the prevention of collisions at sea shall include power to make regulations for the prevention of collisions at sea –

- (a) between seaplanes on the surface of the water; and
- (b) between vessels and seaplanes on the surface of the water;

and accordingly sections 418, 419, 421 and 424 of the said Act of 1894 shall apply in relation to seaplanes on the surface of the water as they apply in relation to ships or vessels, except that –

- (i) for the purposes of subsection (2) of the said section 418 and for the purposes of the said section 424, sections 418, 419, 421 and 424 of the said Act of 1894 shall be deemed to be the only provisions of Part V of that Act relating to the collision regulations or otherwise relating to collisions; and
- (ii) any reference in the said section 419 to the master or to the person in charge of the deck shall be construed as a reference to the pilot or other person on duty in charge of the seaplane.

In this subsection “vessels” has the same meaning as in the said Act of 1894.

- (2) \* \* \* \* \*
- (3) \* \* \* \* \*

[(4) Subject to subsection (5) below, any power or duty to regulate ships or vessels exercisable by any authority in Jersey shall be construed as including a power or duty to regulate seaplanes when on the surface of the water and a power to authorise a harbour master or other officer of the authority to exercise, as respects seaplanes on the surface of the water, all or any of the functions which he is authorised to exercise as respects ships or vessels.].

(5) [The powers conferred by subsection (4) above do not include power to require, or to authorise] a harbour master or other officer to require, the dismantling of a seaplane or any

part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

\* \* \* \* \*

(6) In this section –

\* \* \* \* \*

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water;

and, for the purposes of this section, seaplanes taking off from or alighting on the water shall be deemed to be on the surface of the water while in contact therewith.

### **Construction of certain provisions of Part IV**

**98.** If the Secretary of State is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied (which Article makes provision as to the country which is to be treated as the country of registration of certain aircraft operated by joint air transport organisations or international operating agencies established by two or more Convention countries) the Secretary of State may by order provide that for the purposes of sections 92 to 95 above such aircraft as may be specified in the order shall be treated as registered in such Convention country as may be so specified. [An order made or having effect as if made under this section as it applies in the United Kingdom shall have effect in Jersey as it has effect in the United Kingdom].

## **PART V**

### **MISCELLANEOUS AND GENERAL**

#### **Offences**

**99.-(1)** Where an offence to which this subsection applies has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

(3) Any offence to which this subsection applies shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

(4) Subsection (1) above applies to any offence under section \* \* \* 64(5), 67(6) \* \* \* or 84(4) above \* \* \* \* \*

(5) Subsection (3) above applies to any offence under any provision made by or under this Act, except, without prejudice to section 92(3) above –

- (a) \* \* \* \* \*
- (b) an offence under section \* \* \* \* 94(6) above;
- (c) an offence consisting in a contravention of an order made under section 62 above;
- (d) \* \* \* \* \*
- (e) \* \* \* \* \*

**100.** \* \* \* \* \*

### **Power to apply certain provisions to Crown aircraft**

**101.**-(1) Her Majesty may by Order in Council –

- (a) apply to any aircraft belonging to or exclusively employed in the service of Her Majesty, with or without modification, any of the provisions of this Act mentioned in subsection (2) below (being provisions which do not otherwise apply to such aircraft) or any Orders in Council, orders or regulations under those provisions;
- (b) apply the provisions of sections 92 to 95 above, with or without modifications, to aircraft such as are excluded from the definition of “aircraft” in subsection (5) of the said section 92 by paragraph (b) of the definition.

(2) The provisions of this referred to in subsection (1)(a) above are sections 60 to 62 [74A] to 77, 81, 87, 89, \* 96 and 97 and Part III of Schedule 13.

### **Powers to make Orders in Council, orders and regulations**

**102.**-(1) Any power conferred on the Secretary of State by this Act to make an order or regulations, \* \* \* \* shall be exercisable by statutory instrument.

