STATUTORY INSTRUMENTS

2009 No. 3015

The Air Navigation Order 2009

PART 33

Interpretation

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255.—(1) In this Order—

'A Conditions' means the conditions set out in Section 1 of Part A of Schedule 2;

'Accident prevention and flight safety programme' means a programme designed to detect and eliminate or avoid hazards in order to improve the safety of flight operations;

'Aerial work' has the meaning assigned to it by article 259;

'Aerial work aircraft' means an aircraft (other than a commercial air transport aeroplane or a public transport aircraft) flying, or intended by the operator to fly, for the purpose of aerial work;

'Aerial work flight' means a flight for the purpose of aerial work;

'Aerial work undertaking' means an undertaking whose business includes the performance of aerial work;

'Aerobatic manoeuvres' includes loops, spins, rolls, bunts, stall turns, inverted flying and any other similar manoeuvre;

'Aerodrome'—

(a) means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft; and

(b) includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically; but

(c) does not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;

'Aerodrome control service' means an air traffic control service for any aircraft—

(a) on the manoeuvring area or apron of the aerodrome for which the service is being provided;

(b) which is flying in, or in the vicinity of, the aerodrome traffic zone of that aerodrome by visual reference to the surface; or

(c) which has been transferred from approach control in accordance with procedures approved by the CAA;

'Aerodrome operating minima' in relation to the operation of an aircraft at an aerodrome means the cloud ceiling and runway visual range for take-off, and the decision height or minimum

descent height, runway visual range and visual reference for landing, which are the minimum for the operation of that aircraft at that aerodrome;

'Aerodrome traffic zone' has the meaning assigned to it by article 258;

'Aeronautical beacon' means an aeronautical ground light which is visible either continuously or intermittently to designate a particular point on the surface of the earth;

'Aeronautical ground light' means any light specifically provided as an aid to air navigation, other than a light displayed on an aircraft;

'Aeronautical radio station' means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft;

'Aircraft rating' includes a type rating and a class rating;

'Air/ground communications service' means a service provided from an aerodrome to give information to pilots of aircraft flying in the vicinity of the aerodrome by means of radio signals and 'air/ground communications service unit' is to be construed accordingly;

'Air traffic controller's directive' means Directive 2006/23/EC(**1**) of the European Parliament and Council on a Community air traffic controller licence;

'Air traffic control service' means a service provided for the purpose of preventing collisions between aircraft, and, on the manoeuvring area, between aircraft and obstructions, and expediting and maintaining an orderly flow of air traffic;

'Air traffic control unit' means a person appointed by a person maintaining an aerodrome or place to provide an air traffic control service;

'Air traffic service equipment' means ground based equipment, including an aeronautical radio station, used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground which equipment is not otherwise approved by or under this Order but excluding—

(a) any public electronic communications network; and

(b) any equipment concerning which the CAA has made a direction that it is not air traffic service equipment for the purposes of articles 205 and 206;

'Alternate aerodrome' means an aerodrome to which an aircraft may proceed when it becomes either impossible or inadvisable to proceed to or to land at the aerodrome of intended landing;

'Altitude hold and heading mode' mean aircraft autopilot functions which enable the aircraft to maintain an accurate height and an accurate heading;

'Annual costs' in relation to the operation of an aircraft means the best estimate reasonably practicable at the time of a particular flight for the year commencing on the first day of January preceding the date of the flight, of the costs of keeping and maintaining and the indirect costs of operating the aircraft, such costs in either case excluding direct costs and being those actually and necessarily incurred without a view to profit;

'Annual flying hours' means the best estimate reasonably practicable at the time of a particular flight by an aircraft of the hours flown or to be flown by the aircraft for the year commencing on the first day of January preceding the date of the flight;

'Approach control service' means an air traffic control service for any aircraft which is not receiving an aerodrome control service, which is flying in, or in the vicinity of the aerodrome traffic zone of the aerodrome for which the service is being provided, whether or not the aircraft is flying by visual reference to the surface;

(**1**) O.J. No. L114, 27.4.2006, p.22

'Approach to landing' means that portion of the flight of the aircraft, when approaching to land, in which it is descending below a height of 1000 feet above the relevant specified decision height or minimum descent height;

'Appropriate aeronautical radio station' means in relation to an aircraft an aeronautical radio station serving the area in which the aircraft is for the time being;

'Appropriate air traffic control unit' means, in relation to an aircraft, as the context requires—

(a) the air traffic control unit serving the area in which the aircraft currently is; or

(b) the air traffic control unit serving the area which the aircraft intends to enter and with which unit the aircraft is required to communicate before entering that area;

'Apron' means the part of an aerodrome provided for the stationing of aircraft for the embarkation and disembarkation of passengers, for loading and unloading of cargo and for parking;

'Area control centre' means an air traffic control unit established to provide an area control service to aircraft flying within a notified flight information region which are not receiving an aerodrome control service or an approach control service;

'Area control service' means an air traffic control service for any aircraft which is flying neither in nor in the vicinity of an aerodrome traffic zone;

'Area navigation equipment' means equipment carried on board an aircraft which enables the aircraft to navigate on any desired flight path within the coverage of appropriate ground based navigation aids or within the limits of that on-board equipment or a combination of the two;

'Authorised person' means—

(a) any constable;

(b) in any article other than articles 233, 234, 235 and 236 any person authorised by the CAA (whether by name or by class or description) either generally or in relation to a particular case or class of cases;

(c) in article 236 any person authorised by the Secretary of State (whether by name, or by class or description) either generally or in relation to a particular case or class of cases; and

(d) in articles 233, 234 and 235 any person authorised by the Secretary of State pursuant to regulation 5 of the Civil Aviation (Safety of Third-Country Aircraft) Regulations 2006(**2**);

'Automated reservation system' means the central reservation system of the operator of an aircraft which holds data relating to a flight booked by or on behalf of a passenger;

'B Conditions' means the conditions set out in Section 2 of Part A of Schedule 2;

