

Title: The Air Navigation (Amendment) Order 2011 Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)
	IA No: DfT0070
	Date: 27/07/2011
	Stage: Final
	Source of intervention: EU
	Type of measure: Secondary legislation
	Contact for enquiries: James Gilderoy, 020 7944 5807 james.gilderoy@df.t.gsi.gov.uk

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

To bring the Air Navigation Order 2009 (ANO) into line with the EU Services Directive so that operators of EEA-registered aircraft wishing to undertake aerial work in the UK no longer require the prior permission of the Secretary of State for Transport. Intervention is necessary to end the disparity between UK and EU legislation. Aerial work includes aerial photography, aerial survey and parachute dropping. Operators of UK-registered aircraft are not required to seek prior permission from the Secretary of State.

What are the policy objectives and the intended effects?

The policy objective is to bring the ANO into line with the Services Directive. It will put operators of EEA-registered aircraft on the same legal footing as UK ones with respect to the provision of aerial work services.

This exercise is for legal certainty, to ensure the UK is compliant with EU law, rather than a proposal that is expected to impose costs or result in benefits to the UK. It will, however, result in very small savings to the UK public sector and some very minor paperwork savings to operators of EEA-registered aircraft because they will no longer have to apply for the permits.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 - Do nothing. Do not amend the ANO. This would maintain the legal disparity between the ANO and the Services Directive and could lead to infraction proceedings against the UK. It would also maintain an additional regulatory burden on operators of EEA-registered aircraft.

Option 1 - Amend the ANO. This will bring the ANO into line with the Services Directive and end any legal uncertainty. Regulatory burden on operators of EEA-registered aircraft removed making it marginally easier for them to enter the UK market. Small financial saving for DfT. This is the preferred option.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

What is the basis for this review? Not applicable. **If applicable, set sunset clause date:** Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Not applicable

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: Theresa Villiers Date: 18/09/2011.

Summary: Analysis and Evidence

Policy Option 1

Description:

Amend the ANO

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: NA	High: NA	Best Estimate: NA

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NA	NA	NA
High	NA	NA	NA
Best Estimate	0	0	0

Description and scale of key monetised costs by 'main affected groups'

There are no costs to business from amending the ANO; permits are not charged for so there will be no loss of revenue to DfT.

Other key non-monetised costs by 'main affected groups'

Minimal costs for DfT associated with informing the industry of the change, including making the information available on the DfT website, e-mailing operators and informing the relevant trade body.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NA	NA	NA
High	NA	NA	NA
Best Estimate	0	£0.0017m	£0.015m

Description and scale of key monetised benefits by 'main affected groups'

DfT will no longer have to process applications (140 pa) from operators of EEA-registered aircraft. Processing time is approximately 1 hour/permit so it will save 140 PB2L hours per year at a basic gross hourly rate of £12.29 (140 x £12.29 = £1,720.60). Non-wage costs have not been considered as the saving in staff resources is minimal and insufficient on its own to result in an actual reduction in staff. There will be no benefits to UK businesses.

Other key non-monetised benefits by 'main affected groups'

It will be easier for operators of EEA-registered aircraft to enter the UK market as they will no longer have to apply for a permit. However, the current permit regime is not onerous, applicants are very rarely refused and the market operates effectively, therefore, there is unlikely to be any discernible impact on competition.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

The main risk driving the proposed amendment is that of litigation and infraction proceedings because of the disparity between UK and EU law.

It is assumed that the current rate of 140 applications by operators of EEA-registered aircraft per year would be maintained at that rate going forward.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		United Kingdom			
From what date will the policy be implemented?		after 01/01/2011			
Which organisation(s) will enforce the policy?		NA			
What is the annual change in enforcement cost (£m)?		(£0.002m)			
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		No			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded:		Non-traded:	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs:		Benefits:	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes	Yes	Yes	Yes	Yes

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	
2	
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002
Total annual benefits	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002	£0.002

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Problem under consideration

Inconsistency between the Air Navigation Order 2009 (ANO) and the 2006 Services Directive. A change to the ANO is required to remove the inconsistency. The proposed amendment will bring the ANO into line with the Services Directive so that operators of EEA-registered aircraft wishing to undertake aerial work in the UK no longer require the prior permission of the Secretary of State. Intervention is necessary to end the disparity between UK and EU legislation and avoid possible infraction proceedings.

