1952 No. 868

The Colonial Civil Aviation (Application of Act) Order, 1952

Made - - - -	29*th April*, 1952
Laid before Parliament	30*th April*, 1952
Coming into Operation	1*st July*, 1952

At the Court at Windsor Castle, the 29th day of April, 1952

Present,

The Queen's Most Excellent Majesty in Council

Whereas in exercise of the powers vested in Him by virtue of the Air Navigation Acts, 1920(**a**) and 1936(**b**), and the Air Navigation Act, 1947(**c**), His late Majesty King George the Sixth was pleased to make the Colonial Air Navigation (Application of Acts) Orders, 1937(**d**) to 1947(**e**) (hereinafter referred to as the principal Order), extending certain of the provisions of the said Acts, adapted and modified as provided in the principal Order, to the territories therein mentioned:

And Whereas the Acts aforesaid (except certain provisions of the Air Navigation Act, 1936) were repealed and replaced by the Civil Aviation Act, 1949(**f**):

And Whereas by subsection (1) of section 66 of the Civil Aviation Act, 1949, it is provided that Her Majesty may by order in Council direct that any of the provisions of the said Act set out in Part II of the Ninth Schedule to the said Act shall extend with such exceptions, adaptations and modifications, if any, as may be specified in the Order in Council, to any such territory as is referred to in the said subsection (1):

And Whereas it is expedient to revoke the Colonial Air Navigation (Application of Acts) Orders, 1937 to 1947, and to extend certain of the provisions of the Civil Aviation Act, 1949, to the territories mentioned in the Second Schedule to this Order:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in that behalf by the Civil Aviation Act, 1949, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Short title and commencement

1.—(1) This Order may be cited as the Colonial Civil Aviation (Application of Act) Order, 1952.

(2) This Order shall come into force on the first day of July, 1952.

(**a**) 10 & 11 Geo. 5. c. 80. (**b**) 26 Geo. 5 & 1 Edw. 8. c. 44.

(**c**) 10 & 11 Geo. 6. c. 18. (**d**) S.R. & O. 1937/378; Rev. I, p. 1200; 1937, p. 141.

(**e**) S.R. & O. 1947/2738; Rev. I, p. 1200; 1947 I, p. 70.

(**f**) 12, 13 & 14 Geo. 6. c. 67.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

"Colony" means any of the colonies, protectorates or other territories mentioned in the Second Schedule to this Order, and includes the dependencies of a colony;

"Chicago Convention" means the Convention on International Civil Aviation signed on behalf of the Government of the United Kingdom at Chicago on the seventh day of December, 1944;

"Government Aerodrome" means an aerodrome under the control of the Governor and a naval, military or air force aerodrome;

"Governor" means the officer for the time being administering the Government of the Colony;

"The East African Territories" means the Colony and Protectorate of Kenya, Tanganyika and the Uganda Protectorate;

"The High Commission" means the East Africa High Commission established by the East Africa (High Commission) Order in Council, 1947(**a**).

(2) In this Order references to "Her Majesty's dominions" shall be construed as though British protectorates and protected states, and mandated and trust territories administered by the Government of any part of Her Majesty's dominions, formed part of Her Majesty's dominions.

(3) The Interpretation Act, 1889(**b**), shall apply for the purposes of the interpretation of this Order as it applies for the purposes of the interpretation of an Act of Parliament and as if this Order were an Act of Parliament.

Application of Civil Aviation Act, 1949, to Colonial territories

3. The provisions of sections 8, 9, 10, 11, 13, 14, 19, 27, 38, 40, 41, 49, 51, 53, 57, 58, 59, 60, 61, 62 and 63 of the Civil Aviation Act, 1949, adapted and modified as set out in the First Schedule hereto, are hereby extended to the territories mentioned in the Second Schedule hereto.

Application of Civil Aviation Act, 1949, to East African Territories

4.—(1) Sections 8, 9, 10, 11, 13 and 14 of the Civil Aviation Act, 1949, as extended to the East African Territories by Article 3 of this Order, shall have effect in relation to each of those territories as if for references in the said Sections to the Governor there were substituted references to the High Commission.

