

**AIR SAFETY SUPPORT INTERNATIONAL**

**OVERSEAS TERRITORIES AVIATION  
REQUIREMENTS (OTARs)**

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**Full Regulatory Impact Assessment**

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**1. TITLE**

Full Regulatory Impact Assessment on the Publication of Overseas Territories Aviation Requirements.

**2. PURPOSE AND INTENDED EFFECT OF MEASURE****1.1 Objective**

The objective is to produce a set of aviation safety requirements compliance with which will enable Governors of UK Overseas Territories (OT) to satisfy themselves that the civil aviation industry in their OT is operating to an adequate level of safety.

**1.2 Background**

1.2.1 The UK is a signatory to the Chicago Convention and, therefore, agrees to comply with the Standards and Recommended Practices (SARPs) published by the International Civil Aviation Organisation (ICAO) in the Annexes to the Convention. The aviation industry in the UK OTs must also comply with these SARPs. A wholly-owned subsidiary of the Civil Aviation Authority (CAA) called Air Safety Support International Limited (ASSI) was set up to ensure discharge in the OTs of the UK obligations under the Convention.

1.2.2 One of the tasks directed by the Department for Transport (DfT) to be undertaken by ASSI was the creation of a set of OT Aviation Requirements (OTARs) which are to be compliant with the ICAO SARPs as far as reasonably practicable.

1.2.3 Notwithstanding that these OTARs will be tailored to the particular circumstances of the OTs, the OTARS will align with the requirements of other National Aviation Authorities (NAA) or regional authorities through compliance in almost all areas with ICAO SARPs. There remains, nevertheless, a potential for imposition of differing standards by NAAs/regional authorities on OT-registered aircraft. However, this applies equally to any aircraft registered in any State which is operated outside its State of registry and which must take account of the requirements set in those areas where it is operated<sup>1</sup>. It would be impractical to take account in the OTARs of differing standards set by all other NAAs/regional authorities around the world.

**1.3 Risk Assessment**

The risk addressed is that the aviation industry in the OTs does not, in all cases, operate in compliance with international standards and, therefore, is not adequately safe.

**3. OPTIONS**

Option 1: Do nothing.

Option 2: Use present UK requirements - Civil Aviation Publications (CAP) and British Civil Airworthiness Requirements (BCAR).

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<sup>1</sup> Examples: requirements for flight in certain airspaces such as Reduced Vertical Separation Minima (RVSM), Basic Area Navigation (B-RNAV), Airborne Collision Avoidance Systems (ACAS).

Option 3: Use an alternative set of requirements eg those from New Zealand, USA, Canada or the European Aviation Safety Agency (EASA).

Option 4: Implement and use a set of OTARs.

#### 4. BENEFITS

**4.1 Option 1 (Do nothing):** It has been recognised that the regulatory regime in some OTs is inadequate or ill-defined and, in some areas, it cannot be demonstrated that international standards are being met. Each OT publishes ('gazettes') the set of requirements to which its industry must work and these vary between, and within, OTs. For many years under the present system the UK has been unable to demonstrate the discharge of its obligations satisfactorily and, therefore, this option is not viable.

**4.2 Option 2 (Present UK requirements):** As the UK civil aviation regulatory system becomes more aligned with that of Europe the CAA will no longer keep all of its regulatory documents up-to-date. For example, although CAP 54 is still listed as an available document, it has not been updated for many years and is being allowed to 'wither on the vine' as European requirements supersede it. In due course it will not be possible to demonstrate compliance with ICAO SARPs as amendments to SARPs are not incorporated into such CAPs. This option is not viable in the long term.

**4.3 Option 3 (Alternative set of requirements):** The regulatory system used requires alignment of the primary and secondary legislation, and the aviation requirements. Therefore, the requirements of other States or regional authorities eg New Zealand, USA, Canada, EASA would not be able to function legally (nor in structure and philosophy) in association with the UK AN(OT)O. This option is not viable.

**4.4 Option 4 (OTARs):** A set of OTARs, developed specifically to meet the needs of civil aviation in the OTs, will provide the framework against which it can be clearly demonstrated that the OTs are meeting the international standards and the UK is meeting its obligations under the Convention. The OTARs will be suited to the level and type of aviation activity in the OTs and the OTs will have a direct influence on the content and style of the OTARs.

#### 4.5 Business Sectors Affected

All aspects of the civil aviation industry in the OTs will be affected by these changes.

#### 4.6 Issues of equity and fairness

All OTs and all areas of the industry in the OTs will be affected equally.

#### 5. COSTS

##### 5.1 Compliance costs

Option 1 (Do nothing): Not viable.

Option 2 (Present UK requirements): Not viable.

Option 3 (Alternative set of requirements): Not viable.

Option 4 (Implement a set of OTARs): The aviation industry in the OTs should already be compliant with the ICAO SARPs and, as the requirements will not generally set higher standards than ICAO, there should be no additional financial burden. It is possible that in some OTs and in some areas of activity the present requirements are setting higher standards than ICAO. In these cases, it is possible that compliance with the OTARs will be less financially onerous and produce a financial benefit. It is considered that generally, compliance will cause little financial impact overall.

## **5.2 Other Costs**

None

## **5.3 Costs for a Typical Business**

Negligible. All businesses should already comply with ICAO SARPs and so no additional costs are expected.

## **6. CONSULTATION WITH SMALL BUSINESS: 'SMALL FIRMS' IMPACT TEST**

All the businesses in the OTs are, in global terms, small and a full consultation exercise took place before publication of the OTARs.

## **7. COMPETITION ASSESSMENT**

The OTARs are a new set of requirements to meet international standards. Although industry in the OTs should already be meeting these international standards this has not always been the case. As a result, certain parts of the industry in the OTs are being restricted from competing in some markets. It is expected that compliance with the OTARs will enable these markets to be opened and improve the competitiveness of OT industry. The OTARs should have no negative impact on the competitive market within the OTs.

## **8. ENFORCEMENT SANCTIONS**

The Governor of any OT has the power to enforce the OTARs through the AN(OT)O and may delegate this power to the Director of Civil Aviation or ASSI. Breach of the AN(OT)O is an offence carrying a maximum penalty which depends on the circumstances of the breach.

## **9. MONITORING AND REVIEW**

These measures will be monitored continuously by ASSI in the course of its usual regulatory business. A review of these measures will be undertaken when the full set of OTARs have been in operation for not more than 2 years.

## **10. CONSULTATION**

### **10.1 Within Government**

The Foreign and Commonwealth Office and DfT were consulted as part of the wider consultation (below).

## 10.2 Public Consultation

A consultation exercise was undertaken in which all Directors of Civil Aviation and Governors were asked for the names of those within their OT they considered may wish to comment on the OTARs. This list was combined with the list prepared by ASSI and all (346) were emailed notifying them of the consultation. The proposed OTARs and this RIA were placed on the ASSI website for comment. For the UK to meet its international obligations it was essential that the OTARs be published before July 2004 and to meet this timescale the consultation period was 6 weeks.

## 11. SUMMARY AND RECOMMENDATION

- 11.1 Production of OTARs which comply with ICAO SARPs will allow the UK to discharge its obligations under the Chicago Convention in the UK OTs.
- 11.2 Four options have been identified of which only 1 is viable – Option 4 ‘Implement and use a set of OTARs’.
- 11.3 Option 4, the OTARs, will meet the UK’s obligations and will suit the level of activity in the OTs. It is considered that compliance will be no more financially onerous than the present system and may, in fact, prove to be less onerous.
- 11.4 It is recommended that Option 4 be adopted.