

Title: Air Navigation (Single European Sky) (Penalties) (Amendment) Order 2013 IA No: DfT00229 Lead department or agency: Department for Transport Other departments or agencies: Civil Aviation Authority	Impact Assessment (IA)
	Date: 12/09/2013
	Stage: Final
	Source of intervention: EU
	Type of measure: Secondary legislation
	Contact for enquiries: Jeremy Ketley- European Airspace Branch 020 7944 5114 jeremy.ketley@dft.gsi.gov.uk
Summary: Intervention and Options	RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£0m	£0m	£0m	No	N/A

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

The EU Single European Sky (SES) initiative and associated directly applicable legislation seeks to harmonise and improve air traffic service provision across EU airspace. If left to individual Air Navigation Service Providers (ANSPs), EU airspace would remain fragmented and inefficient. Whilst SES legislation creating the Single Sky is directly applicable in UK law, it is left to Member States to put in place penalties for non-compliance with the SES legislative provisions. In 2009, we made the Air Navigation (Single European Sky) (Penalties) Order 2009 (the 2009 Order) to meet this obligation. However, the 2009 Order requires updating to put in place penalties for non-compliance with requirements introduced by SES legislation since the 2009 Order was made.

What are the policy objectives and the intended effects?

The primary objective of this SI is to ensure that the UK is fulfilling its obligations under Article 9 of the SES Framework Regulation which requires Member States to put in place “effective, proportionate and dissuasive” penalties for non-compliance with SES legislation. Since the 2009 Order came into force further European obligations, that also require penalties, have become directly applicable under SES Regulations. The intended effects of this SI are to help support the timely implementation of SES and the delivery of a seamless, safe, sustainable, interoperable, cost-effective, operationally efficient and modern European Air Traffic Management ATM Network to meet future capacity demands and benefit air carriers and passengers alike.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 - Do nothing. The 2009 Order remains in its current form.
Option 1 - Amend the 2009 Order to apply penalties to the additional SES related offences. This option will mitigate the risk of infraction proceedings being initiated against the UK and would enable the CAA to enforce compliance with these additional provisions should the need ever arise. This option is consistent with our current approach and is our preferred option.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2018					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: 0	Non-traded: 0	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Robert Goodwill

Date: 23/10/2013

Summary: Analysis & Evidence

Policy Option 1

Description: Amend the 2009 Order to apply penalties to additional SES obligations that have come into force since that 2009 Order was made.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised costs by ‘main affected groups’

One-off costs

The CAA will notify the responsible parties on the introduction of the new penalties, but as this is part of its continuing engagement with the industry on SES legislative developments, it will impose minimal additional familiarisation costs to the parties involved.

The CAA is already monitoring compliance with the SES provisions arising from the 2009 Order and already has in place the structures, administration and resources to take enforcement action should the need arise. Therefore, they will not incur any additional start up costs.

Ongoing costs

Applying criminal penalties to the new SES offences does not impose an ongoing impact on the responsible parties. The obligations and offences already exist in directly applicable EU law. If the law is complied with, the responsible parties will not incur any costs as a result of this Order beyond initial familiarisation with the penalties.

Other key non-monetised costs by ‘main affected groups’

The CAA do not expect to have to take enforcement action as a result of this Order but it cannot be ruled out. If the CAA were required to take enforcement action, for example, an airspace infringement, they have advised that they may incur legal and court fees of £2500-£3000 per case, of which £600 may be recouped from the offender via a costs application to the court. The balance will be recouped through CAA charges to industry. Potential enforcement costs are not monetised because we cannot predict whether and how often the CAA will need to take enforcement action.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by ‘main affected groups’

None.