'Basic EASA Regulation' means Regulation (EC) No. 216/2008 of the European Parliament and of the Council of 20th 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(**3**);

'Beneficial interest' includes interests arising under contract and other equitable interests;

'British protected person' has the same meaning as in section 50 of the British Nationality Act 1981(**4**);

'Cabin crew' in relation to an aircraft means those persons on a public transport flight carried for the purpose of performing duties to be assigned by the operator or the commander of the

(**2**) S.I. 2006/1384.
(**3**) O.J. No. L 79 of 19.03.2008, p.1.
(**4**) 1981 c.61.

aircraft in the interests of the safety of passengers but who do not act as a member of the flight crew;

'Captive balloon' means a balloon which when in flight is attached by a restraining device to the surface;

'Captive flight' means flight by an uncontrollable balloon during which it is attached to the surface by a restraining device;

'Cargo' includes mail and animals;

'Category II approach and landing' means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with—

(a) a decision height below 200 feet but not less than 100 feet; and

(b) a runway visual range of not less than 300 metres;

'Category IIIA approach and landing' means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with—

(a) a decision height lower than 100 feet; and

(b) a runway visual range of not less than 200 metres;

'Category IIIB approach and landing' means a landing following a precision approach using an Instrument Landing System or Microwave Landing System with—

(a) a decision height lower than 50 feet or no decision height; and

(b) a runway visual range of less than 200 metres but not less than 75 metres;

'Certificate of airworthiness' includes in the case of a national certificate of airworthiness any flight manual, performance schedule or other document, whatever its title, incorporated by reference in that certificate relating to the certificate of airworthiness;

Certificate of maintenance review' has the meaning assigned to it by article 25(3);

'Certificate of release to service issued under Part 145' means a certificate of release to service issued in accordance with Part 145;

'Certificate of release to service issued under this Order' means a certificate issued in accordance with article 30 by a person specified in article 31;

'Certificate of revalidation' means a certificate issued in accordance with Section 2 of Part C of Schedule 7 for the purpose of maintaining the privileges of a flight crew licence;

'Certificate of validity' has the meaning assigned to it by article 22(5);

'Certificated for single pilot operation' means in relation to an aircraft one which is not required to carry more than one pilot by virtue of any one or more of the following—

(a) the certificate of airworthiness duly issued or rendered valid under the law of the country in which the aircraft is registered or the related flight manual;

(b) if no certificate of airworthiness is required to be in force, the certificate of airworthiness, if any, last in force for the aircraft or the related flight manual;

(c) if no certificate of airworthiness is or has previously been in force but the aircraft is identical in design with an aircraft for which such a certificate is or has been in force, the certificate of airworthiness which is or has been in force for such an identical aircraft or the related flight manual; or

(d) in the case of an aircraft flying in accordance with the conditions of a national permit to fly or an EASA permit to fly, that permit to fly;

'Certified training provider' means a person who has been certified by the CAA under article 198 or by a national supervisory authority of another Member State in accordance with article 13 of the air traffic controllers' directive;

‘Class A airspace’, ‘Class B airspace’, ‘Class C airspace’, ‘Class D airspace’ and ‘Class E airspace’ mean airspace respectively notified as such;

‘Class rating’ for aeroplanes has the meaning specified in paragraph 1.215 of Section 1 of JAR-FCL 1;

‘Cloud ceiling’ in relation to an aerodrome means the vertical distance from the elevation of the aerodrome to the lowest part of any cloud visible from the aerodrome which is sufficient to obscure more than one-half of the sky so visible;

‘Commander’ in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

‘the Commonwealth’ means the United Kingdom, the Channel Islands, the Isle of Man, the countries mentioned in Schedule 3 to the British Nationality Act 1981(**5**) and all other territories forming part of Her Majesty’s dominions or in which Her Majesty has jurisdiction and ‘Commonwealth citizen’ is to be construed accordingly;

‘Commercial air transport aeroplane’ means an aeroplane flying, or intended by the operator of the aeroplane to fly, for the purpose of commercial air transport;

‘Commercial air transport flight’ means a flight which is required to be operated in accordance with EU-OPS and an aircraft flies for the purpose of commercial air transport if the flight is a commercial air transport flight;

‘Competent authority’ means, subject to article 246, in relation to the United Kingdom, the CAA, and in relation to any other country the authority responsible under the law of that country for promoting the safety of civil aviation;

‘Conditional sale agreement’ has the same meaning as in section 189 of the Consumer Credit Act 1974(**6**);

‘Congested area’ in relation to a city, town or settlement, means any area which is substantially used for residential, industrial, commercial or recreational purposes;

‘Contracting State’ means any State (including the United Kingdom) which is party to the Chicago Convention;

‘Controllable balloon’ means a balloon which is not a small balloon and which is capable of free controlled flight;

‘Controlled airspace’ means airspace which has been notified as Class A, Class B, Class C, Class D or Class E airspace;

‘Control area’ means controlled airspace which has been further notified as a control area and which extends upwards from a notified altitude or flight level;

‘Control zone’ means controlled airspace which has been further notified as a control zone and which extends upwards from the surface;

‘Co-pilot’ means a pilot who in performing duties as such is subject to the direction of another pilot carried in the aircraft;

‘Country’ includes a territory;

‘Crew’ means persons carried in an aircraft who are—

(a) a member of the flight crew;

(**5**) 1981 c.61; as amended by S.I. 1983/882; S.I. 1983/1699; the Brunei and Maldives Act 1985, section 1 and paragraph 8 of the Schedule, S.I. 1989/1331; S.I. 1990/1502; S.I. 1994/1634 and S.I. 1998/3161.

(**6**) 1974 c.39.

