

Draft CAA Exemption Policy in respect of the proposed revised Article 71 of the Basic Regulation and Article 266 of the Air Navigation Order (2016)

In accordance with UK law, the CAA may exceptionally issue an exemption from certain legal requirements of aviation safety law when satisfied that there is a need, and subject to compliance with this policy and any supplementary conditions the CAA considers necessary to impose.

When considering whether or not to issue an exemption, the CAA's starting point will be that the requirements exist for good reasons and exemptions should therefore be exceptional. We will only issue an exemption on the basis of this Policy if to do so will maintain a high standard of safety, having regard to the safety of all aircraft, crew, passengers and persons on the ground.

Policy

The CAA will consider issuing an exemption if:

- It has the correct legal powers to exempt from the relevant requirements. The CAA does not have the power to exempt from the Essential Requirements under the Basic Regulation, or from Articles 179, 230, 247, 250, 251, 252, 255, and 267 of the Air Navigation Order 2016.
- A high standard of safety can be maintained, having regard to the safety of all aircraft, crew, passengers and persons on the ground.
- There is an urgent need for an exemption to be granted, or another compelling reason exists why an exemption is needed.
- There is no reasonable way for the applicant to address the urgent need or compelling reason under the existing requirements.

In granting an exemption, the CAA will also have regard to the following principles:

- That the scope and duration of the Exemption should be clear and have an identified end date. Applicants will be expected to set out future steps, including where appropriate the next steps for coming into compliance with existing requirements.
- That there is a need to ensure appropriate environmental protection when granting Exemptions.
- That there is a need to minimise market distortion when granting Exemptions.
- That there is a need to ensure this Policy is applied in a non-discriminatory way.
- That there is a need to ensure that the grant of an Exemption does not impose unreasonable working conditions or health and safety risks.
- That CAA decisions should, where appropriate, align with UK Government strategic policy.
- That there is a need to protect the public and enable aerospace.

The CAA will not grant applications for exemptions which rely only on the following considerations:

- The cost of compliance with existing requirements;
- Operational or organisational issues which are foreseeable and which the CAA considers can or should be managed as part of the ordinary conduct of a regulated entity's activities.
- A retrospective application of an exemption.

The CAA may impose its own limitations, conditions or mitigation measures, as it sees fit, as part of any exemption that it decides to grant.

Any change to an existing exemption (including a request to extend its period of validity) remains at the discretion of the CAA, and should be accompanied by a new application and further supporting documentation.

The CAA will keep all Exemptions under review, and may revoke an exemption prior to its stated end date at its discretion in light of new information or in other reasonable circumstances.

The CAA will publish all general exemptions on its website.

How to apply

Applicants for an exemption must provide a robust justification which demonstrates compliance with this Policy.

The justification should include or be supported by:

- An appropriate, robust and documented safety risk assessment demonstrating that high standards of safety can be maintained;
- Any proposed conditions or mitigation measures, as appropriate;
- The proposed duration of the Exemption.
- An explanation of proposed future steps, including a plan to come into compliance with requirements where appropriate.