

Consultation on CAA Exemptions Policy in support of Basic Regulation Article 71 amendment (UK Regulation (EU) 2018/1139)

We asked

Article 71 of Regulation UK (EU) 2018/1139 (the UK Basic Regulation) is a flexibility provision that allows the UK Civil Aviation Authority (CAA) to grant exemptions from the requirements of Chapter III of the Basic Regulation and the implementing regulations made under that Chapter (except from the Essential Requirements in the Annexes of the UK Basic Regulation).

Article 266 of the Air Navigation Order 2016 (the ANO) is a flexibility provision that allows the CAA to grant exemptions from the requirements of the ANO or any regulations made under it (apart from certain identified articles).

The CAA recently consulted on a proposal to amend Article 71 to amend the circumstances in which the CAA could grant an exemption from the UK Basic Regulation and the implementing regulations made under it. The consultation ran from 21 August 2025 to 30 September 2025. After considering the responses received, the CAA recommended to the Department for Transport that Article 71 is amended in line with the consultation proposal.

After the previous consultation on the amendments to Article 71, the CAA committed to address concerns raised by respondents through the development of a comprehensive policy framework to accompany the legislative change.

We asked for views on a draft policy framework on our proposed use of the proposed amended exemption power, to accompany the proposed change to the UK Basic Regulation. We also proposed that this policy would apply to the CAA's use of our power to exempt from Article of the ANO in Article 266 of the ANO as it is a materially similar power.

We invited stakeholders to consider the proposed policy.

The consultation ran from 26 November 2025 to 24 December 2025.

You said

We received 10 responses to the consultation from both individuals and organisations. All responses were in favour of the proposed policy.

100% of responders agreed with the CAA's proposed policy for the use by the CAA of the proposed amended power to grant exemptions in Article 71 of the Basic Regulation and the current power in Article 266 of the ANO.

General comments

Only one comment was received regarding the policy. This comment focused on the question: 'The expected new Article 71 provision makes no reference to the urgency or otherwise of an issue as a criterion for whether or not an exemption may be applicable. Is it therefore appropriate for the implementation policy to limit the applicability to "urgent" needs only?'

We note that the policy concerns exemptions in circumstances where there is ‘an urgent need for an exemption to be granted, or another compelling reason exists why an exemption is needed’. The new policy retains an aspect from the current law regarding exemptions due to urgent need, as the majority of applications for exemptions relate to an impending situation, but creates an opportunity for non-urgent exemptions where the applicant can present another compelling reason why it should be granted.

Specific comments

We asked respondents for respondents view of the proposal in respect of safety, efficiency, finance, security, the environment and equality. We have included a selection of comments from consultees regarding each below.

Safety

Positive Impact:

- The change will allow the CAA to adapt to current conditions which are exceptional by nature. Safety is undoubtedly a clear rationale for such an exemption. Additionally, maintenance of safety is outlined in the requirements.

Negligible impact:

- Each Exemption should be Risk Assessed.
- So long as the use of the exemptions is clear and understood, the impact on safety will be managed effectively. This does place an onus on organisations to demonstrate and activate effective change management processes, and by virtue of this, risks are assessed collaboratively.
- Provided the safety (and security) risk assessment is completed appropriately, and necessary mitigations are implemented, then safety should not be adversely affected. Depending on the context of the exemption, and on the basis of controlled oversight of operations, there might a positive safety benefit.

No impact:

- CAA process states it will consider safety and ensure it is still maintained - even if safety is arguably reduced or risk mitigations changed, for justified reasons. Any exemptions should still maintain appropriate safety and ALARP risk exposure.

Negative impact:

- No responders considered a negative impact would occur regarding safety.

Efficiency

Positive impact:

- Gives greater flexibility to the Regulator and Operator on matters that might be pending a formal solution. Offers Ability to adapt to aviation needs and changes as required.

- There may be arising issues which can't be resolved under the existing criteria or can only create an inefficient solution. The ability to create an exemption therefore is likely to have a positive impact on efficiency in such cases.
- The aim of exemptions is to reduce workload and costs associated with compliance or procedures, as examples; this is welcome. However promulgation methods of multiple exemptions must be considered - the ORS4 series as an example of UK exemptions requires reviewing multiple disparate documents with varied expiration/validity dates and ever changing reference numbers (4 or 5 different numbers/versions existed for the UK Class D VFR minima exemption). A more cohesive system is required - any exemptions should be merged/added/removed into the primary document rather than exist as disjointed individual files. Operators have to take a holistic view of all regulations and exemptions and how they interact; not think of them in isolation. Spotting updates, issue or cancellation of ORS4 exemptions seem to rely on manually monitoring - perhaps a notification signup per exemption may help; although arguably if integrated and referenced properly in core documents this should not be required."