(b) a person carried on the flight deck who is appointed by the operator of the aircraft to give or to supervise the training, experience, practice and periodical tests required for the flight crew under article 95(2) or any provision of EU-OPS; or

(c) a member of the cabin crew;

'Critical power unit' means the power unit whose failure would most adversely affect the performance or handling qualities of an aircraft;

'Danger Area' means airspace which has been notified as such within which activities dangerous to the flight of aircraft may take place or exist at such times as may be notified;

'Decision height' in relation to the operation of an aircraft at an aerodrome means the height in a precision approach at which a missed approach must be initiated if the required visual reference to continue that approach has not been established;

'Declared distance' has the meaning which has been notified;

'Departure control system' means, in relation to an operator of an aircraft, the system used by the operator to check passengers onto a flight;

'Direct costs' means the costs actually and necessarily incurred in connection with a flight without a view to profit but excluding any remuneration payable to the pilot for services as such;

'Director' has the same meaning as in section 250 of the Companies Act 2006(**7**);

'Disidentification' means removing from reports submitted all personal details pertaining to the reporter and technical details which might lead to the identity of the reporter, or of third parties, being inferred from the information;

'EASA' means the European Aviation Safety Agency established under the Basic EASA Regulation;

'EASA aircraft' means an aircraft which is required by the Basic EASA Regulation and any implementing rules adopted by the Commission in accordance with that Regulation to hold an EASA certificate of airworthiness, an EASA restricted certificate of airworthiness or an EASA permit to fly;

'EASA certificate of airworthiness' means a certificate of airworthiness issued for an EASA aircraft under and in accordance with subpart H of Part 21;

'EASA Aircraft Certification Regulation' means Commission Regulation (EC) No. 1702/2003 of 24th September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations(**8**);

'EASA Continuing Airworthiness Regulation' means Commission Regulation (EC) No. 2042/2003 of 20th November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks(**9**);

'EASA permit to fly' means a permit to fly issued for an EASA aircraft under and in accordance with subpart P of Part 21;

'EASA restricted certificate of airworthiness' means a restricted certificate of airworthiness issued for an EASA aircraft under and in accordance with subpart H of Part 21;

(**7**) 2006 c.46.
(**8**) O.J. No. L 243, 24.9.2003, p.6.
(**9**) O.J. No. L 315, 28.11.2003, p.1. This Regulation was amended as specified at footnote (e) on page 126. There are other amendments not relevant to this Order.

'EU-OPS' means Annex III to the Technical Harmonisation Regulation(**10**);

'EU-OPS aeroplane' means an aeroplane operated by an EU-OPS operator;

'EU-OPS air operator certificate' means an air operator's certificate granted under EU-OPS;

'EU-OPS operator' means an operator who holds an EU-OPS air operator certificate;

'Flight' and 'to fly' have the meanings respectively assigned to them by article 256;

'Flight check' means a check carried out by an aircraft in flight of the accuracy and reliability of signals transmitted by an aeronautical radio station;

'Flight crew' in relation to an aircraft means those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radiotelephony operator of the aircraft;

'Flight data monitoring programme' means a programme of analysing recorded flight data in order to improve the safety of flight operations;

'Flight information service' means—

(a) in the case of an aerodrome—

  (i) the giving of information by means of radio signals to aircraft flying in or intending to fly within the aerodrome traffic zone of that aerodrome; and

  (ii) the grant or refusal of a permission under rule 40(b) or 41(2) of the Rules of the Air Regulations 2007(**11**); and

(b) in the case of an area control centre, the giving of information by means of radio signals to aircraft,

and 'aerodrome flight information service' is to be construed accordingly;

'Flight information service unit' means a person appointed by the CAA or by any other person maintaining an aerodrome or area control centre to provide a flight information service and 'aerodrome flight information service unit' is to be construed accordingly;

'Flight level' means one of a series of levels of equal atmospheric pressure, separated by notified intervals and each expressed as the number of hundreds of feet which would be indicated at that level on a pressure altimeter calibrated in accordance with the International Standard Atmosphere and set to 1013.2 hectopascals;

'Flight manual' means a document provided for an aircraft stating the limitations within which the aircraft is considered airworthy as defined by the appropriate airworthiness requirements, and additional instructions and information necessary for the safe operation of the aircraft;

'Flight recording system' means a system comprising either a flight data recorder or a cockpit voice recorder or both;

'Flight simulator' means apparatus by means of which flight conditions in an aircraft are simulated on the ground;

'Flight visibility' means the visibility forward from the flight deck of an aircraft in flight;

'Flying display' means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public;

'Flying machine' means an aeroplane, a powered lift tilt rotor aircraft, a SLMG, a helicopter or a gyroplane;

(**10**) The Technical Harmonisation Regulation was amended and Annex III inserted by Regulation 1899/2006 of the European Parliament and of the Council of 12 December 2006 O.J. No. L 377, 27.12.2006, p.1; an updated Annex III was inserted by Commission Regulation 859/2008 O.J. No. L 254, 20.9.2008, p.1.

(**11**) S.I. 2007/734 to which there are amendments not relevant to this provision.

'Free balloon' means a balloon which when in flight is not attached by any form of restraining device to the surface;

'Free controlled flight' means flight during which—

(a) a balloon is not attached to the surface by any form of restraining device (other than a tether of not more than five metres in length which may be used as part of the take-off procedure); and

(b) the height of the balloon is controllable by means of a device attached to the balloon and operated by the commander of the balloon or by remote control;

'General lighthouse authority' has the same meaning as in section 193 of the Merchant Shipping Act 1995(**12**);

'Glider' means—

(a) a non-power-driven, heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

(b) a self-sustaining glider; and

(c) a self-propelled hang-glider;

and any reference in this Order to a glider includes a reference to a self-sustaining glider and a self-propelled hang-glider;

'Government aerodrome' means any aerodrome in the United Kingdom which is in the occupation of any Government Department or visiting force;

'Hire-purchase agreement' has the same meaning as in section 189 of the Consumer Credit Act 1974;

'Holding' means, in the case of an aircraft approaching an aerodrome to land, a manoeuvre in the air which keeps that aircraft within a specified volume of airspace;