(2) The High Commission may by order published in the Official Gazette of the High Commission declare that, subject to such limitations and conditions as may be prescribed by the order, any of the powers conferred or duties imposed upon the High Commission by virtue of paragraph (1) of this Article may be exercised or shall be performed in relation to any of the East African Territories by the Governor of that territory.

(3) Where by virtue of a declaration made under paragraph (2) of this Article any power may be exercised or any duty is to be performed by the Governor of any of the East African Territories then—

(*a*) the High Commission shall not exercise such power or perform such duty in relation to that territory; and

(*b*) in the exercise of such power or the performance of such duty the Governor may, in relation to that territory, revoke or vary any instrument

(a) S.R. & O. 1947/2863; Rev. XI, p. 695; 1947 I, p. 758. (b) 52 & 53 Vict. c. 63.

or thing previously made or done by the High Commission to the same extent as such instrument or thing could, but for the provisions of subparagraph (*a*) of this paragraph, have been revoked or varied by the High Commission.

(4) (*a*) The High Commission may, by a further order published in like manner, revoke or vary any order made under paragraph (2) of this Article.

(*b*) Where, by reason that any such order has been so revoked or varied or has otherwise ceased to have effect, any power or duty ceases to be exercisable or is no longer to be performed by the Governor of any East African territory, any instrument made or other thing done by the Governor in the exercise or performance of such power or duty shall, if in force immediately before such revocation or variation, continue in force, but may be revoked or varied by the High Commission as if it had been made or done by the High Commission.

Interpretation in relation to East African Territories

5. Any reference to the Governor in sections 57, 58 or 59 of the Civil Aviation Act, 1949, as extended to the East African Territories by Article 3 of this Order, shall in relation to each of those territories be construed as including a reference to the High Commission.

Revocation

6.—(1) The following Orders are hereby revoked—

The Colonial Air Navigation (Application of Acts) Order, 1937(**a**);
The Colonial Air Navigation (Application of Acts) (Amendment) Order, 1937(**b**);
The Colonial Air Navigation (Application of Acts) (Amendment) Order, 1938(**c**);
The Colonial Air Navigation (Application of Acts) (Amendment) Order, 1947(**d**);

(2) Nothing in this revocation shall affect—

(*a*) any Order in Council made under any enactment revoked by this Order;

(*b*) any instrument or other thing made or done or having effect under any of the enactments revoked by this Order or under any such Order as is mentioned in subparagraph (*a*) of this paragraph;

but any such Order or instrument or thing aforesaid shall, if and so far as in force immediately before the coming into force of this Order, continue in force (subject, however, to any Order in Council or instrument or thing made or done after the coming into force of this Order) and so far as it could have been made or done under this Order shall have effect as if made or done under this Order.

(3) In this Article "instrument" includes any order, regulation, direction, instruction, rule or other requirement, any notice and any certificate, licence, validation or other authority.

(4) Any document referring to any enactment revoked by this Order shall be construed as referring to this Order or to the corresponding enactment in this Order.

F. J. Fernau.

(a) S.R. & O. 1937/378; Rev. I, p. 1200; 1937, p. 141.
(b) S.R. & O. 1937/1064; Rev. I, p. 1200; 1937, p. 153.
(c) S.R. & O. 1938/736; Rev. I, p. 1329; 1938 I, p. 32.
(d) S.R. & O. 1947/2738; Rev. I, p. 1200; 1947 I, p. 70.

SCHEDULE I

CIVIL AVIATION ACT, 1949

PART II

REGULATION OF CIVIL AVIATION

General

Power to give effect to Chicago Convention and regulate air navigation

1. Section 8.—(1) Her Majesty may by Order in Council make such provision as appears to Her 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.