(2) The powers to make Orders in Council, orders and regulations which are conferred by virtue of the provisions of this Act specified in column 1 of Part II of the said Schedule 13 (being the Orders in Council, orders and regulations a general description of which is given in column 2 of that Part) –

- (a) \* \* \* \* \*
- (b) shall, to the extent specified in column 4 of that Part, include the powers conferred by virtue of Part III of that Schedule.
- (3) \* \* \* \* \*
- (4) \* \* \* \* \*
- (5) \* \* \* \* \*

**103.** \* \* \* \* \*

**104.** \* \* \* \* \*

### **General interpretation**

**105.**-(1) In this Act except where the context otherwise requires –

\* \* \* \* \*

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“Air Navigation Order” means an Order in Council under section 60 above;

“air navigation services” includes information, directions and other facilities furnished, issued or provided in connexion with the navigation or movement of aircraft, and includes the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft;

“air transport licence” has the meaning given by section 64(1)(a) above;

“air transport service” means a service for the carriage by air of passengers or cargo;

\* \* \* \* \*

“the CAA” means the Civil Aviation Authority;

“cargo” includes mail;

“the Chicago Convention” means the convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago;

[“The Committee” means the Harbours and Airport Committee of the States of Jersey].

“Convention country” means a country in which the Tokyo Convention is for the time being in force; and Her Majesty may by Order in Council certify that any country specified in the Order is for the time being a Convention country and any such Order in Council for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country;

\* \* \* \* \*

“Eurocontrol” and “the Eurocontrol Convention” have the meanings given by section 24 above;

“flight” means a journey by air beginning when the aircraft in question take off and ending when it next lands;

“functions” includes powers and duties;



["Jersey" means the Bailiwick of Jersey];

\* \* \* \* \*

\* \* \* \* \*

"loss or damage" includes, in relation to persons, loss of life and personal injury;

"modifications" includes additions, omissions and amendments, and "modify" shall be construed accordingly;

"operator", in relation to an aircraft, means the person having the management of the aircraft for the time being or, in relation to a time, at that time;

["police officer" means a member of the Honorary Police or a member of the States of Jersey Police Force or the Airport Commandant or any person having the powers of the Airport Commandant by virtue of Article 2 of the Aerodromes (Administration) (Jersey) Law 1952<sup>18</sup>];

"relevant overseas territory" means any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction;

"reward", in relation to a flight, includes any form of consideration received or to be received or to be received wholly or partly in connexion with the flight irrespective of the person by whom or to whom the consideration has been or is to be given;

["the Royal Court" means the Inferior Number of the Royal Court of Jersey].;

\* \* \* \* \*

"Tokyo Convention" means the Convention on Offences and certain other Acts Committed on board Aircraft, which was signed at Tokyo on 14th September 1963;

"United Kingdom national" means an individual who is –

- (a) a British citizen, a British Dependent Territories citizen [, a British national (Overseas)] or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person (within the meaning of that Act).

(2) Except where the context otherwise requires, any reference in this Act to the provisions of an Order in Council shall, if paragraph 3 of Part III of Schedule 13 to this Act (power to authorise making of regulations) applies to the power to make the Order in question, include a reference to the provisions of any regulations made, or directions given, under the Order in Council.

(3) Without prejudice to any transitional or transitory provision made by this Act or to section 17(2) of the Interpretation Act 1978 (repeal and re-enactment), any reference in any enactment contained in this Act (including a reference to a provision of that enactment or to any

<sup>18</sup> Tome VIII, page 70.

other enactment so contained) to a provision which is a re-enactment of a repealed enactment or to things done or falling to be done under such a provision shall, so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which the repealed enactment had effect, a reference to, or to things done or falling to be done under, that repealed enactment; and where the repealed enactment was itself a re-enactment of an earlier provision the reference shall extend in the same way to that earlier provision, and so on.

(4) Any reference in this Act to the re-enactment of a provision includes a reference to its re-enactment with modifications.