'Hostile environment' means, for the purposes of sub-paragraphs 4(15)(b)(ix) and (xvii) of Schedule 4, an environment in which—

(a) a safe forced landing cannot be accomplished because the surface is inadequate; or

(b) the helicopter occupants cannot be adequately protected from the elements; or

(c) search and rescue response and capability is not provided consistent with anticipated exposure; or

(d) there is an unacceptable risk of endangering persons or property on the ground;

'Instructor's rating' means a flying instructor's rating, an assistant flying instructor's rating, a flight instructor rating (aeroplane), a flight instructor rating (helicopter), a type rating instructor rating (multi-pilot aeroplane), a type rating instructor rating (helicopter), a class rating instructor rating (single pilot aeroplane), an instrument rating instructor rating (aeroplane) or an instrument rating instructor rating (helicopter);

'Instrument approach procedure' means a series of predetermined manoeuvres by reference to flight instruments, with specified protection from obstacles, from a specified point to a point from which a landing can be completed and thereafter, if a landing is not completed, to a position at which holding or other obstacle clearance criteria apply;

'Instrument flight procedure' means—

(a) a standard instrument arrival;

(b) an instrument approach procedure;

(c) a standard instrument departure; or

(**12**) 1995 c.21.

(d) a planned departure route;

'Instrument Flight Rules' means Instrument Flight Rules prescribed by Section 6 of the Rules of the Air Regulations 2007;

'Instrument Landing System' means a ground-based radio system designed to transmit radio signals at very high frequency and ultra high frequency that allow the pilot of an aircraft to accurately determine the aircraft's position relative to a defined approach path whilst carrying out an approach to land;

'Instrument Meteorological Conditions' means weather precluding flight in compliance with the Visual Flight Rules;

'International headquarters' means an international headquarters designated by Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964(**13**);

'International safety standards' means the safety standards contained in the Chicago Convention as in force from time to time;

'JAA' means the body that was known as the Joint Aviation Authorities, until its dissolution on 30th June 2009(**14**), which was previously an associated body of the European Civil Aviation Conference;

'JAA Full Member State' means a State which was a full member of the JAA on 30th June 2009;

'JAA licence' means a flight crew licence granted under JAR-FCL 1 or 2 by the competent authority of a JAA Full Member State in accordance with a procedure which had been assessed as satisfactory following an inspection by a licensing medical standardisation team of the JAA.

'JAR-FCL 1' means, unless otherwise specified, the Joint Aviation Requirement of the JAA bearing that title including Amendment 5 adopted by the JAA on 1st March 2006;

'JAR-FCL 2' means the Joint Aviation Requirement of the JAA bearing that title including Amendment 3 adopted by the JAA on 1st September 2003;

'JAR-FCL licence' means a licence included in Section 2 of Part A of Schedule 7;

'JAR-OPS 3' means the Joint Aviation Requirement of the JAA bearing that title including Amendment 3 adopted by the JAA on 1st April 2004 and the Corrigendum adopted by the JAA on 1st July 2004;

'Kg' means kilogramme or kilogrammes as the context requires;

'Km' means kilometre or kilometres as the context requires;

'To land' in relation to aircraft includes alighting on the water;

'Large rocket' means a rocket of which the total impulse of the motor or combination of motors is more than 10,240 Newton-seconds;

'Legal personal representative' means the person constituted as the executor, administrator, or other representative, of a deceased person;

'Let-down' means, in the case of an aircraft approaching an aerodrome to land, a defined procedure designed to enable an aircraft to descend safely to a point at which it can continue the approach visually;

'Licence' includes in relation to a flight crew licence any certificate of competency or certificate of validity or revalidation issued with the licence or required to be held in connection with the licence by the law of the country in which the licence is granted;

(**13**) 1964 c.5.

(**14**) The JAA was dissolved pursuant to a resolution of the European Civil Aviation Conference submitted to the Special Plenary Session of the European Civil Aviation Conference held on 25th June 2008.

'Licensed aerodrome' means an aerodrome licensed under article 211;

'Lifejacket' includes any device designed to support a person individually in or on the water;

'Log book' includes in the case of an aircraft log book, engine log book or variable pitch propeller log book, or personal flying log book, a record kept either in a book, or by any other means approved by the CAA in the particular case;

'Maintenance' means in relation to an aircraft any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;

'Manoeuvring area' means the part of an aerodrome provided for the take-off and landing of aircraft and for the movement of aircraft on the surface, excluding the apron and any part of the aerodrome provided for the maintenance of aircraft;

'Maximum approved passenger seating configuration' means—

(a) in the case of an aircraft to which article 83 applies the maximum approved passenger seating configuration specified in the operations manual of the aircraft; and

(b) in any other case, the maximum number of passengers which may be carried in the aircraft under and in accordance with its certificate of airworthiness, its flight manual and this Order;

'Maximum total weight authorised' means in relation to an aircraft the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances in accordance with the certificate of airworthiness in force for the aircraft;

'Medical attendant' means a person carried on a flight for the purpose of attending to any person in the aircraft in need of medical attention, or to be available to attend to such a person;

'Medium intensity steady red light' means a red light which complies with the characteristics described for a medium intensity Type C light as specified in Volume 1 (Aerodrome Design and Operations) of Annex 14 (Fourth Edition July 2004) to the Chicago Convention(**15**);

'Microlight aeroplane' means an aeroplane designed to carry not more than two persons which has—

(a) a maximum total weight authorised not exceeding—

  (i) 300kg for a single seat landplane, (or 390kg for a single seat landplane of which at least 51% was built by an amateur, or non-profit making association of amateurs, for their own purposes and without any commercial objective, in respect of which a permit to fly issued by the CAA was in force prior to 1st January 2003);

  (ii) 450kg for a two-seat landplane; or

  (iii) 330kg for a single seat amphibian or floatplane; or

  (iv) 495kg for a two-seat amphibian or floatplane; or

  (v) 315kg for a single seat landplane equipped with an airframe mounted total recovery parachute system; or

  (vi) 472.5kg for a two-seat landplane equipped with an airframe mounted total recovery parachute system; and

(b) a stalling speed, or minimum steady flight speed in the landing configuration, at the maximum total weight authorised not exceeding 35 knots calibrated airspeed;

(**15**) Annex 14 is published by the International Civil Aviation Organisation. For availability see Explanatory Note.

