



MONTERRAT

## CHAPTER 7.05

# AVIATION ACT

## Subsidiary and Related Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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## CHAPTER 7.05

### AERODROMES ACT

*(Acts 1 of 1957 and 9 of 2011)*

#### Commencement

*[7 February 1957]*

#### Short title

1. This Act may be cited as the Aerodromes Act.

#### Interpretation

2. In this Act—

“**aerodrome**” means any area of land or water designed, equipped or set apart or commonly used for affording facilities for the landing and departure of aircraft;

“**aircraft**” shall have the meaning assigned to it under the Colonial Air Navigation Order 1949.

#### Power to make regulations

3. (1) The Governor acting on the advice of Cabinet may make regulations for the management, control and supervision of aerodromes.  
*(Amended by Act 9 of 2011)*

(2) Without prejudice to the generality of the powers conferred by the foregoing subsection, any regulations made under this section may provide for all or any of the following matters, that is to say—

- (a) the placing or removal of erections adjacent to aerodromes;
- (b) the shooting of any animals found trespassing on aerodromes;
- (c) declaring any building or part of a building or any area of land or water at the aerodrome to be a restricted place or area;
- (d) regulating and restricting the admission of persons whether as passengers or otherwise to any part of an aerodrome;
- (e) regulating and restricting the use of motor vehicles or seacraft or other objects of any class or description on any part of an aerodrome;
- (f) appointing parking places for motor vehicles at an aerodrome;

- (g) the issue of permits and conditions to be observed by the holders of such permits;
- (h) prescribing penalties for the breach of any regulations made hereunder.

(3) Every regulation made by the Governor acting on the advice of Cabinet under this section shall within twenty-one days of the making thereof be submitted to the Legislative Assembly and the Legislative Assembly may by resolution confirm, amend or revoke such regulation. If the regulation be not submitted within such period it shall thereupon expire.

*(Amended by Act 9 of 2011)*

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**AERODROMES (SHOOTING OF ANIMALS) REGULATIONS – SECTION 3**

(S.R.O. 2/1957)

**Short title**

1. These Regulations may be cited as the Aerodromes (Shooting of Animals) Regulations.

**Interpretation**

2. In these Regulations—

“owner”, in relation to an animal, includes a person having possession or control of the animal.

**Shooting of animals on aerodromes**

3. (a) Any person holding a written licence from the Governor may, subject to the conditions laid down in the licence, shoot any animal found trespassing on any aerodrome specified in the licence.
- (b) Any person shooting an animal under the provisions of this regulation shall take all practicable steps forthwith to ascertain the owner of such animal, and immediately upon ascertaining the owner, shall serve on him a written notice of such shooting, such notice to contain a direction that the owner immediately removes the carcass of the animal from the aerodrome.
- (c) If within twenty four hours of the shooting of an animal under the provisions of this regulation the owner of the animal has not been ascertained, or having been ascertained and notified, has not removed the carcass of the animal, such carcass shall be deemed to be abandoned by the owner and to be the property of the Governor.
- (d) If the owner of any animal which has been shot at an aerodrome under the provisions of these regulations fails to remove the carcass of such animal from the aerodrome within twelve hours of the service of a notice upon him under paragraph (b), he shall be liable on summary conviction to a fine of \$25.
- (e) The Governor may in his absolute discretion take any steps he may deem expedient, and may authorise any person in writing to take any such steps, for the preservation of the carcass of any animal shot under the provisions of this regulation between the time of the shooting and the time of the removal or the abandonment of such carcass by the owner.





## W.H. BRAMBLE AIRPORT REGULATIONS

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**W.H. BRAMBLE AIRPORT REGULATIONS – SECTION 3**

*(S.R.O.s 32/1970, 34/1995 and 35/1995)*

**Commencement**

*[20 February 1970]*

**Short title**

1. These Regulations may be cited as the W.H. Bramble Airport Regulations.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“**Airport**” means the Airport and includes all buildings, installations, and roads thereon;

“**Authorised Officer**” means the person appointed by the Governor to govern, control and protect the airport and includes any person acting in his place;

“**parking area**” means a place defined by studs or lines on the ground and provided for the purpose of parking any class of vehicle;

“**restricted area**” means any place at the airport, designated by a notice signed by the authorised officer as a restricted area.

GENERAL RULES AND REGULATIONS

**Control**

3. All persons on any part of the property comprising the airport shall be governed by the provisions prescribed in these Regulations and by orders and instructions of the authorised officer relative to the use or occupation of any part of the property comprising the airport.

**Restricted areas**

4. No person shall enter any restricted area except with the general or specific written permission of the authorised officer and subject to such conditions as may be prescribed.

**Particular areas**

5. No person shall enter or be upon the runway, control tower, any hangar, the loading platform or the Customs area of the airport except—

- (a) persons assigned to duty thereon;
- (b) authorised representatives of the Government;
- (c) persons authorised by the authorised officer;
- (d) passengers entering on the loading platform or the Customs area for purposes of embarkation or debarkation; and

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(e) persons authorised by the Comptroller of Customs.

