



Ministry  
of Defence

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Ref: FOI2015/04275

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A Mason

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Dear A Mason

Thank you for your email of 12 May 15 requesting the following information:

*Article 255 of the Air Navigation Order defines 'military aircraft' in the following way:*

*"(a) the naval, military or air force aircraft of any country;  
(b) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and  
(c) any aircraft for which there is in force a certificate issued by the Secretary of State that the aircraft is to be treated for the purposes of this Order as a military aircraft"*

*The same article of the ANO also defines 'military rocket' in the following way:*

*"(a) any rocket being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and  
(b) any rocket for which there is in force a certificate issued by the Secretary of State that the rocket is to be treated for the purposes of this Order as a military rocket "*

*Please provide me with a list of all certificates which have been granted by the Secretary of State as described by (c) in the definition of military aircraft and (b) in the definition of military rocket. In each case, please advise me as to whether the certificate is currently in force and also provide the following details:*

*Name of person(s)/organisation(s) certified Date of request Date of issue Effective date End date  
Nature of certifications granted Nationality of person(s)/organisation(s) Reason for granting the  
certificate Type and number of aircraft or rockets certified (including the manufacturer/model - if  
known) Aircraft registration details and serial numbers (if known)"*

And your subsequent email of 20 June clarifying:

*I am interested in all aircraft, including those out of service. I am interested in all aircraft types.*

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that no information in scope of your request is held.

Under Section 16 of the Act (Advice and Assistance) you may find it helpful to note that Article 252 of the Air Navigation Order states the following:

*“Except as otherwise provided by paragraph (2), and articles 144(2), 160(1)(a), 162(7) and (17) and 215, nothing in this Order applies to or in relation to any military aircraft.*

*(2) If a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of that person’s duty as a member of any of Her Majesty’s naval, military or air forces or as a member of a visiting force or international headquarters, the provisions specified in paragraph (3) apply to that flight.*

*(3) The provisions referred to in paragraph (2) are articles 137, 138, 139 and 161 and in addition article 160 (so far as applicable) applies unless the aircraft is flown in compliance with Military Flying Regulations...*”

In short, while Article 255 may be invoked by the Secretary of State under certain scenarios this is not mandated for routine operations of military aircraft.

You may also find it useful to know that military rockets are exempt from the Air Navigation Orders that only apply to civil equipment.

This is defined in the following extract:

*‘The Air Navigation Order 2009’ (which incorporates Article 255 of the Air Navigation Order) defines rockets thus:*

### **Rockets**

168.

*(1) Subject to paragraph (2), this article applies to—*

*(a) small rockets of which the total impulse of the motor or combination of motors exceeds 160 Newton-seconds; and*

*(b) large rockets.*

*(2) This article does not apply to—*

*(a) an activity to which the Outer Space Act 1986(a) applies; or*

*(b) a military rocket.*

*(3) No person may launch a small rocket unless the conditions in paragraph (4), and any of the conditions in paragraphs (5), (6) and (7) which are applicable, are satisfied.*

*(4) The person launching the rocket is satisfied on reasonable grounds that—*

*(a) the flight can be safely made; and*

*(b) the airspace within which the flight will take place is, and will throughout the flight remain, clear of any obstructions including any aircraft in flight.*

*(5) The person launching the rocket on a flight within controlled airspace has obtained the permission of the appropriate air traffic control unit for aircraft flying in that airspace.*

*(6) The person launching the rocket on a flight within an aerodrome traffic zone of an aerodrome during its notified operating hours—*

*(a) has obtained the permission of the air traffic control unit at the aerodrome; or*

*(b) if there is no air traffic control unit, has obtained from the aerodrome flight information service unit at that aerodrome information to enable the flight within the zone to be conducted safely; or*

*(c) if there is no air traffic control unit and no aerodrome flight information service unit, has obtained information from the air/ground communications service unit at that aerodrome to enable the flight to be conducted safely.*

*(7) A flight for aerial work purposes must be carried out under and in accordance with a permission granted by the CAA to the person launching the rocket.*

*(8) A flight by a large rocket must be carried out under and in accordance with a permission granted by the CAA to the person launching the rocket.*

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1<sup>st</sup> Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail [CIO-FOI-IR@mod.uk](mailto:CIO-FOI-IR@mod.uk)). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely,

Sarah Jones