Other key non-monetised benefits by 'main affected groups'

Ensuring compliance by the various players in the European air traffic management system with their responsibilities under the SES legislation will deliver considerable local and system-wide benefits in the future which will benefit airlines, passengers, service providers and manufacturers as the system becomes more operationally and cost-efficient as well as lowering the impact of aviation on the environment through more-efficient route-ings resulting in less fuel-burn. The EU provisions imposing the obligations under the SES Regulations covered by this Order are already in place and in force. However, it is possible that the deterrent effect resultant upon the penalties Order will enhance the benefits of the kind expected to be realised. But it is not possible to quantify or monetise this.

Key assumptions/sensitivities/risks**Discount rate**

3.5%

We risk the strong possibility of infraction fines for non-compliance with EU obligations if we do not implement Option 1 because the Commission submitted an EU Pilot case on 27 May 2013 enquiring after the UK's implementation of the penalties applicable to infringements as required by Article 15 of Commission Regulation (EU) No 255/2010

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:0			In scope of	Measure qualifies
Costs: 0	Benefits: 0	Net: 0	No	NA

EVIDENCE BASE (FOR SUMMARY SHEETS)

Relevant legislation

No.	Legislation or publication
1.	Regulation (EC) No 549/2004 laying down the framework for the creation of the single European sky (the Framework Regulation) - link to the framework Regulation
2.	Regulation (EC) No 550/2004 on the provision of air navigation services in the single European sky (the Service Provision Regulation) - link to the service provision Regulation
3.	Regulation (EC) No 551/2004 on the organisation and use of the airspace in the single European sky (the Airspace Regulation) - link to Airspace Regulation
4.	Regulation (EC) No 552/2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation) - link to the interoperability Regulation
5.	Regulation (EC) No 1070/2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (the SES II Regulation) - link to Reg (EC) 1070/2009
6.	Unofficial consolidation of Regulations (EC) 549/2004, (EC) 550/2004, (EC) 551/2004 and (EC) 552/2004, as amended by Regulation (EC) 1070/2009 link
7.	Regulation (EU) 255/2010 laying down common rules on air traffic flow management (the ATFM Regulation) link to ATFM Regulation
8.	Regulation (EU) 1035/2011 laying down common requirements for the provision of air navigation services [ANS] and amending Regulations (EC) No 482/2008 and (EU) No 691/2010 – the common requirements . <i>(N.b. This regulation is a transcription of the old SES common requirements (Regulation (EC) No 2096/2005) necessitated by the European Aviation Safety Agency (EASA) assuming competence for air traffic management, air navigation service and aerodrome safety as part of the Single European Sky second package of measures which came into force in December 2009 – Regulation (EC) 2009/1170</i>
9.	SI 2009/1735 The Air Navigation (Single European Sky)(Penalties) Order 2009 (the 2009 Order)
10.	SI 1958/2004 The Single European Sky (National Supervisory Authority) Regulations 2004 appointing CAA as UK NSA

PROBLEM UNDER CONSIDERATION

The EU Single European Sky (SES) initiative seeks to deliver a seamless, safe, sustainable, interoperable, cost-effective, operationally efficient and modern European ATM Network which will meet future capacity demands and benefit air carriers and passengers alike.

Without the SES initiative, the provision of air navigation services to airlines across the EU would be more fragmented and less efficient, with routings and services being provided based on national boundaries.

SES legislation creating the Single Sky is directly applicable in national law. However, it is left to Member States to put in place penalties for non-compliance with SES legislative provisions. The current 2009 Order (SI 2009/1735) puts in place penalties for non-compliance with SES legislative provisions made up to September 2009. However, it does not cover SES provisions made after that date.

This generates two issues:

- a) the UK is at risk of infringement proceedings for not putting in place “effective, proportionate and dissuasive” penalties for non-compliance with EU SES legislation; and
- b) the CAA would not be in a position to take enforcement action if the need were to arise.

RATIONALE FOR INTERVENTION

We need to take action for two reasons:

- a) remove the risk of infraction; and
- b) ensure that the CAA are in a position to prosecute non-compliance should the need to do so arise in future.