(5) \* \* \* \* \*

(6) \* \* \* \* \*

(7) \* \* \* \* \*

(8) \* \* \* \* \*

### **Application of Act to territorial waters**

**106.**-(1) Except where the context otherwise requires, in any provision of this Act to which this section applies a reference to a country or territory or to the territorial limits of any country shall be construed as including a reference to the territorial waters of the country or territory, as the case may be; and a reference to a part of [Jersey] shall be construed as including a reference to so much of the territorial waters of [Jersey] as are adjacent to that part.

(2) This section applies to Parts III and IV of this Act, except sections [63, 64, 67(b) and 71].

(3) Nothing in this section shall prejudice the construction of any provision of this Act to which this section does not apply.

**107.** \* \* \* \* \*

**108.** \* \* \* \* \*

### **Transitional provisions, consequential amendments, repeals, etc.**

**109.**-(1) Schedule 14 to this Act (which contains transitional and transitory provisions and savings) shall have effect; and the provisions of that Schedule are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (which relates to repeals).

(2) The enactments specified in Schedule 15 to this Act shall have effect subject to the amendment there specified, being amendments consequential on the provisions of this Act.

(3) Subject to the provisions of the said Schedule 14, the enactments and instruments specified in Schedule 16 to this Act are hereby repealed to the extent specified in the third column of the said Schedule 16.

### **Citation and commencement**

**110.**-(1) This Act may be cited as the Civil Aviation Act 1982.

*Jersey Order in Council 17/1990*

*The Civil Aviation Act 1982 (Jersey) Order 199*

(2) \* \* \* \* \*

**SCHEDULES****SCHEDULE 1****(Section 2)****ADDITIONAL PROVISIONS RELATING TO CONSTITUTION, ETC. OF CAA**

1. \* \* \* \* \*
2. \* \* \* \* \*
3. \* \* \* \* \*
4. \* \* \* \* \*
5. \* \* \* \* \*
6. \* \* \* \* \*
7. \* \* \* \* \*
8. \* \* \* \* \*
9. \* \* \* \* \*
10. \* \* \* \* \*

**Proceedings**

11. The validity of any proceedings of the CAA shall not be affected by any vacancy among the members or by any defect in the appointment of a member [of the CAA] or by any failure to comply with the requirements of paragraph 10 [of this Schedule as it applies in the United Kingdom].

12. \* \* \* \* \*
13. \* \* \* \* \*
14. \* \* \* \* \*
15. \* \* \* \* \*
16. \* \* \* \* \*

**Instruments and contracts**

17. A document purporting to be duly executed under the seal of the CAA shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

18. \* \* \* \* \*

*SCHEDULE 2*

\* \* \* \* \*

*SCHEDULE 3*

\* \* \* \* \*

**SCHEDULE 4****(Section 24)****EUROCONTROL**

1.-(1) Eurocontrol shall have the legal capacity of a body corporate; and anything which may be required or authorised by law to be done by or to Eurocontrol may be done by or to the Agency on behalf of Eurocontrol.

(2) \* \* \* \* \*

(3) Subject to sub-paragraph (4) below, [the inviolability which, in accordance with the 1961 Convention Articles, is accorded in respect of the official archives and premises of a diplomatic mission] shall extend to the official archives of Eurocontrol, and to premises occupied by Eurocontrol wholly or mainly for the housing of its installations; and without prejudice to the foregoing provisions, no judgment or order of any court shall be enforced by the levying of execution or by diligence upon anything forming part of any such installations.

(4) Sub-paragraph (3) above (except so far as it relates to execution or diligence) shall not preclude access to any premises or the inspection of any record or document [where the Director-General of the Agency is given advance notice of the exercise of the power conferred by this sub-paragraph and the access or inspection is] –

- (a) by a [police officer] or other person acting in the execution of a warrant or other legal process;
- (b) by a Court of Inquiry or an Inspector of Accidents acting in pursuance of regulations made under section 75 of this Act; or
- (c) by a [police officer] having reason to believe that an offence has been or is being or is about to be committed on the premises.

