CIVIL AVIATION

AIR NAVIGATION

1957 No. 278

The Air Navigation (Fifth Amendment) Order, 1957

Made - - - -	*22nd February*, 1957
Laid before Parliament	*28th February*, 1957
Coming into Operation	
for the purposes of Article 2 (*d*)	*1st March*, 1957
for all other purposes	*1st May*, 1957

At the Court at Buckingham Palace, the 22nd day of February, 1957

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 8, 57 and 59 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 (Fifth Amendment) Order, 1957, and shall come into operation, for the purposes of paragraph (*d*) of Article 2, on the first day of March, 1957, and for all other purposes, on the first day of May, 1957.

Amendment of Air Navigation Order, 1954

2. The Air Navigation Order, 1954(b), as amended(c), shall be amended as follows:—

(*a*) in Article 18, paragraphs (7) and (9) shall be omitted;

(*b*) at the end of Part III there shall be inserted as Part IIIA the provisions contained in the Schedule to this Order;

(*c*) in paragraph (2) of Article 67, after subparagraph (i) there shall be inserted the following subparagraph—

"(*ia*) subparagraph (*c*) of paragraph (1) of Article 34C"; and

(*d*) after subparagraph (ii) of subparagraph (*c*) of paragraph (2) of Rule 15 of Schedule II there shall be added the following subparagraph—

"(iii) any glider while it is hill-soaring."

W. G. Agnew.

(a) 12, 13 & 14 Geo. 6. c. 67. (b) S.I. 1954/829 (1954 I, p. 259).
(c) S.I. 1956/82, 421, 1212, 1578 (1956 I, pp. 458, 460, 461, 464).

THE SCHEDULE

Provisions to be inserted in Air Navigation Order, 1954, at the end of Part III thereof

PART IIIA

Prevention of Excessive Fatigue of Operating Crew

Interpretation of Part IIIa

34A.—(1) The following provisions of this Article shall have effect for the interpretation of this Part of this Order.

(2) The following expressions shall, except where the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say,—

(*a*) "public transport aircraft" means a public transport aircraft registered in the United Kingdom not being an aircraft which is a public transport aircraft by reason only of the fact that persons are carried therein for the purpose of instruction in flying for which payment is made;

(*b*) "flight time", in relation to any person, means all time spent by that person in an aircraft while it is in flight and he is carried therein as a pilot, flight engineer, flight navigator or flight radio operator thereof;

(*c*) "duty period", in relation to any person who flies in an aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof, means any continuous period throughout which he is, under the provisions of paragraphs (4) or (5) of this Article, to be treated as being on duty;

Provided that where two or more periods which would, but for this proviso, be separate duty periods are separated by an interval of less than 10 hours, the period starting when the first of those duty periods began and finishing when the last of them ended shall be treated as constituting a single continuous duty period.

(*d*) "rest period", in relation to any person, means any continuous period no part of which forms part of a duty period of that person;

(*e*) "day" means a continuous period of 24 hours beginning at midnight Greenwich mean time.

(3) An aircraft shall be deemed to be in flight from the moment when, after the embarkation of its crew for the purposes of taking off, it first moves under its own power, until the moment when it next comes to rest after landing, and the expressions "flight", "flies", "flying" and "flown" shall be construed accordingly.

(4) A person who is employed under a contract of service to fly in an aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof shall be treated as being on duty at any time when in the course of that employment he flies in any aircraft (whether as a member of its crew or as a passenger) or he is otherwise acting in the course of that employment:

Provided that when he is not flying in an aircraft,—

(*a*) subject to paragraph (*c*) of this proviso, he shall not be treated as being on duty during any period which he is allowed for rest;

(*b*) subject to paragraph (*c*) of this proviso, he shall not be treated as being on duty at any time by reason only of his being required at that time to be available at a particular place to report for duty if required to do so;

(*c*) he shall be treated as being on duty at any time when he is required to be available at a particular place to report for duty if required to do so if—

(i) that place is at an aerodrome, or

(ii) that place, not being at an aerodrome, is a place at which his employer requires persons similarly employed to be available as aforesaid and adequate facilities for rest are not available for his use while he is required to be so available.

(5) A person who flies in an aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof, otherwise than in the course of his employment under a contract of service to fly as aforesaid, shall be treated as being on duty at any time when, in connection with any business of operating aircraft, he flies in any aircraft (whether as a member of its crew or as a passenger) or does any work.

