

EXPLANATORY MEMORANDUM TO
THE AIR NAVIGATION (AMENDMENT) (No. 4) ORDER 2014

2014 No. 3302

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 This instrument amends S.I. 2009/3015, the Air Navigation Order 2009 (the “ANO”), to exclude operators subject to Commission Regulation 965/2012 (the “Air Operations Regulation”) from the corresponding requirements of the ANO and imposes sanctions for the contravention of the Air Operations Regulation (in Part 2). It also amends the ANO to exclude aerodromes which will be subject to Commission Regulation 139/2014 (the “Aerodromes Regulation”) from the corresponding requirements of the ANO and to impose sanctions for the contravention of the Aerodromes Regulation (Part 3). Finally, it amends the ANO to harmonise national provisions with Commission Implementing Regulation 923/2012 (the “Standardised European Rules of the Air Regulation” or “SERA Regulation”) (Part 4).
3. **Matters of special interest to the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The amendments are necessary changes to domestic legislation as a consequence of European legislation relating to the same or similar subject matters. In particular they are necessary to fully implement the requirements of the Air Operations Regulation, the Aerodromes Regulation and the SERA Regulation. Those Regulations establish directly applicable EU civil aviation safety standards.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 The Order makes minor consequential amendments to primary legislation. These amendments are necessary to keep aerodromes certified under the EASA Regulation within the scope of the legislation concerned. The responsible Minister, Robert Goodwill MP, has made the following statement regarding Human Rights:

In my view the provisions of the Air Navigation (Amendment) (No. 4) Order are compatible with Convention rights.

7. Policy background

7.1 Consequential amendments arising from Commission Regulation 965/2012 on safety standards for air operations

7.1.1 The ANO was amended in 2013 by S.I. 2013/3169 to designate the CAA as the competent authority in the UK for the purposes of the Air Operations Regulation including the issue of air operator certificates to UK airlines. The ANO was further amended in November 2014 by S.I. 2014/2920 to provide for the Secretary of State to be the competent authority in the UK for requirements of the Regulation relating to the safety of third country aircraft. These amendments are required in order to exclude operators subject to the Air Operations Regulation from the corresponding requirements of the ANO and to impose sanctions for the contravention of the Air Operations Regulation.

7.2 Consequential amendments arising from Commission Regulation 139/2014 on aerodrome safety standards

7.2.1 The ANO was also amended in November 2014 by S.I. 2014/2920 to designate the CAA as the UK competent authority for purposes of the Aerodromes Regulation, including the issue of Aerodrome Certificates. This amendment is required to exclude aerodromes which will be subject to the Aerodromes Regulation from the corresponding requirements of the ANO and to impose sanctions for the contravention of the Aerodromes Regulation. The Aerodromes Regulation provides for the certification of approximately 50 of the largest aerodromes in the UK, allowing them to operate and accept commercial air transport flights.

7.3 Consequential amendments arising from Commission Implementing Regulation 923/2012 establishing Standardised European Rules of the Air (SERA Regulation)

7.3.1 The ANO was also amended in November 2014 by S.I. 2014/2920 to designate the CAA as the UK competent authority for the SERA Regulation. This amendment is required to create sanctions relating to breaches of the SERA Regulation and to harmonise certain statutory definitions in the Order with corresponding concepts in EU law.

7.3.2 The SERA Regulation applies to all airspace users operating into, within or out of the EU, regardless of size and nature of operation, other than military aircraft. The application of the SERA Regulation will enable the UK to better meet its obligations as a Contracting State to the Convention on International Civil Aviation through removal of several "Differences" from Standards established under the Convention and their replacement by a smaller number of commonly agreed Differences as listed in the SERA Regulation.

8. Consultation outcome

8.1 A 12 week consultation for the Air Operations Regulation began on 7 July 2011, which extended to all commercial operators which might be affected. Two responses were received on the proposals, neither of which were contentious.

8.2 The consultation process for the Aerodromes Regulation began on 24 July 2013 for a 12 week period and extended to all aerodromes which might be affected by the proposals. No responses were received.

8.3 A 12 week consultation for the SERA Regulation began on 25 June 2013. A number of organisations were consulted, including MoD, NATS, the General Aviation Alliance, British Hang-gliding and Parachute Association and other representative bodies for commercial and general aviation. Comments were received from a number of individuals, but were not contentious.

8.4 The CAA is confident from its extensive formal and informal interactions with industry that there is broad industry support for the Regulations.

9. Guidance

9.1 Guidance relating to all of the amendments contained within this amendment to the ANO 2009 can be provided to users by the CAA in its role as the industry regulator with respect to such matters if asked to do so.

10. Impact

10.1 There is estimated to be no additional cost to business from the implementation of the Air Operations Regulation. An Impact Assessment (IA) for the Air Operations Regulation was considered by the Regulatory Policy Committee (RPC) in 2012 and given a fit for purpose opinion. Since then, guidance on the appropriate baseline to use for calculating the impact of EU measures has changed, and therefore, in response to the Reducing Regulation Committee (RRC) write-round in October, the Minister of State for Business, Enterprise and Energy requested this be amended prior to the IA being published. This revision has been made in the IA, and a paragraph included in the IA to explain the changes.

10.2 Compliance with the Aerodrome Regulation is estimated to have a one-off net cost to business of £0.5 million. An IA and RPC opinion are attached at **Annexes C and D**.

10.3 The SERA amendment of the ANO has been confirmed by the RPC as a low-cost regulatory proposal.

10.4 The RRC cleared the amendments on 30 October 2014, subject to the revision of the IA for the Air Operations Regulation, which has been made as mentioned above. A copy of the clearance letter is attached at **Annex G**.

10.5 The impact on charities and voluntary bodies is negligible.

10.6 The impact on the public sector is negligible.

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 provides advice to small business where possible in respect of new aviation 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 ANO 2009 and European legislation.

12.2 The Secretary of State is required under article 3 of the Order to review certain amended Parts of the ANO from time to time.

12.3 The ANO has been amended a number of times due to the large amount of EU legislation that has been adopted. A consolidation of the Order is programmed for 2016 after the current EU rulemaking programme has been completed. The consolidation will also take account of a more general review of the Order being undertaken by the CAA.

13. Contact

13.1 Paul Cremin at the Department for Transport Tel: 020 7944 5882, email: Paul.Cremin@dft.gsi.gov.uk, can answer any queries regarding the instrument.