

**2009 No. 1742**

**CIVIL AVIATION**

**The Air Navigation (Amendment) Order 2009**

*Made* - - - - *8th July 2009*

*Laid before Parliament* *15th July 2009*

*Coming into force* - - *1st September 2009*

At the Court at Buckingham Palace, the 8th day of July 2009

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 60(1), (2)(b), (3)(d), (3)(h) and (3)(n), 61(1)(a) and 102 of, and Schedule 13 to, the Civil Aviation Act 1982(a) and paragraph 1A of Schedule 2 to the European Communities Act 1972(b).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to Her Majesty that it is expedient for certain references to provisions of a Community instrument to be construed as a reference to those provisions as amended from time to time.

Her Majesty, by and with the advice of Her Privy Council, orders as follows:

**Citation, commencement and transitional provisions**

1.—(1) This Order may be cited as the Air Navigation (Amendment) Order 2009 and comes into force on 1st September 2009.

(2) Nothing in this Order shall affect the validity of any licence granted under Part 10 of the Air Navigation Order 2005(c), or any rating or endorsement contained in such a licence, for the period of one year commencing on the date of the coming into force of this Order.

**Amendment of the Air Navigation Order 2005**

2. The Air Navigation Order 2005 is amended as follows.

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(a) 1982 c.16, to which there are amendments which are not relevant to this Order.

(b) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28.

(c) S.I. 2005/1970, to which there are amendments which are not relevant to this Order.

## Licensing of air traffic controllers

### 3. For Part 10 substitute—

## “PART 10

### Licensing of air traffic controllers

#### Prohibition of unlicensed air traffic controllers

**107.**—(1) Subject to paragraph (3) and article 107B, a person must not act as an air traffic controller, or hold himself out, whether by use of a radio call sign or in any other way, as an air traffic controller unless—

- (a) he is the holder of, and complies with the privileges and conditions of, a licence specified in paragraph (2);
- (b) the licence contains a valid medical certificate; and
- (c) he has identified himself in such a manner as may be notified.

(2) The licence referred to in paragraph (1)(a) is—

- (a) an appropriate air traffic controller’s licence granted under this Order; or
- (b) an appropriate air traffic controller’s licence granted in another Member State and recognised by the CAA in accordance with article 119C.

(3) A person may act as an air traffic controller if he holds a valid air traffic controller’s licence granted under this Order which is not an appropriate licence if he is supervised as though he were the holder of a student air traffic controller’s licence.

(4) A licence is an appropriate air traffic controller’s licence if it includes valid ratings, endorsements and certificates which authorise the holder of the licence to —

- (a) provide at the aerodrome or place the type of air traffic control service for the sector for which, or the operational position at which, it is being provided; and
- (b) use the type of surveillance equipment being used (if any).

#### Prohibition of unlicensed student air traffic controllers

**107A.**—(1) Subject to article 107B, a person must not act as a student air traffic controller, or hold himself out, whether by use of a radio call sign or in any other way, as a student air traffic controller unless—

- (a) he is the holder of, and complies with the privileges and conditions of, a licence specified in paragraph (2);
- (b) the licence contains a valid medical certificate; and
- (c) he has identified himself in such a manner as may be notified.

(2) The licence referred to in paragraph (1)(a) is—

- (a) a valid student air traffic controller’s licence granted under this Order; or
- (b) a valid student air traffic controller’s licence granted in another Member State and recognised by the CAA in accordance with article 119C.

#### Acting as an air traffic controller: exceptions

**107B.**—(1) A licence is not required by any person who, acting in the course of his employment, passes on such instructions or advice as he has been instructed so to do by the holder of an air traffic controller’s licence which entitles that holder to give such instructions or advice.

(2) A licence is not required by any person who acts in the course of his duty as a member of Her Majesty's naval, military or air forces or a visiting force.

#### **Acting as an air traffic controller and a student air traffic controller**

**107C.** For the purposes of this Part and Schedule 11—

- (a) a person acts as an air traffic controller if he either—
  - (i) provides an air traffic control service; or
  - (ii) supervises a student air traffic controller;or both; and
- (b) a person acts as a student air traffic controller if he provides an air traffic control service under the supervision of an air traffic controller.

#### **Grant of student air traffic controller's licences**

**108.**—(1) The CAA must grant a student air traffic controller's licence authorising the holder to act as a student air traffic controller in the United Kingdom if it is satisfied that the applicant fulfils the requirements set out in paragraphs (2) and (3).