### Carrying on of business

6. No person shall carry on any trade or business at the airport except with the approval of the authorised officer and under such terms and conditions as may be prescribed.

### Soliciting

7. No person shall solicit for any purpose at the airport or cause any annoyance to any person at the airport.

### Advertisements

8. No person shall post, distribute, or display any signs, advertisements, circulars, printed or written matter at the airport except with the approval of the authorised officer and in such manner as may be prescribed.

### Animals

9. (1) No person shall bring into the airport or tether or cause to be tethered or permit to stray on the airport any animal: Provided that, this Regulation shall not apply in respect of any animal which has arrived by air or is intended for despatch by air and which is restrained by leash or confined in such other manner as to be under control.

(2) It shall be lawful for the Commissioner of Police or any police officer to seize and impound any animal found straying or tethered on the airport, or to shoot any animal found straying on the airport.

### Disposal of lost articles

10. Any person finding a lost article on the airport shall deposit it at the office of the authorised officer or at Police Headquarters.

## MOTOR VEHICLE REGULATIONS

### General

11. No person shall operate any motor vehicle at the airport otherwise than in accordance with the Road Traffic Regulations in force in Montserrat unless otherwise prescribed by the authorised officer except in the cases of emergency involving danger to life or property.

### Motorized equipment

12. No person shall operate any motorized equipment on the taxi tracks or loading platform of the terminal building or the aircraft landing area, except—

- (a) person assigned to duty thereon;
- (b) persons authorised by the authorised officer;

### Use of roads and paths

**13.** No person shall—

- (a) travel on the airport other than on the roads, paths, or places provided for the particular class of traffic;
- (b) occupy the roads or paths in such a manner as to hinder or obstruct their proper use;
- (c) operate any type of vehicle for the disposal of garbage, ashes or other waste materials without the approval of the authorised officer.

### Operation rules

**14. (1)** Pedestrians within pedestrian land markings shall have the right of way over vehicular traffic.

**(2)** Drivers of motor vehicles on the airport shall comply with every direction for the regulation of traffic given by the authorised officer or by a police officer, or indicated by any traffic sign, and shall remove their vehicles to or from any parking area when required so to do by the authorised officer or a police officer.

**(3)** No person shall operate any taxicab, omnibus or other motor vehicle carrying passengers for hire or regard within the airport without being the holder of a permit issued by the authorised officer.

**(4)** For the purposes of this regulation the authorised officer shall not issue a permit unless he is satisfied that the taxicab, omnibus or other motor vehicle is—

- (a) licensed for public hire; and
- (b) is available, while at the airport, for hire by any member of the general public.

**(5)** The authorised officer may cancel any permit issued by him under this regulation if the holder thereof is guilty of any offence against any of these Regulations:

Provided that, the person whose permit has been cancelled shall have a right of appeal to the Permanent Secretary to the Minister of Communications and Works.

### Parking

**15. (1)** No person shall park a motor vehicle on the airport other than in the manner prescribed by the authorised officer.

**(2)** Taxi drivers and drivers of public service vehicles shall remain with their vehicles at the prescribed parking area while passengers are passing through Immigration and Customs and shall not enter the terminal building for the purpose of contracting business.

**(3)** Drivers of motor vehicles shall, on arrival at the airport, and after letting out their passengers, if any, park their vehicles in the appropriate parking area provided for that class of vehicle, and if so directed by the authorised officer or a police officer, they shall park such vehicles in accordance with the direction of such person.

(4) Taxi drivers shall on arrival at the airport, park their vehicles in the appropriate parking area and in case they have arrived at the airport to meet a particular passenger or passengers, they shall so inform the authorised officer and any police officer on traffic duty at the airport.

### Passengers

16. (1) Drivers of motor vehicles shall not pick up or set down passengers or passengers' baggage except at such places as the authorised officer or a police officer may from time to time designate or direct.

(2) Passengers arriving by air at the airport, unless being met by the drivers of private motor vehicles or taxis arriving for the particular purpose of picking them up, shall not arbitrarily choose a taxi from among the group of taxis awaiting hire in their designated places, but shall where practicable employ the services of the taxi which is first in line in the public service vehicle parking area.

### Intoxication

17. No person under the influence of liquor or narcotic drugs shall operate a vehicle of any kind at the airport.

### Accident reports

18. All persons involved in any accident at the airport shall report without delay to a police officer at the airport or to the nearest Police Station.

## GENERAL RULES OF CONDUCT

### Disorderly conduct

19. No person shall commit any disorderly, obscene or indecent act or cause any nuisance at the airport.

### Gambling

20. No person shall engage in gambling in any form or operate gambling devices anywhere at the airport.

### Sanitation

21. No person shall—

- (a) dispose of garbage, papers, or refuse or other material on the airport except in the receptacles provided for that purpose;
- (b) use a sanitary convenience other than in clean and sanitary manner.

**Preservation of property**

22. (1) No person shall—

- (a) destroy, injure, deface or disturb in any way any building, sign, equipment, marker or other structure, tree, flower, lawn or other public property at the airport;
- (b) trespass on lawns and planted areas at the airport;
- (c) abandon any personal property at the airport.

