

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3970 of 20 December, 2012

LEGAL NOTICE NO. 223 OF 2012.

CIVIL AVIATION

CIVIL AVIATION (AIR NAVIGATION) (AMENDMENT) REGULATIONS 2012

In exercise of the powers conferred on him by sections 33 and 34 of the Civil Aviation Act 2009, and of all other enabling powers, and for the purposes of given effect to Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations; and to Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks; and to Regulation (EC) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC; and to Commission Regulation (EU) No 805/2011 of 10 August 2011 laying down detailed rules for air traffic controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Civil Aviation (Air Navigation) (Amendment) Regulations 2012 and come into operation on the day of publication.

Amendment of the Civil Aviation (Air Navigation) Regulations 2009.

2. The Civil Aviation (Air Navigation) Regulations 2009 are amended in accordance with the provisions of these Regulations.

Amendment of regulation 2.

3.(1) In regulation 2(1)—

- (a) wherever “2005” appears substitute “2009”;
- (b) for the definition of “aerial work” substitute the following definition—
 - ““aerial work” means any purpose other than commercial air transport or public transport, for which an aircraft is flown if valuable consideration is given or promised for the flight or the purpose of the flight;”;
- (c) after the definition of “aerial work” insert the following definition—
 - “aerial work aircraft” means an aircraft (other than a commercial air transport aeroplane or a public transport aircraft) flying, or intended by the operator to fly, for the purpose of aerial work;”;
- (d) omit the definition of “air traffic controller’s directive”;
- (e) in the definition of “air transport undertaking”—
 - (i) after the words “for the purposes of the” insert the words “commercial air transport or”, and
 - (ii) delete the words “of passengers or cargo”;
- (f) after the definition of “the Commonwealth” insert the following definition—
 - ““commercial air transport flight” means a flight which is required to be operated in accordance with EU-OPS and an aircraft flies for the purpose of commercial air transport if the flight is a commercial air transport flight;”;
- (g) after the definition of “EASA” insert the following definition—
 - ““EASA Air Traffic Controller Regulation” means Commission Regulation (EU) No 805/2011 of 10 August 2011 laying down detailed rules for air traffic

controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended from time to time;”;

- (h) in the definitions of “EASA certificate of airworthiness” and “EASA permit to fly”, for “Part H” substitute “Part P”;
- (i) after the definition of “EASA certificate of airworthiness”, insert the following definition–

““EASA Continuing Airworthiness Regulation” means Commission Regulation (EC) No. 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended from time to time;”;

- (j) after the definition of “European Aviation Safety Agency”, insert the following definitions–

““EU-OPS” means Annex III to the Technical Harmonisation Regulation;

“EU-OPS aeroplane” means an aeroplane operated by an EU-OPS operator;

“EU-OPS air operator certificate” means an air operator certificate granted under EU-OPS;

“EU-OPS operator” means an operator who holds an EU-OPS air operator certificate;”;

- (k) in the definition of “glider” omit the words “and a reference in these Regulations to a glider shall include a reference to a self-sustaining glider and a self-propelled hang-glider”;
- (l) for the definition of “holdin” substitute “holding”;
- (m) after the definition of “Part 21” insert the following definitions–

““Part 145” means Annex II so entitled to the EASA Continuing Airworthiness Regulation;

“Part M” means Annex I so entitled to the EASA Continuing Airworthiness Regulation;”;

- (n) after the definition of “precision approach radar” insert the following definition–

““private aircraft” means an aircraft which is not an aerial work aircraft, a public transport aircraft or a commercial air transport aeroplane;”;

- (o) in the definition of “private flight”, for “nor public transport”, substitute “, public transport or commercial air transport flight”;

- (p) for the definition of “public transport”, substitute–

““public transport” has the meaning assigned to it by regulation 2A;”;

- (q) after the definition of “public transport aircraft”, insert the following definition–

““reduced vertical separation minimum airspace” means any airspace between flight level 290 and flight level 410 inclusive which has been notified by the Director as being airspace within which a vertical separation minimum of 1000 feet or 300 meters must be applied;”;

- (r) in the definition of “self-propelled hang-glider”, for paragraphs (c), (d) and (e), substitute–

“and,

(c) has a maximum unladen mass, including full fuel, of 70kg;”;

- (s) for the definition of “small aircraft”, substitute–

““small unmanned aircraft” means any unmanned aircraft, other than a balloon or kite, having a mass of not more than 20kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of the flight;”;

- (t) after the definition of “special tasks service” insert the following definition–

““specified area” means any area of airspace that is notified by the Director;”;

- (u) for the definition of “State aircraft”, substitute the following definition–

““State aircraft” means an aircraft carrying out military, customs, police, search and rescue, firefighting, coastguard or similar activities or services;”;

- (v) after the definition of “State of the operator” insert the following definition–

““Technical Harmonisation Regulation” means Council Regulation (EEC) No. 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, as amended from time to time;”.