(2) The requirements are that the applicant—

- (a) subject to article 108B, can speak and understand English to at least level 4 on the language proficiency rating scale;
- (b) is the holder of a valid medical certificate;
- (c) is at least 18 years of age;
- (d) meets the educational standards specified in paragraph (3);
- (e) has successfully completed approved initial training set out in Part A of Annex II of the air traffic controllers' directive; and
- (f) is a competent person to act in the capacity to which the licence relates (and competency shall be assessed in accordance with paragraph (5)).

(3) The educational standards are that the applicant—

- (a) is the holder of a General Certificate of Secondary Education or an equivalent educational qualification;
- (b) is the holder of any educational qualification which would enable him to gain access to university or a similar educational institution; or
- (c) has sufficient experience and education to give him a reasonable prospect of completing air traffic control training.

(4) A licence may be granted subject to such conditions as the CAA thinks fit.

(5) Competency shall be assessed by reference to the applicant's knowledge, experience and skills to act in the capacity to which the licence relates and for that purpose an applicant must provide such evidence and undergo such examinations, assessments and tests and undertake such courses of training as the CAA may require of him.

#### **Grant of air traffic controller's licence**

**108A.**—(1) Subject to paragraph (3), the CAA must grant an air traffic controller's licence authorising the holder to act as an air traffic controller in the United Kingdom if the applicant fulfils the requirements set out in article 108(2), (a) and (b) and paragraph (2).

(2) The requirements are that the applicant—

- (a) is the holder of a student licence;
- (b) subject to paragraph (3), is at least 21 years of age;
- (c) has completed an approved unit training plan;

- (d) has passed the appropriate examinations or assessments in accordance with the requirements set out in Part B of Annex II of the air traffic controllers' directive;
  - (e) is competent to be issued with a rating; and
  - (f) is a competent person to act in the capacity to which the licence relates.
- (3) In a duly justified case, a licence may be granted to a person of 20 years of age.

#### **Language proficiency: additional requirements**

**108B.**—(1) The CAA may require the applicant to attain level 5 on the language proficiency rating scale where the operational circumstances of a particular rating or endorsement warrant a higher level of language proficiency for reasons of safety.

(2) The applicant shall demonstrate language proficiency by providing to the CAA a certificate issued by an approved person stating his proficiency level in accordance with the language proficiency rating scale.

#### **Language proficiency: ongoing requirements**

**108C.**—(1) Subject to paragraph (3), the CAA must ensure that it, or an approved person, assesses the English language proficiency of the holder of an air traffic controller's licence or a student air traffic controller's licence at regular intervals.

(2) Subject to paragraph (3), the interval at which the language proficiency of the holder of an air traffic controller's licence or a student air traffic controller's licence must be assessed must be no longer than—

- (a) three years for a licence holder who demonstrates proficiency in English language to level 4 on the language proficiency rating scale; and
- (b) six years for a licence holder who demonstrates proficiency in English language to level 5 on the language proficiency rating scale.

(3) Paragraphs (1) and (2) do not apply to a licence holder who has demonstrated proficiency in English language to level 6 on the language proficiency rating scale.

#### **Particulars of licence**

**108D.**—(1) Subject to article 92, a student air traffic controller's licence remains in force for the period specified in the licence which shall not exceed two years.

(2) Subject to article 92, an air traffic controller's licence remains in force for the period specified in the licence, or, if no period is specified, for the lifetime of the holder.

(3) A licence may be renewed by the CAA from time to time if the CAA is satisfied that the applicant continues to satisfy, in the case of a student air traffic controller's licence, the requirements referred to in article 108(2)(a), (b), and (f) and, in the case of an air traffic controller's licence, the requirements in article 108A(2)(e) and (f).

(4) A licence is not valid unless the holder has signed it in ink or indelible pencil with his ordinary signature and remains the property of the person to whom it is granted.

(5) The CAA may include in an air traffic controller's licence (subject to such conditions as it thinks fit) any of the ratings and endorsements specified in Part B of Schedule 11 upon being satisfied that the applicant is qualified as specified in article 108A(2)(d) to act in the capacity to which the rating or endorsement relates and such rating or endorsement is deemed to form part of the licence.

#### **Privileges of an air traffic controller's licence and a student air traffic controller's licence**

**109.**—(1) An air traffic controller's licence entitles the holder to—

- (a) exercise the privileges specified in paragraph 1 of Part A of Schedule 11; and

- (b) exercise the privileges of any rating or endorsement included in the licence as specified in Part B of that Schedule.