‘Microwave Landing System’ means a ground-based radio system designed to transmit radio signals at super high frequency that allow the pilot of an aircraft to accurately determine the aircraft’s position within a defined volume of airspace whilst carrying out an approach to land;

‘Military aircraft’ means—

(a) the naval, military or air force aircraft of any country;

(b) any aircraft being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and

(c) any aircraft for which there is in force a certificate issued by the Secretary of State that the aircraft is to be treated for the purposes of this Order as a military aircraft;

‘Military rocket’ means—

(a) any rocket being constructed for the naval, military or air force of any country under a contract entered into by the Secretary of State; and

(b) any rocket for which there is in force a certificate issued by the Secretary of State that the rocket is to be treated for the purposes of this Order as a military rocket;

‘Minimum descent height’ in relation to the operation of an aircraft at an aerodrome means the height in a non-precision approach below which descent may not be made without the required visual reference;

‘Multi-crew co-operation’ means the functioning of the flight crew as a team of co-operating members led by the pilot in command;

‘National air operator’s certificate’ means an air operator’s certificate granted by the CAA under article 12(2);

‘National certificate of airworthiness’ means a certificate of airworthiness issued under article 18;

‘National permit to fly’ means a permit to fly issued under article 21;

‘Nautical mile’ means the International Nautical Mile, that is to say, a distance of 1852 metres;

‘Night’ means the time from half an hour after sunset until half an hour before sunrise (both times inclusive), sunset and sunrise being determined at surface level;

‘Non-EASA aircraft’ means an aircraft which is not required by the Basic EASA Regulation and any implementing rules adopted by the Commission in accordance with that Regulation to hold an EASA certificate of airworthiness, an EASA restricted certificate of airworthiness or an EASA permit to fly; and a non-EASA balloon, a non-EASA glider and a non-EASA kite are to be construed accordingly;

‘Non-precision approach’ means an instrument approach using non-visual aids for guidance in azimuth or elevation but which is not a precision approach;

‘Non-revenue flight’ means—

(a) in the case of a flight by an aeroplane, any flight which the holder of a United Kingdom Private Pilot’s Licence (Aeroplanes) is not prohibited from undertaking by paragraph (2)(a) and (b) of the privileges of that licence set out in Section 1 of Part A of Schedule 7;

(b) in the case of a flight by a helicopter, any flight which the holder of a United Kingdom Private Pilot’s Licence (Helicopters) is not prohibited from undertaking by paragraph (2)(a) and (b) of the privileges of that licence set out in Section 1 of Part A of Schedule 7; and

(c) in the case of a flight by a gyroplane, any flight which the holder of a United Kingdom Private Pilot’s Licence (Gyroplanes) is not prohibited from undertaking by under paragraph (2)(a) and (b) of the privileges of that licence set out in Section 1 of Part A of Schedule 7;

'North Atlantic Minimum Navigation Performance Specification airspace' means the airspace prescribed as such;

'Notified' means set out with the authority of the CAA in a document published by or under an arrangement entered into with the CAA and entitled 'United Kingdom Notam' or 'United Kingdom Aeronautical Information Publication' and for the time being in force;

'Notified aerodrome' means an aerodrome which is notified for the purposes of rule 45 of the Rules of the Air Regulations 2007(**16**);

'Notified operating hours' means the times notified for an aerodrome during which rule 45 of the Rules of the Air Regulations 2007 applies;

'Obstacle limitation surfaces' has the same meaning as in the document entitled 'CAP 168 Licensing of aerodromes' published by the CAA in December 2008;

'Occurrence' means an operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety and that has not resulted in an accident or serious incident as those terms are defined in regulation 2 of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996(**17**);

'Occurrence Reporting Directive' means Directive 2003/42 of the European Parliament and of the Council of 13th June 2003 on occurrence reporting in civil aviation(**18**)

'Offshore service' means an air traffic control service for any aircraft flying to or from offshore oil and gas installations and for other aircraft operating in the vicinity of these aircraft in airspace specified for this purpose in the manual of air traffic services;

'Operating staff' means the servants and agents employed by an operator of an aircraft, whether or not as members of the crew, to ensure that flights of the aircraft are conducted in a safe manner, and includes an operator who himself performs those functions;

'Operational position' means a position provided and equipped for the purpose of providing a particular type of air traffic control service;

'Operator' has the meaning assigned to it by article 257;

'Parascending parachute' means a parachute which is towed by cable in such a manner as to cause it to ascend;

'Part 21' means the Annex so entitled to the EASA Aircraft Certification Regulation, as amended(**19**);

'Part 66' means Annex III so entitled to the EASA Continuing Airworthiness Regulation;

'Part 145' means Annex II so entitled to the EASA Continuing Airworthiness Regulation;

'Part 147' means Annex IV so entitled to the EASA Continuing Airworthiness Regulation;

'Part M' means Annex I so entitled to the EASA Continuing Airworthiness Regulation as amended(**20**);

'Passenger' means a person other than a member of the crew;

'Performance Class 1 operations' means flights where, in the event of the failure of a power unit, the helicopter will be able to safely continue the flight and land at an appropriate landing area unless the power unit failure recognition occurs during take-off at or before reaching the