(2) In regulation 2(4), for the words “an air transport undertaking” substitute the words “the holder of a national air operator’s certificate granted by the CAA or equivalent document issued by the competent authority of the country in which the aircraft is registered which applies standards which are substantially equivalent to those required for the issue of a national air operator’s certificate or the holder of an EU-OPS air operator certificate”.

New regulation 2A.

4. After regulation 2 insert the following regulation–

“Public transport.

- 2A.(1) For the purposes of these Regulations an aircraft in flight is flying on a public transport flight if the conditions specified in sub-regulation 2 are met.
- (2) The conditions referred to in sub-regulation (1) are—
- (a) the aircraft is not flying on a commercial air transport flight; and
 - (b) that—
 - (i) valuable consideration is given or promised for the carriage of passengers or cargo in the aircraft on that flight; or
 - (ii) the flight is operated by the holder of a national air operator's certificate granted by the CAA or an EU-OPS air operator certificate and any passengers or cargo are carried gratuitously in the aircraft except for persons specified in sub-regulation (3) or cargo specified in sub-regulation (4).
- (3) The persons referred to in sub-regulation (2)(b)(ii) are persons in the employment of the operator (including, in the case of a body corporate, its directors), or persons authorised by the Director either making any inspection or witnessing any training, practice or test for the purposes of these Regulations or EU-OPS.
- (4) The cargo referred to in sub-regulation (2)(b)(ii) is cargo intended to be used by any person specified in sub-regulation (3) or by the operator.”.

New regulation 4A.

5. After regulation 4 insert the following regulation—

“Operational directives.

- 4A.(1) The Director may direct an aircraft operator by means of an operational directive that an operation is prohibited, or must

be limited or is subject to specified conditions, in the interests of safe operations.

- (2) An operational directive must state—
 - (a) the reason for its issue;
 - (b) its applicability and duration; and
 - (c) the action required by the operator.
- (3) An operational directive may be made in respect of one or more operators or one or more classes of operator.
- (4) An operational directive which applies to an EU-OPS operator in relation to a commercial air transport flight must be made subject to and in accordance with article 8 of the Technical Harmonisation Regulations.
- (5) An operational directive ceases to have effect if—
 - (a) it is withdrawn by the Director; or
 - (b) it is revoked by the Director following a finding made in accordance with article 8(1) of the Technical Harmonisation Regulation that the directive is found not to be justified.
- (6) The Director must revoke a direction if it is found not to be justified under article 8(1) of the Technical Harmonisation Regulation.”.

Amendment of regulation 5.

6.(1) In regulation 5(1) for the words “sub-regulation (2)” substitute the words “sub-regulations (2) and (4)”.

(2) After regulation 5(3) insert the following sub-regulation—

- “(4) The prohibition in sub-regulation (1) does not apply to flights by an aircraft flying in accordance with an EASA permit to fly issued by the competent authority of a Member State which

permits the aircraft to fly outside the airspace of the issuing State.”.

Amendment of regulation 6.

7.(1) In regulation 6(1)–

- (a) for the word “may” substitute the word “must”; and
- (b) for the number “13” substitute the number “24”.

(2) In regulation 6(2) after the words “for the purposes of” insert the words “commercial air transport”.

New regulations 6A and 6B.

8. After regulation 6 insert the following regulations–

“Requirement for a certificate of release to service for EASA aircraft.

6A. An EASA aircraft must not fly when a certificate of release to service is required by or under Part M or Part 145 unless such a certificate has been issued in accordance with Part M or Part 145 and is in force.

Access and inspection for airworthiness purposes.

6B. The Director may cause such inspections, investigations, tests, experiments and flight trials to be made as the Director deems necessary for the purposes of regulations 5 to 6A of these Regulations, Part 21, Part 145 or Part M.”.

