

**Requirements concerning the appointment of authorized persons
for the purpose of Article 166 of the Air Navigation (Jersey) Law 2014
to prevent aircraft flying while in a condition unfit for flight**

1. This Direction by the [Acting] Director of Civil Aviation (the "DCA") for part of the specified requirements for the purposes of the Air Navigation (Jersey) Law 2014 (the "Law").
2. The DCA may appoint a person whom the DCA considers possesses appropriate experience or qualification to each be an authorized person under the empowered to give directions and take steps to prevent aircraft flying in accordance with Article 166 of the Law, which provides as follows:

166 Power to prevent aircraft flying

(1) *If it appears to the Director or an authorized person that any aircraft is intended or likely to be flown –*

(a) *in such circumstances that any provision of Article 2, 3, 5, 21, 25, 63, 82, 148(2) would be contravened in relation to the flight;*

(b) *in such circumstances that the flight would be in contravention of any other provision of this Law, and be a cause of danger to any person or property whether or not in the aircraft; or*

(c) *while in a condition unfit for the flight, whether or not the flight would otherwise be in contravention of any provision of this Law,*

the Director or that authorized person may direct the operator or the pilot-in-command of the aircraft not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Director or by an authorized person.

(2) *For the purposes of paragraph (1) the Director or any authorized person may enter upon and inspect any aircraft, and the Director or that authorized person may take such steps as are necessary to detain the aircraft.*

(3) *If it appears to the Director or to an authorized person that any aircraft is intended or is likely to be flown in such circumstances that any provision of Article 105 or 107 would be contravened in relation to the flight, the Director or that authorized person may direct the pilot-in-command of the aircraft not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction until the direction has been revoked by the Director or by an authorized person.*

(4) *For the purposes of paragraph (3) the Director or any authorized person may enter upon any aerodrome and may enter upon and inspect any aircraft and the Director or any authorized person may take such steps as are necessary to detain the aircraft."*

3. The powers of persons appointed as authorized persons for the purposes of Article 166 of the Law are to be exercised in accordance with this direction by the DCA.
4. The power in Article 166 of the Law to prevent an aircraft from flying is only to be exercised if it appears to the Authorized Person that an aircraft is intended or likely to be flown while in a condition unfit for flight.
5. The power may, therefore, be invoked by the Authorized Person in 3 circumstances:
 - (a) on the Authorized Person's own volition, when he or she suspect reasonable grounds exist (see the following paragraph);
 - (b) after the Authorized Person has obtained advice from the DCA [or from the CAA in the United Kingdom]; or
 - (c) where the DCA requests the Authorized Person to detain the aircraft on behalf of the DCA.
6. It is not possible to list all of the situations in which it is foreseeable that an Authorized Person will need to exercise the power to prevent an aircraft from flying. If it appears that an aircraft is unfit for flight, the Authorized Person's first course of action should be to contact the relevant operator/maintenance provider or other person with some authority over the intended flight. If this is not practicable or, in the Authorized Person's judgement and experience, or relying on the judgement and experience of a trusted colleague the Authorized Person feels the situation is not resolved, then the Authorized Person should take action as detailed below.
7. An Authorized Person must not use his or her powers to detain an aircraft for non-payment of landing or other fees. An Authorized Person acting under Article 166 of the Law is not considered to be carrying out a function of the DCA or acting on behalf of the DCA. The authority to perform the function derives from Article 166 of the Law and the letter of appointment by the DCA under the Law as an Authorized Person. Each Authorized Person is responsible for his or her own actions. Liability for the use of Authorisations under Article 166 of the Law by personnel not employed within the Office of the DCA lies solely with them and their employer, and not with the DCA.

Issuing the Direction

8. A Direction is to be issued to the Operator or the pilot-in-command of the aircraft. It should always be in writing. If it cannot be given to the addressee in person the Direction should be fixed to the aircraft concerned and a copy of it sent to the Commander and/or Operator. In such a case it may be appropriate to try and inform the Operator and/or Commander orally that the Direction has been issued. The power to detain under Article 166(2) of the Law allows the authorized person to direct the operator/pilot in command not to permit the aircraft to make 'the particular flight or any other flight of such description as may be specified in the direction'.

9. It is important to remember that if a Direction has been given it must subsequently be revoked before the aircraft may fly. The Direction given should only be revoked if required by a court order or if the Authorized Person is satisfied that the aircraft is now airworthy. An example of a suitable format is at Appendix B.

Responsibility and Liability

10. The Authorized Person will be responsible for ensuring this power to prevent an aircraft flying is used properly in accordance with the Law and may be liable for any claims of improper use.
11. It is, however, desirable that, wherever possible, before action is taken to prevent an aircraft flying or to detain it, that the Authorized Person should consult with the DCA, depending on the reasons for detention.
12. [If the DCA is not available, advice may be sought from the CAA, through either Airworthiness or Flight Operations at the CAA Regional Office or at SARG, Gatwick. Contact details are provided on the CAA Operations and Airworthiness/Contacts web page.]
13. Where an aircraft has been prevented from flying or detained and the DCA has not been consulted prior to the event, the DCA should be advised as soon as possible thereafter.

Detaining an Aircraft

14. As well as issuing the Direction, an Authorized Person is also entitled to take such steps as are necessary to detain the aircraft. This may for example involve parking an airport vehicle so as to prevent the aircraft from moving. Any such steps should however be apparent to any person trying to move the aircraft and should avoid damaging the aircraft. In accordance with Article 166 (2) and (4), the DCA or any Authorized Person may enter and inspect any aircraft. An authorized person must not prevent an aircraft flying or detain it unless he or she is sure that he or she has the power and reason for so doing.