(2) No person shall, without the permission of the said authorised officer, in addition to any other approval that may be required—

- (a) erect, alter, move, paint or distemper any buildings, signs, markers or other structure at the airport;
- (b) lay any cable, wire or pipe, or dig on any part of the airport.

**Airport and equipment**

23. No person shall interfere with, tamper with or injure any part of the airport or any of the equipment thereof.

**Firearms, explosives and inflammable materials**

24. (1) No persons except duly authorised members of the Armed Forces on official duty shall carry firearms, explosives, or inflammable materials on the airport without the written permission of the Commissioner of Police.

(2) All persons other than the excepted classes shall surrender all such objects in their possession to the police on the airport.

(3) The Government assumes no responsibility for any loss of or damage to any such objects so surrendered to the police.

**Fire hazards**

25. A report in writing giving the circumstances of all cases of fire occurring at the airport is to be submitted to the authorised officer by the occupier of any premises where there has been fire, within twenty four hours of the occurrence.

**Radio operation**

26. No person shall operate any radio equipment in any aircraft when such aircraft is in a hangar nor contrary to any telecommunications regulations, orders or other such legislation in force.

## AIRCRAFT

**Parking of aircraft**

27. No person shall park aircraft in any area on the airport other than that prescribed by the authorised officer or the Air Control Officer on duty and then only with permission.

**Interfering and tampering with aircraft**

28. No person shall interfere with or tamper with any aircraft or put into motion the engine of any aircraft without the permission of the owner.

**Running of engines**

29. No person shall start or run any engine in any aircraft, unless a competent person is in the aircraft attending the engine controls. Blocks equipped with ropes or other suitable means of pulling them shall always be placed in front of the wheels before starting the engine or engines unless the aircraft is provided with parking brakes and use is made of such brakes.

**Repair of aircraft**

30. No aircraft, aircraft engines, propellers or any other appliance thereof, shall be repaired in any area of the airport other than that specifically designated by the authorised officer or Control Officer.

## MISCELLANEOUS

**Penalties**

31. (1) Any person who violates any regulation prescribed herein, or any order or instruction issued by the authorised officer or the Commissioner of Police, may be removed or ejected by the authorised officer or the Commissioner of Police or on their instructions and may be deprived of the further use of the airport and its facilities for such time as may be necessary to insure the safety of the airport and the public.

(2) Any person who contravenes or fails to comply with any of these Regulations shall be liable on summary conviction to a fine of \$50 or to a term of imprisonment of three months.



## CHAPTER 7.05

### AIRPORT SECURITY CHARGE ACT

*(Acts 2 of 1994, 13 of 1994, 9 of 2011 and S.R.O. 43/2005)*

AN ACT TO IMPOSE AIRPORT SECURITY CHARGE.

#### Commencement

*[27 October 1994]*

#### Short title

1. This Act may be cited as the Airport Security Charge Act.

#### Imposition of Airport Security Charge

2. (1) Subject to the provisions of this Act there shall be levied and collected from each traveller on each occasion on which such traveller leaves the airport for a place outside Montserrat a charge to be called the “**Airport Security Charge**” at such rate as is specified in the Schedule to this Act.

(2) The Governor acting on the advice of Cabinet may by Order vary the rate of Airport Security Charge but no such Order shall have effect unless approved by a Resolution of the Legislative Assembly.

*(Amended by Act 9 of 2011)*

#### Exemptions

3. The Airport Security Charge shall not be payable by—
  - (a) members of the crew of any aircraft;
  - (b) officials of airline companies travelling on the business of the airline company;
  - (c) such other travellers or classes of travellers as may be prescribed;
  - (d) a traveller in relation to whom the Minister of Finance is satisfied that by reason of such special circumstances as may be prescribed, the Airport Service Charge shall be remitted;
  - (e) official guest of the Government of Montserrat;
  - (f) children under the age of twelve years;
  - (g) Governor, Speaker and Members of the Legislative Assembly when travelling on Government business;

(h) Public officers when travelling on Government business as certified by the Ministry of Finance.

*(Inserted by Acts 13 of 1994 and 9 of 2011)*

### **Airport Security Charge to be collected and paid to the Accountant General**

4. The Airport Security Charge shall be collected by the carrier within the meaning of the Airport Service Charge Act and paid to the Accountant General.

### **Applicability of the provisions of the Airport Service Charge Act to this Act**

5. The provisions of the Airport Service Charge Act as amended shall apply *mutatis mutandis* for the purpose of giving effect to the provisions of this Act.

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### **SCHEDULE**

*(Section 2(1))*

Each Traveller

\$10 EC dollars

*(Amended by S.R.O. 43/2005)*

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**AIR NAVIGATION (USER CHARGES) REGULATIONS**

(S.R.O. 47/2005)

REGULATIONS MADE BY THE GOVERNOR UNDER ARTICLE 106 OF AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2001 (SI 2001 No. 2128) AS AMENDED BY AIR NAVIGATION ORDERS (SI 2003 NO. 433 AND SI 2004 NO. 2038).