(2) A student air traffic controller's licence entitles the holder to exercise the privileges specified in paragraph 2 of Part A of Schedule 11.

### **On-the-job training instructor endorsement**

**109A.** An on-the-job training instructor endorsement must be granted to a holder of an air traffic controller's licence who—

- (a) has provided an air traffic service for the immediate preceding period of at least one year (or such longer period as the CAA may fix having regard to the ratings and endorsements for which instruction is given); and
- (b) has successfully completed an approved on-the-job training instructor course during which the required knowledge and pedagogical skills were assessed through appropriate examinations.

### **Maintenance of validity of ratings and endorsements**

**110.**—(1) The holder of an air traffic controller's licence is not entitled to exercise the privileges of a rating or endorsement contained in the licence unless the licence includes a current unit endorsement specifying that the rating or endorsement is valid for—

- (a) the aerodrome or place at which he so acts;
- (b) the sector on which or the operational position at which he so acts; and
- (c) the surveillance equipment (if any) with which he so acts.

(2) A unit endorsement may be entered in a licence either by the CAA or by the holder of an air traffic controller's licence which includes an Examiner Licence Endorsement relating to the matters set out in paragraph (1)(a) to (c) (a "relevant licence").

(3) A unit endorsement is valid for an initial period of one year.

(4) If an air navigation service provider demonstrates to the CAA or to the holder of a relevant licence that a licence holder—

- (a) has been exercising the privileges of the licence for at least the minimum number of hours set out in the unit competence scheme throughout the preceding 12 months;
- (b) has demonstrated competence in accordance with Part C of Annex II of the air traffic controllers' directive; and
- (c) holds a valid medical certificate,

the validity of a unit endorsement must be extended by the CAA or the holder of a relevant licence for a further 12 months.

(5) The minimum number of hours required to maintain the validity of the unit endorsement may be reduced for an on-the-job training instructor in proportion to the time spent instructing trainees on the working positions for which the extension is applied.

(6) If a unit endorsement ceases to be valid, in order to revalidate the endorsement, a licence holder must successfully complete a unit training plan to the satisfaction of the CAA or the holder of a relevant licence.

(7) The holder of a rating or rating endorsement who has not been providing air traffic control services associated with that rating or rating endorsement for a period of four years may only commence unit training in that rating or rating endorsement after the CAA or the holder of a relevant licence—

- (a) has assessed whether he continues to satisfy the conditions of that rating or rating endorsement; and

- (b) is satisfied that any training requirements that result from this assessment have been successfully completed.

#### **Obligation to notify rating ceasing to be valid and change of unit**

**111.**—(1) When a rating ceases to be valid for a sector or operational position the holder of the licence must—

- (a) inform the air navigation service provider responsible for that sector or position, and
- (b) if the rating is not valid for any other sector or operational position, notify the CAA and forward the licence to the CAA, or a person approved by the CAA who must endorse the licence accordingly and return it to the holder.

(2) Whenever a person ceases to act as an air traffic controller at a particular unit he must—

- (a) notify the CAA; and
- (b) forward the licence to the CAA or a person approved by the CAA who must endorse the licence accordingly and return it to the holder.

#### **Air navigation service provider: maintenance of records**

**112.** An air navigation service provider must keep records for every licence holder working in a unit of the hours worked in a sector, group of sectors or in a working position and must provide these records to the CAA on request.

#### **Requirement for medical certificate**

**113.**—(1) The CAA, or an approved medical examiner may, after carrying out an examination, issue a medical certificate, subject to such conditions as it thinks fit, if it considers that the applicant for, or holder of, a licence is fit to perform the functions to which the application or licence relates.

(2) The issue of a medical certificate must be consistent with the provisions of Annex I to the Chicago Convention and the Requirements for European Class 3 Medical Certification of Air Traffic Controllers laid down by the European Organisation for the Safety of Air Navigation (Eurocontrol)(a).

(3) The certificate is deemed to form part of the licence.

(4) A medical certificate is valid for—

- (a) two years from the date of the medical examination in the case of an air traffic controller or student air traffic controller of up to (and including) the age of 40; and
- (b) one year for an air traffic controller or student air traffic controller over the age of 40.

