

**EXPLANATORY MEMORANDUM TO  
THE AIR NAVIGATION (AMENDMENT) ORDER**

**2010 No. 770**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Air Navigation Order 2009 (“the ANO 2009”) [S.I. No. 2009/3015] is a substantial piece of secondary legislation by which aviation safety standards are implemented and air navigation is regulated. The ANO is wide-ranging, covering aircraft (airworthiness, operation and certification), air crew, passengers, cargo, air traffic services and aerodromes. Certain articles extend to the flying of kites and model aircraft.

2.2 This Order makes two substantive changes to the ANO 2009.

2.3 We are also intending to make a small set of numbering amendments to errors which were introduced during the proofing stage of production of the ANO 2009.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 This instrument will bring about two amendments to the ANO 2009. These amendments are considered to be important within the aviation sector.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

- *What is being done and why*

**Requirements for Aerodromes used for flight training and testing**

7.1 As described above there are two changes which need to be made to the ANO 2009. The first of these concerns the licensing requirements for aerodromes which are used for flight training and testing in the UK. The policy objective of this amendment is to deregulate the rules governing flight training at such aerodromes, in order that this activity can take place safely at aerodromes which are not licensed. The current Order states that all aerodromes used for the purposes of flight training need to be licensed by the Civil Aviation Authority (CAA). This amendment will benefit the General Aviation industry by offering greater flexibility to those involved with flight training and testing. It will also reduce the burden on licensed aerodromes by reducing congestion at such places.

7.2 A working group comprising the CAA and aviation industry representatives proposed that the restriction should be removed for training taking place in light aircraft, as this has no safety benefit. The group observed that the UK is alone in Europe in continuing to require aerodromes to hold a licence for flight training. The cost of holding an aerodrome licence was also cited by industry as being a disincentive to the flight training sector. After analysing safety records, the group concluded that there was no justifiable safety case which should require flight training to continue to be undertaken at a licensed aerodrome. The responses to a consultation proposing this change showed that a significant majority of the aviation sector were in support of the proposal and are highly in favour of this amendment being made. The Government now needs to implement this change by amending the ANO 2009 accordingly. Once the amendment has been made, the CAA will be in a position to provide guidance to those in the industry who will benefit from this change.

### **Powers of Entry for Fire fighters in an emergency**

7.3 The second amendment to the ANO 2009 concerns the powers which are held by fire crews operating at licensed aerodromes in the UK, in relation to gaining entry to an aircraft in an emergency situation. Airport fire fighters are referred to in the instrument as members of the Rescue and Fire Fighting Service (RFFS), since this is a widely used and commonly understood term within the aviation sector. Under the current Order, RFFS personnel do not possess the same powers of entry as fire fighters who are employed by a Local Authority. If an incident occurred at a UK airport, flight crew members are currently required to give permission to RFFS personnel before they are free to enter the aircraft. This can give rise to difficulties, as it is possible that in an emergency situation the crew of an aircraft could be incapacitated and unable to provide the required permission to an airport fire crew to allow them to enter the aircraft to respond to the situation.

7.4 The amendment will provide RFFS personnel with the necessary powers of entry required for safety purposes and will bring these powers into line with those of local authority fire crews (who already have the necessary powers to enter buildings without prior permission to do so). The Government now needs to make this amendment to ensure that there is consistency across the fire services.

- ***Consolidation***

7.5 The ANO 2009 was a consolidating instrument. Once a number of amendments have been made to that Order, a new consolidated version will be published. We do not have a definite timetable for doing this at the present time, since it will depend on the number and timing of future amendments.

## **8. Consultation outcome**

8.1 Formal consultations were carried out by the CAA for both of the proposed amendments. Both amendments have also had Impact Assessments produced.

8.2 A preliminary consultation was held in July 2006 in relation to the proposal to allow flight training to take place from unlicensed aerodromes. The responses to this were sufficiently positive to merit continuing to a second stage of consultation. In April 2008, the CAA conducted a full public consultation on the proposal to amend the Air Navigation Order accordingly. The consultation responses showed that a significant majority of stakeholders were in support of the proposal.

