

CRITERIA FOR THE EVALUATION OF UNREGISTERED OR BEARER SHARES IN RELATION TO THE BENEFICIAL OWNERSHIP AND CONTROL OF AN OPERATING, AIR TRANSPORT OR ROUTE LICENCE HOLDER

1. It is a requirement of Articles 4(f) and 8(1) of EC Regulation 1008/2008 ("Regulation") that an applicant for, or holder of, an Operating Licence granted by the CAA shall at all times be able to demonstrate that Member States, and or nationals of Member States, own more than 50% of the licence holder and effectively control it; either directly or indirectly, except as provided for in an agreement with a third country to which the Community is a party.
2. Sections 65(3) and 66(3) of the Civil Aviation Act 1982 ("Act") require that an applicant for, or holder of, an Air Transport Licence, including a Route Licence, be able to demonstrate all times that it is effectively controlled by UK nationals.
3. The CAA, in the case where the applicant or holder of an Operating, Air Transport or Route Licence is a body corporate, will treat any beneficial shareholding consisting of an unregistered or bearer share(s), whether held directly or indirectly through one or more intermediate undertakings, as not being held by qualifying nationals for the purposes of the Regulation or the Act as such shareholders cannot continuously demonstrate qualifying beneficial ownership.
4. The CAA shall refuse to grant, or propose to suspend or revoke, an Operating Licence if it is not satisfied that that the applicant or holder of such a licence can demonstrate continued compliance with Articles 4(f) and 8(1) of the Regulation.
5. The CAA shall refer to the Secretary of State for Transport any applicant for, or holder of, an Air Transport Licence, including a Route Licence, if it is not satisfied that that the applicant or holder of such a licence can demonstrate continued compliance with Sections 65(3) and 66(3) of the Act.
6. If the CAA reaches a preliminary view that it should take action against a licence holder on grounds of ownership or control, the CAA will issue a written proposal to the licence holder setting out its reasons in full. The licence holder will be entitled to make representations in response and will be offered a hearing at which to do so. If after hearing the licence holder's case the CAA then refuses, suspends or revokes an Operating Licence on grounds of ownership or control the licence holder has a right to appeal to the Secretary of State for Transport.

September 2009