(2) Her Majesty may by Order in Council make provision—

(*a*) as to the registration of aircraft in the Colony ;

(*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 either in the Order or by the Governor ;

(*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 connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified either in the Order or by the Governor 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 the Colony may fly, and as to the conditions under which aircraft may fly from one part of the Colony to another ;

(*f*) as to the conditions under which passengers and goods may be carried by air and under 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 either in the Order or by the Governor ;

(*g*) for minimizing or preventing interference with the use or effectiveness of apparatus used in connection 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 connection 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 the Colony as may be specified either in the Order or by the Governor ;

(*m*) for applying, adapting or modifying, or enabling the Governor to apply, adapt or modify the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and for preventing smuggling by air, and for permitting, or enabling the Governor to permit, in connection with air navigation, subject to such conditions as appear to Her Majesty in Council, or to the Governor, as the case may be, to be requisite or expedient for the protection of the revenue, the importation of goods into the Colony 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*) for regulating, or enabling the Governor to regulate, the charges that may be made for the use of aerodromes licensed under the Order and for services provided at such aerodromes ;

(*p*) for prescribing, or enabling the Governor to prescribe, 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, or in pursuance of, the Order and in respect of any other matters in respect of which it appears to Her Majesty in Council or to the Governor, 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.

(3) An Order in Council under this section 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 the Colony but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in the Colony operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking.

(4) An Order in Council under this section may, for the purpose of securing compliance with the provisions thereof, provide for the imposition of penalties not exceeding a fine of two hundred pounds and imprisonment for a term of six months, and, in the case of any provision having effect by virtue of paragraph (*l*) of subsection (2) of this section, may also for that purpose provide for the taking of such steps (including firing on aircraft) as may be specified in the Order.

(7) Part VI of this Act applies to this section.

Control of aviation in time of war or emergency

2. Section 9.—(1) In time of war, whether actual or imminent, or of great national emergency, the Governor may by order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the order, the navigation of all or any descriptions of aircraft over the Colony or any portion thereof ; and 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 in the Colony, or any machinery, plant, material or things found in or on any such aerodrome or such aircraft, 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 Order in Council under section eight of this Act may by virtue of subsection (4) of that section make for the purpose of securing compliance with provisions thereof having effect by virtue of paragraph (*l*) of subsection (2) of that section.

(3) Any person who suffers direct injury or loss, owing to the operation of an order of the Governor under this section, shall be entitled to receive compensation from the Governor, from such public funds as he may lawfully apply for the purpose, the amount thereof to be fixed, in default of agreement, by an arbitrator to be agreed upon or failing agreement to be appointed by the Chief Justice or other chief judicial officer of the Colony:

Provided that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in the Colony or any part thereof.

(6) Part VI of this Act applies to this section.

Investigation of accidents

3. Section 10.—(1) The Governor may make regulations providing for the investigation of any accident arising out of or in the course of air navigation, and either occurring in or over the Colony or occurring elsewhere to British aircraft registered in the Colony.

(2) Regulations under this section may contain provisions—

(*a*) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified;

(*b*) applying, with or without modification, for the purpose of investigations held with respect to any such accidents any of the provisions of any law in force in the Colony relating to the investigation of deaths or accidents;

(*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, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;

(*d*) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted in the Colony under this Part of this Act or any Order in Council or order made under this Part of this Act, or the withdrawal or suspension of any validation conferred in the Colony of a licence granted by a duly competent authority elsewhere, where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered, or the validation withdrawn or suspended, as the case may be, and requiring the production of any such licence or certificate for the purpose of being so dealt with:

Provided that nothing in this section shall limit the powers of any authority under sections five hundred and thirty to five hundred and thirty-seven of the Merchant Shipping Act, 1894(**a**), or any enactment amending those sections.

(3) If any person contravenes or fails to comply with any regulations under this section, he shall be liable on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

(5) Part VI of this Act applies to this section.

Dangerous flying

4. Section 11.—(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 on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(a) 57 & 58 Vict. c. 60.

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.

(2) 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 eight of this Act.

(3) Part VI of this Act applies to this section.