Amendment of regulation 7.

9. After regulation 7(1) insert the following subregulation–

“(1A) Notwithstanding the following sub-regulations, the equipment carried in compliance with this regulation shall, in the case of an EASA aircraft, be installed in a manner approved by EASA.”.

Amendment of regulation 8.

10. After regulation 8(2) insert the following sub-regulation–

- “(3) An EU-OPS aeroplane is not required to be provided with the radio communication and radio navigation equipment specified in Schedule 2 if it is–
- (a) flying on a commercial air transport flight; and
 - (b) provided with the radio communication and radio navigation equipment which would be required under EU-OPS if it were flying on a commercial air transport flight.”.

New regulation 13A.

11. After regulation 13 insert the following regulation–

“Training for landing on or taking off from water.

13A. A person may not act as pilot in command of an aircraft which takes off from or lands on water unless the appropriate training has been completed and recorded in the pilot’s personal flying log book.”.

Amendment of regulation 14.

12.(1) At the beginning of the heading to regulation 14 insert the words “Commercial air transport and”.

(2) In regulation 14, after “for the purposes of” insert the words “commercial air transport or”.

Amendment of regulation 16.

13.(1) In the heading to regulation 16 for the words “non-public transport aircraft” substitute the words “aerial work and private aircraft”.

(2) In regulation 16(1) for the words “any aircraft which is not a public transport aircraft” substitute the words “aerial work aircraft and private aircraft.”.

Amendment of regulation 17.

14. In regulation 17(1) after the word “glider” insert the words “other than an EU-OPS aeroplane flying on a commercial air transport flight”.

Amendment of regulation 18.

15. In regulation 18 after the words “The commander of an aircraft” insert the words “except for the commander of an EU-OPS aeroplane intending to commence a commercial air transport flight”.

New regulation 18A.

16. After regulation 18 insert the following regulation—

“Commander to be satisfied that flight can be safely completed.

18A. The commander of a flying machine must, before take-off, take all reasonable steps so as to be satisfied that it is capable of safely taking off, reaching and maintaining a safe height and making a safe landing at the place of intended destination having regard to—

- (a) the performance of the flying machine in the conditions to be expected on the intended flight; and
- (b) any obstructions at Gibraltar, at the intended destination and along the intended route.”.

Amendment of regulation 19.

17. In regulation 19 after the words “The commander of an aircraft” insert the words “other than the commander of an EU-OPS aeroplane intending to undertake a commercial air transport flight”.

Amendment of regulation .

18. In regulation 20, in sub-regulation (2) and in sub-regulation (4), after the words “under these Regulations” insert the words “or by EU-OPS”.

New regulation 20A.

19. After regulation 20 insert the following regulation–

“Flights over any foreign country.

- 20A.(1) This regulation applies to the operator and the commander of any aircraft whose principal place of business or permanent residence is in Gibraltar.
- (2) An operator or commander to whom this regulation applies whose aircraft is being flown over any foreign country must not allow that aircraft to be used for a purpose which is prejudicial to the security, public order or public health of, or to the safety of air navigation in relation to, that country.
- (3) A person does not contravene sub-regulation (2) if that person neither knew nor suspected that the aircraft was being or was to be used for a purpose referred to in that sub-regulation.
- (4) An operator or commander to whom this regulation applies whose aircraft is being flown over any foreign country must comply with any directions given by the appropriate aeronautical authorities of that country whenever–
- (a) the flight has not been duly authorised; or
- (b) there are reasonable grounds for the appropriate aeronautical authorities to believe that the aircraft is being or will be used for a purpose which is prejudicial to the security, public order or public health of, or to the safety of air navigation in relation to, that country.
- (5) A direction under sub-regulation (4) need not be complied with if to do so would endanger the lives of persons on board or the safety of the aircraft.
- (6) A person does not contravene sub-regulation (4) if that person neither knew nor suspected that directions were being given by the appropriate aeronautical authorities.

- (7) The requirement in sub-regulation (4) is without prejudice to any other requirements to comply with directions of an aeronautical authority.
- (8) In this regulation “appropriate aeronautical authorities” includes any person, whether a member of a country’s military or civil authorities, authorised under the law of the foreign country to issue directions to aircraft flying over that country.”.

Amendment of regulation 30.

20. In regulation 30, in sub-regulations (1) and (2), after the words “for an aircraft”, insert the words “other than an EU-OPS aeroplane on a commercial air transport flight”.