**Commencement**

[11 July 2005]

**Short title**

1. These Regulations may be cited as the Air Navigation (User Charges) Regulations.

**Fees**

2. The following fees shall be charged, levied and raised from the operator of every aircraft for which air navigation services and facilities are provided at the airport (whether or not the services are actually used or could be used with the equipment installed in the aircraft) in accordance with conditions as hereinafter set out, and such fees shall be assessed on each aircraft as hereunder:

Where the aircraft weight is—

up to 12,500 pounds .....	\$ 15 per landing
from 12,500 to 75,000 pounds .....	\$ 25 per landing
over 75,000 pounds .....	\$ 40 per landing

Provide that—

Where any aircraft lands at Gerald's Airport when returning from search and rescue missions certified as emergency operations by the Airport Manager no landing charges shall become payable.

**Payment of fees**

3. Fees chargeable under the Regulation shall be paid by the owner, operator or agent of the aircraft to the Accountant General.

**Detention of Aircraft for Unpaid Charges**

4. Where default is made in the payment of fees in respect of any aircraft, the Manager of the Airport, may with the approval of the Governor take such steps as are necessary to detain until charges are paid either—

- (a) the aircraft in respect of which the charges were incurred by the operator; or

- (b) any other aircraft of the owner or other aircraft which the operator in default is operating then, or at a subsequent time.

### Interpretation

5. In these Regulations “**aircraft weight**” means the maximum permissible take off weight authorized by the Aircraft Certificate of Airworthiness.

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**AIR NAVIGATION (AIRPORT CHARGES) REGULATIONS***(S.R.O. 48/2005)*

REGULATIONS MADE BY THE GOVERNOR UNDER ARTICLE 106 OF AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2001 (SI 2001 No. 2128) AS AMENDED BY AIR NAVIGATION ORDERS (SI 2003 No. 433 AND SI 2004 No. 2038).

**Commencement***[11 July 2005]***Short title**

1. These Regulations may be cited as the Air Navigation (Airport Charges) Regulations.

**Charges at Gerald's Airfield**

2. The charges which may be made for the use of Gerald's Airfield, being an aerodrome in respect of which a licence for public use has been granted shall be as set out in the Schedule to these Regulations.

**SCHEDULE**

The owner, operator or agent of any aircraft using Gerald's Airfield shall pay the following charges assessed on the maximum take-off weight authorized by the aircraft's certificate of airworthiness (hereinafter referred to as the "aircraft weight")—

<i>(a)</i>	<b>LANDING OF AIRCRAFT</b>	
	<b>Day-Time Rates</b>	
	<i>Aircraft Weight</i>	<i>Rate per Landing</i>
	Up to 10,000 lbs .....	\$2 (light aircrafts charged \$10)
	Over 10,000 lbs to 50,000 lbs .....	\$1.75 (Twin Otters charged \$22.75)
	Over 50,000 lbs .....	\$1.50
	Provided that, the minimum charge payable shall be \$10.	
	<b>Night-Time Rates</b>	
	(i.e. between 6:00 pm and 6:00 a.m. local time) or 2200 - 1000 universal time check (UTC)	An additional 25% of the respective day-time rate.

(b)	<b>PARKING, HANGARAGE AND LONG- TERM STORAGE OF AIRCRAFT PARKING OF AIRCRAFT</b>		
	<i>Aircraft Weight (lb)</i>	<i>Charge per twenty-four hour or part thereof</i>	
	10,000 .....	\$2 (light aircraft charged \$2/24hr)	
	10,001 lbs to 30,000 .....	\$3.75 (Twin Otters charged \$3.75/24hr)	
	30,001 lbs to 50,000.....	\$6.75	
	50,001 lbs to 70,000.....	\$10.25	
	Exceeding 70,001.....	\$15.25.	
(c)	<b>PASSENGER SERVICE</b>		
	Each passenger departing for a foreign country from an International Aerodrome shall pay a fee as follows:-		
	(i)	CARICOM Nationals	\$20
	(ii)	Other Nationals	\$40
(d)	<b>OTHER CHARGES</b>		
	(a)	<b>Rental of Space in the Terminal Building</b>	
	(i)	Airline Office Space	\$3.50 per sq. ft /Month (Office 1 = \$455 & Office 2 = \$350)
	(ii)	Duty Free Space	\$3.50 per sq. ft/Month
	(iii)	Restaurant Space	\$4.50 per square foot/Month (\$540)
	(iv)	Counter Space	EC\$50 per position/Month
	(b)	<b>Utility</b>	
		The Aerodrome Authorities should be consulted. Renters will be charged a utility fee based on anticipated usage for substantial increase in office equipment	
	(c)	<b>Advertising</b>	
		<b>Type 1 (Non-electrical)</b>	
		Small (1x2 ft max)	\$20 per month
		Medium (2x3ft max)	\$40 per month
		Large (3 x 4 ft max)	\$60 per month
		X-large (over 3x4 ft)	\$80 per month
		<b>Type 2 (Electrical)</b>	
		Small (1x2 ft max)	\$30 per month
		Medium (2x3ft max)	\$60 per month
		Large (3 x 4 ft max)	\$90 per month
		X-large (over 3x4 ft)	\$120 per month