(6) References to a person flying in an aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof include references to the operator of the aircraft in a case where that operator is an individual who flies in the aircraft in any of those capacities and references to the work and other duties which a person is required by an operator to carry out shall in any such case be construed as references to any work carried out by that operator in connection with the operation of aircraft or with any business of operating aircraft.

Duties of operators of public transport aircraft to prevent excessive fatigue of operating crew

34B.—(1) It shall be the duty of every operator of a public transport aircraft to ensure, as respects each person flying as a pilot, flight engineer, flight navigator or flight radio operator of a public transport aircraft operated by that operator, that the periods during which that person is required by that operator to carry out any work or other duties are so limited in length and frequency, and that that person is afforded such periods for rest, that his said work and duties are not likely to cause him such fatigue while he is flying in a public transport aircraft as may endanger the safety of that aircraft.

(2) Without prejudice to the provisions of paragraph (1) of this Article, and for the purposes of securing that the requirements of those provisions are complied with, every operator of a public transport aircraft shall establish for all persons flying in that aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof,—

(*a*) limits on their flight times during every period of 30 consecutive days,

(*b*) limits on their flying duty periods, and

(*c*) minimum rest periods which such persons are to have immediately before any duty period in the course of which they make any such flight as aforesaid,

being limits and minimum rest periods which the operator is satisfied, after taking into account the matters mentioned in paragraph (3) of this Article, are such that, if those persons observe those limits and have those minimum rest periods, the safety of the aircraft on any flight is not likely to be endangered by reason of any fatigue which those persons may be caused by the work and other duties which they are required by that operator to carry out. The said limits and minimum rest periods may be established either for any particular person mentioned in this paragraph or for any class of such persons and so as to apply either in any particular case or in any class of case.

(3) The matters which an operator shall take into account in establishing under paragraph (2) of this Article limits and minimum rest periods as therein mentioned for the persons therein mentioned are the nature of the work and other duties which those persons will have to carry out and all circumstances arising out of the carrying out of that work and those duties which may affect the degree of fatigue from which those persons may suffer while they are making a flight in a public transport aircraft in any such capacity as is mentioned in the said paragraph (2).

(4) No limits or minimum rest periods may be established under paragraph (2) of this Article which would require or permit any person to fly in any aircraft at a time when such flying would constitute a contravention of any of the provisions of Articles 34D, 34E or 34F.

(5) An operator of a public transport aircraft shall not permit that aircraft to make a flight unless limits and minimum rest periods have been established in accordance with the foregoing provisions of this Article so as to apply to every person flying in that aircraft on that flight as a pilot, flight engineer, flight navigator or flight radio operator thereof.

(6) Every operator of a public transport aircraft shall take all such steps as are reasonably practicable to secure that all limits for the time being established by that operator in accordance with the foregoing provisions of this Article are observed and that the persons for whom minimum rest periods are for the time being so established do not make such flights as are mentioned in paragraph (1) of this Article unless they have had the appropriate rest period so established.

(7) Notwithstanding anything contained in the foregoing provisions of this Article, an operator of a public transport aircraft may confer upon any person in command of that aircraft (hereafter in this paragraph called "the commander") a discretion to make, or authorise any other person to make, a flight in that aircraft in such circumstances that the commander or, as the case may be, that other person will not observe the limits or will not have had the minimum rest periods established by that operator under the foregoing provisions of this Article and applicable to the commander or that other person:

Provided that the said discretion shall not be exercisable unless the following conditions are fulfilled, that is to say,—

(*a*) that it appears to the commander—

(i) that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that if the flight had been made in accordance with those arrangements each member of the crew would have observed the limits and have had the minimum rest periods established by the operator and applicable to them as aforesaid, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made, or

(ii) that the flight is one which ought to be carried out in the interests of the safety or health of any person, and

(*b*) that the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes that flight.

(8) Every operator of a public transport aircraft shall include in every Operations Manual to be provided under Article 18 for the use and guidance of the members of the operating crew of any public transport aircraft operated by that operator, or, in any case where no such Manual is required to be provided by that Article, in a document which shall be provided for the use and guidance of those members, full particulars of all limits and minimum rest periods for the time being established under the foregoing provisions of this Article which may affect any of those members, and of any discretion conferred upon the commander of that aircraft under paragraph (7) of this Article and (without prejudice to the provisions of paragraph (6) of Article 18) every such operator shall, whenever requested to do so by a person authorised in that behalf by the Minister, furnish that person with a copy of all particulars from time to time included in any such Operations Manual or document in accordance with the requirements of this paragraph.