Negligible impact:

- Not all bodies can operate at the same pace, so there is a small risk that changes may not be fully embedded contemporaneously.
- Likely a positive impact on efficiency facilitated by a more streamlined exemption process (particularly if operations would otherwise not be possible owing to an exemption not being granted based on the existing flexibility provisions).

No impact:

- No responders considered no impact would occur regarding efficiency.

Negative impact:

- No responders considered a negative impact would occur regarding efficiency.

Finance

Positive impact:

- Temporary exemptions can be out in place allowing operators to plan financially for change.
- Exemptions infer less bureaucracy and more freedoms.
- A more streamlined exemption process is likely to be financially efficient.
- There may be some financial cost of utilising such an exemption from an administrative point of view. However, it is likely the use of such an exemption supports the industry in such a way that it has a net overall financial benefit to multiple stakeholders.

Negligible impact:

- Wider consultations lead to a greater chance for planning and measuring all financial implications, so there is a risk that costs are not fully quantified.

No impact:

- No responders considered no impact would occur regarding finance.

Negative impact:

- No responders considered a negative impact would occur regarding finance.

Security

Positive impact:

- Provides the ability to manage arising issues which have not been previously foreseen.

Negligible impact:

- Provided the safety (and security) risk assessment is completed appropriately, and necessary mitigations are implemented, then security should not be adversely affected. Depending on the context of the exemption, and on the basis of controlled oversight of operations, there might a positive security benefit.

No impact:

- The review process should mitigate, assuming all relevant parties are involved - HMRC, Border Force etc

Negative impact:

- No responders considered a negative impact would occur regarding security.

Environment

Positive impact:

- Potentially exemptions could reduce flight or ground running time, less printing, etc.
- Given the inclusion in the key principles of "a need to ensure appropriate environmental protection".

Negligible impact:

- In the grand scheme of things aviation does not have a big impact on the wider environment so exemption unlikely to big a % addition.
- Difficult to quantify as targets nationally seem to change.
- A short term exemption seems unlikely to create a significant environmental impact.

No impact:

- No responders considered no impact would occur regarding the environment.

Negative impact:

- No responders considered a negative impact would occur regarding the environment.

Equality

Positive impact:

- Allows us to adapt to equivalent regulations from other States quickly pending formal incorporation of new regulations. Greater equality.

Negligible impact:

- No responders provided comments.

No impact:

- There are no concerns that this will impact fairness and consistency.
- This should already be a consideration in any UK govt regulation and is not specific to CAA.

Negative impact:

- No responders considered a negative impact would occur regarding equality.

We did

Following this consultation on the CAA's proposed policy for the use by the CAA of the proposed amended power to grant exemptions in Article 71 of the Basic Regulation and the current power in Article 266 of the ANO, the CAA has carefully considered all feedback received. We are grateful to the 10 individuals and organisations who responded, and we acknowledge the range of views expressed. In line with Government principles, the CAA consults on matters that include changes to legislation and policy. This was a valuable opportunity to seek views and participation from interested parties. We appreciate the feedback on the proposed amendments and have considered the responses and comments.

We recognise that if the proposed changes to Article 71 of the Basic Regulation are adopted, the CAA will require a policy to accompany this. The CAA consider the policy as drafted is robust and appropriate for our use of exemption powers under both the amended Article 71 of the Basic Regulation, and also Article 266 of the ANO. The CAA therefore considers it appropriate that it should, as the expert independent aviation safety regulator, proceed with the proposed policy. We thank the consultees for their responses in terms of impact on safety, efficiency, finance, security, the environment and equality. We do not consider these comments require any changes to the policy, but will inform how internal processes are developed to assess exemptions.

The CAA is committed to maintaining high standards of safety while exercising its functions as the independent aviation regulation, and will ensure that it has the necessary expertise and resources to assess exemption applications rigorously and consistently. Subject to the proposed changes to Article 71 of the Basic Regulation being adopted, we will publish this policy on the CAA website. We will keep it under review and welcome further input from stakeholders in light of experience with its use and application.