#### **Incapacity of air traffic controllers**

**114.**—(1) Every holder of an air traffic controller's licence or a student air traffic controller's licence who—

- (a) suffers any personal injury or illness involving incapacity to undertake the functions to which his licence relates throughout a period of 20 consecutive days; or
- (b) in the case of a woman, has reason to believe that she is pregnant,

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(a) Published by Eurocontrol, Brussels, 8 February 2006, 2<sup>nd</sup> edition, HUM.ET2.ST08.1000.STD.02.

must inform his or her employer and the CAA in writing as soon as possible.

(2) A medical certificate ceases to be valid on the expiry of the period of injury or illness referred to in paragraph (1)(a) and becomes valid again (provided it has not expired)—

- (a) upon the holder being medically examined under arrangements made by the CAA and pronounced fit to resume his functions under the licence; or
- (b) upon the CAA exempting the holder from the requirement of a medical examination subject to such conditions as the CAA may think fit.

### **Fatigue of air traffic controllers**

**115.** A person must not act as an air traffic controller or a student air traffic controller if he knows or suspects that he is suffering from or, having regard to the circumstances of the period of duty to be undertaken, is likely to suffer from, such fatigue as may endanger the safety of any aircraft to which an air traffic control service may be provided.

### **Acting under the influence of drink or a drug**

**116.—**(1) A person must not act as a student air traffic controller whilst under the influence of drink or a drug to an extent that would impair his capacity to act as such.

(2) Every holder of an air traffic controller's licence or a student air traffic controller's licence who is under the influence of any psychoactive substance or medicines which might render him unable to exercise the privileges of his licence safely and properly must inform his employer in writing as soon as possible.

### **Failing exams, assessments or tests**

**117.** A person who, on the last occasion when he was examined, assessed or tested for the purposes of this Part, failed that examination, assessment or test must not act in the capacity for which that examination, assessment or test would have qualified him had he passed it.

### **Use of simulators**

**118.** No part of any examination, assessment or test undertaken for the purposes of this Part or Schedule 11 must be undertaken in a simulator unless that simulator has been approved by the CAA.

### **Approval of courses, persons and simulators**

**119.** Without prejudice to any other provision of this Order the CAA may, for the purposes of this Part, approve—

- (a) any course of training or instruction;
- (b) any unit training plan or unit competence scheme;
- (c) a person to conduct such examinations, assessments or tests as it may specify; and
- (d) a simulator.

### **Certification of training providers and mutual recognition of training certificates**

**119A.—**(1) A person must not provide training unless he is a certified training provider and his certificate relates to the training which he is providing.

(2) Where an applicant for certification has its principal place of operation and business in the United Kingdom it must submit its application to the CAA.

(3) The CAA must issue a training certificate to an applicant if it is satisfied that the applicant fulfils the requirements set out in paragraph 1 of Annex IV of the air traffic controllers' directive.



- (4) A training certificate may —
- (a) relate to one or more types of training and one or more types of air navigation services, and
  - (b) contain requirements placed on the training provider and be made subject to conditions.

(5) The training certificate must contain the information set out in paragraph 2 of Annex IV to the air traffic controllers' directive.

#### **Certified training provider: production of records**

**119B.** A certified training provider must, within a reasonable time of being requested to do so by an authorised person, produce to that person any record or document (whether or not in electronic form) which that person may require for the purpose of determining whether the certified training provider fulfils the requirements set out in paragraph 1 of Annex IV of the air traffic controllers' directive.

#### **Mutual recognition of air traffic controller's licences**

**119C.**—(1) An application by the holder of an air traffic controller's or a student air traffic controller's licence issued by the national supervisory authority of another Member State to have his licence, rating, endorsement or medical certificate recognised by the CAA must be made in writing to the CAA.

- (2) The CAA must recognise any—
- (a) licence and any associated rating;
  - (b) rating endorsement;
  - (c) language endorsement; and
  - (d) medical certificate

issued in accordance with the provisions of the air traffic controllers' directive by the national supervisory authority of another Member State if it is satisfied that the holder meets the requirements of the air traffic controllers' directive.

(3) The CAA must issue a certificate of recognition to the air traffic controller upon being satisfied as set out in paragraph (2).

(4) Following the issue of a certificate of recognition in respect of a licence granted by the national supervisory authority of another Member State, the CAA must, if requested to do so by the air traffic controller, issue to him an equivalent licence.

(5) An air traffic controller whose licence has been recognised by the CAA must make an application in writing to the CAA for approval of a unit training plan.