(9) In this Article—

(*a*) the expression "flying duty period", in relation to any person, means the time, reckoned from the beginning of each duty period of that person, in the course of which he is permitted to make any such flight as is mentioned in paragraph (1) of this Article and after the expiration of which he is not, in the course of the same duty period, to make any such flight;

(*b*) references to the work or other duties which a person is required by an operator to carry out include references to any work or other duties which that person is permitted by that operator to carry out in connection with the operation of any aircraft operated by that operator or with any business of operating aircraft carried on by that operator.

Operators of public transport aircraft to keep records of flight times, duty periods and rest periods

34C.—(1) Every operator of a public transport aircraft registered in the United Kingdom shall—

(*a*) keep or cause to be kept an accurate and up to date record showing, in relation to each person who has flown as a pilot, flight engineer, flight navigator or flight radio operator of any public transport aircraft operated by that operator—

(i) the times of the beginning and end of each flight in any aircraft made by that person in the course of any of his duty periods, and

(ii) the times of the beginning and end of each duty period of that person, and

(iii) brief particulars of the nature of the work or other duties carried out by that person during each of his duty periods;

(*b*) retain the records kept under subparagraph (*a*) of this paragraph for a period of at least 12 months after the end of the flight, duty period or rest period to which they relate; and

(*c*) whenever called upon to do so by any person authorised in that behalf by the Minister produce for the inspection of any person so authorised all records kept under subparagraph (*a*) of this paragraph and furnish to any person so authorised all such information as he may require in connection with any such records and produce for his inspection all log books, certificates, papers and other documents whatsoever which he may reasonably require to see for the purposes of determining whether they are complete or of verifying the accuracy of their contents.

(2) The Minister may prescribe the form and manner in which any records required to be kept under subparagraph (*a*) of the last foregoing paragraph shall be kept and where he has so prescribed the said records shall be kept accordingly.

Maximum flight times for operating crew of public transport aircraft

34D.—(1) Without prejudice to the provisions of Article 34B, a person shall not fly in a public transport aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof at any time on any day after the aggregate of all his flight times (whether arising from flights in a public transport aircraft or in any other aircraft) during the period of 30 consecutive days expiring at the end of that day amounts to 125 hours.

(2) An operator of public transport aircraft shall not cause or permit any person to make any flight which that person is prohibited from making by paragraph (1) of this Article.

Maximum flying duty periods for pilots and flight engineers of public transport aircraft

34E.—(1) Without prejudice to the provisions of Article 34B, a person shall not fly in a public transport aircraft as a pilot or flight engineer thereof in the course of any duty period of that person after more than the specified time has elapsed since the beginning of that duty period.

(2) An operator of public transport aircraft shall not cause or permit any person to make any flight which that person is prohibited from making by paragraph (1) of this Article.

(3) In paragraph (1) of this Article the expression "the specified time" means,—

(*a*) in relation to a person who flies in an aircraft as the only pilot thereof, 12 hours:

Provided that if before the commencement of that flight and during the duty period in the course of which he makes that flight, there has been a period of not less than seven continuous hours throughout which that person has not flown in any aircraft, the foregoing provisions of this subparagraph shall have effect in relation to that flight as if 14 hours were substituted therein for 12 hours.

(*b*) in relation to a person who flies as a pilot of an aircraft in which two or more persons are carried as pilots thereof, 16 hours:

Provided that the foregoing provisions of this subparagraph shall have effect in relation to that flight as if 24 hours were substituted therein for 16 hours if three or more persons are carried in the aircraft as pilots thereof and the following conditions are fulfilled:—

(i) at least two of the pilots are duly qualified by their respective licences to act as a pilot in charge of the aircraft for the purposes of that flight;

(ii) at least one of the pilots is carried in addition to those members of the operating crew who are required to be carried in the circumstances of the flight by or under this Order;

(iii) suitable facilities for sleeping are available for the use of at least one of the pilots at all times throughout the flight; and

(iv) each of the pilots has, during the duty period in the course of which that flight is made and before the end of that flight, been afforded opportunities of resting for a reasonable time;

(*c*) in relation to a person who flies as a flight engineer of an aircraft, 16 hours:

Provided that the foregoing provisions of this subparagraph shall have effect in relation to that flight as if 24 hours were substituted therein for 16 hours if two or more persons are carried in the aircraft as flight engineers thereof and the following conditions are fulfilled:—

(i) at least one of the flight engineers is carried in addition to the members of the operating crew who are required to be carried in the circumstances of the flight by or under this Order;

(ii) suitable facilities for sleeping are available for the use of at least one of the flight engineers at all times throughout the flight; and

(iii) each of the flight engineers has, during the duty period in the course of which that flight is made and before the end of that flight, been afforded opportunities of resting for a reasonable time.