[(4A) Without prejudice to the preceding provisions of this paragraph, the property and assets of Eurocontrol shall be immune from the exercise by any person of any right or power without the leave of a court to seize or otherwise interfere with such property or assets.

(4B) No court or tribunal in [Jersey] shall have jurisdiction in respect of any matter involving Eurocontrol and any of its officers or servants, being a matter which by virtue of any international agreement to which [Jersey] is a party is within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation.

(4C) For the purposes of sub-paragraph (4B) above, a certificate of the Secretary of State that any matter is or is not, as mentioned in that sub-paragraph, within the exclusive jurisdiction of the Administrative Tribunal of the International Labour Organisation shall be conclusive of what is certified.]

(5) In this paragraph –

“the Agency” means the Air Traffic Services Agency comprised in Eurocontrol;

“installations” means apparatus for locating, directing, affording navigational aid to, or otherwise communicating with, aircraft in flight, including apparatus for recording or processing material received or transmitted by such apparatus, and any other apparatus for use in connexion with any such apparatus as aforesaid;

[“the 1961 Convention Articles” means the Articles (being certain Articles of the Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges 1964];

“record” has the same meaning as in section [96(5)] of this Act.

**2.** \* \* \* \* \*

**3.-(1)** Subject to [paragraph 1 above and] sub-paragraph (2) below, a court in any part of [Jersey] shall have jurisdiction to hear and determine a claim against Eurocontrol for damages in respect of any wrongful act, neglect or default, notwithstanding that the act, neglect or default did not take place within the jurisdiction of the court or that Eurocontrol is not present within the jurisdiction of the court.

(2) A court shall not have jurisdiction by virtue of sub-paragraph (1) above in respect of damage or injury sustained wholly within or over a country to which the provisions of this Act relating to Eurocontrol do not extend.



*SCHEDULE 5*

\* \* \* \* \*

*SCHEDULE 6*

\* \* \* \* \*

*SCHEDULE 7*

\* \* \* \* \*

*SCHEDULE 8*

\* \* \* \* \*

*SCHEDULE 9*

\* \* \* \* \*

*SCHEDULE 10*

\* \* \* \* \*

*SCHEDULE 11*

\* \* \* \* \*

*SCHEDULE 12***(Section 89)****PATENT CLAIMS AGAINST AIRCRAFT NOT PROTECTED UNDER CHICAGO CONVENTION**

1. Where it is alleged by any person interested that a foreign aircraft which is not an aircraft to which section 89 of this Act applies, and which is making a passage through or over [Jersey], infringes in itself or in any part of it any invention, design or model which is entitled to protection in [Jersey], it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this Schedule referred to as “the deposited sum”); and thereupon the aircraft shall not during the continuance or in the course of the passage be subject to any lien, arrest, detention or prohibition (whether by order of a court or otherwise) in respect or on account of the alleged infringement.

2. The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, fixed by the [Committee] or some person duly authorised on [its] behalf; and payment thereof shall be made or secured to the [Committee] in such manner as the [Committee] shall approve.

3. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be specified by rules of court, and such rules may provide generally for carrying this Schedule into effect.

4. For the purposes of this Schedule –

“owner” shall include the actual owner of an aircraft and any person claiming through or under him; and

“passage” shall include all reasonable landings and stoppages in the course or for the purpose of the passage.

*SCHEDULE 13***(Section 102)***PART I*

\* \* \* \* \*

*PART II***PROVISIONS APPLYING TO CERTAIN POWERS**

Provision of Act	General description			Parliamentary control	Supplemental powers
*	*	*	*	*	*
*					



*Jersey Order in Council 17/1990**The Civil Aviation Act 1982 (Jersey) Order 199*

