

Consultation on European Commission proposed amendment of EC1592/2002

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Proposal by the European Commission to amend EC Regulation 1592/2002, including the extension of its scope to the regulation of pilot licensing, air operations and third country aircraft.

Dear Sir/Madam,

Introduction

The purpose of this Letter of Consultation is to seek your views on the European Commission's proposal to amend Regulation EC1592/2002 (commonly referred to as "the EASA Regulation") to extend its scope to the regulation of pilot licensing, air operations and third country aircraft. The proposal is available at: http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0579en01.pdf

The CAA is circulating this letter on behalf of the Department for Transport (DfT) which is responsible for representing the United Kingdom's views on the proposal as it is taken through the legislative procedures of the Council and European Parliament. In addition to this written consultation, the Department and the CAA intend to hold a stakeholder symposium in late March / early April (date to be fixed), together with a number of briefing meetings with representative bodies on specific aspects of the proposal.

The consultation is being conducted in accordance with the criteria contained in the Cabinet Office 'Code of Practice on Consultation' published in January 2004. A summary of the criteria is at **Annex A**. A full version of the code can be found at: <http://www.cabinetoffice.gov.uk/regulations/consultation.htm>

Responses

The Freedom of Information Act 2000 requires public authorities to disclose information they hold if it is requested. This includes information contained in responses to consultations. The Department will generally publish subsequently the information it discloses under FOI on its website. If you ask for your response to be kept confidential this will only be possible if it is consistent with the Departments' obligations under the Freedom of Information Act.

Your comments on the points raised in this paper are invited by **Friday 21 April 2006**. These should be sent to Matthew Brown at the Department for Transport, Zone 1/29, Great Minster House, 76 Marsham Street, London SW1P 4DR or by e-mail to: esa.regulation@dft.gsi.gov.uk

If you have any queries about the issues raised in this consultation paper these should be addressed to Matthew Brown at the same address, e-mail: matthew.brown@dft.gsi.gov.uk

In particular you are invited to let Matthew Brown know by 17 February 2006, either by email or by post, if you would like to attend the stakeholder symposium due to take place in late March/early April.

Discussion

The Agency's opinion

Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (EASA) required the Commission to make proposals to extend its scope to air operations and flight crew licensing. It also suggested that the opportunity be taken to reconsider the question of the regulation of third country aircraft.

To prepare for such extensions, Article 1(b) of the Basic Regulation defines the scope of the Regulation as applying to personnel and organisations involved in the operation of aircraft. The Regulation required the Commission to bring forward proposals as soon as possible. One of the tasks of the Agency is to develop and adopt the opinions on which the Commission shall base its own legislative proposals, in line with Article 14 of the Basic Regulation.

EASA submitted its Opinion to the Commission on 15 December 2004 which explained the views of the Agency on the policy underpinning the regulation of these subjects at Community level and of amendments to be made to the Basic Regulation to implement this policy. These include new and changed articles, a revised Annex II (excluded aircraft), the essential requirements for pilot licensing and air operations and the criteria for qualified entities.

EASA explained the institutional framework in which the regulation of such activities could be undertaken and the reasons why the structure agreed for the regulation of airworthiness and environmental protection should be used for that of air operations and flight crew licensing. In this context it presented draft essential requirements for pilot proficiency and air operations that could be used to define the safety objectives imposed by the Community legislator. EASA also presented its views for the regulation of commercial air transport and the licensing of professional pilots, drawing from currently accepted practices transcribed in widely approved Joint Aviation Requirements (JARs). It sought the view of stakeholders on a number of points for which it needed inputs to define a sufficiently consensual policy on which it would build this Opinion.

