

L.N. 157 of 2004**CIVIL AVIATION ACT
(CAP. 232)****Air Navigation (Amendment) (No. 2) Order, 2004**

IN exercise of the powers conferred by article 3 of the Civil Aviation Act, the Minister for Competitiveness and Communications has made the following Order:-

1. (1) The title of this Order is the Air Navigation (Amendment) (No. 2) Order, 2004, and it shall be read and construed as one with the Air Navigation Order, 1990, hereunder referred to as “the principal Order”. Citation and commencement.
L.N. 176 of 1990.

(2) This Order shall come into force as follows:-

(a) articles 10, 11 and 14 thereof on such date or dates as the Minister responsible for Civil Aviation may, by notice in the Gazette, appoint, and

(b) all the remaining provisions as from the 1st May, 2004.

2. In article 2 of the principal Order immediately after the definition of Director there shall be inserted the following definitions:- Amends article 2 of the principal Order.

“ “EC Regulation 1592/2002” is the Regulation (EC) 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing European Aviation Safety Agency (EASA), which is referred to in EASA as the basic Regulation;

“EEA State” means a State which is a contracting party to the EEA Agreement;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as

adjusted by the Protocol signed at Brussels on the 17th March, 1993.”.

Amends article 4
of the principal
Order.

3. For paragraph (3) of article 4 of the principal Order there shall be substituted the following:-

“(3) The following persons and no others shall be qualified to hold any interest by way of ownership in an aircraft registered in Malta or a share therein:-

(a) the Government of Malta;

(b) nationals of any EEA State;

(c) undertakings formed in accordance with the law of an EEA State and having their registered office, central administration or principal place of business within the European Economic Area;

(d) In the case of aircraft to be used for the purpose other than public transport or aerial work, persons in favour of whom a permit of residence has been issued in accordance with the provisions contained in section 7 of the Immigration Act.

Amends article 8
of the principal
Order.

4. In paragraph 6 (c) of article 8 of the principal Order for the words “remains airworthy.” there shall be substituted the words “remains airworthy, and published in the form of an Airworthiness Directive either by the Director or by the competent authority of the State of Design or State of Manufacture.”.

Amends article 10
of the principal
Order.

5. Article 10 of the principal Order shall be amended as follows :-

(a) In paragraph 1 thereof after the words “except as provided in paragraph (2) of this article”, there shall be inserted the words “, and provided that the provisions of Article 4 (2) of EC Regulation 1592/2002 (as amended) do not apply,”;

(b) for paragraph (6) (a) (ii) thereof there shall be substituted the following:

“(ii) an appropriate and valid JAR 66 Aircraft Maintenance Licence that permits, within the endorsed conditions, the issue of such certificates in accordance with the JAR 66 requirements.”; and

(c) paragraph (6) (b) thereof shall be deleted and paragraphs (6) (c), (d) and (e) shall be renumbered (6) (b), (c) and (d) respectively.

6. For paragraph (3) (b) of article 18 there shall be substituted the following:- Amends article 18 of the principal Order.

“(b) a JAR FCL licence issued by a JAA member State in accordance with the requirements of JAR FCL shall be deemed to be a licence rendered valid under this Order provided that the JAA has granted mutual recognition status to that member State for licensing purposes.”.

7. Immediately after paragraph (2) (b) of article 52 of the principal Order there shall be inserted the following new sub-paragraph (c):- Amends article 52 of the principal Order.

“(c) “duty time” means a period which starts when the crew member is required by an operator to report for a duty and ends when the crew member is free from all duties.”

8. Immediately after paragraph (2) of article 54 of the principal Order there shall be inserted the following new paragraph (3):- Amends article 54 of the principal Order.

“(3) A person who is operating as a crew member of an aircraft to which this Article applies shall comply with the limitations for flight duty periods and rest periods as specified in the Operator’s flight time limitations scheme required under Article 53.”.

9. For Article 55 of the principal Order there shall be substituted the following new Article:- Substitutes article 55 of the principal Order.

“55 (1) A person shall not act as a member of the crew of an aircraft registered in Malta if at the beginning of the flight the aggregate of all his previous flight times is as follows:-

(a) during the period of twenty-eight consecutive days expiring at the end of the day on which the flight begins exceeds one hundred hours; or

(b) during the period of twelve months expiring at the end of the previous month exceeds nine hundred hours:

Provided that this article shall not apply to a flight made:-

(i) in an aircraft of which the maximum total weight authorised does not exceed 1,600 kg and which is not flying for the purpose of public transport or aerial work; or

(ii) in an aircraft not flying for the purpose of public transport nor operated by an air transport undertaking if at the time when the flight begins the aggregate of all the flight times of aforesaid person since he was last medically examined and found fit by a person approved by the Director for the purpose of article 19 (7) does not exceed twenty-five hours.