(**16**) S.I. 2007/734 to which there are amendments not relevant to this provision.
(**17**) S.I. 1996/2798.
(**18**) O.J. No. L 167, 4.7.2003, p.23.
(**19**) O.J. No. L 243, 27.9.2003, p.6, amended by Commission Regulation (EC) No. 375/2007 O.J. No. L 94, 4.4.2007, p.3 and to which there are other amendments not relevant to this Order.
(**20**) Annex I was amended by Commission Regulation (EC) No. 707/2006, O.J. No. L 122, 5.5.2006, p.17 and by Commission Regulation (EC) No. 1056/2008 of 27th October 2008 O.J. No. L283, 28.10.2008, p.5.

take-off decision point in which case the helicopter will be able to safely land back within the area from which it has taken off;

'Performance Class 2 operations' means flights where, in the event of the failure of a power unit, the helicopter will be able to safely continue the flight to an appropriate landing area or, where the failure occurs at a point during the take-off manoeuvre or the landing manoeuvre when it cannot do so, the helicopter will be able to carry out a forced landing;

'Performance Class 3 operations' means flights where, in the event of the failure of a power unit at any time during the flight, the helicopter will be required to carry out a forced landing;

'Period of duty' means the period between the commencement and end of a shift during which an air traffic controller performs, or could be called on to perform, any of the functions specified in a rating included in the controller's licence;

'Pilot in command' means a person who for the time being is in charge of the piloting of an aircraft without being under the direction of any other pilot in the aircraft;

'Planned departure route' means a departure route for use by an aircraft flying in accordance with the Instrument Flight Rules which links an aerodrome or a specific runway of an aerodrome with a notified significant point from which the flight may safely continue and which is not wholly contained within controlled airspace;

'Police air operator's certificate' means a certificate granted by the CAA under article 13(5);

'Police authority' means a Chief Officer of police for any area of England or Wales, a Chief Constable for any area of Scotland and the Chief Constable of the Northern Ireland Police Service;

'Police officer' means any person who is a member of a police force or of the Northern Ireland Police Service (including, for the avoidance of doubt, the Northern Ireland Police Service Reserve), and any special constable;

'Pre-flight inspection' means the inspection carried out before flight to ensure that the aircraft is fit for the intended flight;

'Precision approach' means an instrument approach using an Instrument Landing System, Microwave Landing System or precision approach radar for guidance in both azimuth and elevation;

'Precision approach radar' means radar equipment designed to enable an air traffic controller to determine accurately an aircraft's position whilst it is carrying out an approach to land so that the air traffic controller can provide instructions and guidance to the pilot to enable the pilot to manoeuvre the aircraft relative to a defined approach path;

'Pressurised aircraft' means an aircraft provided with means of maintaining in any compartment a pressure greater than that of the surrounding atmosphere;

'Private aircraft' means an aircraft which is not an aerial work aircraft, a public transport aircraft or a commercial air transport aeroplane;

'Private flight' means a flight which is not an aerial work, public transport or commercial air transport flight;

'Proficiency check' has the meaning specified in paragraph 1.001 of Section 1 of JAR-FCL 1 for aeroplanes and paragraph 2.001 of Section 1 of JAR-FCL 2 for helicopters;

'Public electronic communications network' has the same meaning as in section 151 of the Communications Act 2003(**21**);

'Public transport' has the meaning assigned to it by article 260;

(**21**) 2003 c.21.

'Public transport aircraft' means an aircraft flying, or intended by the operator of the aircraft to fly, for the purpose of public transport;

'Public transport flight' means a flight for the purpose of public transport;

'Public use licence' has the meaning assigned to it by article 212(3);

'Record' has the same meaning as in section 81(6) of the Transport Act 2000(**22**);

'Reduced Vertical Separation Minimum airspace' means any airspace between flight level 290 and flight level 410 inclusive which has been notified, prescribed or otherwise designated by the relevant competent authority as being airspace within which a vertical separation minimum of 1000 feet or 300 metres must be applied;

'Released flight' means flight by an uncontrollable balloon during which it is not attached to the surface by any form of restraining device;

'Relevant overseas territory' means any colony and any country or place outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction;

'Replacement' in relation to any part of an aircraft or its equipment—

(a) includes the removal and replacement of that part whether or not by the same part, and whether or not any work is done on it; but

(b) does not include the removal and replacement of a part which is designed to be removable solely for the purpose of enabling another part to be inspected, repaired, removed or replaced or cargo to be loaded;

'Required Navigation Performance airspace' means airspace which has been notified, prescribed or otherwise designated by the competent authority for the airspace as requiring specified navigation performance capabilities to be met by aircraft flying within it;

'Rocket' means a device which is propelled by ejecting expanding gases generated in its motor from self contained propellant and which is not dependent on the intake of outside substances and includes any part of the device intended to become separated during operation;

'Runway visual range' in relation to a runway means the distance in the direction of take-off or landing over which the runway lights or surface markings may be seen from the touchdown zone as calculated by either human observation or instruments in—

(a) the vicinity of the touchdown zone; or

(b) if this is not reasonably practicable, in the vicinity of the midpoint of the runway,

and the distance, if any, communicated to the commander of an aircraft by or on behalf of the person in charge of the aerodrome as being the runway visual range must be taken to be the runway visual range for the time being;

'Safety management system' means a systematic approach to managing safety including the necessary organisational structure, accountabilities, policies and procedures;

'Scheduled journey' means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service;

'Seaplane' has the same meaning as in section 97 of the Civil Aviation Act 1982(**23**);

'Sector' means part of the airspace controlled from an area control centre or other place;

'Self-launching motor glider' means an aircraft with the characteristics of a non-power-driven glider, which is fitted with one or more power units and which is designed or intended to take off under its own power;

(**22**) 2000 c.38.
(**23**) 1982 c.16.