The Commission's proposals

On (16) November 2005 the Commission published its proposal to amend EC 1592/2002. The document along with the EASA Opinion can be found on the following websites:

- http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2005/com2005_0579en01.pdf
- http://www.easa.eu.int/home/opinions_en.html (Opinion 3/2004)

The proposals take the form of amendments to the Articles of EC 1592/2002; amendments to Annex II to the Regulation and three new Annexes, one setting out essential requirements for pilot licensing, another the essential requirements for air operations and a third outlining the criteria for qualified entities. The format is thus the same as already exists for airworthiness matters for which Annex I sets down essential requirements. It should be noted that there will in due course be one or more Commission Regulation setting out more detailed implementing requirements for personnel licensing and operator certification. The proposal also makes a number of other amendments to Regulation 1592/2002, which the Commission considers would be improvements in the light of the experience of its implementation to date.

Specific issues which you may wish to comment upon

We would welcome comments on any aspect of the proposals. We would be grateful if you would group comments as far as possible under the headings set out below. Under each heading we have set out questions on which we would particularly welcome your responses.

A. Community Air Operations

Are you content with the definitions of "commercial operation", "recreational operation" and "complex motor powered aircraft"?

Are you content with the proposed treatment of "commercial operation" and "non-commercial operation of complex motor powered aircraft", including the impact as you see it on fractional ownership operations?

Are you content with the roles assigned to the Agency with respect to flight time limitation, in particular the possibility for the Agency to issue approvals for any non-standard scheme or variation?

What is your estimate of the impacts of the proposal requiring cabin crew to hold an attestation and a medical certificate appropriate to the operation performed?

B. Pilot licensing and associated certifications

What are your views on the proposals for licensing and certification of pilots involved in operation of commercial aircraft and organisations, flight synthetic training devices and persons involved in the training, testing, checking and medical assessment of pilots? Do you foresee any new impacts and if so what is your estimate of the costs?

Is the proposal to create a separate recreational pilot licence acceptable? Is the application of such licences to all "non-complex, motor-powered aircraft" (even up to a maximum certified take-off mass of 5,700 kg) suitable?

Are you content with the issue of the recreational pilot licence by an assessment body whose capability would be recognised by an approval issued either by a Member State or by the Agency if requested by such a body?

Do you think assessment bodies would be most effective on a national or pan-European basis?

Should any general medical practitioner be able to issue the medical certificate to a recreational pilot or should this option be restricted in some way, such as to a general medical practitioner with knowledge of the applicant's past medical history or an Authorised Medical Examiner?

C. Third country operations

What are your views on the amendments to the scope of the Regulation with regards to aircraft registered in a third country?

Should all third country operations be expected to meet the essential requirements set out in Annex IV, (for example, some requirements go beyond those required by Annex 6 to the Chicago Convention for general aviation operations)?

D. Management Board and governance

What are your views on the proposals to appoint four representatives of interested parties to sit on the Management Board as observers?

Do you consider that the establishment of an Executive Board would improve the governance of the Agency and if so, what are your views on the proposed composition and powers of this Board?

E. Miscellaneous

The proposals cover a number of other changes to the Basic Regulation. We would welcome, in particular, your views on -

Changes to Annex II: What impacts, if any, do you foresee arising from the revision of Annex II - either savings or extra burdens? Are there other amendments you would wish to see made?

Accreditation of qualified entities: What are your views on the proposals that qualified entities conducting certification tasks either on behalf of the Agency or on behalf of Member States should comply with the criteria laid down in Annex V and be recognised through the issuance of an accreditation by the Agency? Do you think the use of qualified entities should be restricted to any particular categories of certification tasks - if so which?

Other changes concern provisions for collective oversight of the implementation of the Regulation; amendments to the flexibility provisions; provisions for the Agency to establish appropriate limitations for the issuance of permits to fly. Your views on these and any other amendment are welcome.

In addition, this Consultation Letter provides an opportunity for you to suggest further amendment to EC Regulation 1592/2002 should you wish, not restricted to the areas covered in the proposal.