(2) A person shall not act as a crew member of an aircraft to which this article applies if the aggregate of his duty time exceeds 2000 hours in an interval of 12 consecutive months.”.

Amends article 62
of the principal
Order.

10. Article 62 of the principal Order shall be amended as follows:-

(a) paragraph (2) thereof shall be substituted by the following:-

“(2) Every licence to act as an air traffic controller shall include (a) ratings of one or more of the classes set forth in Schedule 9 specifying the type of air traffic control service which the holder of the licence is competent to provide, (b) the air traffic control unit at which the service may be provided (c) where applicable the operational positions or sectors on which the air traffic controller is competent to provide an air traffic control service, and (d) the type of surveillance equipment. If throughout any period of 120 days, the holder of the licence has not for a minimum period of time to be specified by the Director, provided at a particular unit the type of air traffic control service specified in the rating, the rating shall, without prejudice to the Director’s powers under article 59 of this Order, cease to be valid for that unit at the end of that period, and upon a rating ceasing to be valid for a unit the holder of the licence shall forthwith inform the Director to that effect and shall forward the licence to the Director to enable him to endorse it accordingly.”;

(b) in paragraph (3) thereof:-

(i) after the words “and is the holder of a valid air traffic controller’s licence which includes” there shall be inserted the words “an On-the-Job Training Instructor endorsement and”;

(ii) the words “at the place in question” shall be substituted by the words “for the air traffic control unit where the service is being provided”;

(c) paragraph (7) thereof shall be substituted by the following:

“Subject to the provisions of article 59

(a) an air traffic controller’s licence shall remain in force for the lifetime of the holder;

(b) a student air traffic controller’s licence shall remain in force for a maximum period of two years and its validity may be renewed by the Director from time to time, upon his being satisfied that the applicant is a fit person and qualified as aforesaid.”;

(d) in paragraph (9) thereof :

(i) the end of paragraph (9) (b) for the words “by the Director.” there shall be substituted the words “by the Director, and”;

(ii) immediately after paragraph (9) (b) there shall be added the following new paragraph (c):-

“(c) submit himself to such tests to determine whether he is using any psychoactive substances by a person approved by the Director either generally or in a particular case who shall make a report to the Director in such form as the Director may require.”;

(e) paragraph (11) thereof shall be substituted by the following:

“(11) The holder of an air traffic controller’s licence, or a student air traffic controller’s licence, or an apron controller’s licence, or a student apron controller’s licence shall not provide any type of air traffic control service or apron management service, as the case may be, at an air

traffic control unit or place as is referred to in articles 63 and 63A(1) -

(a) unless his licence includes a medical certificate issued and in force under sub-article (10), or

(b) if he fails a medical examination whilst his previous medical certificate has not yet expired, or

(c) he is under the influence of a psychoactive substance including any medicine that might have a negative influence on his capacity to perform a safe service, or

(d) whenever there is any decrease in his medical fitness which might render him unable to safely and properly exercise the licence privileges.”; and

(f) immediately after paragraph (11) thereof, there shall be added the following new paragraph:-

“(12) The Director may issue to a suitably qualified air traffic controller an On-the-Job Training Instructor endorsement in an air traffic controller’s licence, subject to such conditions as he thinks fit, to enable him to supervise student air traffic controller licence holders, or trainee air traffic controllers, whilst such student or trainee air traffic controller provides an operational air traffic control service during on the job training.”.

Amends article 63
of the principal
Order

11. (1) Article 63 of the principal Order shall be amended as follows:-

(a) in paragraph (1) thereof -

(i) in sub-paragraphs (ii) and (iii) for the word “place” wherever it occurs there shall be substituted the words “air traffic control unit”.;

(ii) in sub-paragraph (iii) after the words “which is being provided” there shall be added the words “and his licence includes a valid On-the-Job Training Instructor endorsement”;

(b) in paragraph (2) thereof, for sub-paragraphs (a) and (b) there shall be substituted the following:-

“(a) his licence includes that rating and that rating is valid for that air traffic control unit and includes where applicable, the operational positions or sectors on which the air traffic controller is competent to provide an air traffic control service, and, or the specific types of service the holder of the air traffic controller licence may provide and the type of surveillance equipment, if any, with the aid of which, the functions are performed and he complies with the air traffic control unit competency scheme and is competent to provide that type of service; or