Minimum rest periods for operating crew of public transport aircraft

34F.—(1) Without prejudice to the provisions of Article 34B, a person shall not fly in a public transport aircraft as a pilot, flight engineer, flight navigator or flight radio operator thereof, unless immediately before the duty period in the course of which he makes that flight he had a sufficient rest period, that is to say, a rest period of a length not less than the minimum length specified in the first column of the Table set out at the end of this article and therein set opposite to the length specified in the second column of that Table which corresponds to the length of the duty period of that person which immediately precedes that rest period.

(2) An operator of public transport aircraft shall not cause or permit any person to make any flight which that person is prohibited from making by paragraph (1) of this Article.

TABLE

Minimum length of sufficient rest period	*Length of immediately preceding duty period*
Not less than 10 hours	Not exceeding 10 hours
„ „ „ 11 „	Exceeding 10 but not exceeding 11 hours
„ „ „ 12 „	„ 11 „ „ „ 12 „
„ „ „ 13 „	„ 12 „ „ „ 13 „
„ „ „ 14 „	„ 13 „ „ „ 14 „
„ „ „ 15 „	„ 14 „ „ „ 15 „
„ „ „ 16 „	„ 15 „ „ „ 16 „
„ „ „ 18 „	„ 16 „ „ „ 17 „
„ „ „ 20 „	„ 17 „ „ „ 18 „
„ „ „ 22 „	„ 18 „ „ „ 19 „
„ „ „ 24 „	„ 19 „ „ „ 20 „
„ „ „ 26 „	„ 20 „ „ „ 21 „
„ „ „ 28 „	„ 21 „ „ „ 22 „
„ „ „ 30 „	„ 22 „ „ „ 23 „
„ „ „ 32 „	„ 23 hours

Maximum flight times for operating crew of aircraft other than public transport aircraft

34G.—(1) A person shall not fly in an aircraft to which this Article applies as a pilot, flight engineer, flight navigator or flight radio operator thereof at any time on any day after the aggregate of all his flight times (whether arising from flights in an aircraft to which this Article applies or in any other aircraft) during the period of 30 consecutive days expiring at the end of that day amounts to 125 hours:

Provided that this Article shall not apply to a flight made by a person at any time if at that time the aggregate of all his flight times since he was, in accordance with the prescribed requirements, last medically examined and found fit, does not exceed 125 hours.

(2) An operator of an aircraft to which this Article applies shall not cause or permit any person to make any flight which that person is prohibited from making by paragraph (1) of this Article.

(3) This Article applies to any aircraft registered in the United Kingdom which is not a public transport aircraft.

Special provision for particular cases

34H.—(1) Notwithstanding anything contained in Articles 34D to 34G, a person shall be deemed not to have contravened any of the provisions of those Articles by reason of a flight made at any time by that person or by another person if the first mentioned person proves—

(*a*) that it was due to an unavoidable delay in the completion of the flight that the person so flying was flying at that time, and

(*b*) that the said first mentioned person could not reasonably be expected to have foreseen before the flight began that the delay was likely to occur.

(2) Without prejudice to the provisions of paragraph (1) of this Article and notwithstanding anything contained in Articles 34D, 34E or 34F (hereinafter referred to as "the relevant Articles"), any person in command of a public transport aircraft (hereafter in this Article called "the commander") may make, or authorise any other person to make, and that other person if so authorised may make, a flight in that aircraft which he would, but for this paragraph, be prohibited from making by virtue of any provision contained in the relevant Articles if—

(*a*) it appears to the commander:—

(i) that arrangements had been made for the flight to be made with such a crew and so as to begin and end at such times that no member of that crew would have been prohibited from making the flight in accordance with those arrangements by any provision contained in the relevant Articles, and that since those arrangements were made the flight has been or will be prevented from being made in accordance with those arrangements by reason of exceptional circumstances or by reason of circumstances which were not foreseen as likely to prevent that flight from being so made, or

(ii) that the flight is one which ought to be carried out in the interests of the safety or health of any person, and

(*b*) the commander is satisfied that the safety of the aircraft on that flight will not be endangered if he or that other person makes that flight.

