

EXPLANATORY MEMORANDUM TO
THE AIR NAVIGATION (AMENDMENT) (No. 2) ORDER 2014

2014 No. 1888

1. 1.1 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 Order empowers the Civil Aviation Authority (“CAA”) to issue authorisations under Article 4.8 of Commission Regulation 1178/2011¹. These authorisations allow private pilots to fly, subject to certain limitations, in conditions that require compliance with instrument flight rules (IFR) which govern flight by reference to cockpit instruments only.

2.2 The Order also empowers the CAA to issue exemptions, as permitted under Article 14(4) of Regulation 216/2008² (“the EASA Basic Regulation”), from the requirements of the EASA Regulation and the implementing rules made under it.

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

3.1 None

4. Legislative Context

4.1 The CAA has the power to issue pilot licences under both UK and EU legislation. Licences issued under UK legislation are now only valid on specific aircraft types (eg homebuilt, ex-military and historic aircraft) which are excluded from the scope of EU legislation. UK legislation has for many years provided for the issue of an instrument meteorological conditions rating (IMCR). The IMCR allows private pilots to fly, subject to certain limitations, in conditions that require compliance with IFR which govern flight by reference to cockpit instruments. IFR normally apply in conditions of reduced visibility or in certain classes of controlled airspace.

4.2 As the IMCR is not an internationally recognised rating it was not included as a rating that can be issued under the EU legislation. However, at the request of the UK, the

¹ COMMISSION REGULATION (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council

² REGULATION (EC) No 216/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC

EU legislation has now been amended³ to allow Member States to issue authorisations which are equivalent to the IMCR. As the EU legislation confers the power to grant authorisations on the Member State, this Order is required to enable the CAA to issue such authorisations. Pending the coming into force of the Order the Department for Transport will be issuing the authorisations on the recommendation of the CAA. Transferring responsibility for the administration of this qualification to the CAA will allow it to be integrated into the normal licensing process, thereby reducing the administrative burden and providing a more efficient service to licence holders.

4.3 The CAA currently has the power to issue exemptions to the requirements of the Air Navigation Order. However, the power to issue exemptions to the EASA Regulation and its implementing rules is given to the Member States rather than their competent authorities. The Order is required to clarify that the CAA is empowered to issue exemptions from the EASA requirements.

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

7.1 The EU legislation gives the power to issue authorisations to Member States rather than the competent authority responsible for pilot licensing. The power to issue authorisations therefore needs to be delegated to the CAA which has been appointed as the competent authority for exercising all other licensing functions under Commission Regulation 1178/2011.

7.2 Article 14.4 of the EASA Regulation empowers Member States to grant exemptions from the substantive requirements laid down in the Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected. The power to issue authorisations needs to be delegated to the CAA which has been appointed as the competent authority for the purposes of all of the implementing rules made under the EASA Regulation.

³ Commission Regulation (EU) No 245/2014 of 13 March 2014 amending Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew

- Consolidation

7.2 A consolidation of the Air Navigation Order is planned for 2016.

8. Consultation outcome

8.1 The Civil Aviation Authority has been consulted and agrees the to the proposed delegation of powers which restores the position to that which existed prior to the adoption of the EASA legislation. As the provisions do not impact on other parties a wider consultation was unnecessary.

9. Guidance

9.1 No guidance is necessary. Applications for authorisations are already made directly to the CAA.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Article 4.8 of Commission Regulation 1178/2011 requires Member States that issue authorisations to carry out a review of the safety aspects of the implementation of the authorisation and submit a report to the Commission by 8 April 2017 at the latest. The Regulation allows for the issue of authorisations until April 2019. The Order will be reviewed in 2019 subject to any future amendment to the Commission Regulation.

13. Contact

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