Section 60	An Air Navigation Order.		Paragraphs 2, 3, 4 and 6 of Part III apply.
*	*	*	*
*			
Section 62	Orders controlling air navigation in time of war or emergency..		Paragraph 4 of Part III applies
Section 63	Order in time of war or emergency for control of * * * air transport undertaking.	* * *	[Paragraph 4 applies].
Section 71	Regulations with respect to provision of accommodation in aircraft.		Paragraphs 1 and 2 of Part III apply.
Provision of Act	General description	Parliamentary control	Supplemental powers
*	*	*	*
*			
Section 75	[Order in Council] with respect to the investigation of aircraft accidents.		Paragraphs 4 and 6 of Part III apply.
*	*	*	*
*			
Section 90	Order in Council giving effect to Convention on rights in aircraft.	* * *	Paragraphs 2 and 5 of Part III apply.
*	*	*	*
*			

Section 101	Order in Council extending provisions of Act to Crown aircraft.	* * *	Paragraphs 2, 3, 4 and 6 of Part III apply in the case of an Order made by virtue of section 101(1)(a).
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\* \* \* \* \*

### *PART III*

#### **SUPPLEMENTARY POWERS**

##### **Different provision for different cases**

1.-(1) A power to which this paragraph applies shall include power to make different provision for different circumstances.

(2) Sub-paragraph (1) above is without prejudice to the generality of any provision of this Act conferring a power to which this paragraph does not apply.

##### **Incidental supplementary and transitional provision**

2. A power to which this paragraph applies shall include power to make such incidental, supplementary or transitional provision as the authority exercising the power thinks fit.

##### **Power to authorise making of regulations**

3.-(1) An Order in Council made in pursuance of a power to which this paragraph applies may authorise the Secretary of State to make regulations for carrying out the purposes of the Order in respect of such matters as may be specified in the Order.

(2) Paragraphs 2, 4 and 6 of this Part of this Schedule apply to any power to make regulations conferred by virtue of sub-paragraph (1) above.

##### **Power to provide for detention of aircraft**

4.-(1) Any Order in Council, order or regulations made in relation to aircraft, in pursuance of any power to which this paragraph applies may provide for the detention of aircraft to secure compliance with the Order in Council, order or regulations, as the case may be, or with any enactment which is mentioned in sub-paragraph (2) below, and in connexion with which the Order in Council, order or regulations is or are made, and may make such further provision as appears to the authority exercising the power to be necessary or expedient for securing such detention.

(2) The enactments referred to in sub-paragraph 9(1) above are the enactments contained in sections \* \* 76, 81, 89 and 97 of this Act and the enactments conferring powers to which this paragraph applies.

### **Crown aircraft**

**5.** Without prejudice to section 101 of this Act, an Order in Council made in pursuance of a power to which this paragraph applies may apply in such cases and to such extent as appears to Her Majesty in Council to be expedient to aircraft belonging to or employed in the service of Her Majesty.

### **Extra-territorial provisions**

**6.-(1)** Notwithstanding that an Order in Council or regulation made in pursuance of a power to which this paragraph applies has effect only as part of the law of [Jersey], no provision contained in the Order or regulation shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to aircraft registered in the United Kingdom, wherever they may be, or prohibits, requires or regulates –

- (a) the doing of anything by persons in, or any of the personnel of, such aircraft, wherever they may be; or
- (b) the doing of anything in relation to such aircraft by other persons, being Commonwealth citizens, or citizens of the Republic of Ireland, wherever they may be.

(2) Nothing in sub-paragraph (1) above shall affect subsection (1) of section 3 of the British Nationality Act 1948 (which limits the criminal liability of certain persons).

(3) For the purposes of sub-paragraph (1) above, the personnel of an aircraft shall be deemed to include the commander or other person in charge of the aircraft and all other members of the crew of the aircraft.

(4) Without prejudice to sub-paragraph (5) below, in the application of this paragraph to the power to make an Air Navigation Order or to make regulations by virtue of paragraph 3 above under such an Order, the references in sub-paragraph (1) above to aircraft registered in the United Kingdom shall have effect as if they included references to any aircraft which is not so registered but is for the time being under the management of a person who, or of persons each of whom, is qualified to be the owner of a legal or beneficial interest in an aircraft registered in the United Kingdom.