'Self-propelled hang-glider' means an aircraft comprising an aerofoil wing and a mechanical propulsion device which—

(a) is foot launched;

(b) has a stall speed or minimum steady flight speed in the landing configuration of not more than 35 knots calibrated airspeed;

(c) carries a maximum of two persons;

(d) has a maximum fuel capacity of 10 litres; and

(e) has a maximum unladen weight, including full fuel, of 60kg for single place aircraft and 70kg for two place aircraft;

'Self-sustaining glider' means an aircraft with the characteristics of a non-power-driven glider which is fitted with one or more power units capable of sustaining the aircraft in flight but which is not designed or intended to take off under its own power;

'Simple single engine aeroplane' means a single engine piston aeroplane with a maximum take off weight authorised of not more than 2000kg and which is not a microlight aeroplane or a SLMG;

'Skill test' has the meaning specified in paragraph 1.001 of Section 1 of JAR-FCL 1 for aeroplanes and paragraph 2.001 of Section 1 of JAR-FCL 2 for helicopters;

'SLMG' means a self-launching motor glider;

'Small balloon' means a balloon of not more than two metres in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon;

'Small rocket' means a rocket of which the total impulse of the motor or combination of motors is not more than 10,240 Newton-seconds;

'Small unmanned aircraft' means any unmanned aircraft, other than a balloon or a kite, having a mass of not more than 20kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight;

'Special tasks service' means an air traffic control service—

(a) for any aircraft flying for the purposes of research and development of aircraft, aircraft equipment or aircraft systems which is not flying in accordance with normal aviation practice; and

(b) for other aircraft in the vicinity of any such aircraft;

'Special VFR flight' means a flight which is a special VFR flight for the purposes of the Rules of the Air Regulations 2007;

'SSEA' means a simple single engine aeroplane;

'Standard instrument arrival' means an arrival route for use by an aircraft flying in accordance with the instrument flight rules which links a notified significant point with a point from which an instrument approach procedure may be commenced;

'Standard instrument departure' means a departure route for use by an aircraft flying in accordance with the Instrument Flight Rules which links an aerodrome or a specific runway of an aerodrome with a notified significant point from which the flight may safely continue and which is wholly contained within controlled airspace;

'State aircraft' means an aircraft engaged in military, customs, police or similar services;

'State of design' means the State having jurisdiction over the organisation responsible for the type design of an aircraft;

'State of the operator' means the State in which the operator of an aircraft has its principal place of business or, if it has no such place of business, its permanent residence, in circumstances where—

(a) that aircraft is registered in another Contracting State;

(b) the operator is operating that aircraft under an agreement for its lease, charter or interchange or any similar arrangement;

(c) the State in which that aircraft is registered has, by agreement with the State in which the operator of the aircraft has its principal place of business or, if it has no such place of business, its permanent residence, agreed to transfer to it its functions and duties as State of registry for that aircraft in relation to, in the case of article 16(1), airworthiness, in the case of article 39(1), aircraft radio equipment, in the case of article 61, flight crew licensing or, in the case of article 112, radio licensing; and

(d) the agreement has been registered with the Council of the International Civil Aviation Organisation or the existence and scope of the agreement have been directly communicated to the CAA;

'Take-off decision point' means the latest point in the take-off at which, following recognition of a power unit failure, the helicopter will be able to carry out a rejected take-off;

'Technical Harmonisation Regulation' means Council Regulation (EEC) No. 3922/91 of 16th December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, as amended(**24**);

'Technical log' means a record containing the information specified in paragraph M.A.306 of Part M;

'Terminal control service' means an air traffic control service for any aircraft—

(a) flying in a terminal control area; or

(b) intending to fly within a terminal control area while it is in an adjacent sector specified for this purpose in the manual of air traffic services;

'Tethered flight' means flight by a controllable balloon throughout which it is flown within limits imposed by a restraining device which attaches the balloon to the surface;

'Third-country aircraft' means any aircraft, other than a State aircraft, which is not used or operated under the control of the competent authority of a Member State;

'Touring motor glider' has the meaning specified in paragraph 1.001 of Section 1 of JAR-FCL 1;

'Type rating' for aeroplanes has the meaning specified in paragraph 1.220 of Section 1 of JAR-FCL 1;

'Type rating' for helicopters has the meaning specified in paragraph 2.220 of Section 1 of JAR-FCL 2;

'Uncontrollable balloon' means a balloon which is not a small balloon and which is not capable of free controlled flight;

'United Kingdom licence' means a licence included in Section 1 of Part A of Schedule 7;

'United Kingdom licence for which there is a JAR-FCL equivalent' means the following licences included in Section 1 of Part A of Schedule 7—

(a) Private Pilot's Licence (Aeroplanes);

(**24**) O.J. No. L 373, 31.12.91, p.4. The Technical Harmonisation Regulation was amended and Annex III inserted by Regulation 1899/2006 of the European Parliament and of the Council of 12 December 2006 O.J. No. L 377, 27.12.2006, p.1; an updated Annex III was inserted by Commission Regulation 859/2008 O.J. No. L 254, 20.9.2008, p.1. Council Regulation 3922/91 applies throughout the area of the EEA by virtue of the amendment of the EEA Agreement (Cm 2073 and 2183) by the Decision of the EEA Joint Committee No. 7/94 of 21.3.94 (O.J. No. L160, 28.6.94, p.1).

(b) Commercial Pilot's Licence (Aeroplanes);

(c) Airline Transport Pilot's Licence (Aeroplanes);

(d) Private Pilot's Licence (Helicopters);

(e) Commercial Pilot's Licence (Helicopters and Gyroplanes);

(f) Airline Transport Pilot's Licence (Helicopters and Gyroplanes);

'United Kingdom licence for which there is no JAR-FCL equivalent' means any licence included in Section 1 of Part A of Schedule 7 other than any such licence which is a United Kingdom licence for which there is a JAR-FCL equivalent;

'Valuable consideration' means any right, interest, profit or benefit, forbearance, detriment, loss or responsibility accruing, given, suffered or undertaken under an agreement, which is of more than a nominal nature;

'Visiting force' means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of the Visiting Forces Act 1952(**25**)—

(a) which apply to that country by virtue of paragraph (a) of section 1(1) of that Act; or

(b) which from time to time apply to that country by virtue of paragraph (b) of section 1(1) and of any Order in Council made or hereafter to be made under section 1 designating that country for the purposes of that Act following section 1(2) of that Act;

'Visual Flight Rules' means Visual Flight Rules prescribed by Section 5 of the Rules of the Air Regulations 2007(**26**);

'Visual Meteorological Conditions' means weather permitting flight in accordance with the Visual Flight Rules;

'With the surface in sight' means with the flight crew being able to see sufficient surface features or surface illumination to enable the flight crew to maintain the aircraft in a desired attitude without reference to any flight instrument and 'when the surface is not in sight' is to be construed accordingly.