Regulatory Impact Assessment

In practice, the impact of the extension of EASA's scope into pilot licensing, air operations and third country aircraft is heavily dependent on the detailed Commission Implementing Rules. It is anticipated that the Implementing Rules for Operations and Licensing in most respects will mirror JAR-OPS and JAR FCL. The majority of public transport operators are familiar with and operate in accordance with those documents. As such, the additional cost to public transport operators is anticipated to be minimal. There may be costs associated with specific changes to existing JAR-OPS provisions on which we would welcome your comments, for example, the proposal for cabin crew attestation and medical certificates. However, the DfT is interested to learn what additional costs or savings industry anticipates may result from introducing these proposals especially those affecting non-public transport operators and recreational pilots. A draft initial RIA is attached at Annex B.

Yours faithfully

Pat Ricketts

MRS P RICKETTS

Consultees

All Aeroplane AOC Holders
All Balloon AOC Holders
Aircraft Owners and Pilots Association
British Airline Pilots Association
British Business and General Aviation Association
British Gliding Association
British Microlight Aircraft Association
Brize Norton Flying Club
Cabair College of Air Training
Civil Aviation Medicine Forum
London Metropolitan University, Department of Civil Aviation Studies
Oxford Aviation Training
The Popular Flying Association
The Royal Aero Club
Society of British Aerospace Companies
Aeroplane Monthly
Aerosuperbatics
Air Accidents Investigation Branch
Air Display Association Europe
Air Displays International Ltd
Air Safety Group
Air Safety Support International
Airport Operators Association
Aircraft Restoration Company
Army Parachute Association
Army Air Corps
Association of Microlight Professionals
Atlantic Airlines/Air Atlantique
Aviation Environment Federation
B17 Preservation Ltd
Babcock Defence Services
British Airports Authority

British Aerobatics Association
British Aerospace (Warton)
British Air Transport Association
British Association of Aviation Consultants
British Association of Balloon Operators
British Association of Radio Controlled Soarers
British Balloon and Airship Club
British Gliding Association
British Hang Gliding and Paragliding Association
British Kite Flying Association
British Model Flying Association
British Parachute Association
Cameron Balloons Ltd
Dravidian Air Services
Defence Aviation Safety Centre
Europe Airsports (c/o The Royal Aero Club)
Fighter Collection
Firebird Aerobatics Ltd
Flight International
Flight Safety Bulletin
Flying Farmers Association
Flyer Magazine
Flying Pictures (Balloons) Ltd
Flypast Magazine
Formula Air Racing Association
General Aviation Safety Council
General Aviation Magazine
Guild of Air Pilots and Navigators
Helicopter Club of Great Britain
Historic Aircraft Association
Hovercam
Independent Pilots Association
Irvin-GQ Ltd - Parachute Trials Department
Kite and Balloon Company

Large Model Association
Lawyers Flying Association
Lindstrand Balloons
Met Office - Head of Civil Aviation
Ministry of Defence
Model Pilots Association
National Association of Agricultural Contractors
National Farmers Union
Newbound & Ritchie Ltd
Old Flying Machine Company
Parliamentary Advisory Council for Transport Safety
Personal Plane Services
Pilot Magazine
Police Aviation Adviser - Home Office
Popular Flying Association
PPL/IR Europe
QinetiQ Ltd - Airborne Forces Equipment
Radio Communications Agency
RAF HQ 2 Group - Parachute Department
RAF Model Aircraft Association
RAF Sport Parachute Association
The Real Aeroplane Company Ltd
Richard Goode Aerobatics
Royal Aeronautical Society
Royal Navy Aviation
Royal International Air Tattoo
Scottish Aeromodellers Association
Shuttleworth Collection
Tiger Moth Club
Today's Pilot
U.A.V. Systems Association
UK Guild of Air Traffic Control Officers
Virgin Airship and Balloon Company
Captain R Bowey

Consultation on European Commission proposed amendment of EC1592/2002

Captain A Cooper

Captain P D Godwin

Mr R Harford

Mr G Heritage

Mr R Jarvis

Mr A Mollison

Mr K Meehan

Annex A - Consultation criteria

The criteria set out below are contained in the Code of Practice on Consultation published by Cabinet Office in January 2004. This applies to all UK national public consultations on the basis of a document in electronic or printed form. A full version of the code can be accessed at: <http://www.cabinetoffice.gov.uk/regulations/consultation.htm>