Amendment of regulation 40.

21. At the end of regulation 40(5)(b) insert the words “but does not include an EU-OPS operator.”.

Amendment of regulation 45.

22. In regulation 45 after the words “under these Regulations” insert the words “or under EU-OPS”.

Amendment of regulation 48.

23.(1) In regulation 48(5) for the words “under these Regulations” substitute the words “under any applicable European Union legislation”.

(2) In regulation 48, wherever the words “these Regulations” appear (other than the second instance in sub-regulation (5), insert after those words “or by or under Part 21, Part 145 or Part M or by or under EU-OPS”.

Substitution of regulation 51.

24. For regulation 51 substitute the following regulations–

“Small unmanned aircraft.

- 51.(1) A person must not cause or permit any article or animal (whether or not attached to a parachute) to be dropped from a small unmanned aircraft so as to endanger persons or property.
- (2) The person in charge of a small unmanned aircraft may only fly the aircraft if reasonably satisfied that the flight can safely be made.
- (3) The person in charge of a small unmanned aircraft must maintain direct, unaided visual contact with the aircraft sufficient to monitor its flight path in relation to other aircraft, persons, vehicles, vessels and structures for the purpose of avoiding collision.
- (4) The person in charge of a small unmanned aircraft which has a mass of more than 7kg excluding its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight, must not fly the aircraft—
- (a) in Class A, C, D or E airspace unless the permission of the appropriate air traffic control unit has been obtained;
 - (b) within the aerodrome traffic zone of Gibraltar airport during the notified hours of watch of the air traffic control unit at Gibraltar airport unless the permission of that unit has been obtained;
 - (c) at a height of more than 400 feet above the surface of the ground above which that aircraft is flying, unless it is flying in airspace described in (a) or (b) and in accordance with the requirements for that airspace.
- (5) The person in charge of a small unmanned aircraft must not fly the aircraft for the purposes of aerial work except in accordance with a permission granted by the Director.

Small unmanned surveillance aircraft.

- 51A.(1) The person in charge of a small unmanned surveillance aircraft must not fly the aircraft in any of the circumstances described in sub-regulation (2) except in accordance with a permission granted by the Director.

- (2) The circumstances referred to in sub-regulation (1) are—
- (a) over or within 150 metres of any congested area;
 - (b) over or within 150 metres of any organised open- air assembly of more than 1,000 persons;
 - (c) within 50 metres of any vessel, vehicle or structure which is not under the control of the person in charge of the aircraft; or
 - (d) subject to sub-regulations (3) and (4), within 50 metres of any person.
- (3) Subject to sub-regulation (4), during take-off or landing, a small unmanned surveillance aircraft must not be flown within 30 metres of any person.
- (4) Sub-regulations (2)(d) and (3) do not apply to the person in charge of the small unmanned surveillance aircraft or a person under the control of the person in charge of the aircraft.
- (5) In this regulation a small unmanned surveillance aircraft means a small unmanned aircraft which is equipped to undertake any form of surveillance or data acquisition.”

New regulation 59A.

25. After regulation 59 insert the following regulation—

“Approval of instrument flight procedures.

- 59A.(1) An instrument flight procedure within Gibraltar must not be notified unless that procedure has been designed or approved by the Director.
- (2) The Director must not notify or approve an instrument flight procedure unless the Director is satisfied that the procedure is safe for use by aircraft.

- (3) Subject to sub-regulation (5), the Director may approve an instrument flight procedure where an application for approval of the procedure has been made.
- (4) An applicant for approval of an instrument flight procedure must supply such evidence and reports as the Director may require.
- (5) The Director is not obliged to accept an application for the approval of an instrument flight procedure where that application is not supported by a report submitted by a person approved under sub-regulation (6).
- (6) The Director must grant an approval to submit reports supporting an application for approval of an instrument flight procedure if the Director is satisfied that—
 - (a) the CAA has approved the applicant as a person competent to design an instrument flight procedure that is safe for use by aircraft; or
 - (b) the applicant is competent having regard to the applicant's organisation, staffing, equipment, knowledge, experience, competence, skill and other arrangements to design an instrument flight procedure that is safe for use by aircraft.
- (7) The applicant for an approval under sub-regulation (6) must supply such evidence and undergo such examinations and tests and undertake such courses of training as the Director may require.
- (8) For the purposes of this regulation, the Director may subject to such conditions as the Director thinks fit—
 - (a) approve any course of training;
 - (b) authorise a person to conduct such examinations or tests as the Director may specify; and
 - (c) approve a person to provide any course of training.”.

