Draft Order in Council laid before Parliament under section 102(3) of the Civil Aviation Act 1982, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 000

CIVIL AVIATION

The Air Navigation (Environmental Standards For Non-EASA Aircraft) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the day of

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 102(3) of the Civil Aviation Act 1982(**1**) a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Her Majesty, in exercise of the powers conferred upon Her by sections 60(1), (2)(a) and (b) and (3)(q) and (r), 61(1), 101(1)(a) and 102(2) of and Schedule 13 to that Act, is pleased, by and with the advice of Her Privy Council, to order as follows.

PART 1

Preliminary

Citation and Commencement

1. This Order may be cited as the Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 and comes into force on the tenth day after the day on which it is made.

(**1**) 1982 c.16, sections 60 and 61 have been amended by the Airports Act 1986 (c.31) Schedule 6 Part 11, and section 60 was further amended by the Aviation and Maritime Security Act 1990 (c.31), section 47 and Schedule 4 and Schedule 13 has been amended by the Energy Act 2004 c.20, section 101.

Revocation

2. The Air Navigation (Environmental Standards) Order 2002(**2**) is revoked.

Interpretation

3.—(1) In this Order —

'adversely' means, for the purpose of the definition of 'derived version', an increase by more than 0.3dB to any one of the noise certification levels specified in the noise type certificate;

'authorised person' means any constable and 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;

'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**);

'derived version' means, for the purposes of paragraph (2), an aircraft which is similar to the aircraft in respect of which a noise type certificate has been granted but incorporates changes in type design which may affect its noise characteristics adversely;

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

'EASA aircraft' means an aircraft which is required by virtue of 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 in respect of an EASA aircraft under and in accordance with subpart H of Part 21;

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

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

(a) a maximum total weight authorised not exceeding—

  (i) 300 kg for a single seat landplane (or 390 kg for a single seat landplane in respect of which a United Kingdom permit to fly or certificate of airworthiness was in force prior to 1st January 2003);

  (ii) 450 kg for a two seat landplane;

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

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

(b) either a wing loading at the maximum total weight authorised not exceeding 25 kg per square metre or a stalling speed at the maximum total weight authorised not exceeding 35 knots calibrated airspeed;

'noise certificate' means a certificate issued by the CAA in accordance with article 8, 9 or 10 or a certificate or other document issued or validated in accordance with article 4(3);

(**2**) S.I. 2002/798.
(**3**) O.J. No. L 79 of 19.03.2008, p.1.

'noise type certificate' means a certificate indicating that the type of aircraft to which the certificate refers is acceptable for noise certification;

'non-EASA aircraft' means an aircraft which is not required by virtue of 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;

'Part 21' means the annex so entitled to 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(**4**);

'prescribed' means prescribed by regulations made by the Secretary of State under this Order;

'rated output' has the meaning specified in Part I, Chapter 1 of Volume II of Annex 16;

'Research aircraft' means an aircraft which falls in category (b) of Annex II to the Basic EASA Regulation(**5**);

'smoke' means the carbonaceous materials in exhaust emissions which obscure the transmission of light;

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

'subsonic aeroplane' means an aeroplane which is incapable of sustaining level flight at a speed in excess of flight mach 1.0;

'supersonic aeroplane' means an aeroplane which is capable of sustaining level flight at a speed in excess of flight mach 1.0;

'Volume I of Annex 16' means the fourth edition July 2005 - of Volume I of Annex 16 to the Chicago Convention as amended by the Supplement to the third edition dated 3rd March 2003(**6**);

'Volume II of Annex 16' means the second edition July 1993 - of Volume II of Annex 16 to the Chicago Convention as amended by Amendment 3 dated 20th March 1997, Amendment 4 dated 19th July 1999, Amendment 5 dated 11th July 2005, the Supplement dated 3rd March 2003 and the Amendment to the Supplement dated 22nd October 2003.

(2) An aircraft is one for which there is an EASA equivalent type if, in the reasonable opinion of the CAA, it is of the same type as any EASA aircraft or is a derived version of such a type.

(3) Other expressions used in this Order and in the Air Navigation Order 2005(**7**) have the same meaning in this Order as they have in the Air Navigation Order 2005.

PART 2

Noise Certification for Non-EASA aircraft

Requirement for a noise certificate for a microlight aeroplane

4.—(1) Subject to article 5, a microlight aeroplane must not land or take off in the United Kingdom unless—

(**4**) O.J. No. L 243, 27.9.2003 p.6, amended by Commission Regulation (EC) No 357/2007 O.J. No. L 94, 4.4.2007 p.3 and to which there are other amendments not relevant to this Order.
(**5**) Category (b) of Annex II to the Basic EASA Regulation comprises aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers.
(**6**) This Annex was published by the International Civil Aviation Organisation.
(**7**) S.I. 2005/1970, to which there are amendments not relevant to this Order.

(a) there is in force for that aeroplane a noise certificate; and

(b) any conditions subject to which the certificate was issued or validated are complied with.