(e)		<b>EXEMPTIONS AND SURCHARGES</b>
	(a)	<b>Exemptions</b>
		The following will be exempted from payment of fees—
		Diplomatic and Military aircraft and their personnel on official duty;
		Aircraft involved in Search and Rescue; volcano monitoring (Provided that, these charges are excluded from the cost of the service to GOM)
	(b)	<b>Surcharge</b>
		Fees and charges that remain unpaid for sixty days) after payment is required by the Airport Authority will be charged an additional 5% monthly cumulative charge.





**CIVIL AVIATION (INVESTIGATION OF  
AIR ACCIDENTS AND INCIDENTS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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11. Inspector's Report
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**CIVIL AVIATION (INVESTIGATION OF  
AIR ACCIDENTS AND INCIDENTS) REGULATIONS**

(S.R.O. 72/2007)

IN EXERCISE OF THE POWERS CONFERRED ON ME BY SECTION 75 OF THE CIVIL AVIATION ACT 1982 (AS EXTENDED TO THE TERRITORY BY SECTION 4 OF THE CIVIL AVIATION ACT 1982 (OVERSEAS TERRITORIES) ORDER 2001 AND PARAGRAPH 2 OF SCHEDULE 1 TO THAT ORDER), I HEREBY MAKE THE FOLLOWING REGULATIONS:

**Commencement**

[13 December 2007]

**Short title**

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations.

**Interpretation**

2. (1) In these Regulations, unless the context otherwise requires—

“**accident**” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which—

(a) a person suffers a fatal or serious injury as a result of—

- being in or upon the aircraft;
- direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
- direct exposure to jet blast;

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which—

- adversely affects the structural strength, performance or flight characteristics of the aircraft; and
- would normally require major repair or replacement of the affected component;

except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or

(c) the aircraft is missing or is completely inaccessible;

“**aerodrome authority**” means, in relation to any aerodrome, the person by whom the aerodrome is managed;

“**the Annex**” means the ninth edition of Annex 13 to the Chicago Convention as amended on 1 July 2001;

“**commander**”, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot in command of the aircraft;

“**Contracting State**” means any State (including the United Kingdom) which is party to the Chicago Convention;

“**crew**” includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

“**fatal injury**” means an injury which is sustained by a person in an accident and which results in his death within thirty days of the date of the accident;

“**incident**” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or would affect the safety of operation;

“**Inspector**” means a person appointed as an Inspector of Air Accidents under regulation 8 below;

“**investigating Inspector**” means the Inspector carrying out an investigation pursuant to these Regulations;

“**owner**” means where an aircraft is registered, the registered owner;

“**police officer**” means any person who is a member of a police force and any special constable;

“**pilot in command**”, in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“**serious incident**” means an incident involving circumstances indicating that an accident nearly occurred;

“**serious injury**” means an injury which is sustained by a person in an accident and which—

- (a) requires hospitalisation for more than forty eight hours, commencing within seven days from the date the injury was received;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes, or nose);
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to any internal organ;
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or

- (f) involves verified exposure to infectious substances or harmful radiation.

“**Territory**” means the territory of Montserrat.

(2) Any notice or other document required or authorised by any provision of these Regulations to be served on or given to any person may be served or given -

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business, whether in the Territory or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at that address by telex, by facsimile transmission or other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received.

### **Application**

3. These Regulations apply only to civil aviation accidents and incidents.

### **Purpose of the investigation of accidents and incidents**

4. The sole objective of the investigation of an accident or incident under these Regulations shall be the prevention of accidents and incidents. It shall not be the purpose of this activity to apportion blame or liability.

### **Duty to furnish information relating to accidents and incidents**

5. (1) Where an accident or a serious incident occurs in respect of which, by virtue of regulation 8(2) below, the Governor is required to carry out, or to cause an Inspector to carry out an investigation, the relevant person and, in the case of an accident or a serious incident occurring on or adjacent to an aerodrome, the aerodrome authority shall forthwith give notice thereof to the Governor by the quickest means of communication available and in the case of an accident occurring in or over the Territory shall also notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) In this regulation the expression “**relevant person**” means—

- (a) in the case of an accident or serious incident occurring in or over the Territory or occurring elsewhere to an aircraft registered in an Overseas Territory, the commander of the aircraft involved at the time of the accident or serious incident or, if he be killed or incapacitated, the operator of the aircraft; and
- (b) in the case of a serious incident occurring in or over any country or territory other than a Contracting State to an aircraft registered elsewhere than in Montserrat but operated by an undertaking established in Montserrat that undertaking.

(3) The notice to the Governor referred to in paragraph (1) above shall contain as much of the following information as is available.