(5) So far as relates to any provision of an Order in Council or regulation concerning aircraft on or in the neighbourhood of offshore installations, within the meaning of the Mineral Workings (Offshore Installations) Act 1971, this paragraph shall apply to all aircraft and not only to aircraft registered in the United Kingdom and shall apply to the doing of anything in relation to any aircraft by any person irrespective of nationality or, in the case of a body corporate, of the law under which it was incorporated.

(6) Sub-paragraph (5) above shall apply to installations notwithstanding that they are for the time being in transit.

**SCHEDULE 14****(Section 109)****TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS****General**

1. Where any enactment has been repealed (whether by this Act or otherwise) but, by virtue of any provision of the Act making the repeal (including a provision delaying the coming into force of the repeal), continues on and after the operative date to have effect for any purpose, then any other enactment repealed by this Act which, but for its repeal, would have effect for the purpose of construing or otherwise giving effect to the first mentioned enactment shall, notwithstanding its repeal, continue to have effect in relation to that provision for that purpose.

2.-(1) Subject to sub-paragraph (2) below, where any period of time specified in an enactment re-enacted by this Act is current on the operative date, this Act shall have effect as if the provision of this Act re-enacting that enactment had been in force when that period began to run.

(2) A person shall not, by virtue of sub-paragraph (1) above, be liable in respect of any offence which continues or continued during any period beginning before the operative date to any penalty greater than that which might have been imposed on him apart from this Act; and accordingly the maximum penalty for such an offence shall be determined in accordance with the law in force immediately before the operative date.

3. Where anything was done before the operative date for the purposes of any enactment which is re-enacted by any provision of this Act the doing of that thing shall, on and after that date, have effect so far as may be necessary for giving the doing of that thing continuing effect as if that provision had been in force when the thing was done and as if the thing had been done for the purposes of that provision.

4. \* \* \* \* \*

5. \* \* \* \* \*

**Section 6 of the Civil Aviation Act 1949**

6. Notwithstanding the repeal of section 6 of the Civil Aviation Act 1949, a certificate under subsection (3) of that section shall continue to be conclusive of the matters certified.

**Lighthouse authorities**

7. The rights, powers and privileges of any general or local lighthouse authority shall not be prejudiced by, or by an instrument under, any of the following provisions of this Act, that is to say, sections [60, 62, 74A, 77, 81, 87, 89, 96 and 97].

8. \* \* \* \* \*

9. \* \* \* \* \*

*Jersey Order in Council 17/1990**The Civil Aviation Act 1982 (Jersey) Order 199***10.** \* \* \* \* \***11.** \* \* \* \* \***12.** \* \* \* \* \***Interpretation**

**13.** In this Schedule “the operative date” means the date of the coming into force of [the Civil Aviation Act 1982 (Jersey) Order 1990].

**SCHEDULE 15****(Section 109)****CONSEQUENTIAL AMENDMENTS**

1. \* \* \* \* \*
2. \* \* \* \* \*
3. \* \* \* \* \*
4. \* \* \* \* \*
5. \* \* \* \* \*

**The Tokyo Convention Act 1967**

6. In section 7(1) of the Tokyo Convention Act [as extended to Jersey by the Tokyo Convention Act 1967 (Jersey) Order 1969]<sup>20</sup> for the definitions of “aircraft” and British-controlled aircraft” there shall be substituted the following definition –

“ ‘aircraft’ has the same meaning as in section 92 of the Civil Aviation Act 1982; and for the purposes of this definition section 101 of that Act shall apply to this Act as it applies to the said section 92 [as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990”,]

and the definition of “modifications” shall continue to have effect notwithstanding the repeal by this Act of paragraph 27 of Schedule 1 to the Civil Aviation (Amendment) Act 1982.

