EXPLANATORY MEMORANDUM TO

THE CREDITING OF THIRD COUNTRY AND MILITARY CERTIFICATION FOR AIR TRAFFIC CONTROLLERS REGULATIONS 2025

2025 No. 1203

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Keir Mather MP, Minister for Aviation at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Ian Elston, Deputy Director for Aviation, at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jacob Ellis and Craig Griffiths at the Department for Transport can be contacted by email at the following address with any queries regarding the instrument: jacob.ellis@dft.gov.uk, craig.griffiths@dft.gov.uk. Alternatively, the department can be contacted by telephone: 07971 111293 or 07966 513247.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument enables the Civil Aviation Authority (CAA) to recognise the previous training and experience of third country and United Kingdom (UK) military licensed Air Traffic Control Officers (ATCOs) as credit towards determining the requirements which need to be met in order to obtain a UK civil ATCO license.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is the whole of the UK, i.e., England, Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument is the UK.

5. Policy Context

What is being done and why?

5.1 Currently, there is a global shortage of ATCOs. This shortage of qualified ATCOs is acutely impacting the UK through delays to flights and adverse impacts on operational resilience at UK Airports. With the high average age of UK ATCOs, these issues are only likely to grow in the future if no action is taken to address this shortage.

5.2 Given that the aviation industry operates largely in the private sector, the government is limited in its ability to tackle this issue. However, it does have the ability to implement legislation to allow existing ATCOs with operational experience in a third

country or the UK military to have their previous experience recognised as part of the accreditation process towards achieving a UK civil ATCO license. This policy helps to create a streamlined process to enable ATCOs with relevant experience to reduce the time it takes for them to train to become a civil ATCO and operate in the UK.

5.3 Currently ATCOs with operational experience in a third country or in the UK military, if they wished to work as a civil ATCO in the UK, have to start their training from the beginning, at the same entry point as somebody who has no previous experience of controlling air traffic.

5.4 This instrument enables the CAA, the UK's independent aviation regulator, to give credit for the previous experience of third country and UK military ATCOs and provide them with an accelerated training pathway for accreditation and to operate as civil ATCOs in the UK.

5.5 This instrument does not permit the CAA to recognise third country or UK military licences at face value; it only allows prior relevant experience to be recognised as part of the accreditation process, reducing the time which it takes the individual to train towards achieving a UK civil ATCO licence.

What was the previous policy, how is this different?

5.6 The CAA previously had the ability to recognise the licenses of third country controllers as part of the accreditation process for obtaining a civil ATCO licence in the UK.

5.7 Before 2015, a gap analysis was undertaken by the CAA for those ATCOs coming from third countries to operate in the UK, and a bespoke training programme was built around the individual. UK military training was also recognised through the completion of CAA drafted theoretical examinations in certain subjects.

5.8 This approach ended with the adoption in 2015 of European Union (EU) Regulation 2015/340, which laid out technical requirements and administrative procedures relating to ATCOs' licences. These Regulations established common core content for ATCO training across the EU and formalised a process for recognising EU licenses in the UK. This also ended the recognition of UK military training.

5.9 Following EU Exit, the decision was made to remove the part of the regulation which enabled the recognition of EU licenses in the UK, leaving the CAA unable to recognise either the previous experience of UK military or third country ATCOs.

5.10 Whilst the UK lacks the ability to recognise previous experience of ATCOs from third countries, many other jurisdictions already recognise UK ATCO licenses or experience and are actively targeting UK ATCOs to take up vacancies outside of the UK.

5.11 This has created an asymmetrical situation where the UK is vulnerable to losing ATCOs to other states. EU, in particular, is developing its own legislation that will enable its member states and members of the European Free Trade Association (EFTA) to recognise the training and experience of ATCO licenses from third countries, including the UK. In this context, without any action being taken by the government, the UK will only become more vulnerable to its civil ATCOs being poached to work overseas, with the risk of further increasing the shortage of UK ATCOs.

5.12 In this context, this instrument restores the legal powers for the CAA to credit the previous experience and training of third country and UK military ATCOs to reduce the time which is needed for these individuals to train to become civil ATCOs in the

UK. This legislation enables and empowers the CAA to build a streamlined process to make it simpler and quicker for experienced ATCOs from third countries to relocate to operate in the UK, and also creates a pathway for UK military ATCOs to pursue the option of a civilian ATCO career following the conclusion of their military ATCO service.

