EXPLANATORY MEMORANDUM TO

THE AIR NAVIGATION (ENVIRONMENTAL STANDARDS FOR NON-EASA AIRCRAFT) ORDER 2008

2008 No.

1.

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

2. Description

2.1 This draft Order, The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 has been laid by the Secretary of State for Transport. The Order sets out the noise and emissions standards with which specified categories of aircraft that are not subject to 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 must comply.

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

3.1 None.

4. Legislative Background

4.1 At present noise and emission certifications for all aircraft are provided for in The Air Navigation (Environmental Standards) Order 2002 (ESO 2002). With effect from 28 March 2007 the European Aviation Safety Agency (EASA) assumed regulatory authority in relation to the environmental standards for certain types of aircraft: jets and large aircraft. Member States retained responsibility for regulating the environmental performance of other types of aircraft, which might be called, for simplicity, "non-EASA aircraft".

4.2 Non-EASA aircraft include State aircraft. "State aircraft" is defined in article 3 of the Order as "*aircraft engaged in military, customs, police or similar services*", text that has been taken from Article 2 of Regulation (EC) No. 216/2008. There is no internationally agreed exhaustive definition of a "State aircraft" because of the many and varied ways in which States regulate aviation. However, the Department for Transport takes the view that in the United Kingdom a State aircraft is one used in the service of the police, Ministry of

Defence or HMRC or used by Her Majesty's Government for national security purposes.

4.3 The ESO 2002 provisions relating to EASA aircraft are no longer enforceable as EASA aircraft are now subject to EASA's regulation. Therefore, the ESO 2002 needs to be revoked and replaced with an Order which applies only to non-EASA aircraft: The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008.

4.4 The provisions in The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 replace those contained in the ESO 2002; there are no new requirements for the aircraft which were subject to the ESO 2002 and are now subject to the 2008 Order.

5. Territorial Extent and Application

5.1 The Order applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 is subject to affirmative resolution. Jim Fitzpatrick (the Minister responsible for aviation) has made the following statement regarding Human Rights:

"In my view the provisions of The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 are compatible with the Convention rights."

7. Policy background

7.1 The objective is to revoke the ESO 2002 and replace it with an instrument that applies appropriate environmental standards to non-EASA aircraft. There are no new requirements for non-EASA aircraft subject to The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008.

7.2 All interested parties within the aviation industry were consulted on the draft Order by the Civil Aviation Authority. Of the three replies received, the Guild of Air Pilots and Navigators favoured the option proposed of repealing the ESO 2002 and replacing it with The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008. The British Microlight Aircraft Association had no major comments or objections to the proposal. The Popular Flying Association did not endorse or object to any of the options but commented on certain substantive aspects of the noise certification regime for microlights; the CAA will consider those comments outside the exercise to replace the ESO 2002.

8. Impact

8.1 Since The Air Navigation (Environmental Standards for Non-EASA Aircraft) Order 2008 re-states the provisions previously found in the ESO 2002 there are no new impacts or costs. An Impact Assessment has not been prepared for this instrument as it has no new impacts on business, charities or voluntary bodies.

9. Contact

9.1 Naomi Carroll at the Department for Transport can answer any queries regarding the instrument. Telephone: 0207 944 4079. E-mail: Naomi.Carroll@dft.gsi.gov.uk

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