Licensing of air transport and commercial flying

5. Section 13.—(1) The Governor may, with the approval of a Secretary of State, make regulations—

(*a*) to secure that aircraft shall not be used in the Colony by any person—

(i) for plying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations, or

(ii) for such flying undertaken for the purpose of any trade or business as may be so specified,

except under the authority of, and in accordance with, a licence granted to the said person by the licensing authority specified in the regulations;

(*b*) as to the circumstances in which a licence under the regulations may or shall be granted, refused, revoked or suspended, and in particular as to the matters to which the licensing authority specified in the regulations is to have regard in deciding whether to grant or refuse such a licence;

(*c*) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the regulations;

(*d*) as to the conditions which may be attached to such a licence (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;

(*e*) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the regulations;

(*f*) prescribing the fees to be paid in respect of the grant of any licence under the regulations, or enabling such fees to be prescribed by any person or authority specified in that behalf by the regulations;

and such regulations may make different provision as respects different classes of aircraft and different classes of licences.

(2) Regulations made under this section may, for the purpose of securing compliance with the regulations, provide for the imposition of the following penalties, namely—

(*a*) in the case of a first offence against the regulations, a fine not exceeding five hundred pounds or imprisonment for a term not exceeding three months or both such fine and such imprisonment; and

(*b*) in the case of a second or subsequent offence against the regulations, a fine not exceeding five thousand pounds or imprisonment for a term not exceeding two years or both such fine and such imprisonment.

(3) Part VI of this Act applies to this section.

Information as to air transport undertakings and use of customs aerodromes

6. Section 14.—(1) The Governor may, with the approval of a Secretary of State, make regulations—

(*a*) requiring any person—

(i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations, or

(ii) who is the holder of a licence in respect of a customs aerodrome,

to furnish to such authorities as may be specified in the regulations such information relating to the use of aircraft for the purpose of his said business and to the persons employed in connection with that use, or, as the case

may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the regulations;

(*b*) requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the regulations as relate to him;

(*c*) prescribing the times at which, and the form and manner in which, any information required under the regulations is to be furnished:

Provided that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (*a*) of this subsection shall not be required to furnish information relating to the use of aircraft on journeys wholly outside the Colony, or relating to persons exclusively employed outside the Colony, unless the person carrying on the business is either a British subject or a British protected person resident in the Colony or a citizen of the Republic of Ireland resident in the Colony or a body corporate incorporated under the law of the Colony.

(2) Regulations under this section may provide for imposing on any person who contravenes or fails to comply with any provision of the regulations such penalties (not exceeding a fine of twenty pounds and a further fine of five pounds for every day on which the contravention or non-compliance continues after conviction therefor) as may be specified in the regulations.

(3) No information with respect to any particular undertaking which has been obtained by virtue of regulations under this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of such regulations, and if any person discloses any such information in contravention of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such fine and such imprisonment or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such fine and such imprisonment.

Nothing in this subsection shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of this subsection or of regulations made under this section, or for the purpose of any report of any such proceedings, but, save as aforesaid, the restriction imposed by this subsection shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any court or arbitrator to disclose, that information (whether as a witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

(4) In this section the expression "customs aerodrome" means an aerodrome for the time being appointed as a place of landing or departure of aircraft for the purposes of the enactments relating to customs.

(5) Part VI of this Act applies to this section.

PART III

AERODROMES AND OTHER LAND

Power to provide aerodromes and acquire land

7. Section 19.—(1) The Governor may establish and maintain aerodromes, and provide and maintain in connection therewith roads, approaches, apparatus, equipment and buildings and other accommodation.

(2) The Governor may, for the purpose of exercising any of the powers conferred by the foregoing subsection, acquire land by agreement or in accordance with the provisions of the law in force in the Colony relating to the acquisition of land for public purposes.

(3) For the avoidance of doubts it is hereby declared that one of the purposes for which the Governor may acquire land under this section is the purpose of securing that the land adjacent to the site of an aerodrome which the Governor has established, or is about to establish, shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving the aerodrome.

(9) In this section the expression " land " includes any right in or over land.