In the absence of intervention, the UK would be unable to enforce the directly applicable EU provisions, in breach of Article 9 of the Framework Regulation 549/2004, and at risk of infraction fines for non-implementation of EU obligations.

POLICY OBJECTIVE

The effective and expeditious implementation of the SES and realisation of its envisaged system-wide benefits to the industry and passengers alike requires that the obligations set out in the SES regulations and implementing rules are met uniformly across Europe by Member States in a timely fashion, hence the inclusion of the requirement for States to introduce robust penalties regimes for non-compliance in the SES Framework Regulation 549/2004.

Full and timely compliance by States will contribute to the delivery of the main objectives of the SES initiative – that is, a seamless, safe, sustainable, interoperable, cost-effective, operationally efficient and modern European ATM Network which will meet future capacity demands and benefit air carriers and passengers alike.

Description of options considered (including do nothing)

Option 0 - Do nothing.

Under “Do Nothing”, the 2009 Order would remain in its current form.

Option 1 – Amend the 2009 Order to apply penalties to the obligations imposed by SES regulations which have come into effect after the 2009 Order was made.

DfT and CAA policy and legal officials have carried out a review of the SES legislation to ascertain what further SES obligations have been created to which penalties should be applied to enable the UK to maintain fulfilment of its obligations under Article 9 of the SES Framework Regulation.

The new offences relate to provisions in 2 directly applicable SES regulations, and 12 related EU implementing rules made under Article 3 of the Interoperability Regulation that are already in force.

Failure of responsible parties to fulfil their obligations or meet the requirements under these provisions therefore constitutes an offence. Once implemented, this option would maintain the UK's compliance with the need to have in place "effective, proportionate and dissuasive penalties" for these offences.

In addition, it would enable CAA to impose penalties for non-compliance, which can have a powerful deterrent effect, should the need to do so arise.

Annex B contains a table listing the relevant SES obligations, responsible party/parties and criminal penalty level; a commentary on the nature of the offences, and explanation on the approach used to determine the appropriate criminal penalty.

The offences comprise:

- 8 offences under the Air Traffic Flow Management (ATFM) regulation EU 255/2010
- 1 offence of failing to comply with obligations in implementing rules made under the Interoperability Regulation EU 552/2004.

Monetised and non-monetised costs and benefits of each option (including administrative burden);

Option 1

One-off costs

The CAA will need to write to the responsible parties setting out the new penalties, which will impose a one-off familiarisation cost. However, CAA are already engaging with these bodies about compliance with the existing requirements on an ongoing basis – and notification of the penalties will be done by CAA as part of this ongoing engagement. Therefore, familiarisation with the penalties themselves should incur minimal extra cost to the relevant parties.

Normally, it might be expected that introducing new penalties would give rise to additional monitoring, administration and enforcement costs for the body responsible for compliance – which in the case of EU SES provisions is the CAA.

However, the offences to which the new penalties apply already exist in directly applicable EU law. As noted above, the CAA already has in place compliance monitoring mechanisms for these particular obligations, as well as existing administrative structures and resources to bring prosecutions if the need arises.

Ongoing cost

We do not anticipate any ongoing costs. Applying criminal penalties to new SES offences (see table on pages 1 and 2 of Annex B) does not impact on the responsible parties (see third column of table on pages 1 and 2 of Annex B), as the obligations to which they apply are already in place and if they are law-abiding they will incur no penalty or legal costs.

The CAA has not had to use the penalties under the 2009 Order and the CAA do not foresee the need to use the penalties introduced by this 2013 Amendment Order. However, it cannot be ruled out.

If a need to prosecute does arise, CAA has indicated that, by way of an example, an airspace infringement offence currently gives rise to investigation and legal costs of between £2,500 to £3,000 (including court fees) and that around £600 of this could be recouped from the offender if found guilty upon making a costs application to the court. Any unrecouped legal costs of enforcement action will fall on industry via CAA regulatory charges. Given difficulty predicting whether CAA will need to bring any prosecutions in the future, these costs are unmonetised.