7. \* \* \* \* \*
8. \* \* \* \* \*
9. \* \* \* \* \*

**The Hijacking Act 1971**

10. In section 2 of the Hijacking Act 1971, [as extended to Jersey by the Hijacking Act 1971 (Jersey) Order 1971]<sup>22</sup> for the words “section 1 of the Tokyo Convention Act 1967 [as extended to Jersey by the Tokyo Convention Act 1967 (Jersey) Order 1969<sup>23</sup>]” there shall be substituted the words “section 92 of the Civil Aviation Act 1982 [as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990.<sup>21</sup>”].

11. \* \* \* \* \*
12. \* \* \* \* \*

**The Protection of Aircraft Act 1973**

<sup>20</sup> Volume 1968–1969, page 223.

<sup>22</sup> Volume 1970–1972, page 279.

<sup>23</sup> Volume 1968–1969, page 223.

**13.** In section 26(1) of the Protection of Aircraft Act 1973, [as extended to Jersey by the Protection of Aircraft Act 1973 (Jersey) Order 1973]<sup>24</sup> –

(a) \* \* \* \* \*

(b) in the definition of “operator”, for the words “Civil Aviation Act 1971” there shall be substituted the words “Civil Aviation Act 1982 [as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990].

**14.** \* \* \* \* \*

**15.** \* \* \* \* \*

**16.** \* \* \* \* \*

**17.** \* \* \* \* \*

**18.** \* \* \* \* \*

**19.** \* \* \* \* \*

**20.** \* \* \* \* \*

### **The Suppression of Terrorism Act 1978**

**21.** In subsection (7) of section 4 of the Suppression of Terrorism Act 1978 [as extended to Jersey by the Suppression of Terrorism Act 1978 (Jersey) Order 1978]<sup>25</sup> for the words from “and section” onwards there shall be substituted the words “and subsection (4) of section 92 of the Civil Aviation Act 1982. [References to the Civil Aviation Act 1982 are to that Act as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990] (definition of ‘in flight’ or, as applied to hovercraft, ‘in journey’) shall apply for the purposes of this subsection as it applies for the purposes of that section.”

**22.** \* \* \* \* \*

**23.** \* \* \* \* \*

**24.** \* \* \* \* \*

**25.** \* \* \* \* \*

**26.** \* \* \* \* \*

**27.** \* \* \* \* \*

<sup>24</sup> Volume 1973–1974, page 135.

<sup>25</sup> Volume 1979–1981, page 91.

**SCHEDULE 16****(Section 109)****REPEALS**

Chapter or number	Short title	Extent of repeal
12,13 & 14 Geo. 6. c. 67.	The Civil Aviation Act 1949.	Section 1. Section 6 Sections 8 to 11. Section 16(1) and (2). Sections 17 to 20. Sections 23 to 35. Section 37 to 41. Section 49. Sections 51 to 53. Sections 55 to 58. Section 59(1). Sections 60 to 65. Sections 69 to 71. Schedules 1 to 4. Schedules 8 and 9. Schedule 11.
*        *	*        *	*        *
*		
8 & 9 Eliz. 2. c.38.	The Civil Aviation (Licensing) Act 1960.	Section 5(3) and (4). Section 6(6), (6A) and (7). Section 7. Section 10. Section 12.
*        *	*        *	*        *
*		



*Jersey Order in Council 17/1990**The Civil Aviation Act 1982 (Jersey) Order 199*

1967 c. 52.      The Tokyo Convention Act  
1967.

Sections 1 to 3.

Sections 5 and 6.

In section 7, in  
subsection (1) the  
definitions of  
“commander”,  
“Convention country”,  
“military aircraft”,  
“operator”, “pilot in  
command” and “Tokyo  
Convention”, subsection  
(2), in subsection (3) the  
words from “and  
references” onwards and  
subsection (4)

In section 8(1), the  
words “other than  
section 2”.

Section 9(2).

\*            \*            \*            \*            \*            \*

1971 c. 75      The Civil Aviation  
Act 1971.

Sections 1 to 36.  
Sections 61 to 70.  
Schedules 1 to 7.  
Schedules 9 to 11.

\*            \*            \*            \*            \*            \*