Substitution of regulation 60.

26. For regulation 60 substitute the following regulation—

- “60.(1) A person to whom Article 2(a) or (b) of the EASA Air Traffic Controller Regulation applies must not provide air traffic control services unless authorised to do so in accordance with either a student air traffic controller licence or an air traffic controller licence specified in sub-regulation (3) which they hold.
- (2) A person to whom Article 2(a) or (b) of the EASA Air Traffic Controller Regulation applies must not hold himself or herself out, whether by use of a radio call sign or in any other way, as a person who may provide air traffic control services unless authorised to do so in accordance with either a student air traffic controller licence or an air traffic controller licence specified in sub-regulation (3) which they hold.
- (3) A student air traffic controller licence or air traffic controller licence referred to in sub-regulations (1) and (2) is a licence issued under the EASA Air Traffic Controller Regulation by the Director or the CAA or a licence issued under the EASA Air Traffic Controller Regulation by a member State other than the United Kingdom which has been recognised by the Director in accordance with regulation 77.”.

Regulations 61 to 63.

27. Regulations 61 to 63 are omitted.

Substitution of regulation 64.

28. For regulation 64 substitute the following regulation—

“Period for which a student air traffic controller licence remains in force.

64. Unless suspended or revoked, a student air traffic controller licence remains in force for the period specified in the licence which shall not exceed two years.”.

Regulations 65 to 68.

29. Regulations 65 to 68 are omitted.

Amendment of regulation 69.

30. In regulation 69 for the words “act as an air traffic controller” substitute the words “exercise the privileges of a student air traffic controller licence or an air traffic controller licence”.

Substitution of regulation 70.

31. For regulation 70 substitute the following regulation—

“Acting under the influence of psychoactive substances or medicines.

70. A person must not exercise the privileges of a student air traffic controller licence or an air traffic controller licence whilst under the influence of any psychoactive substance or medicines which might render them unable to exercise the privileges of their licence safely and properly.”.

Substitution of regulation 72.

32. For regulation 72 substitute—

“Use and approval of simulators.

72.(1) No part of any examination, assessment or test undertaken for the purpose of the EASA Air Traffic Controller Regulation may be undertaken in a simulator unless that simulator has been approved by the Director.

(2) The Director may approve a simulator for the purposes of sub-regulation (1) if he is satisfied that it is fit for its intended purpose.

Amendment of regulation 73.

33. In regulation 73 after the words “Without prejudice to” insert the words “application of the EASA Air Traffic Controller Regulation or”.

Substitution of regulation 74.

34. For regulation 74 substitute the following regulations–

“Certification of training organisations and mutual recognition of training certificates.

74. A person must not provide training necessary for a person to obtain from the Director a student air traffic controller licence or an air traffic controller licence or any associated rating or endorsement or to maintain any of them unless–

- (a) they hold training organisation certification issued or recognised by the Director in accordance with the EASA Air Traffic Controller Regulation; and
- (b) the training has been approved by the Director in accordance with Article 22(2)(d) of the EASA Air Traffic Controller Regulation.

Certified training organisations - production of records.

74A. A certified training organisation must, within a reasonable time of being requested to do so by the Director, produce to him any record or document (whether or not in electronic form) which the Director may require for the purpose of determining whether the certified training organisation fulfils the requirements set out in Chapter IV of the EASA Air Traffic Controller Regulation.”.

Regulation 75.

35. Regulation 75 is omitted.

Substitution of regulation 77.

36. For regulation 77 substitute–

“Recognition of air traffic controllers licences issued by another Member State.

77.(1) The Director must recognise on behalf of Gibraltar, air traffic controller and student air traffic controller licences and their associated ratings, rating endorsements and language

endorsements as well as associated medical certificates issued by a Member State in accordance with the EASA Air Traffic Controller Regulation.

- (2) An application for such recognition must be made in writing to the Director.
- (3) The Director must issue a certificate of recognition to the applicant upon being satisfied in accordance with sub-regulation (1).”.

New regulation 78.

37. After regulation 78 insert the following regulation—

“Provisional suspension or variation of air traffic controller and student air traffic controller licences, ratings, certificates and endorsements.