Benefits

There are no monetised or non-monetised cost benefits. The EU Provisions to which the new penalties apply are already in force. We cannot, therefore, claim any monetised or non-monetised cost or other associated benefits, other than further motivation to promote behaviour in line with SES general objectives, with this option.

RISKS AND ASSUMPTIONS

This Impact Assessment assumes that the introduction of penalties will not reduce compliance by the responsible parties listed below.

There are no risks or assumptions other than those outlined in this document that are associated with the preferred option.

However, if we do not implement this SI, the UK is at risk of infraction fines for non-compliance with EU obligations.

DIRECT COSTS AND BENEFITS TO BUSINESS CALCULATIONS (FOLLOWING OIOO METHODOLOGY)

The penalties relate to offences in EU legislation which are directly applicable in UK law and as such is outside the scope of OIOO. This Amendment Order does not go beyond the minimum required to ensure compliance with the EU obligation to put in place penalties for non-compliance.

Micro-Businesses

The penalties relate to offences in EU legislation which are directly applicable in UK law and already in force, including on any micro business that is a responsible party in Annex B. Hence, this Order does not impose any additional regulatory burden on compliant micro business, beyond initial familiarisation.

WIDER IMPACTS

The following specific impact tests apply.

Statutory equality duties

Race

1. The proposals will affect all consumers of aviation services equally, therefore we do not anticipate that these reforms will lead to:
 - different consequences according to people's racial group;
 - People being affected differently according to their racial group in terms of access to a service, or the ability to take advantage of proposed opportunities;
 - Discrimination unlawfully, directly or indirectly, against people from some racial groups;
 - Different expectations of the policy from some racial groups;
 - Harmed relations between certain racial groups, for example because it is seen as favouring a particular group or denying opportunities to another; or
 - Damaged relations between any particular racial group (or groups) and the DfT.

Disability

2. The Equality Act 2010 gives rights to disabled people in the area of access to goods, facilities and services. The proposals apply equally to all passengers, and so we do not anticipate any disadvantages or discrimination for disabled people, in line with this Act.

Gender

3. The proposals will all consumers of aviation services equally. Therefore, we do not anticipate that these reforms will lead to:
 - Different consequences according to people's gender;
 - People being affected differently according to their gender in terms of access to a service, or the ability to take advantage of proposed opportunities;
 - Discrimination unlawfully, directly or indirectly, against genders; or
 - Different expectations of the policy from between genders.

Competition

4. This proposal is cost/benefit neutral and therefore should have no impact on competition.

Greenhouse gas assessment

5. The aviation sector already has targets and policies in place to ensure it plays its part in helping to reduce greenhouse gas emissions and thus achieve the UK's climate change targets under EU law. These proposals do not affect such policies or targets, and more generally are not expected to affect the amount of greenhouse gas producing activity in the industry.

Wider environmental issues

6. There are two wider environmental issues relevant to the aviation sector as a whole: noise pollution and air quality. None of the proposals will influence the overall level of activity in the industry, however, and so we do not anticipate any impact in these areas arising from this Order.

Social impacts

Health and well-being

7. None of the proposals are expected to have an impact on health. There is no potential for any of the proposals directly to affect wider determinants of health such as income or the environment, nor is there any potential for the proposals to affect relevant lifestyle related factors such as physical activity or diet. There is no anticipated impact on the demand for health and social care services.

Human rights

8. There is no evidence or grounds to anticipate that the proposals will have any human rights impacts.

Justice system

9. A Legal Aid and Justice Impact Test was completed as part of Ministry of Justice's Criminal Offence Gateway process. The Ministry of Justice cleared the creation of the new criminal penalties.

Whilst this Order creates new offences and penalties, the EU obligations are already in place. The CAA can ensure compliance with the relevant obligations via a variety of oversight mechanisms and they do not anticipate a need to use the penalties we are required by EU law to put in place very often, if at all. Therefore, this proposal is unlikely to create any notable impact on the Courts Service or Tribunals service.