8.3 A full consultation was carried out in relation to the proposal to amend the powers of entry for RFFS personnel at licensed aerodromes. A total of nine replies were received from interested parties. In general there was support for the proposed amendment to the Air Navigation Order.

The CAA is satisfied that it has given due consideration to the views expressed by the interested parties in its consultation and that safety and cost benefits have been examined fully.

## **9. Guidance**

9.1 Guidance relating to both amendments contained within this amendment to the ANO 2009 will be provided to users by the CAA in its role as the industry regulator with respect to such matters.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is low. The amendment which will allow the flight training to take place at unlicensed aerodromes will result in a small loss of income for licensed aerodromes.

10.2 The impact on the public sector is negligible.

10.3 Impact Assessments have been carried out for both of the proposed amendments to the Air Navigation Order. These are attached as annexes to this memorandum.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the CAA will provide assistance and advice to small business where possible when introducing new regulations which are likely to increase their costs.

11.3 The basis for the final decision on what action to take to assist small business has been left to the judgement of the CAA as the industry regulator.

## **12. Monitoring & review**

12.1 The CAA will monitor the UK aviation industry to ensure compliance with the standards which are set out in the Air Navigation Order and European legislation. The CAA will continue to make future amendments to the Order as necessary. These future amendments will be captured in a further consolidation of the Air Navigation Order when appropriate.

## **13. Contact**

Craig Griffiths at the Department for Transport (Tel: 020 7944 3246 or email: [craig.griffiths@dft.gsi.gov.uk](mailto:craig.griffiths@dft.gsi.gov.uk)) can answer any queries regarding the instrument.

# Impact Assessment 1 - Summary: Intervention & Options

<b>Department /Agency:</b> <b>Civil Aviation Authority</b>	<b>Title:</b> <b>Impact Assessment of Proposal to permit flight training from Unlicensed Aerodromes</b>	
<b>Stage:</b> Final	<b>Version:</b> 1.00.2	<b>Date:</b> 8 December 2009
<b>Related Publications:</b> Strategic Review of General Aviation; Regulatory Review of General Aviation; LAASG Report		

**Available to view or download at:**

<http://www.caa.co.uk/laasg>

**Contact for enquiries:** Cliff Whittaker

**Telephone:** 01293 573759

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

Currently the Air Navigation Order 2009 requires that flying training be conducted from licensed aerodromes, which must have certain facilities and be regulated by the CAA. The UK is unusual amongst the European States in imposing this restriction. A working group comprising the CAA and representatives of the aviation industry proposed that this restriction be removed for training in light aircraft, as it had no safety benefit. The response to a public consultation was strongly in favour. Government action is now required to amend the Air Navigation Order to implement this change.

What are the policy objectives and the intended effects?

The policy objective is to deregulate to allow flight training from unlicensed aerodromes by light aircraft. The intention is to realise benefits in the form of increased flexibility and reduced costs for flight training, and reduced congestion at licensed aerodromes.

What policy options have been considered? Please justify any preferred option.

The options considered were to retain the requirement for licensing, or to remove that requirement. The preferred option is to remove the requirement. Implementing an alternative level of regulation, not as demanding as that required for heavier aircraft, was not considered viable and would have added complexity to the regulations.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Sufficient time must be allowed for aerodromes to take advantage of the change. This policy will be reviewed after 2 years.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

Paul Clark

.....Date: 2nd March 2010

## Summary: Analysis & Evidence

<b>Policy Option: 1</b>	<b>Description: IMPLEMENT PROPOSED CHANGE: RETAIN EXISTING REGULATIONS</b>
-------------------------	--

