EXPLANATORY MEMORANDUM TO

THE AIR NAVIGATION (AMENDMENT) ORDER 2008

2008 No. 1782

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

This Order seeks to designate the Civil Aviation Authority (CAA) as the UK's competent national authority for the purposes of Annex III to Council Regulation 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation.

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

None

4. Legislative Background

4.1 Section 60 of the Civil Aviation Act 1982 enables an Order in Council, known as an Air Navigation Order (ANO), to be made for the purpose of carrying out the provisions of the Chicago Convention or more generally for the regulation of air navigation. The ANO implements in UK legislation a number of fundamental rules for international aviation, as set out in the Chicago Convention and its Annexes. The ANO also contains provisions for securing the safety, efficiency and regularity of air navigation, the safety of aircraft and people and property carried in aircraft, and for preventing aircraft from endangering other people and property.

4.2 In the field of aviation safety, Council Regulation 3922/91 was adopted to harmonise the technical requirements and administrative procedures in the field of civil aviation. EC Regulation 1899/2006 subsequently inserted an Annex III, otherwise known as EU-OPS, to Regulation 3922/91 with the aim of enhancing aviation safety and promoting a level playing field in commercial air transport within the European Union. EU-OPS contains operating rules for commercial air transport aeroplanes including provision for the issue of air operator certificates (AOC) to commercial air transport operators. In December 2007, Commission Regulation 8/2008 was adopted, updating the technical requirements set out in Annex III.

4.3 While the provisions of Regulations 1899/2006 and 8/2008 have direct application in the UK, Member States are required to designate a competent national authority to ensure operator compliance with the various technical provisions of the Regulations. The CAA already carries out a similar function under existing domestic aviation legislation. The requirements established by the present Regulations are broadly the same as those already applied to UK airlines. In the circumstances, it has been agreed that the CAA will be designated as the UK's competent national authority for the purposes of EU-OPS.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The adoption of EU-OPS into European Law will affect the large majority of UK AOC holders which operate aeroplanes. At present, these operators satisfy the CAA as to their competence, as required by the ANO, by demonstrating compliance with the (non-enforceable) Joint Aviation Requirements – Operations (JAR-OPS) rules established by the Joint Aviation Authority, the European body representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures. With the adoption of EU-OPS, most of these operators will be required by EU legislation to comply with EU-OPS, which broadly mirror JAR-OPS.

7.2 Further, at present most of these operators are exempt from a number of the provisions of the Air Navigation (Dangerous Goods) Regulations 2002 by demonstrating compliance with JAR-OPS rules, particularly Subpart R (Transport of Dangerous Goods by Air). With the adoption of EU-OPS most of these operators will be required by EU Legislation to comply with these requirements.

7.3 The present Order will simply designate the CAA as the UK's competent national authority for the purposes of ensuring compliance with the various provisions of EU-OPS in this country.

8. Impact

An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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