Rural proofing

10. There are no impacts associated with the preferred option, so there is no reason to believe that any of the proposals will have a different impact on people in rural areas because of their particular circumstances or needs.

Sustainable development

11. Sustainable development entails the current generation satisfying its basic needs and enjoying an improving quality of life without compromising the position of future generations. The proposals do not affect the resources available to future generations, and are therefore compatible with sustainable development.

ANNEX A

POST-IMPLEMENTATION REVIEW.

Article 8 of the Air Navigation (Single European Sky) (Penalties) (Amendment) Order 2013 provides a statutory requirement to review the 2009 Order and publish a report of the review within 5 years of the Amendment Order 2013 coming into force, with subsequent reviews after intervals not exceeding 5 years.

The review will consider the SES offences, determine the effectiveness of the regime, identify any new offences required, and identify what the appropriate mix of penalties should be (including potential for use of civil sanctions).

ANNEX B

LIST OF NEW OFFENCES UNDER THE AIR NAVIGATION (SINGLE EUROPEAN SKY) (PENALTIES) (AMENDMENT) ORDER 2013

Single European Sky Air Traffic Flow Management Regulation¹			
Article	Breach giving rise to possible sanctions	Responsible Party	Proposed penalty
6	Failure to comply with general obligations of Air Traffic Service (ATS) units	Air Traffic Service (ATS) Units	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
7	Failure to comply with general obligations of operators	Operators of aircraft	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
8	Failure to comply with general obligations of airport managing bodies	Airport managing bodies	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
9.1	Failure to provide an accepted flight plan when requested by an airport slot coordinator or managing body of a coordinated airport	Local Air Traffic Flow Management (ATFM) Units	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
9.2	Failure to ensure consistency between flight plans and airport slots	Operators of aircraft	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
10.2	Failure, in the preparation for critical events, to coordinate the relevance and content of the contingency procedures with the operators affected by critical events, including any adjustment to priority rules	ATS units and airport managing bodies	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
11.2	Failure to provide relevant information on any failure to adhere to flight plan rejections or suspensions, and on compliance.	ATS units	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
11.5	Failure to submit a report on each non-compliance to ATFM measures	Operators of aircraft	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
Single European Sky Interoperability Regulation²			

¹ Regulation (EC) 255/2010 of 25 March 2010 laying down common rules on air traffic flow management

² Regulation (EC) No 552/2004 on the interoperability of the European air traffic management network.

Article	Breach giving rise to possible sanctions	Responsible Party	Proposed penalty
3	Failure to comply with any obligation imposed by an implementing rule made under Article 3	Multiple parties (usually Air Navigation Service Providers - ANSPs, sometimes aircraft operators and occasionally airport operators)	Liable on summary conviction to a fine not exceeding level 4 on the standard scale

COMMENTARY ON PROPOSED NEW SES OFFENCES

Eight offences under the ATFM Regulation

The offences relate to failure by the various responsible entities to fulfil very specific obligations in the highly specialised field of Air Traffic Flow Management (ATFM). These entities are Air Traffic Service and ATFM Units, operators of aircraft, airport management bodies and airport slot coordinators.

ATFM has been centrally coordinated across Europe by Eurocontrol's Central Flow Management Unit (CFMU) which came into operation in 1995 with the obligations fulfilled voluntarily. Since airspace is a fixed volume, its management is a vital activity to satisfy the needs of the aircraft operators in the most efficient and equitable manner. However, the ebb and flow of economic activity and the surge in traffic demand during certain periods, mean that the available Air Traffic Control (ATC) capacity needs a smoothing mechanism to avoid overloads and to maximise the use of the airspace. This 'mechanism' is known as Air Traffic Flow and Capacity Management (ATFCM) aimed at avoiding overloads and ensuring that capacity is fully exploited. There is a constant flow of information between the CFMU and all participants in the ATFM process. The ATFCM process works for the benefit of all airspace users, who recognising this, participate in the process. The benefits also pass through to air passengers.