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Loss of income to Licensed Aerodromes, up to £250,000 Loss of income to CAA, up to £40,000
	One-off (Transition)	Yrs	
	£ Nil	10	
	Average Annual Cost (excluding one-off)		
	£ 290,000		
<b>Total Cost (PV)</b>			<b>£ 290,000</b>
Other <b>key non-monetised costs</b> by 'main affected groups' Local Authorities - Possible small increase in planning activities. Residents near unlicensed aerodromes - possible noise increase. Possible increased congestion at unlicensed aerodromes.			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' Reduction in costs for training organisations £940,000 Reduction of CAA charges to Aerodromes £40,000 (This is a transfer from the CAA to the aerodrome)
	One-off	Yrs	
	£ Nil	10	
	Average Annual Benefit (excluding one-off)		
	£ 980,000		
<b>Total Benefit (PV)</b>			<b>£ 980,000</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' Residents near licensed aerodromes - possible noise reduction. Possible reduced congestion at licensed aerodromes.			

<b>Key Assumptions/Sensitivities/Risks</b> The risk to realising the benefits of the proposed change may be reluctance by local planning authorities to allow increased traffic at unlicensed airfields.
---

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) <b>£ N/A</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ 5,848,326</b>
-------------------------	-------------------------	---	--

What is the geographic coverage of the policy/option?			Throughout UK		
On what date will the policy be implemented?			April 2010		
Which organisation(s) will enforce the policy?			UK CAA & Industry		
What is the total annual cost of enforcement for these organisations?			£ 10,000		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ De-regulation		
What is the value of changes in greenhouse gas emissions?			£ 101,905.20		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)			(Increase - Decrease)		
Increase of	£	Decrease of	£	<b>Net Impact</b>	<b>£</b>

Key: Annual costs and benefits: Constant Prices

## **Evidence Base (for summary sheets)**

---

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

## Costs and Benefits

Item:	Description:	Cost/Benefit
Loss of CAA Aerodrome Licensing revenue.  Reduced charges for aerodromes	CAA Aerodrome Standards consider that there are up to 40 aerodromes that may consider becoming unlicensed. Aerodrome licensing charges vary, but if figure of £1,000 p.a. is assumed, the loss of revenue to the CAA may be in the region of: £40000  This may also be considered a benefit to the industry, as a reduction in CAA charges.	<b>40 Aerodromes x £1000</b> <b>Loss of CAA income = £40,000</b> <b>Reduced cost to industry = £40,000</b> <b>(per annum)</b>
Reduction in costs for Flying Training Organisations and Registered Facilities	There are numerous factors affecting this. Currently the UK has 130 Flying Training Organisations (FTO), 350 Registered Facilities (RF) and 100 Type Rating Training Organisations (TRTO). It is not considered likely that many TRTOs will relocate to unlicensed aerodromes, but a small number of FTOs who do not require licensed aerodrome facilities and a significant number of RFs may well do so. The number will depend on factors such as the availability of suitable unlicensed aerodromes.  Some FTOs and RFs may find themselves operating from aerodromes that choose to operate unlicensed, thus potentially benefiting from cost savings without the cost of moving aerodrome.  FTOs, being involved in flight training for higher qualifications than RFs, may generally be located at licensed aerodromes which provide the required facilities. RFs generally do not require the facilities typically provided by licensed aerodromes, and may find a move to operation from unlicensed aerodromes more appealing. It is anticipated that only a small number of helicopter TRTOs will consider operating from unlicensed aerodromes.  For the purposes of calculating benefit it has been assumed that approximately 10% of FTOs and 50% of RFs choose to move to, or find themselves operating from, unlicensed aerodromes.  A saving of £5,000 per annum is assumed in each case. Reductions in costs typically include lower operating overheads, lower landing fees and Air Traffic Control charges, and greater fuel efficiency due to reduction in air traffic congestion.	<b>c. £5,000</b> <b>(per FTO/RF per annum)</b>  <b>175 RF +13 FTO +0 TRTO Organisations</b>  <b>188x5000</b>  <b>c. £940,000</b> <b>(per annum)</b>
Loss of income for Licensed Aerodromes	This is difficult to determine as this will depend on factors such as whether the aerodrome decides to become unlicensed or whether it can offset any loss by increasing other revenue traffic, such as public transport services. Any loss of revenue for an aerodrome may be offset by reductions in operating costs.  Large licensed aerodromes will probably remain so in order to continue public transport services. Any loss of revenue from FTOs and RFs moving to an unlicensed aerodrome is expected to be marginal, and offset by potential for increased commercial services.  Smaller aerodromes may opt to operate unlicensed if there is no requirement for them to remain licensed, thereby offsetting any loss of revenue. Where a licensed aerodrome faces the loss of established FTOs and RFs who wish to move to an unlicensed aerodrome, a move to unlicensed operation may secure the tenancy of those FTOs and RFs.	<b>c. £25,000</b> <b>(maximum per aerodrome per annum)</b>  <b>This figure was supported in one comment submitted during public consultation.</b>  <b>For costing purposes assume up to £25,000 at up to 10 aerodromes = £250,000</b>
Increase in CO <sub>2</sub> emissions.	This is difficult to determine accurately, but would be directly proportional to any increase in flying training. It is also dependent on the reduction in non-productive holding (waiting) due to reduction in traffic congestion and would be offset by any increase in fuel price or duty.  The CO <sub>2</sub> emissions for typical reciprocating piston light general aviation engine are: 200g/km <sup>-1</sup> Private Pilots Licence issues per annum: 2,200 Potential increase in flying training: 4,400 hours (max estimated 5% increase)	<b>c. 220 metric tonnes</b> <b>(per annum)</b> <b>Using shadow costs of carbon over a ten year appraisal period =£101,905.20</b>
Planning gain or loss.	Not possible to quantify as this is dependent on a number of variable local factors, such as local opinion, demand for housing development and local authority policy towards aviation.	
Increase or decrease in noise nuisance.	Not possible to quantify as this is very subjective.	
Enforcement costs	The objective is deregulation, but a nominal value is added for oversight of compliance with the revised rules.	<b>c. £10,000 per Annum</b>