(6) The CAA must inform the applicant within six weeks of receipt of the application whether it approves the plan.

(7) When establishing the unit training plan referred to in paragraph (5), the training provider must take account of the competencies and experience of the licence holder.

(8) The CAA must provide information and assistance to the national supervisory authority of another Member State on request.

#### **Definitions relevant to this Part and Schedule 11**

**120.**—(1) In this Part and Schedule 11—

“approved” means approved by the CAA under article 119;

“language proficiency rating scale” means the language proficiency rating scale set out in Annex III of the air traffic controllers' directive;



“on-the-job training instructor” means a person who holds an on-the-job training instructor endorsement;

“on-the-job training instructor endorsement” means the endorsement described in article 9 of the air traffic controllers’ directive;

“rating” means the authorisation entered on and forming part of the licence as identified in paragraph (3) of Part B of Schedule 11;

“unit competence scheme” means a scheme indicating the method by which the unit maintains the competence of its licence holders;

“unit training plan” means a plan detailing the processes and timing required to allow the unit procedures to be applied to the local area under the supervision of an on-the-job training instructor; and

“valid medical certificate” means a medical certificate issued under article 113(1) or recognised by the CAA under article 119C.

(2) A reference in this Part and in Schedule 11 to the holder of an air traffic controller’s licence or a student air traffic controller’s licence includes a reference to the holder of a licence which has been recognised by the CAA under article 119C.

(3) The following expressions defined in article 2 of the air traffic controllers’ directive have the same meaning when used in this Part and Schedule 11: ‘air traffic control service’, ‘air navigation service provider’, ‘language endorsement’, ‘rating endorsement’, ‘sector’ and ‘unit endorsement’.

(4) References in this Part and Schedule 11 to the provisions of articles 6 and 7 of, and the Annexes to, the air traffic controllers’ directive are references to those provisions as amended from time to time.”.

## **Air Traffic Controllers Licences, ratings, endorsements and maintenance of licence privileges**

4. For Schedule 11 substitute—

### “SCHEDULE 11 Articles 108D and 109

## AIR TRAFFIC CONTROLLERS – LICENCES, RATINGS, ENDORSEMENTS AND MAINTENANCE OF LICENCE PRIVILEGES

### Part A

#### Air Traffic Controller Licences

#### **Air Traffic Controller’s Licence**

1. The privileges of an air traffic controller’s licence are to—
  - (a) act as an air traffic controller for any sector or operational position for which a valid rating and endorsement and current unit endorsement are included in the licence; and
  - (b) exercise the privileges of a student air traffic controller’s licence.

## **Student Air Traffic Controller's Licence**

2. The privileges of a student air traffic controller's licence are to act as an air traffic controller under the supervision of another person who is present at the time and who—

- (a) is the holder of an air traffic controller's licence entitling him to provide unsupervised the type of air traffic control service which is being provided by the student air traffic controller; and
- (b) is an on-the-job training instructor.

## **Part B**

### **Ratings, Rating Endorsements and Licence Endorsements**

#### **Inclusion of ratings, rating endorsements and licence endorsements**

1.—(1) A licence granted under article 108A may contain the ratings, rating endorsements and licence endorsements of the classes contained in paragraphs 3 and 4.

(2) The inclusion of a rating, rating endorsement or licence endorsement shall have the consequences specified in relation to it.

#### **Exercise of more than one function**

2.—(1) Subject to sub-paragraph (2), the holder of a licence which includes ratings of two or more of the classes specified in paragraph 3 shall not at any one time perform the functions specified in respect of more than one of those ratings.

(2) The functions of the following ratings may be exercised at the same time—

- (a) an Aerodrome Control Instrument Rating and an Approach Control Procedural Rating; and
- (b) an Aerodrome Control Instrument Rating and an Approach Control Surveillance Rating, provided that the holder shall not exercise the functions of any rating endorsement described in paragraph 2(a) to (c) of article 7 of the air traffic controllers' directive included in the Approach Control Surveillance Rating.

(3) When a surveillance radar approach terminating at a point less than 2 nautical miles from the point of intersection of the glide path with the runway is being provided under an approach control surveillance rating, no other function under the approach control surveillance rating may be exercised at the same time.

