

GUERNSEY STATUTORY INSTRUMENT  
2019 No. 13

**The Air Navigation (Bailiwick of Guernsey)  
(Foreign Aircraft Operations) Regulations, 2019**

<i>Made</i>	<i>7<sup>th</sup> February, 2019</i>
<i>Coming into operation</i>	<i>14<sup>th</sup> February, 2019</i>
<i>Laid before the States</i>	<i>, 2019</i>

**THE COMMITTEE**, in exercise of the powers conferred upon it by sections 145, 149 and 151 of the Air Navigation (Bailiwick of Guernsey) Law, 2012 ("**the Law**")<sup>a</sup>, and all other powers enabling it in that behalf, hereby makes the following regulations:-

**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 Director granted by way of permit issued under this regulation to the operator or charterer of the aircraft, and in accordance with any conditions to which such permission may be subject.

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

(3) No operator or charterer of an aircraft in relation to which the prohibition in paragraph (1) applies may hold itself out as a person who may offer to take on board or discharge any passenger or cargo in the Bailiwick for value (given or promised) except where that person reasonably believes that permission will be

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<sup>a</sup> No. XI of 2013, as amended by Ordinances No. XVII and IX of 2016.

given by the Director under paragraph (1) which will apply in relation to the relevant aircraft, operator or charterer by the time the relevant flight is made.

**Filing and approval of tariffs.**

2. (1) Where a permission granted under regulation 1 contains a tariff provision, and the Director so requires, the operator or charterer of the aircraft concerned must file with the Director the tariff which it proposes to apply on flights to which the permission relates, and the Director must consider the proposed tariff and may approve or disapprove it.

(2) For the purposes of this regulation, "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 regulation 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..**

3. (1) Save as provided by paragraph (2), the Director may revoke, suspend or vary any permit granted under regulation 1 only after notifying the permit-holder of the intention to do so and after due consideration of the case.

(2) If, by reason of the urgency of the matter, it appears to the Director to be necessary to do so, the Director may provisionally suspend or vary a permit to which this regulation applies without complying with the notification requirements of paragraph (1); but the Director 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).

(3) The powers vested in the Director by paragraph (1) or paragraph (2) may be exercised by the Director whenever, in the Director's 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 by a permit to which this regulation applies or should enjoy them subject to such limitations or qualifications as the Director may determine.

(4) In particular, and without prejudice to the generality of the foregoing, the Director's powers may be exercised if it appears to the Director that -

- (a) the person to whom the permit was granted has committed a breach of any condition to which it is subject,
- (b) any international agreement in pursuance of which or in reliance on which the permit was granted is no longer in force,

- (c) the person to whom the permit was granted, or a Government which is a party to an agreement referred to in subparagraph (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 for the purposes of any such international agreement, is no longer so designated or that that person has so conducted himself, or that such circumstances have arisen in relation to that person, as to make it necessary or expedient to disregard or qualify the consequences of that person being so designated.

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

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

(7) The permits to which this regulation applies are those granted under regulation 1 and any approvals or authorisations of, or consents to, any matter which the Director has granted, or is deemed to have granted, in pursuance of such a permit.

(8) References in this regulation to the "permit-holder" are references to the person to whom any permit has been granted, or that is deemed to have been granted.

**Offences and penalties.**

4. (1) If, in relation to an aircraft, any provision of regulation 1 is contravened ~~by~~

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

of that aircraft shall be deemed for the purposes of this regulation to have contravened that provision unless that person proves that the contravention occurred without that person's consent or connivance and that he or she 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 regulation 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 paragraph 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.

## Fees

5. (1) An application for a permit under regulation 1 must ¥
- (a) be made by the operator or charterer of the relevant aircraft,
  - (b) be made in such form and manner as the Director may require,
  - (c) include or be accompanied by such other documents or information that the director may require, and
  - (d) be accompanied by the applicable fee.

(2) The applicable fee for the purpose of paragraph 5(1)(d) is £78.

(3) Where the Director receives an application for a permit in accordance with paragraph (1) and the Director is satisfied that it is proper to issue the requested permit, then the Director shall do so, subject to such conditions as the Director thinks fit.

## Interpretation.

6. In these Regulations, unless the context requires otherwise ¥

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

"**the Director**" means the Director of Civil Aviation which office was established by the Aviation (Bailiwick of Guernsey) Law, 2008.

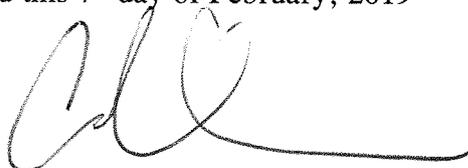
## Citation.

7. These Regulations may be cited as the Air Navigation (Bailiwick of Guernsey) (Foreign Aircraft Operations) Regulations, 2019.

## Commencement and Revocation

8. These Regulations come into force on 14<sup>th</sup> February 2019.

Dated this 7<sup>th</sup> day of February, 2019



DEPUTY C. PARKINSON

President of the Committee for Economic Development  
For and on behalf of the Committee

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EXPLANATORY NOTE

*(This note is not part of the regulations)*

These Regulations re-enact with modifications the Aviation (Foreign Aircraft Operations) (Bailiwick of Guernsey) Ordinance, 2009, made under the Aviation (Bailiwick of Guernsey) Law, 2008, and introduces fees for the issue of the associated permits for the first time (in regulation 5).

