

Island of



Guernsey

Ordinance of the States

VI
2009

Made28th January, 2009

Coming into Operation1st February, 2009

The Aviation (Foreign Aircraft Operations) (Bailiwick of Guernsey) Ordinance, 2009

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THE STATES, in pursuance of their Resolution of the 26th day of July, 2006^a, and in exercise of the powers conferred on them by section 146(1) of the Aviation (Bailiwick of Guernsey) Law, 2008^b, hereby order:-

Restriction with respect to carriage for value.

1. (1) An aircraft registered in a Contracting State, or in a foreign country, shall not take on board or discharge any passengers or cargo in the Bailiwick for value, unless it does so with the permission of the Secretary of State granted under this section to the operator or charterer of the aircraft or to the Government of the country in which the aircraft is registered, and in accordance with any conditions to which such permission may be subject.

(2) Without prejudice to the provisions of subsection (1) or section 3, any breach by a person to whom a permission has been granted under this section of any condition to which that permission was subject shall constitute a contravention of this section.

(3) The Secretary of State may, in any particular case, or class of cases, delegate to the Director of Civil Aviation the exercise of the powers conferred on him under subsection (1); and where the exercise of the powers conferred under subsection (1) is so delegated, the Director shall, in exercising those powers, comply with any general guidelines or specific directions which may from time to time be conveyed to him by the Secretary of State.

^a Article XI of Billet d'État No. XIII of 2006.

^b Registered on the Records of the Island on 1st December 2008.

Filing and approval of tariffs.

2. (1) Where a permission granted under section 1 contains a tariff provision, the Secretary of State may, in any particular case or class of cases, delegate to the Director of Civil Aviation the exercise of the power to approve or disapprove the tariff which the operator or charterer of the aircraft concerned proposes to apply on flights to which the permission relates, and where the power to approve or disapprove tariffs is so delegated, the Director shall, in exercising that power, comply with any general guidelines or specific directions which may from time to time be conveyed to him by the Secretary of State.

(2) For the purposes of this section, "**tariff provision**" means a condition as to any of the following matters –

- (a) the price to be charged for the carriage of passengers, baggage or cargo on flights to which a permission granted under section 1(1) relates,
- (b) any additional goods, services or other benefits to be provided in connection with such carriage,
- (c) the prices, if any, to be charged for any such additional goods, services or benefits, and
- (d) the commission, or rates of commission, to be paid in relation to the carriage of passengers, baggage or cargo,

and includes any condition as to the applicability of any such price, the provision of any such goods, services or benefits or the payment of any such commission or of commission at any such rate.

Revocation, suspension and variation of permissions, etc. granted under section

1.

3. (1) The Secretary of State may revoke, suspend or vary any permit granted under section 1.

(2) Save as provided by subsection (3), the Secretary of State, may exercise his powers under subsection (1) only after notifying the permit-holder of his intention to do so and after due consideration of the case.

(3) If, by reason of the urgency of the matter, it appears to the Secretary of State to be necessary for it to do so, he may provisionally suspend or vary a permit to which this section applies without complying with the requirements of subsection (2); but he shall in any such case comply with those requirements as soon thereafter as is reasonably practicable and shall then, in the light of his due consideration of the case, either -

- (a) revoke the provisional suspension or variation of the permit, or
- (b) substitute therefor a definitive revocation, suspension or variation, which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any) or, if a definitive variation, may be in the same or different terms as the provisional variation (if any).

(4) The powers vested in the Secretary of State by subsection (1) or subsection (3) may be exercised by him whenever, in his judgement and whether or not by reason of anything done or omitted to be done by the permit-holder or otherwise connected with the permit-holder, it is necessary or expedient that the permit-holder should not enjoy, or should no longer enjoy, the rights conferred on him by a permit to which this section applies or should enjoy them subject to such limitations or qualifications as the Secretary of State may determine.

(5) In particular, and without prejudice to the generality of the foregoing, the Secretary of State may exercise his said powers if it appears to him that -

- (a) the person to whom the permit was granted has committed a breach of any condition to which it is subject,
- (b) any agreement between Her Majesty's Government and the Government of any other country in pursuance of which or in reliance on which the permit was granted is no longer in force or that that other Government has committed a breach thereof,
- (c) the person to whom the permit was granted, or a Government which is a party to an agreement referred to in paragraph (b), or the aeronautical authorities of the country concerned, have -
 - (i) acted in a manner which is inconsistent with or prejudicial to the operation in good faith, and

according to its object and purpose, of any such agreement, or

- (ii) engaged in unfair, discriminatory or restrictive practices to the prejudice of the holder of an air transport licence in his operation of air services to or from points in the country concerned, or
- (d) the person to whom the permit was granted, having been granted it as a person designated by the Government of a country other than the United Kingdom for the purposes of any such agreement, is no longer so designated or that that person has so conducted himself, or that such circumstances have arisen in relation to him, as to make it necessary or expedient to disregard or qualify the consequences of his being so designated.

(6) The permit-holder or any person having the possession or custody of any permit which has been revoked, suspended or varied under this section shall surrender it to the Secretary of State within a reasonable time of being required by him to do so.

(7) The breach of any condition subject to which any permit to which this section applies has been granted shall render the permit invalid during the continuance of the breach.

(8) The permits to which this section applies are permissions granted by the Secretary of State or the Director of Civil Aviation, as the case may be, under section 10 and any approvals or authorisations of, or consents to, any

matter which the Secretary of State or the Director has granted, or is deemed to have granted, in pursuance of a permission which he has so granted.

(9) References in this section to the "**permit-holder**" are references to the person to whom any permit to which this section applies has been granted, or that is deemed to have been granted.

(10) The Secretary of State may, in any particular case, or class of cases, delegate to the Director of Civil Aviation the exercise of the powers conferred on the Secretary of State under this section in respect of permissions granted by the Secretary of State or the Director, as the case may be, under section 1 and any approvals or authorisations of, or consents to, any matter which the Secretary of State or the Director has granted, or is deemed to have granted, in pursuance of a permission which he has so granted.

(11) The provisions of this section have effect, as from the commencement of this Ordinance, as well in relation to permits, being permits to which this section applies, granted before the commencement of this Ordinance as in relation to those granted thereafter.

Offences and penalties.

4. (1) If, in relation to an aircraft, any provision of section 1 is contravened –

- (a) the operator,
- (b) the pilot in command, and
- (c) the charterer,

of that aircraft shall be deemed for the purposes of this section to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person, which would otherwise have been a contravention by that person of any provision of section 1, was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) A person who contravenes any provision of subsection 1 is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale or to imprisonment for a term not exceeding three months, or to both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Interpretation.

5. In this Ordinance, unless the context requires otherwise -

"**Contracting State**" means any State (other than the United Kingdom) that is a party to the Chicago Convention, and

"**Secretary of State**" means one of Her Majesty's Principal Secretaries of State.

Citation.

6. This Ordinance may be cited as the Aviation (Foreign Aircraft Operations) (Bailiwick of Guernsey) Ordinance, 2009.

Commencement.

7. This Ordinance shall come into force on the 1st February 2009.

K.H. TOUGH,
Her Majesty's Greffier.

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