## Impact Assessment 2 - Summary: Intervention & Options

<b>Department /Agency:</b> <b>Civil Aviation Authority</b>	<b>Title:</b> <b>Impact Assessment of Amendment to the Air Navigation Order 2009 giving firefighters a power of entry to aircraft</b>	
<b>Stage:</b> Post Consultation	<b>Version:</b> Post Consultation	<b>Date:</b> 11 August 2009
<b>Related Publications:</b> None		

**Available to view or download at:**

<http://www.caa.co.uk/consultations>

**Contact for enquiries:** Simon webb

**Telephone:** 01293 573256

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

Airport firefighters attending an aircraft emergency do not have a power of entry to an aircraft. Local authority fire fighters do have powers of entry. This intervention is to bring airport firefighters' powers in line with those of the local authority fire and rescue service.

What are the policy objectives and the intended effects?

The policy objective is to ensure a consistent power is in place for the airport rescue and fire fighting service, as exists for the local authority fire and rescue service. The effect will be a consistent power and responsibility for all responding fire and rescue personnel.

What policy options have been considered? Please justify any preferred option.

- (1) Do nothing.
- (2) Amendment of the ANO. This gives a power to the airport rescue and fire fighting service to gain access to an aircraft, similar to the powers that exist for the local authority fire and rescue service. This is the preferred option as it is the most cost and operationally effective solution.
- (3) Use articles 144 of the Air Navigation Order.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? 2010

**Ministerial Sign-off** For SELECT STAGE Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

Paul Clark

.....Date: .....March 2010



## Summary: Analysis & Evidence

<b>Policy Option: 2</b>	<b>Description: Amendment of the Air Navigation Order</b>
-------------------------	---