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- (a) in the case of an incident, the identifying abbreviation ‘ACCID’ or, in the case of a serious incident ‘INCID’;
  - (b) the type, model and the nationality and registration marks of the aircraft;
  - (c) the name of the owner, operator and hirer (if any) of the aircraft;
  - (d) the name of the commander of the aircraft;
  - (e) the date and Co-ordinated Universal Time of the accident or serious incident;
  - (f) the last point of departure and the next point of intended landing of the aircraft;
  - (g) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;
  - (h) the number of—
    - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
    - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
    - (iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;
    - (iv) the nature of the accident or serious incident and the extent of the damage to the aircraft as far as is known.
- (4) Where an incident, other than a serious incident, takes place—
- (a) in or over the Territory; or
  - (b) otherwise than in or over the Territory to an aircraft registered in the Territory,

the owner, operator, commander or hirer of the aircraft shall, if so required by notice in writing given to him by the Governor, send to the Governor such information as is in his possession or control with respect to the incident in such form and at such times as may be specified in the notice.

### **Information on accident or incident to be published**

6. Subject to the provisions of regulations 11(5)(b) and 18 below, the Governor may at any time publish, or cause to be published, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by an Inspector.

### **Removal of damaged aircraft**

7. (1) Subject to paragraph (2) and regulation 9 below, where an accident or serious incident occurs in or over the Territory, no person other than an authorised

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person shall have access to the aircraft involved in the accident or serious incident and neither the aircraft nor its contents shall except under the authority of the Governor be removed or otherwise interfered with:

Provided that—

- (a) the aircraft may be removed or interfered with so far as may be necessary for the purpose of—
    - (i) extricating persons or animals,
    - (ii) removing any mail, valuables and dangerous goods carried by the aircraft,
    - (iii) preventing destruction by fire or other cause,
    - (iv) preventing any danger or obstruction to the public or to air navigation or to other transport,
    - (v) removing any other property from the aircraft under the supervision of an Inspector or with the agreement of an Inspector or of a police officer;
  - (b) if an aircraft is wrecked on the water, the aircraft or any of its contents may be removed to such extent as may be necessary for bringing it or them to a place of safety.
- (2) In this regulation the expression “**authorised person**” means—
- (a) any person authorised by the Governor either generally or specially to have access to any aircraft involved in an accident or serious incident;
  - (b) any police officer;
  - (c) any officer of Customs and Excise Department.

### Inspectors of Air Accidents

8. (1) For the purpose of carrying out investigations into accidents and incidents to which these Regulations apply, the Governor shall appoint persons as Inspectors of Air Accidents.

(2) Subject to paragraphs (4) and (5) below, the Governor shall carry out, or cause an inspector to carry out, an investigation into—

- (a) accidents and serious incidents which occur in or over the Territory;
- (b) accidents and serious incidents which occur in or over any country or territory which is not a Contracting State to aircraft registered in the Territory when such an investigation is not carried out by another State;
- (c) serious incidents which occur in or over any country or territory which is not a Contracting State to aircraft which are registered elsewhere than in the Territory but which are operated by an undertaking established in the Territory when such an investigation is not carried out by another State; and

(d) accidents and serious incidents to aircraft registered in the Territory in the circumstances described in paragraph 5.3 of the Annex.

(3) Subject to paragraphs (4) and (5) below, the Governor may, when he expects to draw air safety lessons from it, carry out, or cause an Inspector to carry out, an investigation into an incident, other than a serious incident, which occurs—

(a) in or over the Territory; or

(b) otherwise than in or over the Territory to an aircraft registered in the Territory.

(4) The Governor may delegate the task of carrying out an investigation into an accident or an incident in accordance with paragraphs 5.1, 5.1.1 or 5.3 of the Annex, to another Contracting State.

(5) Where the Governor delegates the task of carrying out an investigation pursuant to paragraph (4) above, he shall so far as he is able facilitate inquiries by the investigator appointed by the relevant State.

(6) Without prejudice to the power of an Inspector to seek such advice or assistance as he may deem necessary in making an investigation, the Governor may appoint persons to assist any Inspector in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Inspector under these Regulations as may be specified in their appointment.

(7) In any case where the Governor causes more than one inspector to carry out an investigation, he shall nominate one of them to be in overall charge of the investigation.

### **Powers of Inspectors**

9. (1) For the purpose of enabling him to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, an investigating Inspector is hereby authorised, where appropriate in co-operation with the authorities responsible for the judicial inquiry, to—

(a) have free access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;

(b) ensure an immediate listing of evidence and controlled removal of debris, or components for examination or analysis purposes;

(c) have immediate access to and use of the contents of the flight recorders and any other recordings;

(d) have access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;

(e) have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people;

(f) examine witnesses; and



- (g) have free access to any relevant information or records held by the owner, the operator or the manufacturer of the aircraft and by the authorities responsible for civil aviation or airport operation.
- (2) For the purpose of paragraph (1) above an investigating Inspector shall have power—
- (a) by summons under his hand to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any books, papers, documents and articles which the investigating Inspector may consider relevant and to retain any such books, papers, documents and articles until the completion of the investigation;
- (b) to take statements from all such persons as he thinks fit and to require any such person to make and sign a declaration of the truth of the statement made by him;
- (c) on production if required of his credentials, to enter and inspect any place, building or aircraft the entry or inspection whereof appears to the investigating Inspector to be requisite for the purposes of the investigation;
- (d) on production if required of his credentials, to remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to the investigating Inspector requisite for the purposes of the investigation; and
- (e) to take such measures for the preservation of evidence as he considers appropriate.
- (3) Every person summoned by an investigating Inspector under paragraph (2)(a) above shall be allowed such expenses as the Governor may determine.