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community law), the criteria should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure. The criteria are:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

If you have any comments or wish to make a complaint about the consultation process itself, please contact:

Andrew Price
Departmental Consultation Co-ordinator
Department for Transport
Zone 9/09 Southside
105 Victoria Street
LONDON SW1E 6DT

consultation@df.t.gsi.gov.uk

Annex B - Initial Regulatory Impact Assessment

Department for Transport

Title of Proposal

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency.

This Initial RIA accompanies the consultation on the above proposal. A Partial RIA will follow in due course.

Purpose and intended effect

Objective

The main objective is to improve the level of aviation safety within the common market in air transport. The proposed Regulation seeks to achieve this by amending Regulation 1592/2002 to extend the EASA system to include air operations, pilot licensing and third-country aircraft in order to ensure a high, uniform level of safety. It also puts forward a number of amendments to the original EASA framework in light of experiences since 2002.

Background

Established by Council Regulation (EC) No 1592/2002 of 15 July 2002, EASA began to carry out its statutory responsibilities on 28 September 2003. The original Regulation set out the basic principles and essential requirements in areas related to the certification of aeronautical products and appliances. Regulation 1592/2002 required the Commission to bring forward further proposals in due course to extend the scope of EASA which it has now done.

Rationale for Community Intervention

The UK Government, as part of its commitment to ensuring consistent and ever greater standards of safety in the Union, has supported the general objective of extending EASA's scope on a measured, step-by-step basis. The proposal will now be discussed in the Council of the European Union.

Consultation

This Initial RIA forms part of the Government's consultation on this proposal and we welcome opinions from all parties, in particular those businesses, groups and individuals directly affected by the Regulation.

Options

There are three options, as follows:

a) Accept in Full

Accept and support the text as it currently stands.

b) Consider Amendments to the Text

On the basis of consultation the Government may seek to develop the proposals on the basis of its reasoned opinion, as informed by the response received from interested parties.

c) Do Nothing

As this is a piece of Community legislation this option is not relevant in this context. It is in the United Kingdom's best interests to formulate an opinion on these proposals.

The proposals cover a large number of detailed amendments and additions to Regulation 1592/2002. It is highly unlikely that all will be acceptable as drafted to either the UK Government or other Member States; and amendments will be debated during consideration of the proposal. Option b) is therefore the only realistic option.

Costs and Benefits

Sectors and Groups affected

- Businesses, groups and individuals involved in the aviation industry (commercial, recreation and leisure).
- Air passengers.

Benefits

It is expected that the implementing measures for operations and pilot licensing will largely be based on existing harmonised requirements agreed by the JAA. It is therefore unlikely that they will impose any significant financial burden on the industry. Indeed the creation of a more efficient European system should, in time, reduce the burdens on UK industry. There is also scope to reduce the burden on recreational pilots as the regulation provides that their licences may be issued by an assessment body rather than a national aviation authority. As part of this consultation exercise we are seeking contributions from stakeholders on the potential benefits of this proposal. We also invite comments on any positive changes that could be made to the text.

Costs

Costs are likely to come from a period of adaptation, by both industry and the Agency. It is expected that the implementing measures for operations and pilot licensing will largely be based on existing harmonised requirements agreed by the JAA. It is therefore unlikely that they will impose any significant financial burden on the industry. Again we would welcome opinions on the likely costs of the proposed amendments.

Small Firms Impact Test

We wish to obtain feedback from this sector of the economy on the expected impact of the proposal on their business arrangements.

Competition Assessment

We do not foresee any adverse competition effects however we invite comments on the likely effects of the proposal.

Enforcement, Sanctions and Monitoring

The Agency would implement some certification directly however the majority would be done by member states' national authorities according to their normal procedures.

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