

**EXPLANATORY MEMORANDUM TO
THE RULES OF THE AIR REGULATIONS 2015**

2015 No. 840

1. Introduction

This explanatory memorandum has been prepared by the Department for Transport.

2. Purpose of the instrument

These Regulations make necessary changes to domestic legislation as a consequence of European legislation relating to the same or similar subject matters.

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

None.

4. Legislative Context

4.1 Commission Implementing Regulation (EU) No 923/2012 of 26th September 2012 lays down the common rules of the air and operational provisions regarding services and procedures in air navigation (“the SERA Regulation”). The Annex to the EU Regulation sets out the standardised European rules of the air (“SERA”), based on the rules of the air laid down by the International Civil Aviation Organisation (“ICAO”) in Annexes 2 and 11 of the Chicago Convention. The SERA Regulation came into force in the UK on 4 December 2014 following the expiry on that date of a two year derogation applied by the UK under article 11(2) of the SERA Regulation.

4.2 Article 8 of the EU Regulation permits Member States to retain additional provisions complementing an ICAO standard provided they do not constitute a difference under the Chicago Convention. A difference arises if the rule enacted by the Member State to implement an ICAO standard is materially different to the ICAO standard or if the Member State has not implemented the ICAO standard.

4.3 The Rules of the Air Regulations 2007 (“the 2007 Regulations”), made under article 95 of the Air Navigation Order 2005, now article 160 of the Air Navigation Order 2009 (“ANO”), implemented the standards in Annex 2 of the Chicago Convention and prescribed the UK national rules of the air. The UK wishes to utilise Article 8 of the SERA Regulation in order to retain some additional rules of the air that are currently in the 2007 Regulations. This instrument therefore prescribes those additional rules and revokes the 2007 Regulations (and the instruments which amended them).

5. Territorial Extent and Application

5.1 This instrument applies to the whole of the United Kingdom.

5.2 It also applies to UK registered aircraft wherever they may be outside UK airspace to the extent they do not conflict with any rules applicable in any foreign airspace through which the aircraft may be flying.

6. European Convention on Human Rights

As the instrument is not subject to any Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The purpose of the Rules of the Air Regulations 2015 (“the UK rules or Regulations”) is to make rules of the air for all aircraft flying in UK airspace (apart from military aircraft) and all aircraft registered in the UK wherever they may be unless it is necessary for the pilot to depart from UK rules in order to comply with the law of any country over which the aircraft is being flown. The UK rules are supplementary to the SERA and revoke the 2007 Regulations (and amending instruments).

7.2 The SERA Regulation permits Member States to make national rules of the air that complement standards and recommended practices established by ICAO in Annexes 2 (Rules of the Air) and 11 (Air Traffic Services) of the Chicago Convention. The UK rules contain certain safety requirements which are not included in the SERA Regulation, but which the Civil Aviation Authority (“CAA”) consider are necessary to maintain an appropriate level of safety in the UK. These include, for example, requirements regarding aerobatic flight over congested areas, landing and taking off within congested areas and the avoidance of aerial collisions, access to and movement over aerodromes, lighting of airships by day, and flight rules within aerodrome traffic zones. These are matters which the CAA considers to be necessary to regulate for the purposes referred to in article 160(1) ANO.

7.3 The effect of the UK rules will be to create a small number of supplementary rules of the air to supplement the SERA Regulation. Civilian operators and pilots of aircraft (of whatever nationality) will have a responsibility to familiarise themselves with these rules when flying through UK airspace. The rules are required to prevent collisions between aircraft in the air and on the ground, between aircraft, vehicles, and persons on the ground and to protect third parties and property on the ground.

8. Consultation outcome

8.1 An 8 week consultation began on 25 June 2013, which extended to all flying associations, representing general aviation operators and pilots, and commercial operators which might be affected. One objection to the proposal was received, concerning the issue of complementary national rules in addition to the SERA Regulation, on the basis that this was not permitted under EU law. However, after consideration this was regarded as not having legal merit as this is explicitly permitted by article 8 of the SERA Regulation.

8.2 The CAA is confident from its extensive formal and informal interactions with industry, including from responses to the consultation, that there is broad industry support for the UK rules.

9. Guidance

More detailed guidance relating to all of this instrument can be provided to users by the CAA in its role as the industry regulator, if required. This is the system which applied to the Rules of the Air 2007. The CAA does not consider detailed guidance is needed at present but will keep this under review as the UK rules will be familiar to UK operators and pilots.

10. Impact

10.1 The Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

10.2 The impact on charities and voluntary bodies is negligible.

10.3 The impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the CAA provides advice to small business where possible in respect of new aviation regulations which are likely to increase their costs.

11.3 The basis for the final decision on what action to take to assist small business has been left to the judgement of the CAA as the industry regulator.

12. Monitoring & review

The CAA will monitor compliance with the Regulations and the burden on industry and will propose amendments as necessary. The Regulations contain a review clause under which a report must be published no later than 30th April 2020 and, thereafter, every five years.

13. Contact

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