<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' There will be a minimal cost for amending operational procedures and training material. This change will be included as part of the routine updating process for both operational procedures and training material. There are established systems for updating such requirements.				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px;"><b>One-off</b> (Transition)</td> <td style="width: 30%; text-align: center; padding: 2px;"><b>Yrs</b></td> </tr> <tr> <td style="padding: 2px;">£ 0</td> <td></td> </tr> </table>		<b>One-off</b> (Transition)	<b>Yrs</b>	£ 0	
	<b>One-off</b> (Transition)		<b>Yrs</b>			
	£ 0					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px;"><b>Average Annual Cost</b> (excluding one-off)</td> <td></td> </tr> <tr> <td style="padding: 2px;">£ 0</td> <td></td> </tr> </table>		<b>Average Annual Cost</b> (excluding one-off)		£ 0	
<b>Average Annual Cost</b> (excluding one-off)						
£ 0						
<b>Total Cost (PV)</b>		<b>£ 0</b>				
Other <b>key non-monetised costs</b> by 'main affected groups'						

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' The avoidance of any litigation arising from damage caused to aircraft in gaining access.				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px;"><b>One-off</b></td> <td style="width: 30%; text-align: center; padding: 2px;"><b>Yrs</b></td> </tr> <tr> <td style="padding: 2px;">£ 0</td> <td></td> </tr> </table>		<b>One-off</b>	<b>Yrs</b>	£ 0	
	<b>One-off</b>		<b>Yrs</b>			
	£ 0					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px;"><b>Average Annual Benefit</b> (excluding one-off)</td> <td></td> </tr> <tr> <td style="padding: 2px;">£ 0</td> <td></td> </tr> </table>		<b>Average Annual Benefit</b> (excluding one-off)		£ 0	
<b>Average Annual Benefit</b> (excluding one-off)						
£ 0						
<b>Total Benefit (PV)</b>		<b>£ 0</b>				
Other <b>key non-monetised benefits</b> by 'main affected groups'						

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	<b>Net Benefit Range</b> (NPV) £	<b>NET BENEFIT</b> (NPV Best estimate) £
--------------------	----------------------	-------------------------------------	---

What is the geographic coverage of the policy/option?	UK				
On what date will the policy be implemented?	December 2010				
Which organisation(s) will enforce the policy?	CAA				
What is the total annual cost of enforcement for these organisations?	£ Negligible				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	Yes				
What is the value of the proposed offsetting measure per year?	£ 0				
What is the value of changes in greenhouse gas emissions?	£ 0				
Will the proposal have a significant impact on competition?	Yes/No				
Annual cost (£-£) per organisation (excluding one-off)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">Yes/No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	Yes/No	N/A	N/A
No	Yes/No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	<b>Net Impact</b> £ 0

Key:      **Annual costs and benefits: Constant Prices**      **(Net) Present Value**

## Summary: Analysis & Evidence

<b>Policy Option: 3</b>	<b>Description: Use of Article 144 of the Air Navigation Order - Granting Powers of Entry to Named Persons</b>
-------------------------	--

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' There would be administration costs for both the CAA and airports of identifying and recording those people who are nominated under article 144 of the ANO. The costs relate to the administration functions of identifying and approving nominated persons at aerodromes, and any changes of approvals related to staff movements.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£ 20,000		
	<b>Average Annual Cost</b> (excluding one-off)		
	£ 20,000		
<b>Total Cost (PV)</b>			<b>£ 20,000</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' The avoidance of any litigation arising from damage caused to aircraft in gaining access.
	<b>One-off</b>	<b>Yrs</b>	
	£ 0		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£ 0		
<b>Total Benefit (PV)</b>			<b>£ 0</b>
Other <b>key non-monetised benefits</b> by 'main affected groups'			

Key Assumptions/Sensitivities/Risks
-------------------------------------

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £ 0
--------------------	----------------------	-------------------------------------	---

What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	December 2010
Which organisation(s) will enforce the policy?	CAA
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	Yes
What is the value of the proposed offsetting measure per year?	£
What is the value of changes in greenhouse gas emissions?	£
Will the proposal have a significant impact on competition?	Yes/No
Annual cost (£-£) per organisation (excluding one-off)	Micro      Small      Medium      Large
Are any of these organisations exempt?	Yes/No      Yes/No      N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of    £ 20,000	Decrease of    £	<b>Net Impact    £ 20,000</b>