(2) In the case of a microlight aeroplane registered in the United Kingdom, a noise certificate required by paragraph (1) is issued by the CAA in accordance with article 8.

(3) In the case of a microlight aeroplane registered elsewhere than the United Kingdom, a noise certificate required by paragraph (1) is issued or validated by the competent authority of the country in which the aircraft is registered, if that country is—

(a) an EEA State which applies standards which are substantially equivalent to those required for the issue of a noise certificate by the CAA; or

(b) a country prescribed as one which applies standards which in the opinion of the Secretary of State are substantially equivalent to those required for the issue of a noise certificate by the CAA.

Exceptions to the requirement for a noise certificate for a microlight aeroplane

5. The prohibition in article 4(1) does not apply to a microlight aeroplane—

(a) flying in accordance with the 'A Conditions' or the 'B Conditions' in Part A of Schedule 3 to the Air Navigation Order 2005;

(b) landing or taking off at a prescribed place;

(c) which is a self-propelled hang-glider; or

(d) for which a permit to fly was first in force prior to 1st July 1999 and which has a maximum authorised weight greater than 390 kg.

Requirement for a noise certificate for United Kingdom registered State aircraft and Research aircraft for which there is an EASA equivalent type

6.—(1) This article applies to any aircraft registered in the United Kingdom which is either a State aircraft or a Research aircraft for which there is an EASA equivalent type.

(2) Subject to paragraph (3), an aircraft to which this article applies must not land or take off in the United Kingdom unless—

(a) there is in force for that aircraft a noise certificate issued by the CAA in accordance with article 9; and

(b) any conditions subject to which the certificate was issued are complied with.

(3) The prohibition in paragraph (2) does not apply to—

(a) an aircraft flying in accordance with the 'A Conditions' or the 'B Conditions' in Part A of Schedule 3 to the Air Navigation Order 2005; or

(b) an aircraft landing or taking off at a prescribed place.

Requirement for a noise certificate for United Kingdom registered State aircraft and Research aircraft for which there is no EASA equivalent type

7.—(1) This article applies to any aircraft registered in the United Kingdom which is either a State aircraft or a Research aircraft for which there is no EASA equivalent type.

(2) Subject to paragraph (3), an aircraft to which this article applies must not land or take off in the United Kingdom unless—

(a) there is in force for that aircraft a noise certificate issued by the CAA in accordance with article 10; and

(b) any conditions subject to which the certificate was issued are complied with.

(3) Paragraph (2) does not apply to—

(a) an aircraft flying in accordance with the 'A Conditions' or the 'B Conditions' in Part A of Schedule 3 to the Air Navigation Order 2005; or

(b) an aircraft landing or taking off at a prescribed place.

Issue of noise certificate by the CAA for United Kingdom registered microlight aeroplanes

8.—(1) The CAA must issue a noise certificate in respect of any microlight aeroplane registered in the United Kingdom if it is satisfied that the aeroplane complies with the standards specified in the Schedule.

(2) For the purposes of paragraph (1) an applicant for a certificate must furnish such evidence and submit the aircraft to such flying trials and other tests as the CAA may require.

Issue of noise certificate by the CAA for United Kingdom registered State aircraft or Research aircraft for which there is an EASA equivalent type

9.—(1) The CAA must issue a noise certificate in respect of any State aircraft or Research aircraft registered in the United Kingdom for which there is an EASA equivalent type if it is satisfied that the aircraft complies with the noise standards with which the aircraft would be required to comply if it were an EASA aircraft.

(2) For the purposes of paragraph (1) an applicant for a certificate must furnish such evidence and submit the aircraft to such flying trials and other tests as the CAA may require.

(3) The CAA must issue every noise certificate subject to a condition as to the maximum total weights at which the aircraft may land or take off and may issue such a certificate subject to such other conditions relating to standards as to noise as it thinks fit.

Issue of noise certificate by the CAA for United Kingdom registered State aircraft or Research aircraft for which there is no EASA equivalent type

10.—(1) The CAA must issue a noise certificate in respect of any State aircraft or Research aircraft registered in the United Kingdom—

(a) for which a noise standard is included in Volume 1 of Annex 16; and

(b) for which there is no EASA equivalent type,

if it is satisfied that the aircraft complies with the applicable noise standard in Volume 1 of Annex 16.

(2) For the purposes of paragraph (1) the applicant for a certificate must furnish such evidence and submit the aircraft to such flying trials and other tests as the CAA may require.

(3) The CAA must issue every noise certificate subject to a condition as to the maximum total weights at which the aircraft may land or take off and may issue such a certificate subject to such other conditions relating to standards as to noise as it thinks fit.

(4) For the purposes of determining the noise standard applicable to an aircraft where the interval between—

(a) the application for a type certificate and the first issue of a certificate of airworthiness for an aircraft of that type; or

(b) the application for a change of type design and the first issue of a certificate of airworthiness for an aircraft of that type as modified,