78A.(1) The Director may, subject to and in accordance with article 14(1) of the Basic EASA Regulation, provisionally suspend or vary any air traffic controller licence, rating, certificate or endorsement which he has issued to a person, pending inquiry into or consideration of the case.

(2) A provisional suspension or variation under sub-regulation (1) ceases to have effect where—

- (a) it is withdrawn by the Director; or
- (b) it is revoked by the Director following a finding, in accordance with article 14(3) of the Basic EASA Regulation, that it is not justified.

(3) The Director must revoke a provisional suspension or variation if it is found not to be justified under article 14(3) of the Basic EASA Regulation.”.

Substitution of regulation 79.

38. For regulation 79 substitute the following regulation—

“Definitions relevant to this Part.

79. Terms used in this Part shall be construed consistently with equivalent terms used in the EASA Air Traffic Controller Regulation.”.

Amendment of regulation 80.

39. After regulation 80(7) insert the following sub-regulation—

“(8) This regulation does not apply to air traffic service equipment or to aeronautical radio stations established or used by a member of MoD personnel.”.

Amendment of regulation 81.

40. After regulation 81(13) insert the following sub-regulation—

“(14) This regulation does not apply to air traffic service equipment, associated apparatus or to aeronautical radio stations established or used by a member of MoD personnel.”.

Requirement to use Gibraltar airport.

41.(1) For the heading to regulation 82, substitute—

“Requirement to use Gibraltar airport”.

(2) In regulation 82—

- (a) in sub-regulation (1), after the words “take-off or land” insert the words “at a place in Gibraltar other than”;
- (b) in sub-regulation (2)(a)(i), (2)(b)(i), (2)(b)(ii) and (2)(b)(iv), after the words “for the purpose of” insert the words “the commercial air transport of passengers or”;
- (c) omit sub-regulation (2)(b)(iii);
- (d) in sub-regulation (2)(c), for the words “flying on a flight specified in paragraph (b)(i) or (iii); and” substitute the words “flying on a flight which is a scheduled journey for the purpose of the public transport of passengers;

- (e) after sub-regulation (2)(d) insert the following paragraph–
- “(e) in any helicopter or gyroplane of which the maximum total weight authorised is more than 3175kg flying on a flight for the purpose of–
- (i) for the purpose of instruction in flying given to any person for the purpose of becoming qualified for the grant of a pilot’s licence or the inclusion of an aircraft rating, a night rating or a night qualification in a licence, or
- (ii) for the purpose of a flying test for the grant of a pilot’s licence or the inclusion of an aircraft rating, a night rating or a night qualification in a licence.”.

New regulation 89A.

42. After regulation 89 insert the following regulation–

“Lights which dazzle or distract.

89A.(1) A person must not in Gibraltar direct or shine any light (including a laser), which has, or is calculated to have, the effect of dazzling or distracting–

- (a) the pilot of any aircraft in flight,
- (b) persons within any installation situated on Gibraltar Airport; or
- (c) the driver of any vehicle that is being used on Gibraltar Airport.
- (2) Sub-regulation (1) shall not apply to a person who is acting in the course of his duty within Gibraltar Airport.”.

Amendment of regulation 91.

43. In regulation 91–

(a) in sub-regulation (1)(b) for the words “the further requirements of any such agreement” substitute the words “the permission granted pursuant to that agreement”; and

(b) for sub-regulation (3) substitute the following regulation—

“(3) The Director may exercise the relevant permission granting powers set out in and in accordance with any international agreement referred to in sub-regulation (1)(b) where those powers are delegated to the Director by the relevant authority designated under that agreement.”.

Amendment of regulation 92.

44. In regulation 92(1) for the words “the appropriate authority in respect of Her Majesty’s Government may, in any particular case or class of cases, delegate to the Minister the exercise of” substitute the words “the Minister may, in any cases or class of cases, where the power so to do is delegated to the Minister by the relevant authority for the purposes of that agreement exercise”.

Amendment of regulation 96.

45. In regulation 96(5) after the words “turbine-powered” insert the words “, a commercial air transport aeroplane”.

Amendment of regulation 98.

46. In regulation 98(1)(b) and (c) after the words “these Regulations” insert the words “or of EU-OPS”.

Amendment of regulation 102(e).

47. Omit regulation 102(e).

Obstruction of persons.

