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European Regulation - Civil Airspace Regulation and UAS

EC Regulation 1592/2002 (the EASA Regulation) establishes the European Aviation Safety Agency and makes provision for Implementing Rules dealing with airworthiness certification and continuing airworthiness. Detailed requirements for airworthiness certification and continuing airworthiness are set out in two Implementing Rules. Neither the EASA Regulation nor the Implementing Rules apply to aircraft engaged in military, customs, police or similar services (State aircraft). EU Member States must, however, ensure that such services have due regard as far as practicable to the objectives of the EASA Regulation.

Certain categories of civil aircraft are also exempt from the need to comply with the EASA Regulation and its Implementing Rules. These exempt categories are listed in Annex II to the EASA Regulation. The exempt categories, which are of relevance for UAS, are:

aircraft specifically designed or modified for research, experimental or scientific purposes and likely to be produced in very limited numbers;

aircraft whose initial design was intended for military purposes only; and

unmanned aircraft with an operating mass of less than 150 kg.

Any aircraft which is subject to the EASA Regulation and Implementing Rules (e.g. an unmanned aircraft more than 150 kg which is neither experimental nor used for State purposes) will be required to have an EASA airworthiness certificate.

An aircraft, which is not required to comply with the EASA Regulation, either because it is a State aircraft or because it comes within one of the exempt categories, remains subject to national regulation so far as airworthiness certification and continuing airworthiness are concerned.

Equipment requirements, operational rules, personnel licensing, aerodrome regulation and regulation of air traffic services are not (yet) dealt with by European Regulations and so are all a matter for national regulation for all categories of aircraft.

In the case of the United Kingdom, the National Regulations are as described in the paragraph below.

National Regulation

Civil and Military Regulations

In the United Kingdom, there are two regulatory regimes: civil and military. Military requirements are a matter for the Ministry of Defence. A military aircraft for this purpose includes any aircraft which the Secretary of State for Defence certifies should be treated as a military aircraft.

Any aircraft which is not a military aircraft must, under United Kingdom aviation safety legislation, comply with civil requirements. There is no special provision for aircraft used in police, customs or other similar services.

The Air Navigation Order 2005 and the Rules of the Air Regulations 2007

The main civil requirements are set out in the ANO.

The provisions in the ANO and Rules of the Air concerning equipment requirements, operational rules, personnel licensing, aerodrome regulation and regulation of air traffic services apply to all non-military aircraft, organisations, individuals and facilities. As explained above, insofar as these national requirements concern airworthiness certification or continuing airworthiness they will only apply to non-military aircraft which come within one of the exempt categories listed in Annex II to the EASA Regulation. Such aircraft are exempt from the need to comply with the EASA Regulation and Implementing Rules and thus remain subject to national regulation.

A non-military aircraft registered in the United Kingdom which is outside the EASA Regulation and Implementing Rules must have a certificate of airworthiness or a permit to fly issued by CAA (or be operating under A or B Conditions) under the ANO, unless it is a "small aircraft" as defined in the ANO. A small aircraft is defined in the ANO as any unmanned aircraft weighing not more than 20 kg. None of the above main requirements apply to such small aircraft. Instead, a set of conditions are included at Article 98 of the ANO subject to which small aircraft may be flown without complying with airworthiness or flight crew licensing requirements or with the Rules of the Air. These conditions include a prohibition on flight in controlled airspace or within an aerodrome traffic zone unless in either case the permission of the air traffic control unit has been obtained, a normal maximum height of 400 ft above the surface and a prohibition on flight for the purposes of aerial work without the specific permission of CAA.

Exemptions and Permissions granted by the CAA

A UAV which is subject to national regulations and which weighs more than 20 kg is not a 'small aircraft' for the purposes of the ANO so that all the requirements referred to above (certificate of airworthiness or permit to fly, licensed flight crew, Rules of the Air) must be complied with. If a UAV cannot comply with all of these requirements the CAA may be prepared to issue an Exemption under Article 153 of the ANO. To operate a UAV, which weighs less than 20 kg but more than 7 kg¹ for aerial work purposes, a CAA Permission is also required as described in ANO Article 98.

The CAA has permitted a small number of light UAVs weighing more than 20 kg, which were granted exemptions to allow them to fly before the current requirement for a recommendation from an accredited body came into force, to continue to fly without such a recommendation. It is the CAA's intention that with effect from 1 August 2008 these 'grandfather rights' will cease and a recommendation from a suitable accredited body will be required for all light UAVs.

Insurance

EC Regulation 785/2004 came into force on 30th April 2005 requiring most operators of aircraft, irrespective of the purposes for which they fly, to hold adequate levels of insurance in order to meet their liabilities in the event of an accident. This EC Regulation specifies amongst other things the minimum levels of third party accident and war risk insurance for aircraft operating into, over or within the EU (including UAVs) depending on their MTOM. Details of the insurance requirements can be found on the CAA website² under "Mandatory Insurance Requirements".

UK legislation which details insurance requirements is set out in Civil Aviation(Insurance) Regulations 2005³.

The Insurance Regulation does not apply to State aircraft or to model aircraft of less than 20 kg.

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