Eurocontrol has been designated as Network Manager for the Single European Sky and the information provided regionally and locally to the CFMU (e.g. Flight Plans filed, ATM constraints reported) are vital in order to give the Network Manager as accurate a picture as possible of system-wide performance and for the newly created Network Management Board comprised of relevant stakeholders to take collaborative decisions both at the tactical/operational level and the strategic planning level to improve network performance and alleviate any problems/pinch points. The network management function crucially underpins the SES Performance Scheme and the Commission has seen fit to mandate the obligations on the various players involved in the ATFM process. In practice, this does not add to their administrative or cost burden as they have voluntarily met these obligations since the CFMU came into operation. States are now obliged to ensure enforcement of the obligations on these players, and to fulfil their obligations under Article 9 of the Framework Regulation must apply penalties to these new offences arising under the ATFM IR.

One offence under the Interoperability Regulation

A single generic offence is proposed to capture breaches of essential requirements (extensive and very technical in nature) in Implementing Rules (IRs) made under Article 3 of the interoperability regulation that are listed in Schedule 2 to the draft Single European Sky (National Supervisory Authority) Regulations 2013. All such IRs are directly applicable in UK law. The essential requirements in the IRs comprise extremely detailed technical requirements.

ANNEX C

LIST OF EXISTING OFFENCES AND PENALTIES UNDER SI 2009/1735 THE AIR NAVIGATION (SINGLE EUROPEAN SKY)(PENALTIES) ORDER 2009

Higher tier penalty level	Middle tier penalty level	Lower tier penalty level
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Red italics reference relevant Article in SI 2009/1735 "The Air Navigation (Single European Sky) (Penalties) Order 2009"

The Service Provision Regulation ³			
Article	Breach giving rise to possible sanctions	Responsible Party	Applicable Penalty
7.1 <i>3 and 11(2)(a)</i>	Provision of air navigation services without a certificate	ANSPs ⁴	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.
7 <i>9(1)(a) and 11(2)(a)</i>	A person shall not with intent to deceive use any certificate or purported copy of any certificate which has been forged, altered, revoked or suspended or to which he is not entitled	ANSPs	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
8.1 <i>4(b) and 11(2)(a)</i>	A person shall not provide an air traffic service within an airspace block unless he is the designated provider of that service	ANSPs	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
8 <i>11(1)(a)</i>	Breach of obligations to be met by designated air traffic service providers (ATSPs)	Designated ATSPs ⁵	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

³ Regulation (EC) No 550/2004 on the provision of air navigation services in the Single European Sky (SES).

⁴ ANSPs = **Air Navigation Service Providers** - defined for the purposes of the SES Legislation as any public or private entity providing air navigation services for general air traffic; **Air Navigation Services** is defined as covering " air traffic services; communication, navigation and surveillance services; meteorological services for air navigation; and aeronautical information services;

⁵ ATSPs means Air Traffic Service Providers - ATS is defined as the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);

9.1 <i>5 and 11(3)(a)</i>	A person shall not provide notified meteorological services in airspace for which a provider of meteorological services has been designated on an exclusive basis unless he is the designated provider	Designated Meteorological Service Providers	Liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine
9 <i>11(3)(b).</i>	Breach of obligations to be met by the designated Met provider	Designated meteorological Service Providers	Liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine
8 and 9 <i>9(1)(a)</i>	A person shall not with intent to deceive use any designation or purported copy of any designation which has been forged, altered, revoked or suspended or to which he is not entitled	Designated ATSPs and meteorological service providers	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
10.1 <i>6 and 11(2)(a)</i>	Air navigation service providers shall not avail themselves of the services of other service providers that have not been certified in the Community	ANSPs	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
10 <i>11(1)(b)</i>	Failure to formalise, notify or secure the required approval of any working relationship as air navigation service provider	ANSPs	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
The Interoperability Regulation⁶			
Article	Breach giving rise to possible sanctions	Responsible Party	Applicable Penalty
5(2) <i>11(4)(b)</i>	Failure to comply with obligation imposed to provide an EC declaration of conformity or suitability for use	Manufacturers or their authorised representatives	Liable on summary conviction to a fine not exceeding level 4 on the standard scale