Indication of presence of obstructions near aerodromes

8. Section 27.—(1) If the Governor is satisfied, with respect to any building, structure or erection in the vicinity of an aerodrome to which this section applies that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by order authorise (subject to any conditions specified in the order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions,—

(*a*) to execute, instal, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order, and

(*b*) so far as may be necessary for exercising any of the powers conferred by the order to enter upon and pass over (with or without vehicles) any such land as may be specified in the order:

Provided that no such order shall be made in relation to any building, structure or erection if it appears to the Governor that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(2) The Governor shall, before making any such order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration any representations with respect to the order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the order; and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Governor thinks proper.

(3) Every such order as aforesaid shall provide—

(*a*) that, except in a case of emergency, no works shall be executed on any land in pursuance of the order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the order relates has served in the manner prescribed by the order on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the order; and

(*b*) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Governor;

and shall also provide for requiring the proprietor of the aerodrome to which the order relates to pay to any person having an interest in any land affected by the order such compensation for any loss or damage which that person may

suffer in consequence of the order as may, in default of agreement, be determined from time to time by a single arbitrator appointed by the Chief Justice or other chief judicial officer of the Colony; and, for the purposes of this subsection, any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and (subject to the provisions of the next following subsection) so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed, in, on or over any land in pursuance of the order.

If any person contravenes the foregoing provisions of this subsection, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both such fine and such imprisonment; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection:

Provided that—

(*a*) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and

(*b*) the giving of warning of the presence of the building, structure or erection in the manner provided by any order under this section in force in relation thereto is not interrupted.

(7) In this section—

(*a*) the expression "aerodrome to which this section applies" means a Government aerodrome or any premises which, by virtue of an Order in Council made under section eight of this Act, are for the time being licensed as an aerodrome for public use; and

(*b*) the expression "proprietor of the aerodrome" means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises or, in the case of a Government aerodrome, the officer in charge of the aerodrome.

(8) Part VI of this Act applies to this section.

Trespassing on aerodromes

9. Section 38.—(1) If any person trespasses on any land forming part of a Government aerodrome or an aerodrome licensed in pursuance of an Order in Council under section eight of this Act, he shall be liable, on summary conviction to a fine not exceeding five pounds:

Provided that no person shall be liable to any penalty under this section unless it is proved that, at the material time, notices warning trespassers of their liability under this section were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the aerodrome as appear to the court to be proper.

(2) Part VI of this Act applies to this section.

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

Liability of aircraft in respect of trespass, nuisance and surface damage

10. Section 40.—(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 Part II and this Part of this Act and any Order in Council or order made in pursuance of Part II or this Part of this Act, being provisions which extend to the Colony, are duly complied with.

(2) 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 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:

Provided that 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 the foregoing provisions of this subsection; 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.

Nuisance caused by aircraft on aerodromes

11. Section 41.—(1) An Order in Council under section eight of this Act may provide for regulating the conditions under which noise and vibration may be caused by aircraft on aerodromes and may provide that subsection (2) of this section 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 Order in Council under section eight of this Act, as long as the provisions of any such Order in Council are duly complied with.

Responsibility where aircraft hired out, etc.

12. Section 49.—(1) Where an aircraft 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 part of this Act shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

(3) Part VI of this Act applies to this Part of this Act.

PART V

MISCELLANEOUS

Application of law of wreck and salvage to aircraft

13. Section 51.—(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; and 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.

The foregoing provisions of this subsection 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.

(2) The Governor may by regulations direct that any provisions of any law of the Colony for the time being in force which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the Regulations, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purpose of this section, any provisions of any law of the Colony which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

(4) Part VI of this Act applies to this section.

Exemption of aircraft and parts thereof from seizure on patent claims

14. Section 53.—(1) Any lawful entry into the Colony or any lawful transit across the Colony, 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 the Colony, 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) The importation into, and storage in, the Colony 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 behalf of any person in the Colony on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model:

Provided that this subsection shall not apply in relation to any spare parts or spare equipment which are sold or distributed in the Colony or are exported from the Colony for sale or distribution.

(3) 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, 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 specify.