Key:      **Annual costs and benefits: Constant Prices**      **(Net) Present Value**

## **Evidence Base (for summary sheets)**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.

There have been incidents where the crew of an aircraft have become incapacitated, or Rescue and Fire Fighting Service (RFFS) personnel responding to an emergency call have not been able to gain access onto the aircraft. In such cases it may be necessary for attending RFFS personnel to force an entry into the aircraft. Whilst it is unlikely that these actions would be questioned, either during the incident or subsequently, it is felt that there should be a legal power to enable the RFFS to carry out such action. A similar power exists for local authority fire and rescue services in the Fire and Rescue Services Act 2004. This proposal will align the power for the airport rescue and fire fighting service with the local authority fire and rescue service.

Recently an incident was brought to the attention of the Aerodrome Standards Department of the Civil Aviation Authority where access to an aircraft had been denied to RFFS personnel. The incident involved a foreign aircraft where it is believed crew had been smoking on the aircraft. The handling agent reported a smell of smoke to the RFFS who attended the aircraft which had passengers on board awaiting departure. The RFFS were denied access by the cabin crew. The RFFS then contacted the flight crew who told them it was a mistake. The RFFS then passed the responsibility to the captain and stood down. Earlier in the incident the captain had asked for an engineer to attend the aircraft but none of the airport based engineering companies would do so.

It is considered that there is potential for there to be a source of fire on an aircraft which, due to operating pressure, may result in the incident not being properly investigated. Whilst a case could be made to the airport operator to stop the aircraft flying, the rules contained within the Air Navigation Order are not set out to deal with such an occurrence.

The proposed wording of the power is that there must be reasonable grounds to suspect a fire has occurred or is likely to occur and to rescue or protect people from serious harm. It will be necessary to include in the training of RFFS staff and operational policies and procedures the implications of such a power and the need to conduct a proper assessment and consideration of evidence before any action is taken.

The current Fire and Rescue Services Act 2004 and the previous Fire Service Act 1947 have these powers of entry included in them. It is considered that the existence of these powers for local authority fire and rescue personnel since 1947 and their use on many occasions justify their existence. Any power must carry with it responsibilities but there is no reason or evidence that these powers have been wrongly used by local authority fire and rescue services. The power contained in the 1947 Act covered airport RFFS use, but due to a changed definition of application, the new act does not cover airport RFFS staff.

Three options were considered:

- (1) Do nothing.

This would mean that to gain entry to an aircraft in an emergency situation the airport rescue and fire fighting service would have to wait for the local authority service to attend to exercise their powers of entry. In reality the airport service might act but without any legal power. This could give rise to issues around damage to aircraft and possible litigation.

(2) Amendment of the ANO.

This gives a power to the airport fire and rescue service to gain access to an aircraft. Having granted that power it is then necessary for personnel to train and understand the responsibilities of that power. The suggested wording clearly indicates that airport RFFS personnel must reasonably believe the incident could cause serious harm. The training and updating of existing policies will be achieved by using current updating processes. Existing communication processes allow the CAA to both inform of the change to the ANO and also provide guidance on the training and policy implications. The implementation of the changes at aerodromes will be subject to the normal CAA oversight arrangements.

(3) Grant a power to the rescue and fire fighting service by the use of Article 144 of the Air Navigation Order.

This option would require named personnel to be granted the power. This would be onerous and costly to maintain. In the circumstances it is considered too burdensome on both the regulator and airport operators.

The DfT equality screening questions have been considered as part of this IA but we have not found any impact.

The small firms impact test has been conducted as part of the considerations of the options. The impact does not affect small business any more than large businesses and the proposal to amend the Air Navigation Order provides greater clarity in responsibilities and actions to be taken during an emergency and as such can be seen to be reducing a burden in terms of training of personnel.