(3) Where the commander or any other person makes a flight in a public transport aircraft which he or that other person is permitted to make under the last foregoing paragraph, a report in writing that he or that other person has made that flight, giving full particulars of the circumstances in which it was made and the reasons why the commander made that flight or, as the case may be, authorised that other person to do so, shall be made as soon as is reasonably practicable by the commander to the operator of the aircraft where the commander is not the operator thereof, and in any event by the operator to the Minister, and the operator and the commander shall furnish any person authorised by the Minister with such further information relating to the flight and the circumstances in which it was made as that person may from time to time require.

EXPLANATORY NOTE

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

This Order amends the Air Navigation Order, 1954, by including in that Order new provisions for preventing excessive fatigue on the part of the operating crew (i.e., pilots, flight engineers, flight navigators and flight radio operators) of aircraft registered in the United Kingdom. These provisions—

(*a*) impose upon operators of public transport aircraft the duty of ensuring that the length and frequency of the periods for which members of the operating crew of such aircraft are required by such operators to carry out their duties are so limited, and that they are afforded such periods for rest, that their duties will not be likely to cause them to suffer from such fatigue while flying in such aircraft as may endanger the safety of the aircraft (Article 34B (1));

(*b*) require operators of public transport aircraft to establish limits on the flight times of the operating crew of such aircraft and on their flying duty periods and to establish minimum rest periods for them (Article 34B (2)). The limits so established are not to exceed the limits, and the minimum rest periods so established are not to be less than the minimum rest periods, fixed by the new provisions referred to in paragraphs (*c*), (*d*) and (*e*) below (Article 34B (4)). Operators of public transport aircraft are, however, authorised to confer upon the commander of a public transport aircraft a discretion to make, or authorise another person to make, a flight in such an aircraft in disregard of the limits and minimum rest periods established by the operator, but this discretion is not to be exercisable unless the conditions specified in subparagraphs (*a*) and (*b*) of the proviso to Article 34B (7) are fulfilled;

(*c*) limit the amount of flying which a member of the operating crew of public transport aircraft may carry out to a maximum of 125 hours flying as a member of the operating crew of any aircraft in any period of 30 consecutive days (Article 34D);

(*d*) limit the time during which a pilot or a flight engineer may fly in that capacity in a public transport aircraft during a duty period (as defined in Article 34A) to a specified number of hours reckoned from the beginning of that duty period, the limit on this number of hours varying according to the number of pilots or flight engineers carried but in no case exceeding 24 hours (Article 34E);

(*e*) prohibit a member of the operating crew of a public transport aircraft from flying in that capacity in the course of a duty period unless, before the beginning of that duty period, he has had a rest period of a minimum length calculated by reference to the length of the duty period which immediately precedes that rest period (Article 34F), and

(*f*) limit the amount of flying which a member of the operating crew of an aircraft other than a public transport aircraft may carry out to a maximum of 125 hours flying as a member of the operating crew of any aircraft in any period of 30 consecutive days or in the period since he was last medically examined, whichever is the shorter period (Article 34G).

Article 34H (1) excludes from the provisions referred to in paragraphs (*c*) to (*f*) above cases where there is an unavoidable delay in the completion of a

flight which could not reasonably be expected to have been foreseen before the flight began, and Article 34H (2) confers upon the commander of a public transport aircraft a discretion to make a flight or to authorise another person to make a flight, which he or that other person would be prohibited from making by any of the provisions referred to in paragraphs (*c*), (*d*) and (*e*) above in cases where the conditions specified in subparagraphs (*a*) and (*b*) of Article 34H (2) are fulfilled and in such a case Article 34H (3) requires a report to be made to the Minister.

The existing provisions in paragraphs (7) and (9) of Article 18 of the Air Navigation Order, 1954, relating to the establishment by operators of public transport aircraft of limitations on the flight times of the operating crew of such aircraft are revoked.

This Order also amends the Rules of the Air and Air Traffic Control (Schedule II to the Air Navigation Order, 1954), as amended by the Air Navigation (Fourth Amendment) Order, 1956, so as to permit a glider, when hill-soaring, to fly closer than 500 feet to any person, vessel, vehicle or structure.

1957 No. 1072

The Air Navigation (Sixth Amendment) Order, 1957

Made - - - -	*24th June*, 1957
Laid before Parliament	*28th June*, 1957
Coming into Operation	*1st July*, 1957

At the Court at Buckingham Palace, the 24th day of June, 1957

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 8, 57 and 59 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 (Sixth Amendment) Order, 1957, and shall come into operation on the first day of July, 1957.

Interpretation

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

(a) 12, 13 & 14 Geo. 6. c. 67. (b) 52 & 53 Vict. c. 63.