1960 No. 2410

The Air Navigation (Amendment) Order, 1960

Made - - - -	21*st December*, 1960
Laid before Parliament	30*th December*, 1960
Coming into Operation	2*nd January*, 1961

At the Court at Buckingham Palace, the 21st day of December, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty in exercise of the powers conferred upon Her by sections eight and fifty-seven of the Civil Aviation Act, 1949(**a**), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and Operation

1. This Order may be cited as the Air Navigation (Amendment) Order, 1960, and shall come into operation on the 2nd day of January, 1961.

Interpretation

2. The Interpretation Act, 1889(**b**), applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

Amendment of Order

3.—(1) The provisions of the Schedule to this Order shall be added to the Air Navigation Order, 1960(**c**), at the end of Part I thereof.

(2) There shall be added to Article 54 of the said Order the following paragraph as paragraph (4) thereof:—

"Paragraphs (1) and (3) of this Article shall not apply to an air operator's certificate granted under Article 3A of this Order."

(3) There shall be added to subparagraph (*a*) of paragraph (1) of Article 69 of the said Order, immediately after the figure "3" therein, the figure and letter "3A".

W. G. Agnew.

(**a**) 12, 13 & 14 Geo. 6. c. 67. (**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1960/972 (Pt. I, p. 599, of this vol.).

THE SCHEDULE

Provisions to be inserted in the Air Navigation Order, 1960, at the end of Part I thereof

PART IA

AIR OPERATORS' CERTIFICATES

Article 3A

(1) The Minister shall appoint an official of his Department to be the Director of Aviation Safety for civil aviation (hereafter in this Article referred to as "the Director"). The Minister may also appoint officials of his Department to be deputies to the Director to perform the functions of the Director under this Article whenever the Minister so instructs. The Minister may at any time revoke the appointment of any person as Director or as his deputy.

(2) An aircraft registered in the United Kingdom, and having a maximum total weight authorised of more than 5,000 lb., shall not fly on any flight on or after 30th March, 1961, for the purpose of public transport, otherwise than under and in accordance with the terms of an air operator's certificate granted to the operator of the aircraft under paragraph (3) of this Article, certifying that the holder of the certificate is competent to secure that aircraft operated by him on such flights as that in question are operated safely.

(3) The Director shall grant to any person applying therefor an air operator's certificate if he is satisfied that that person is competent, having regard in particular to his previous conduct and experience, his equipment, organisation, staffing, maintenance and other arrangements, to secure the safe operation of aircraft of the types specified in the certificate on flights of the description and for the purposes so specified. The certificate may be granted subject to such conditions as the Director thinks fit, and, subject to the provisions of paragraph (4) of this Article, shall remain in force for the period specified in the certificate.

(4) Subject to the provisions of paragraph (5) of this Article the Director may, if he thinks fit, suspend or revoke any air operator's certificate, and may vary any such certificate whether or not application has been made for the variation.

(5) The Director shall not suspend, revoke or vary any air operator's certificate, except in accordance with an application made by the holder thereof, unless—

(*a*) the Director has previously given the holder of the certificate such written notice in such a manner and at such a time as may be prescribed, containing concise particulars of the Director's proposal and the reasons for it;

(*b*) the notice has expired; and

(*c*) the Director has considered any representations which the holder of the certificate may have made to him in writing before the expiration of the notice:

Provided that the foregoing requirements of this paragraph need not be complied with in any case in which the Director certifies that in the interests of the safety of air navigation it is essential for the revocation, suspension or variation of the certificate to take effect immediately.

(6) The Director shall serve the applicant for or holder of the certificate (as the case may be) with written notice of his decision as to that certificate and shall within such period as may be prescribed furnish the applicant for or holder of the certificate with reasons in writing for his decision—

(*a*) if he refuses to grant the certificate, or grants it subject to a condition to which the applicant has not agreed; or

(*b*) if he suspends, revokes or varies the certificate otherwise than in accordance with an application by the holder.

(7) Any applicant for or holder of an air operator's certificate who is aggrieved by a decision of the Director as to that application or certificate may, within such period and in such manner as may be prescribed, appeal to a person to be appointed for the purpose—

(*a*) where the appellant has his principal place of business in Scotland, by the Lord President of the Court of Session,

(*b*) where the appellant has his principal place of business in Northern Ireland, by the Lord Chief Justice of Northern Ireland, and

(*c*) in any other case by the Lord Chancellor,

sitting with such technical assessors, if any, as may be so appointed. The Minister may by regulations make provision as to the giving of notice of appeal, the liability of any of the parties in respect of costs or expenses incurred in connection therewith, and generally for the procedure relating to appeals.

(8) In this Article—

"holder", in relation to a certificate, includes the holder of a certificate which has been revoked or suspended;

"operator", in relation to an aircraft, means the person for the time being having the business management of that aircraft, and cognate expressions shall be construed accordingly.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Section 1 (2) of the Civil Aviation (Licensing) Act, 1960, prohibits the use of aircraft to which the section applies for reward or in connection with a trade or business except under and in accordance with such an air operator's certificate as is required by an Order in Council for the time being in force under s. 8 of the Civil Aviation Act, 1949.

This Order amends the Air Navigation Order, 1960, an Order made under s. 8 of the Civil Aviation Act, 1949, by adding a new Article prohibiting aircraft registered in the United Kingdom, having a maximum total weight authorised of more than 5,000 lb., from flying, on or after 30th March, 1961, for the purpose of public transport (an expression defined in Article 79 (1) of that Order) otherwise than under and in accordance with an air operator's certificate granted to the operator of the aircraft by the Director of Aviation Safety (an official of the Ministry of Aviation). The Director is obliged to grant the certificate if he is satisfied, having regard to matters specified in the Article, that the operator is competent to secure the safe operation of aircraft of the types, on the flights and for the purposes specified in the certificate. An appeal lies from the Director's decision to a person appointed by the Lord Chancellor, the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland, sitting with such technical assessors as may be so appointed, and the Minister of Aviation is empowered to make provision by regulations as to procedure on appeals and the liability of the parties to appeals for costs and expenses.