(5) Part VI of this Act applies to this section.

PART VI

SUPPLEMENTAL

Orders in Council

15. Section 57.—(1) Any Order in Council, order or regulation made under any of the enactments to which this Part of this Act applies or this Part of this Act, or any order or regulation made, or instructions given, by the Governor thereunder, may contain such incidental and supplementary provisions as appear to Her Majesty in Council, or to the Governor, as the case may be, to be necessary or expedient for the purposes of the Order in Council, order, regulations or instructions; and any such Order in Council may authorise the Governor to make orders, regulations or to give instructions for the purposes of the Order in respect of such matters as may be specified in the Order.

(2) An Order in Council made under any of the enactments to which this Part of this Act applies or this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked or varied by a subsequent Order in Council.

(3) Any reference in the enactments to which this Part of this Act applies or this Part of this Act to the provisions of an Order in Council shall include a reference to the provisions of any order or regulation made or instructions given under the Order in Council.

Detention of aircraft

16. Section 58. Any Order in Council, order or regulations made under any enactment to which this Part of this Act applies or this Part of this Act in relation to aircraft 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 to which this Part of this Act applies in connection with which the Order in Council, order or regulations is or are made, and may make such further provision as appears to Her Majesty in Council or to the Governor, as the case may be, to be necessary or expedient for securing such detention.

Extra-territorial effect

17. Section 59.—(1) Notwithstanding that an Order in Council made by virtue of any enactment to which this Part of this Act applies or this Part of this Act or an order or a regulation made by virtue of any such enactment by the Governor has effect only as part of the law of the Colony, no provision contained in the Order in Council, 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 British aircraft registered in the Colony, wherever they may be, or prohibits, requires or regulates—

(*a*) the doing of anything by persons in, or any of the personnel of, such British aircraft as aforesaid, wherever they may be, or

(*b*) the doing of anything in relation to such British aircraft as aforesaid by other persons being British subjects, British protected persons or citizens of the Republic of Ireland, wherever they may be.

For the purposes of this subsection 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.

Nothing in this subsection shall affect subsection (1) of section three of the British Nationality Act, 1948(a) (which limits the criminal liability of certain persons who are not citizens of the United Kingdom and Colonies).

(2) Her Majesty may by Order in Council direct that any of the following provisions, that is to say—

(*a*) any enactment to which this Part of this Act applies ; or

(*b*) any enactment in this Part of this Act ; or

(*c*) any provision of any Order in Council, order or regulations made by virtue of any such enactment ;

being a provision which has extra-territorial operation in relation to British aircraft registered in the Colony, shall, subject to such exceptions, adaptations and modifications, if any, as may be specified in the Order made under this subsection, have such operation also in relation to British aircraft registered in the United Kingdom or any territory, other than the Colony, mentioned in subsection (1) of section 66 of this Act or registered in the Isle of Man or the Channel Islands.

Offences

18. Section 60. Any offence under any enactment to which this Part of this Act applies or under an Order in Council or order or regulation made under either any such enactment or this Part of this Act 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.

(a) 11 & 12 Geo. 6. c. 56.

Savings

19. Section 61.—(1) Neither this Part of this Act nor any enactment to which this Part of this Act applies shall apply to aircraft belonging to or exclusively employed in the service of Her Majesty:

Provided that Her Majesty may, by Order in Council, apply to any such aircraft, with or without modification, any of the said enactments or any Orders in Council, orders or regulations made thereunder.

(2) Nothing in, or in any instrument made under, the enactments to which this Part of this Act applies or this Part of this Act shall prejudice or affect the rights, powers or privileges of any general or local lighthouse authority.

PART VII

GENERAL

Jurisdiction

20. Section 62.—(1) Any offence whatever committed on a British aircraft 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.

(2) The Governor may, by regulations, make provision as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and for applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

(3) Part VI of this Act applies to this section.