(2) References in this Order to—

(a) a certificate of airworthiness include both a national certificate of airworthiness and an EASA certificate of airworthiness unless otherwise stated;

(b) an aircraft, aeroplane, powered lift tilt rotor aircraft, SLMG, helicopter, gyroplane, airship, balloon or kite include both EASA and non-EASA examples of the same unless otherwise stated.

(3) The expressions appearing in the 'Classification of Aircraft' in Part A of Schedule 3 have the meanings assigned to them in that Part.

Meaning of in flight

256.—(1) An aircraft is deemed to be in flight—

(a) in the case of a piloted flying machine, from the moment when, after the embarkation of its crew for the purpose of taking off, it first moves under its own power, until the moment when it next comes to rest after landing;

(b) in the case of a pilotless flying machine, or a glider, from the moment when it first moves for the purpose of taking off, until the moment when it next comes to rest after landing;

(**25**) 1952 c.67.
(**26**) S.I. 2007/734 amended by S.I. 2007/1371; there are other amending instruments but none are relevant to this provision.

(c) in the case of an airship, from the moment when it first becomes detached from the surface until the moment when it next becomes attached to the surface or comes to rest on the surface;

(d) in the case of a free balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface until the moment it next comes to rest on the surface; and

(e) in the case of a captive balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface, apart from a restraining device attaching it to the surface, until the moment when it next comes to rest on the surface.

(2) The expressions 'a flight' and 'to fly' are to be construed in accordance with paragraph (1).

Meaning of operator

257.—(1) Subject to paragraph (2), references in this Order to the operator of an aircraft are, for the purposes of the application of any provision of this Order in relation to any particular aircraft, references to the person who at the relevant time has the management of that aircraft.

(2) For the purposes of the application of any provision in Part 3 and Part 4, when by virtue of any charter or other agreement for the hire or loan of an aircraft a person other than the holder of a national air operator's certificate, the holder of an EU-OPS air operator certificate or an aerial work undertaking has the management of that aircraft for a period of not more than 14 days, paragraph (1) has effect as if that agreement had not been entered into.

Meaning of aerodrome traffic zone

258.—(1) Subject to paragraphs (3) and (8), the aerodrome traffic zone of a notified aerodrome which is not on an offshore installation and at which the length of the longest runway is notified as 1850 metres or less is that specified in paragraph (2).

(2) The aerodrome traffic zone at an aerodrome referred to in paragraph (1) is the airspace extending from the surface to a height of 2000 feet above the level of the aerodrome within the area bounded by a circle centred on the notified mid-point of the longest runway and having a radius of two nautical miles.

(3) Paragraph (4) applies if—

(a) the aerodrome traffic zone specified in paragraph (2) would extend less than 1½ nautical miles beyond the end of any runway at the aerodrome; and

(b) this paragraph is notified as being applicable.

(4) The aerodrome traffic zone is that specified in paragraph (5) as though the length of the longest runway at the aerodrome were notified as greater than 1850 metres.

(5) Subject to paragraph (8), the aerodrome traffic zone of a notified aerodrome which is not on an offshore installation and at which the length of the longest runway is notified as greater than 1850 metres is that specified in paragraph (6).

(6) The aerodrome traffic zone is the airspace extending from the surface to a height of 2000 feet above the level of the aerodrome within the area bounded by a circle centred on the notified midpoint of the longest runway and having a radius of 2½ nautical miles.

(7) Subject to paragraph (8), the aerodrome traffic zone of a notified aerodrome which is on an offshore installation is the airspace extending from mean sea level to 2000 feet above mean sea level and within 1½ nautical miles of the offshore installation.

(8) The aerodrome traffic zone of a notified aerodrome excludes any airspace which is within the aerodrome traffic zone of another aerodrome which is notified for the purposes of this article as being the controlling aerodrome.

Meaning of aerial work

259.—(1) Subject to paragraph (2) and Part 34, aerial work means any purpose, other than commercial air transport or public transport, for which an aircraft is flown if valuable consideration is given or promised for the flight or the purpose of the flight.

(2) If the only such valuable consideration consists of remuneration for the services of the pilot the flight is deemed to be a private flight for the purposes of Part 3 and Part 4.

(3) Aerial work consists of instruction or testing in a club environment if it consists of the giving of instruction in flying or the conducting of flying tests for the purposes of this Order in an aircraft owned by, operated by or operated under arrangements entered into by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members.

Meaning of public transport

260.—(1) For the purposes of this Order and subject to Part 34, an aircraft in flight is flying on a public transport flight if the conditions specified in paragraph (2) are met.

(2) The conditions referred to in paragraph (1) are—

(a) the aircraft is not flying on a commercial air transport flight; and

(b) that

(i) valuable consideration is given or promised for the carriage of passengers or cargo in the aircraft on that flight; or

(ii) the flight is operated by the holder of a national air operator's certificate or an EU-OPS air operator certificate and any passengers or cargo are carried gratuitously in the aircraft except for persons specified in paragraph (3) or cargo specified in paragraph (4).

(3) The persons referred to in paragraph (2)(b)(ii) are persons in the employment of the operator (including, in the case of a body corporate, its directors), or persons authorised by the CAA either making any inspection or witnessing any training, practice or test for the purposes of this Order or EU-OPS.

(4) The cargo referred to in paragraph (2)(b)(ii) is cargo intended to be used by any persons specified in paragraph (3) or by the operator.