#### **Ratings and Rating Endorsements**

3.—(1) There are the following classes of aerodrome control ratings and endorsements—

- (a) the **Aerodrome Control Visual Rating (ADV)** as described in article 6 of the air traffic controllers' directive;
- (b) the **Aerodrome Control Instrument Rating (ADI)** as described in article 6 of the air traffic controllers' directive;
- (c) the Aerodrome Control Instrument rating must be accompanied by at least one of the rating endorsements described in paragraph 1 of article 7 of the air traffic controllers' directive.

(2) There are the following classes of approach control ratings and endorsements—

- (a) the **Approach Control Procedural Rating (APP)** as described in article 6 of the air traffic controllers' directive;
- (b) the **Approach Control Surveillance Rating (APS)** as described in article 6 of the air traffic controllers' directive;

- (c) the Approach Control Surveillance Rating must be accompanied by at least one of the following—
    - (i) a rating endorsement described in paragraph 2 of article 7 of the air traffic controllers’ directive;
    - (ii) the **Multilateration Endorsement (MLT)**, which indicates that the holder is competent to provide an approach control service with the use of multilateration;
    - (iii) the **Offshore Rating Endorsement** entitles the holder of a Radar Endorsement to provide an offshore service;
    - (iv) the **Special Tasks Rating Endorsement** which entitles the holder of a Radar, Automatic Dependent Surveillance or Multilateration Endorsement to provide a special tasks service.
- (3) There are the following classes of area control ratings and endorsements—
- (a) the **Area Control Procedural Rating (ACP)** as described in article 6 of the air traffic controllers’ directive;
  - (b) the Area Control Procedural Rating may be accompanied by an **Oceanic Control Rating Endorsement** which entitles the holder to provide an area control service in the Shanwick Oceanic Control Area;
  - (c) the **Area Control Surveillance Rating (ACS)** as described in article 6 of the air traffic controllers’ directive;
  - (d) the Area Control Surveillance Rating must be accompanied by at least one of the following—
    - (i) a rating endorsement described in paragraph 3 of article 7 of the air traffic controllers’ directive;
    - (ii) the **Multilateration Endorsement (MLT)** which indicates that the holder is competent to provide an area control service with the use of multilateration;
    - (iii) an **Offshore Rating Endorsement** which entitles the holder of a Radar Endorsement to provide an offshore service;
    - (iv) a **Special Tasks Rating Endorsement** which entitles the holder of a Radar Automatic Dependent Surveillance or Multilateration Endorsement to provide a special tasks service.

### Licence Endorsements

4. There are the following classes of licence endorsement—
- (a) an **Examiner Licence Endorsement** (which shall be valid for a period of three years) entitles the holder to sign a unit endorsement in respect of—
    - (i) the air traffic control services that his air traffic controller licence entitles him to provide; or
    - (ii) such other air traffic control services as the CAA may authorise for that holder;
  - (b) an **On-the-job Training Instructor Endorsement** (which shall be valid for a period of three years) as described in article 9 of the air traffic controllers’ directive;
  - (c) a **Unit Endorsement** as described in article 10 of the air traffic controllers’ directive;
  - (d) a **Language Endorsement**.”.

### Right of access etc

5. Article 145(1) is amended as follows—

- (a) at the end of subparagraph (c), omit “and”; and
- (b) after subparagraph (d), insert “and” and at the end, add—
  - “(e) to any building or place from which a certified training provider is carrying on business for the purpose of inspecting—
    - (i) any facilities, equipment or accommodation used or intended to be used in connection with the provision of training; and
    - (ii) any document or record which it or he has power to demand under article 119B.”.

### **Penalties**

- 6.—(1) Article 148 is amended as follows.
- (2) In paragraph (4), after “Order” insert “(other than Part 10 and Schedule 11)”.
- (3) At the end, add—
  - “(8) Any person who contravenes article 107(1), 107A(1), 115 or 116 is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both
  - (8A) Any person who contravenes article 111, 112, 114(1), 117, 119A(1) or 119B is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

### **Interpretation**

- 7.—(1) Article 155(1) is amended as follows.
- (2) After the definition of ‘Air/ground communications service’, insert—
  - “‘air traffic controllers’ directive’ means Directive 2006/23/EC(a) of the European Parliament and Council on a Community air traffic controller licence;”.
- (3) For the definition of “air traffic control service”, substitute—
  - “‘air traffic control service’ means a service provided for the purpose of preventing collisions between aircraft, and, on the manoeuvring area, between aircraft and obstructions, and expediting and maintaining an orderly flow of air traffic;”.
- (4) After the definition of “Certificated for single pilot operation” insert—
  - “‘certified training provider’ means a person has been certified by the CAA under article 119A or by a national supervisory authority of another Member State in accordance with article 13 of the air traffic controllers’ directive”.