### **Form and conduct of investigations**

**10.** The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under these Regulations shall be determined by the Governor taking account of the purpose described in regulation 4 above, and the lessons he expects to draw from the accident or incident for the improvement of safety.

### **Inspector's Report**

**11.** (1) On completion of an investigation into an accident or incident, the investigating Inspector shall prepare a report of the investigation in a form appropriate to the type and seriousness of the accident or incident.

(2) If it appears to the investigating Inspector that the investigation of any accident or incident—

- (a) involving a collision between a civil aircraft and a military aircraft, or

- (b) occurring while a civil aircraft was on, or in the course of taking off from or landing on, an aerodrome controlled by any of Her Majesty's naval military or air forces or by the naval, military or air forces of any country;

has been completed but for the investigation of matters affecting the discipline or internal administration of any of those forces which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purpose of paragraph (1) above as if it had been completed without such matters being investigated under these regulations. In such a case the report of the investigation into the accident or incident shall state those matters to which the investigation has not extended by reason of this paragraph.

(3) The report of an investigation into an accident shall state the sole objective of the investigation as described in regulation 4 above and, where appropriate, contain safety recommendations.

(4) The Investigating Inspector shall submit a copy of every report prepared pursuant to paragraph (1) above to the Governor without delay.

(5) The report of an investigation into an incident shall—

- (a) where appropriate, contain relevant safety recommendations;
- (b) protect the anonymity of the persons involved in the incident; and
- (c) be circulated by the Governor to the parties likely to benefit from its findings with regard to safety.

(6) A safety recommendation shall in no case create a presumption of blame or liability for an accident or incident.

(7) In this regulation the expression “**investigating Inspector**”, in a case where more than one Inspector is carrying out the task of investigation, means the Inspector nominated under regulation 8(7) above.

### **Notice of Inspector's Report and Representations thereon**

12. (1) No report which is required by regulation 13 to be published shall be so published if, in the Governor's opinion, it is likely to adversely affect the reputation of any person, until the Governor has—

- (a) where it appears to him to be practicable so to do, served a notice under this regulation upon that person, or if that person is a deceased individual, upon the person who appears to the Governor, at the time he proposes to serve notice pursuant to this paragraph, to represent best the interest of the deceased in the matter; and
- (b) made such changes to the report as he thinks fit following his consideration of any representations which may be made to him in accordance with paragraph (3) below by or on behalf of the person served with such notice.

(2) The notice referred to in sub-paragraph (a) of paragraph (1) above shall include particulars of any proposed analysis of facts and conclusions as to the cause or

causes of the accident or incident which may affect the person on whom or in respect of whom the notice is served.

(3) Any representations made pursuant to sub-paragraph (b) of paragraph (1) above shall be in writing and shall, subject to paragraph (6) below, be served on the investigating Inspector within twenty eight days of service of the notice referred to in sub-paragraph (a) of paragraph (1) above.

(4) A copy of the report submitted to the Governor under regulation 11(6) above shall be served by the investigating Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

(5) No person shall disclose or permit to be disclosed any information contained in a notice or report served on him pursuant to paragraphs (1) or (4) above to any other person without the prior consent in writing of the Governor.

(6) The Governor shall have power to extend the period of twenty eight days prescribed in paragraph (3) above and this power shall be exercisable notwithstanding that that period has expired.

### Publication of Reports

13. Subject to regulation 12(1) above, the Governor shall cause the report of an investigation into an accident or incident to be made public in the shortest time possible (and, if possible, within twelve months of the date of the accident or serious incident) and in such manner as he thinks fit.

### Safety recommendations

14. (1) The Governor shall cause the reports referred to in regulation 13 above including those not required to be published and including the safety recommendations contained therein, to be communicated to the undertakings or national aviation authorities concerned.

(2) Any undertaking or authority to which a safety recommendation is communicated pursuant to paragraph (1) above shall, without delay—

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Governor—
  - (i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation without delay and, in a case where it proposes to implement measures, the timetable for securing that implementation; or
  - (ii) a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it;
- (c) give written notice to the Secretary of State if at any time any information provided to the Secretary of State in pursuance of sub-paragraph (b)(i) above concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

### Reopening of Investigation

15. (1) The Governor may cause the investigation of any accident or incident to be reopened and shall do so—

- (a) if after the completion of the investigation evidence has been disclosed which is in his opinion both new and important; or
- (b) if for any other reason there is in his opinion ground for suspecting that the reputation of any person has been unfairly and adversely affected.