Rationale for intervention

To end the inconsistency between UK and EU law. The policy objective is to bring the ANO into line with the Services Directive. It will put operators of EEA-registered aircraft on the same legal footing as operators of UK-registered ones with respect to the provision of aerial work services.

This exercise is for legal certainty, to ensure the UK is compliant with EU law, rather than a proposal that is expected to impose costs or result in benefits to the UK. It will, however, result in very small savings to the UK public sector and some very minor paperwork savings to operators of EEA-registered aircraft because they will no longer have to apply for the permits.

Policy objective

To amend Article 225 of the ANO so that operators of EEA-registered aircraft are no longer obliged to seek the Secretary of State's permission prior to offering aerial work services in the UK.

Description of options considered and costs and benefits of each option

Option 0 - Do nothing. Do not amend the ANO. This would maintain the legal inconsistency between the ANO and the Services Directive and could lead to infraction proceedings against the UK.

Option 1 - Amend the ANO. This will bring the ANO into line with the Services Directive and end any legal uncertainty. Regulatory burden on operators of EEA-registered aircraft removed making it marginally easier for them to enter the UK market, they would also save a small sum of money through not having to apply for permits. No additional cost; annual saving (benefit) of approximately 140 hours of PB2L staff time worth approximately £1,700 pa.

Costs

Minimal costs for DfT associated with informing the industry of the change, including making the information available on the DfT website and informing relevant trade bodies.

Applications have only previously been refused on grounds of safety (and then, exceptionally rarely). If the amendment is made it will fall to the Civil Aviation Authority to take action on unsafe aircraft, in the same way that they do for air transport, for example, by undertaking spot checks and acting on intelligence. The CAA confirm that the proposed amendment will not increase their workload to any significant extent, moreover standardisation of the Rules of the Air in Europe in 2012 will further reduce the likelihood of CAA intervention, to below a level of risk that is already considered unlikely.

Benefits

DfT will no longer have to process applications (140 pa) from operators of EEA-registered aircraft seeking to undertake aerial work in the UK. Processing time is approximately 1 hour per permit and this activity is undertaken by a small team of PB2L staff, at a basic gross hourly rate of £12.29 (140 x £12.29 = £1,720.60). (The gross hourly rate is for the top of the DfT PB2L scale:- £23,355 per year / 264 working days = £88.47 gross pay per day / 7.2 hours = £12.29 per hour). Non-wage staff costs have not been considered as the saving in staff resources is minimal.

There will be no benefits to UK businesses.

Risks and assumptions

The main risk driving the proposed amendment is that of litigation and infraction proceedings because of the disparity between UK and EU law. The UK has never been fined under the infractions process and so there is no precedent for how much we could expect to be fined. The Commission has indicated that the UK could expect to be fined a lump sum of at least €10 million for a simple breach of EU law, with a deliberate breach likely to attract a higher penalty. For example, in 2005 France was fined a lump sum of €28 million with periodic fines of circa €50 million every 6 months until they complied. Daily fines could therefore exceed hundreds of millions of Euros and the UK would continue to be fined until it complied.

It is assumed that the current rate of 140 applications by operators of EEA-registered aircraft per year would be maintained at that rate going forward.

Administrative burden and policy saving calculations

The proposal will remove an administrative burden to operators of EEA-registered aircraft wishing to undertake aerial work in the UK and save approximately 140 hours per year of staff activity at PB2L level.

Wider impacts

The proposed amendment will make market access for operators of EEA-registered aircraft in the UK marginally easier, by no longer being required to seek the prior permission of the Secretary of State for Transport. However, the effect of this on competition will be negligible.

One In One Out

This measure is out of scope of OIOO as it is necessary to meet European requirements.

Summary, preferred option and implementation plan

The preferred option is to amend Article 225 of the Air Navigation Order 2009 to bring it into line with the EU Services Directive and so remove the risk of future litigation or infraction proceedings. The aim is to amend the ANO through a Statutory Instrument at the earliest opportunity.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here] The proposed amendment is to bring the ANO into line with the Services Directive so a post-implementation review is not appropriate. It would also be disproportionate for the very minor impact of this proposed amendment.</p>

Add annexes here.