48. In regulation 103 after the words “these Regulations” insert the words “or an implementing rule adopted by the European Commission in accordance with the Basic EASA Regulation.”.

Penalties.

49. In regulation 105–

- (a) in sub-regulation (1) after the word “Regulations” insert the words “or EU-OPS”;
- (b) in sub-regulation (2) after the word “Regulations” insert the words “the EASA Air Traffic Controller Regulation or EU-OPS”;
- (c) in sub-regulation (3) after the words “for the purpose of” insert the words “commercial air transport,” and
- (d) in sub-regulation (4)-
 - (i) after “or (7)” insert the words “or contravenes any provision of EU-OPS specified in Part ZA of Schedule 5,”, and
 - (ii) after the word “scale” insert the words “but nothing in this sub-regulation applies to any obligation imposed on the Director.”.

Exceptions.

50. In regulation 111-

- (a) after “51,” insert “51A,”; and
- (b) in paragraph (c) after the word “small” insert the word “unmanned”.

Amendment of regulation 114.

51. In regulation 114 for sub-regulation (1) substitute the following subregulation–

- “(1) The Director is the national supervisory authority and the competent authority for Gibraltar for the purposes of Article 4 and Article 27 of the EASA Air Traffic Controller Regulation.”.

Schedule 3.

52. Schedule 3 is omitted.

Amendment of Schedule 5.

53. In Schedule 5—

(a) after the sub-heading “PENALTIES” insert—

“PART ZA

Provisions referred to in regulation 105(4)

Provision of EU- OPS	Subject matter
1.037	Accident prevention and flight safety programme
1.110	Use of portable electronic devices
1.125	Documents to be carried
1.130	Manuals to be carried
1.135(a)	Additional information and forms to be carried
1.140	Information to be retained on the ground
1.150	Production of documentation and records
1.155	Preservation of documentation
1.65(b) & (c)	Leasing requirements
1.205	Competence of operations personnel
1.220	Authorisation of aerodromes by operator
1.230	Use of instrument departure and approach procedures
1.295	Selection of aerodromes

1.300	Submission of ATS flight plan
1.335	Smoking on board
1.340	Meteorological conditions
1.345(b)	Commander not to take off unless external surfaces are clear
1.350	Fuel and oil supply
1.355	Take-off conditions
1.360	Commander to be satisfied as to take off minima
1.385	Use of supplemental oxygen
1.400	Approach and landing conditions
1.405(a), (d) & (e)	Commencement and continuation of approach
1.415	Requirement for journey log
1.420(b), (c) & (d)	Occurrence reporting
1.440	Low visibility operations – general operating rules
1.445	Low visibility operations – aerodrome considerations
1.455	Low visibility operations – training and qualifications
1.460	Low visibility operations – minimum operating equipment
1.465	VFR operating minima
1.615	Mass values for crew
1.620	Mass values for passengers and baggage
1.985	Training records for flight crew
1.1035	Training records for cabin crew

1.1105	Maximum daily flight duty period
1.1110	Rest requirements
1.1135	Flight duty, duty and rest periods”;

- (b) after the sub-heading “Provisions referred to in regulation 105(5)” insert as a sub-heading “Section 1”;
- (c) in Part A–
- (i) in the column headed “Regulation”, after “4”, insert–
 - (aa) “4A” and adjacent to that entry in the column headed “Subject Matter” insert “Compliance with operational directives.”; and
 - (bb) “6A” and adjacent to that entry in the column headed “Subject Matter” insert “Requirement for a certificate of release to service for EASA aircraft.”;
 - (ii) for “Prohibition on public transport flights at night etc.” adjacent to “14”, substitute “Prohibition on commercial air transport and public transport at night etc.”;
 - (iii) for “Aerodrome operating minima – public transport aircraft” adjacent to “15”, substitute “Aerodrome operating minima - aerial work and private aircraft.”;
 - (iv) in the column headed “Regulation”, after “18”, insert “18A” and adjacent to that entry in the column headed “Subject Matter” insert “Commander to be satisfied that flight can be safely completed.”;
 - (v) for “Flight by small aircraft” adjacent to “51”, substitute “Small unmanned aircraft.”;
 - (vi) in the column headed “Regulation”, after “51”, insert “51A” and adjacent to that entry in the column headed “Subject Matter” insert “Small unmanned surveillance aircraft.”;