5.13 This instrument provides the CAA with the legal power to recognise the previous experience of third country and UK military ATCOs, but the specific details of how the experience is accredited is a matter for the CAA to take forward with its implementation of the policy when this instrument enters into force.

5.14 Safety is the paramount concern for both the Department for Transport (DfT) and the CAA. This instrument does not determine how the policy should be implemented. Under this instrument the CAA can only allow alleviations of UK training requirements based on previous training and experience of a third country or UK military ATCO where the equivalent competence can be clearly demonstrated.

6. Legislative and Legal Context

How has the law changed?

6.1 Article 68 of assimilated Regulation (EU) 2018/1139 enables the CAA to issue UK ATCO licences on the basis of certificates issued in accordance with the laws of a third country where that is provided for either in international agreements concerning the recognition of certificates concluded between the UK and a third country or regulations made under this article. Prior to this instrument, there were no regulations governing the recognition of third country ATCO licences for the purposes of assimilated Regulation (EU) 2018/1139 so any recognition of third country ATCO licences would have been based on any existing international agreements established for that purpose. Article 68(3) enables the Secretary of State to make regulations to lay down detailed rules concerning the acceptance of certificates of a third country.

6.2 Article 50 of assimilated Regulation (EU) 2018/1139 enables the Secretary of State to make legislation to regulate ATCOs generally, including the detailed rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking ATCO licences.

6.3 The implementation of this instrument is intrinsically linked to assimilated Commission Regulation (EU) 2015/340 which sets out technical requirements and administrative procedures relating to ATCOs' licences and certificates with Subpart D of Annex I providing the key provisions concerning ATCO training.

6.4 This instrument provides a legal framework which enables the CAA to give credit for training undertaken for third country ATCO licences and UK military ATCO licences in applications for a UK civil ATCO licence provided that training complies with the requirements set out in Subpart D of Annex I to assimilated Commission Regulation (EU) 2015/340.

Why was this approach taken to change the law?

6.5 This instrument is the most expedient approach to make the necessary changes to enable the CAA to give credit for training undertaken for third country ATCO licences and UK military ATCO licences in applications for a UK civil ATCO licence.

6.6 The alternative approach concerning third country ATCO licences would be to negotiate an international agreement or agreements for the reciprocal recognition of

ATCO licences between the states that are parties to such an agreement or agreements.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has been undertaken. There is no statutory duty in Regulation (EU) No 2018/1139 to undertake one.

7.2 The Department did hold two informal engagement sessions on 30th April and 2nd July 2025 with key industry stakeholders, including Air Navigation Service Providers (ANSPs), other relevant government Departments and the Devolved Administrations, where the proposals, and the rationale for intervention were presented, before an opportunity was given for organisations to feedback on the proposals.

7.3 The Department received broad support on its proposal, with feedback mainly focussed on how the policy would be implemented by the CAA, rather than the enabling Regulations themselves. At both sessions, some small amendments to the wording of the Regulations were recommended, which were adopted as part of the drafting process for the SI.

8. Applicable Guidance

8.1 The CAA will be responsible for implementing the policy and has been developing plans for doing this in parallel with the development of the instrument itself. At this time there is no timeline for the guidance being issued or the policy becoming operational. The CAA will implement the policy as soon as possible after the legislation is in place and will publish guidance in good time for those impacted by the changes to prepare.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared or this instrument because there is no, or no significant, impact anticipated on business. Instead, a De Minimis Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the amendments are expected to lead to negligible net annual direct costs to businesses.

9.3 Material unmonetised benefits are anticipated, due to the expected increased supply of trained ATCOs and the alleviation of existing labour shortages. This is expected to have consequential positive impacts on the capacity, efficiency and resilience of the aviation sector.

9.4 The legislation does not directly impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector notwithstanding any costs incurred by the CAA in establishing a system for crediting previous experience.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is a statutory review clause in the Statutory Instrument.

10.2 A statutory review clause is included in the instrument which requires the Secretary of State to carry out a review of the Crediting of Third Country and Military Certification for Air Traffic Controllers Regulations 2025, set out the conclusions of the review in a report, and publish the report before 10th December 2030.

10.3 The report must in particular—

(i) set out the objectives intended to be achieved by the regulatory system established by these Regulations,

(ii) assess the extent to which those objectives are achieved, and

(iii) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

10.4 After the first report has been published, reports under the Regulations are to be published at intervals not exceeding five years.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Aviation, Keir Mather MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Crediting of Third Country and Military Certification for Air Traffic Controllers Regulations 2025 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").