(2) Any investigation reopened shall be subject to and conducted in accordance with the provisions of these Regulations.

### Accredited representatives

16. (1) Where an investigation of an accident or serious incident is being carried out by an Inspector pursuant to regulation 8 above, an accredited representative appointed by—

- (a) the State of Registry;
- (b) the State of Design;
- (c) the State of Manufacture;
- (d) the State of the Operator;
- (e) a Contracting State which has, on request furnished information, facilities or experts to the Inspector in connection with the accident or serious incident;

may take part in the investigation, that is to say, he shall be permitted to visit the scene of the accident, examine the wreckage, question witnesses, receive copies of all pertinent documents (saving all just exceptions), have access to all relevant evidence and make submissions; and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country or territory by which he is appointed.

(2) In this regulation the expressions “**accredited representative**”, “**State of Registry**”, “**State of Design**”, “**State of Manufacture**” and “**State of the Operator**” have the meanings given to them by Chapter 1 of the Annex and the expression “**Investigating Inspector**” in a case where more than one inspector is carrying out the task of investigation means the Inspector nominated under regulation 8(7).

### Obstruction of Investigation

17. (1) No person shall obstruct or impede an Inspector or any person acting under the authority of the Governor in the exercise of any powers or duties under these Regulations.

(2) No person shall without reasonable excuse fail, after having had the expenses (if any) to which he is entitled under these Regulations tendered to him, to comply with any summons of an Inspector holding an investigation.

### Disclosure of relevant records

18. (1) Subject to paragraphs (2) and (4) to (6) below no relevant record shall be made available by the Governor to any person for purposes other than accident or incident investigation.

(2) Nothing in paragraph (1) above shall preclude a person making a relevant record available to any other person where—

- (a) in a case where the other person is a party to or otherwise entitled to appear at judicial proceedings, the relevant court has ordered that the relevant record shall be made available to him for the purpose of those proceedings, or
- (b) in any other circumstances, the relevant court has ordered that the relevant record shall be made available to him for the purpose of those circumstances.

(3) In this regulation—

“**judicial proceedings**” includes any proceedings before any court, tribunal or person having by law power to hear, receive and examine evidence on oath;

“**relevant court**”, in the case of judicial proceedings or an application for disclosure, means the court of the relevant Overseas Territory;

“**relevant record**” means any item in the possession, custody or power of the Secretary of State which is of a kind referred to in sub-paragraphs (a) to (e) of paragraph 5.12 of the Annex; and

“**Governor**” includes any officer of his.

(4) Subject to paragraph (6) no order shall be made under paragraph (2) unless the relevant court is satisfied that the interests of justice in the circumstances in question outweigh the adverse domestic and international impact which disclosure may have on the investigation into the accident or incident to which the record relates or any future accident or incident investigation undertaken in the Territory.

(5) A relevant record or part thereof shall not be treated as having been made available contrary to paragraph (1) in any case where that record or part is included in the final report (or the appendices to the final report) of the accident.

(6) The provisions of this regulation shall be without prejudice to any rule of law which authorises or requires the withholding of any relevant record or part thereof on the ground that the disclosure of it would be injurious to the public interest.

### Revocation

19. The Civil Aviation (Investigation of Accidents) Regulations 1952 (S.R.O (L.I.) 18/1952) are hereby revoked. Any investigation commenced under the revoked Regulations which has not been completed shall continue as if it had been commenced under these Regulations.



## AIR NAVIGATION (SIGHTSEEING) REGULATIONS

(S.R.O. 16/2012)

REGULATIONS MADE BY THE GOVERNOR UNDER ARTICLE 149 OF AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2007.

### Commencement

[1 April 2012]

### Short title

1. These Regulations may be cited as the Air Navigation (Sightseeing) Regulations.

### Interpretation

2. In these Regulations—

“operator” means a person, company or a commercial enterprise who at the particular time has management of an aircraft;

“sightseeing operation” means carrying passengers by air over Montserrat for the purpose of aerial observation of landmarks whether natural or manmade or other tourist-related activities, for compensation.

### Sightseeing Operation

3. An operator shall not operate a sightseeing operation without authorisation granted in accordance with these regulations.

### Application

4. (1) An operator who wishes to operate a sightseeing operation shall apply to the Governor for authorisation.

(2) An application must include the following information—

- (a) name of operator, agent, and name under which that operator does business;
- (b) principal business address and mailing address;
- (c) name of person responsible for management of the business;
- (d) name of person responsible for aircraft maintenance;
- (e) type of aircraft, aircraft certificate of registration, aircraft certificate of airworthiness, make/model/series and call sign;
- (f) copy of incorporation document including names of directors;
- (g) any other document requested by the Airport Manager.

**Fees**

5. (1) An operator shall pay a fee of US\$50 to the Accountant General for each return trip.

(2) All fees are to be collected by the Airport Manager and paid into the Consolidated Fund.

**Offence**

6. An operator who violates any provision of these Regulations shall be subject to regulation 134 of the Air Navigation (Overseas Territories) Order 2007.

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