(d) after the end of Part A, insert—

“Section 2

Provision of EU-OPS	Subject matter
1.030	Operator to establish and operate in accordance with minimum equipment list
1.070	Carriage of sporting weapons and ammunition
1.075	Carriage of persons in part of aeroplane not designed for that purpose
1.085(f) 7, 8, 10 & 12	Responsibilities of commander
1.160	Preservation, production and use of flight recorder recordings
1.240	Operator’s responsibilities in relation to routes and areas of operations
1.241	Operation in airspace with reduced vertical separation minima
1.243	Operation in areas with specific navigation performance requirements
1.245	Operation at distance from nearest aerodrome of two engine aeroplane without ETOPS approval
1.246	Requirement for ETOPS approval
1.285	Requirement for passenger briefing
1.290(b)	Flight preparation by commander
1.310(a) 1 & 2	Flight crew to remain at station
1.320	Crew and passengers to be recorded
1.398	Use of airborne collision avoidance system
1.430	Aerodrome operating minima
1.470	Performance requirements
1.605	Requirements for loading, mass and balance and centre of gravity

1.625	Mass and balance documentation
1.630(a)	Instruments and equipment required for flight
1.845(a)	Communication and navigation equipment required for flight
1.875	Aeroplane maintenance requirements
1.940	Composition of flight crew
1.943	Crew resource management training
1.945	Conversion training and checking
1.950	Differences and familiarisation training
1.960	Commanders holding a Commercial Pilot Licence – operator’s obligations
1.990	Number and composition of flight crew
1.1040	Operations manual requirements
1.1100	Flight and duty limitations
1.1195	Requirements for acceptance of dangerous goods
1.1200(a)	Inspection for damage leakage or contamination
1.1205(a)	Removal of contamination
1.1205(b)	Steps to be taken in the event of contamination
1.1210	Loading restrictions
1.1215	Provision of information
1.1220	Training requirements
1.1225	Reporting of dangerous goods incidents and accidents”.

(e) after the sub-heading “Provisions referred to in regulation 105(6)”, insert as a sub-heading “Section 1”;

(f) in Part B–

- (i) in the column headed “Regulation” after “11”, insert–
 - (aa) “20A (2)” and adjacent to that entry in the column headed “Subject Matter” insert “Flights over any foreign country.”;
 - (bb) “20A (4)” and adjacent to that entry in the column headed “Subject Matter” insert “Flights over any foreign country – compliance with directions.”;
 - (ii) in the column headed "Regulation" after ""53" insert "60" and adjacent to that entry in the column headed "Subject matter" insert "Prohibition of unlicensed air traffic controllers and student air traffic controllers.”;
 - (iii) in the column headed “Regulation” omit “68” together with the adjacent entry in the column headed “Subject Matter”;
 - (iv) in the column headed “Subject Matter” for the entry for regulation 69 substitute “Fatigue of air traffic controllers.”;
 - (v) in the column headed “Regulation” after “69” insert “70” and adjacent to that entry in the column headed “Subject Matter” insert “Acting under the influence of psychoactive substances or medicines.”;
- (g) after the end of Part B, insert–

“Section 2

Provision of EU-OPS	Subject matter
1.065	Prohibition of carriage of weapons or munitions of war
1.085(d) 4 & 5	Crew member’s obligation not to fly in a dangerous state of fatigue
1.390(a) 1 to 4	Protection of crew from cosmic radiation
1.1090 paragraphs 1 to 3	Operator’s obligation, for flight and duty time limitations and rest scheme

1.1090 paragraph 4.1	Crew member not to operate when fatigued or unfit
1.1145	Operator to comply with Technical Instructions
1.1155(a)	Operator to hold approval to transport dangerous goods
1.1165	Operator not to carry dangerous goods forbidden for transport by air

Section 3

Provision of EASA Air

Traffic Controller

Regulation	Subject matter
Article 13(1)	Language endorsements
Article 17(1)	Reduced medical fitness"

- (h) in Part C, in the column headed "Regulation" after "32" insert "89A" and adjacent to that entry in the column headed "Subject Matter" insert "Lights which dazzle or distract".

Dated 20th December, 2012.

DR J GARCIA,
Deputy Chief Minister,
Minister with responsibility for Civil Aviation.

EXPLANATORY MEMORANDUM

These Regulations amend the Civil Aviation (Air Navigation) Regulations 2009.