All offences attract a due diligence defence *Article 12* of SI 2009/1735

⁶ Regulation (EC) No 552/2004 on the interoperability of the European air traffic management network.

6(2) 11(4)(c) 11(4)(d) 11(4)(e)	Failure to: - provide an EC declaration of verification - to submit the declaration to the CAA together with the technical file - to provide the CAA, within a reasonable period after being requested to do so, with such additional information as the CAA may require.	ANSPs	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
5.2 & 6.2 9(1)(d) and 11(2)(a)	A person shall not with intent to deceive use a declaration of conformity, or EC declaration of verification of systems that has been forged, altered, revoked or suspended or to which he is not entitled or make any false representation to procure for himself or any other person the grant, issue, renewal or variation of any such documents.	ANSPs and Manufacturers (or the latter's authorised representatives)	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
7.1 & Annex II 7 and 11(4)(a)	Make use of any system or constituent of the European air traffic management network <u>contrary to</u> (a) a prohibition on its use; or (b) a restriction on its area of application	ANSPs/ Manufacturers	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
Common Requirements Regulation⁷ ("CR"s)			
Article	Breach giving rise to possible sanctions	Responsible Party	Applicable Penalty
6.1, 6.2, (formerly 5.1 and 5.2 of SES CRs) 11(1)(c)	Failure to: - demonstrate compliance with the common requirements - notify NSA of planned changes to provision of services which may affect compliance	ANSPs	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

⁷ Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services – now repealed by Regulation (EU) 1035/2011 laying down common requirements (CRs) for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010. This was a transcription of the old common requirements necessitated by the European Aviation Safety Agency (EASA) assuming competence for air traffic management, air navigation service and aerodrome safety as part of the Single European Sky second package of measures. Articles 5 and 6 of the SES CRs have been reproduced as Articles 6 and 7 of the EASA CRs and the offences (unchanged) now relate to breaches of requirements under the latter.

6.3 (formerly 5.4 of SES CRs) <i>11(1)(d).</i>	Failure to take corrective action required by the NSA to restore compliance with the common requirements or conditions attached to the certificate.	ANSPs	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
7 (formerly 6 of SES CRs) <i>8(2), 8(3) and 11(2)(b)</i>	Failure to fulfil obligation to facilitate inspections and surveys by authorised persons carrying out NSA inspections and surveys	ANSPs	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
7 (formerly 5.4 of SES CRs) <i>9(1)(e) and 11(2)(a)</i>	Providing false documents, records, data or other material or false oral explanations	ANSPs	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
The Common Charging Scheme Regulation⁸			
Article	Breach giving rise to possible sanctions	Responsible Party	Applicable Penalty
5.1, 6.1, 6.2, 7, 8.1, 11 <i>11(5)</i>	Failure in respect of requirements as to the establishment, calculation and allocation of costs, making the cost-base transparent to users and the calculation of terminal charges.	ANSPs	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
17 <i>8(3) and 11(4)(a)</i>	Failure to fulfil obligation to facilitate compliance monitoring by authorised persons carrying out NSA inspections and surveys	ANSPs	Liable on summary conviction to a fine not exceeding level 4 on the standard scale
17 <i>10 and 11(4)(a)</i>	Intentionally obstruct or impede an authorised person undertaking an NSA inspection or survey	ANSPs	Liable on summary conviction to a fine not exceeding level 4 on the standard scale

⁸ Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services