(b) he is supervised by a person who is present at the time who is the holder of a valid air traffic controller’s licence so granted which authorises him to provide at that air traffic control unit the type of air traffic control service which is being provided and his licence includes a valid On-the-Job Training Instructor endorsement.”;

(c) paragraph (3) thereof shall be renumbered as paragraph (5);

(d) immediately after paragraph (2) thereof there shall be inserted the following new paragraphs (3) and (4):-

“(3) The holder of a student air traffic controller’s licence shall not provide any type of air traffic control service unless he complies with the air traffic control unit competency scheme and is competent to undertake on the job training.

(4) The holder of an air traffic controller’s licence who fails a competency check or is assessed as unfit to provide a type of air traffic control service to which his rating relates shall not provide that type of air traffic control service even though his rating is still valid except under the supervision of a licensed air traffic controller who is appropriately rated and holds a valid On-the-Job Training Instructor endorsement.”.

12. For the Schedule 4 to the principal Order there shall be substituted the following:-

Substitutes
Schedule 4 to the
principal Order.

“SCHEDULE 4

(Article 11)

JAR 66 Aircraft Maintenance Licence Privileges

An aircraft maintenance licence holder may, subject to conditions endorsed upon his licence, issue such certificates as permitted by the JAR 66 and JAR 145 requirements.”.

Amends Schedule 8 to the principal Order.

13. In paragraph 2 entitled “ Other Flight Crew” of Part A - Licences (non JAR FCL) of Schedule 8 to the principal Order, for the words-

“Flight Radiotelephony Operator’s General Licence

Minimum Age – 18 years

Maximum period of Validity – 2 years.

Privileges: The holder of the licence shall be entitled to operate radiotelephony apparatus in any aircraft.”

there shall be substituted the words -

“Flight Radio Telephony Operator’s Licence

Minimum age – 16 years

Maximum period of validity – 10 years

Privileges: The holder of the licence shall be entitled to operate radio telephony apparatus in any aircraft.”.

Substitutes Schedule 9 to the principal Order.

14. For the Schedule 9 to the principal Order there shall be substituted the following:

“SCHEDULE 9

Air Traffic Controllers: Ratings

1. The holder of a licence which includes ratings of two or more of the classes specified in paragraph 2 of this Schedule shall not at any one time perform the functions specified in respect of more than one of those ratings.

2. Ratings of the following classes may be included in an air traffic controller’s licence (other than a student air traffic controller’s

licence) granted under Article 62 of the Order and, subject to the provisions of the Order, and any conditions specified in the licence, the inclusion of a rating in a licence shall have the consequences respectively specified as follows:

(1) Aerodrome Control Visual Rating

An Aerodrome Control Visual (ADV) rating entitles the holder to provide an air traffic control service to aerodrome traffic at an aerodrome that has no published instrument approach or departure procedure.

(2) Aerodrome Control Instrument Rating

In addition to the requirements of services provided in accordance with the Aerodrome Control Visual rating, the Aerodrome Control Instrument (ADI) rating entitles the holder to provide an air traffic control service at an aerodrome which has published instrument approach and/or departure procedures.

(3) Approach Control Procedural Rating

An Approach Control Procedural (AAP) rating entitles the holder to provide an air traffic control service to arriving, departing or transiting aircraft in a control area and/or control zone without the use of surveillance equipment.

(4) Approach Control Surveillance Rating

An Approach Control Surveillance (APS) rating entitles the holder to provide an air traffic control service to arriving, departing or transiting aircraft with the use of surveillance equipment. To be valid the rating must include either a Radar, or Automatic Dependent Surveillance endorsement.

(5) Area Control Procedural Rating

An Area Control Procedural Rating (ACP) rating entitles the holder to provide an air traffic control service in control areas without the use of surveillance equipment.

(6) Area Control Surveillance Rating

An Area Control Surveillance (ACS) rating entitles the holder to provide an air traffic control service in control areas with the use

of surveillance equipment. To be valid, the rating must include either a Radar, or Automatic Dependent Surveillance endorsement.”.

Amends Schedule
16 to the principal
Order.

15. Schedule 16 to the principal Order shall be amended as follows:-

(a) in paragraph 7 of Part II thereof for the words “Airworthiness Statement” wherever it appears there shall be substituted the words “Export Conformity Statement”; and

(b) in paragraph 1.3 of Part III thereof the word “(Restricted)” wherever it occurs shall be deleted.