### **Competent authority**

- 8. At the end of article 167, add—
  - “(3) The CAA is the national supervisory authority for the purposes of article 3 of the air traffic controllers’ directive.”.

### **Amendments to Schedule 14**

- 9.—(1) Schedule 14 is amended as follows.
- (2) In Part A, omit the reference to article 107.
- (3) In Part B, omit the references to articles 115 and 116.

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(a) O.J. No. L114, 27.4.2006, p.22

## EXPLANATORY NOTE

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

This Order transposes Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a community air traffic control licence (OJ No. L114, 27.4.2006, p.22) (“the Directive”). Part 10 of the Air Navigation Order 2005 (S.I. 2005/1970) (“the 2005 Order”) provides for the licensing of air traffic controllers. *Articles 3 and 4* of this Order substitute Part 10 of, and Schedule 11, to the 2005 Order respectively. *Articles 5 to 9* of this Order make further amendments to the 2005 Order.

The significant changes made by the new Part 10 are—

- (a) the requirement for a language endorsement to be included in the licence (articles 108, 108B and 108C and Schedule 11, Part B);
- (b) the introduction of minimum educational requirements (article 108(3));
- (c) the introduction of detailed requirements for the grant of medical certificates (article 113);
- (d) the certification of training providers (article 119A); and
- (e) the mutual recognition of air traffic controller licences (article 119C).

A person must not act as an air traffic controller or a student air traffic controller unless he holds a licence to do so granted by the Civil Aviation Authority (“the CAA”) or recognised by the CAA (articles 107 to 107C). The CAA must grant a licence if the applicant fulfils the requirements set out in article 108 for a student licence and article 108A for a full licence. The CAA may include in an air traffic controller’s licence any of the ratings and endorsements specified in Part B of Schedule 11 (article 108D). An air traffic controller’s licence entitles the holder to exercise the privileges specified in paragraph 1 of Part A of Schedule 11 and exercise the privileges of any rating or endorsement included in the licence (article 109(1)). A student licence entitles the holder to exercise the privileges specified in paragraph 2 of Part A of Schedule 11 (article 109(2)). Article 109A provides for the grant of an endorsement to a person who has completed an approved course enabling him to provide on-the-job-training. Articles 110 to 112 deal with the maintenance, validity and recording of ratings and endorsements.

Articles 113 to 116 deal with fitness to act as an air traffic controller or student air traffic controller. Article 114 requires notification of personal injury, incapacity or pregnancy. Article 115 prohibits acting whilst fatigued. Article 116 prohibits a student air traffic controller from acting under the influence of drink or a drug and provides that licence holders must inform their employers if they might be unfit to perform their functions.

Articles 117 to 119B deal with training and examinations. A person must not provide training (as defined in article 2 of the Directive) unless he is certified by the CAA or the national supervisory authority of another Member State (article 119A(1)). A certified training provider must, within a reasonable time of being requested to do so by an authorised person, produce to that person any document which that person may require for the purpose of determining whether the training provider fulfils the requirements set of in paragraph 1 of Annex IV of the Directive (article 119B).

Article 119C makes provision for the mutual recognition of licences issued by the national supervisory authorities on other Member States.

*Article 5* of the Order amends article 145 of the 2005 Order. It provides an authorised person with rights of access to enable the inspection of training facilities and any document which he has the power to demand under article 119B.

*Article 6* of the Order imposes penalties for contravention of certain provisions of Part 10 and *article 9* makes consequential amendments to Schedule 14 of the 2005 Order.

*Article 8* amends article 167 of the 2005 Order to designate the CAA as the national supervisory authority for the purposes of the Directive.

A full impact assessment of the effect which this Order will have on the costs of business and the voluntary sector is available from the Department for Transport, Great Minster House, 76 Marsham Street, London SW1P 4DR. The impact assessment and the transposition note are annexed to the Explanatory Memorandum which is available alongside the Order on the OPSI website ([www.opsi.gov.uk](http://www.opsi.gov.uk)). Copies of the Class 3 medical requirements are available from Eurocontrol, EATM Infocentre, Rue de la Fusee, B-1130 Brussels.

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STATUTORY INSTRUMENTS

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**CIVIL AVIATION**

The Air Navigation (Amendment) Order 2009

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