Interpretation

21. Section 63.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"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;

"British aircraft" means aircraft registered in any part of Her Majesty's dominions;

"land" includes any estate or other interest in land and any easement, but this definition shall not affect the construction of the provisions of section nineteen of this Act as to the acquisition of land;

(2) Any reference in this Act to the carrying out of works on land shall be construed as including a reference to the making of excavations on the land or to the carrying out of levelling operations on the land, and references to the maintenance of works or to interference with works shall be construed accordingly;

(3) For the avoidance of doubt it is hereby declared that in this Act the expression "loss or damage" includes in relation to persons, loss of life and personal injury.

(4) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals.

(5) Any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(6) Any power conferred by this Act shall be in addition to and not in derogation of any other power so conferred.

(8) Any power conferred by this Act to make any Order in Council, order or regulation shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary or revoke the Order in Council, order or regulation.

(9) References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by or under any other enactment.

SCHEDULE II

Territories to which this Order applies

Aden (Colony and Protectorate).
Bahamas.
Barbados.
Basutoland.
Bechuanaland Protectorate.
Bermuda.
British Guiana.
British Honduras.
British Solomon Islands Protectorate.
Cyprus.
Falkland Islands and Dependencies.
Fiji.
Gambia (Colony and Protectorate).
Gibraltar.
Gilbert and Ellice Islands Colony.
Gold Coast—
(*a*) Colony.
(*b*) Ashanti.
(*c*) Northern Territories.
(*d*) Togoland under United Kingdom trusteeship.
Hong Kong.
Jamaica (including Turks and Caicos Islands and the Cayman Islands).
Kenya (Colony and Protectorate).
Leewards Islands—
Antigua.
Montserrat.
St. Christopher and Nevis.
Virgin Islands.
Malta.
Mauritius.
Nigeria—
(*a*) Colony.
(*b*) Protectorate.
(*c*) Cameroons under United Kingdom trusteeship.
North Borneo.
~~Northern Rhodesia.~~
~~Nyasaland Protectorate.~~
St. Helena and Ascension.
Sarawak.
~~Settlements of Penang and Malacca.~~
Seychelles.
Sierra Leone (Colony and Protectorate).
Singapore.
Somaliland Protectorate.
Swaziland.
Tanganyika.
Trinidad and Tobago.
Uganda Protectorate.
Windward Islands—
Dominica.
Grenada.
St. Lucia.
St. Vincent.
Zanzibar Protectorate.

EXPLANATORY NOTE

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

The legislation relating to civil aviation, other than the Carriage by Air Act, 1932, and enactments relating to the constitution and functions of the Airways Corporations, was, for the United Kingdom, consolidated in the Civil Aviation Act, 1949, by which the earlier legislation was repealed. This earlier legislation was applied to the Colonies by the Colonial Air Navigation (Application of Acts) Orders, 1937 to 1947. Subsection (1) of section 66 of the Civil Aviation Act, 1949, provides for the extension of certain provisions of that Act to any territory referred to in that subsection, and this Order in Council extends certain provisions of the Civil Aviation Act, 1949, to the territories mentioned in the Second Schedule to this Order, and revokes the earlier Orders in Council mentioned above.

CIVIL DEFENCE

1952 No. 1913

The Civil Defence (Appropriation of Lands and Buildings) Regulations, 1952

Made - - - - 29*th October*, 1952
Coming into Operation 12*th November*, 1952

In exercise of the powers conferred on me by section six of the Civil Defence Act, 1948(**a**), I hereby make the following Regulations:—

1. In relation to any period after the date when these Regulations come into operation the expression "civil defence functions" in subsection (1) of section sixty-two of the Civil Defence Act, 1939(**b**), shall include any functions prescribed in relation to a local authority by any regulations made under section two of the Civil Defence Act, 1948, by the Secretary of State.

2.—(1) These Regulations may be cited as the Civil Defence (Appropriation of Lands and Buildings) Regulations, 1952.

(2) These Regulations shall come into operation on the fourteenth day after the day on which they are made.

David Maxwell Fyfe,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
29th October, 1952.

(**a**) 12, 13 & 14 Geo. 6. c. 5. (**b**) 2 & 3 Geo. 6. c. 31.