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Title	Review of the Aircrew Regulation in order to provide a system for private pilot training outside approved training organisations (ATOs), and of the associated acceptable means of compliance and guidance material
NPA Number	NPA 2015-20

UK CAA (European.Affairs@caa.co.uk) has placed **30** unique comments on this NPA:

Cmt#	Segment description	Page	Comment	Attachments
1029	(General Comments)	0	The UK CAA has been made aware that there is doubt in some quarters that there is a need for such organisations to be Approved under the Basic Regulation. If it is determined that this is, indeed, the case the UK would support work to develop an unapproved system.	
738	3.1. Draft Regulation (Draft EASA Opinion) — FCL.025 Theoretical knowledge examinations for the issue of licences and ratings	19	<p>Page No: 19</p> <p>Paragraph No: FCL.025(b)(3)</p> <p>Comment: Concerning the number of sittings for LAPL, PPL, BPL and SPL; FCL.025(b)(3) states <i>'if an applicant has failed to pass one of the theoretical knowledge examination papers within 4 attempts, or has failed to pass all papers within either 6 sittings or the period mentioned in paragraph (2) the applicant shall retake the complete set of examination papers.'</i></p> <p>The UK CAA believes this is justifiable for CPL/MPL/ATPL and IR but not for LAPL, PPL, BPL and SPL.</p> <p>Justification: Proportionality.</p> <p>Proposed Text: Replace FCL.025(b)(3) with the following:</p> <p>"If an applicant has failed to pass one of the theoretical knowledge examination papers within 4 attempts, or the period mentioned in paragraph (2), or in the case for CPL, MPL, ATPL or an Instrument Rating has failed to pass all papers within either 6 sittings the applicant shall retake the complete set of examination papers."</p>	
739	3.1. Draft Regulation (Draft EASA Opinion) — FCL.725 Requirements for the issue of class and type ratings	22	<p>Page No: 22</p> <p>Paragraph No: FCL.725(a)</p> <p>Comment: There is no mention of type ratings in the second half of para (a). Presently it only mentions non-high performance class ratings. Therefore it is unclear in this paragraph if it is the intention to permit training for helicopter single engine piston (SEP) type ratings at a BTO.</p> <p>Justification: Clarity - helicopters have Single Engine Piston (SEP (H)) type ratings.</p> <p>Proposed Text: Amend FCL.725(a) to read:</p> <p>(a) An applicant for a class or type rating shall complete a training course at an ATO or, in the case of non-high-performance single-engine piston class or type ratings, may complete the training</p>	

			course at a BTO.	
740	3.1. Draft Regulation (Draft EASA Opinion) — FCL.740 Validity and renewal of class and type ratings	22	<p>Page No: 22</p> <p>Paragraph No: FCL.740(b)(1)</p> <p>Comment: (i) By including the word 'or' it infers that flying with an instructor is an option to training at an ATO/BTO. (ii) By allowing an 'independent' instructor to conduct the training there is no accountability, supervision, oversight, or standardisation for the training and no training records required to be kept. (ii) The proficiency check to renew the rating can also be conducted by the same instructor if he is an examiner (as it is not for the issue of the rating). Therefore there is no independent verification to the standard of training provided.</p> <p>Justification: Clarity</p> <p>Proposed Text: Amend FCL.740(b)(1) to read:</p> <p>"when necessary to reach the level of proficiency necessary to safely operate the relevant class or type of aircraft, take refresher training at an ATO, or, in the case of non-high-performance single-engine piston class ratings expired for less than three years, may take refresher training at a BTO. or with an instructor"</p>	
741	3.1. Draft Regulation (Draft EASA Opinion) — FCL.740 Validity and renewal of class and type ratings	22	<p>Page No: 22</p> <p>Paragraph No: FCL.740(b)(1)</p> <p>Comment: This paragraph states that a BTO can only instruct for class ratings that have expired for less than 3 years. However as ab-initio LAPL/PPL instruction can be taught at BTO then refresher training for ratings expired for more than 3 years should be included at a BTO.</p> <p>Justification: If an instructor has sufficient skill to instruct for ab-initio training they are capable of instructing for refresher training for students whose licence has expired for more than 3 years.</p> <p>Proposed Text: Amend FCL.750(b)(1) to read:</p> <p>when necessary to reach the level of proficiency necessary to safely operate the relevant class or type of aircraft, take refresher training at an ATO, or, in the case of non-high-performance single-engine piston class ratings expired for less than three years, may take refresher training at a BTO or with an instructor</p>	
742	3.1. Draft Regulation (Draft EASA Opinion) — ARA.GEN.105 Definitions	25 - 27	<p>Page No: 26</p> <p>Paragraph No: ARA.GEN.105</p> <p>Comment: There is no definition of a BTO included.</p> <p>Justification: Consistency.</p> <p>Proposed Text: Add definition of a BTO.</p>	
743	3.1. Draft Regulation (Draft EASA Opinion) — ARA.GEN.310	27	<p>Page No: 27</p> <p>Paragraph No: ARA.GEN.310</p>	

	Initial certification procedure – organisations		<p>Comment: If an organisation is already approved to conduct courses as an Approved Training Organisation (e.g: CPL (Modular) or IR), it is unclear whether they can also be approved as a BTO to conduct PPL / LAPL Training, or should all training fall under the remit of the ATO being a more complex approval.</p> <p>Justification: .Clarification – at present the UK CAA has organisations approved as ATOs offering complex courses, who retain their JAA Registered Facility status under which they conduct PPL training. This allows differing standards within the organisation as there is no requirement for SMS nor compliance monitoring to be applied under the old JAA regulations.</p> <p>Proposed Text: Whilst the UK CAA does not wish to propose text for this comment, it is of the opinion that an organisation's ATO status should take precedence and that the two forms of approval should not be issued to one organisation. Consideration should be given to amending the existing Annex VI (ARA) and Annex VII (ORA) text and the ARA .BTO text to reflect that the two approvals cannot be held by the same organisation.</p>
744	3.1. Draft Regulation (Draft EASA Opinion) — ARA.GEN.310 Initial certification procedure – organisations	27	<p>Page No: 27</p> <p>Paragraph No: ARA.GEN.310(d)</p> <p>Comment: Paragraph (d) states that Competent Authorities will certify BTO in accordance with ARA.BTO.100</p> <p>Our understanding was that Competent Authorities would be approving BTO, rather than "certifying".</p> <p>Justification: Clarification</p>
745	3.1. Draft Regulation (Draft EASA Opinion) — ARA.GEN.350 Findings and corrective actions – organisations	28	<p>Page No: 28</p> <p>Paragraph No: ARA.GEN.350(e)</p> <p>Comment: The paragraph relates to findings identified by other than the approving Competent Authority being reported to the relevant CA, but in the case of BTOs not to indicate the level of the finding. The UK CAA is unsure why there would be any difference between an ATO and a BTO, nor why this exception is being made, and would recommend the removal of this exception.</p> <p>Justification: Consistency and clarification.</p>
746	3.1. Draft Regulation (Draft EASA Opinion) — ARA.BTO.100 Application process and certification	28 - 29	<p>Page No: 28, 29, 30,</p> <p>Paragraph No: ARA.BTO.100(a)(2); BTO.GEN.110(a); BTO.GEN.130; ARA.GEN.100</p> <p>Comment: These paragraphs refer to a 'principle place of activity', which is not defined and is not consistent with other regulations which refer to the 'principle place of business'.</p> <p>It is recommended that the Agency consider the different terminology used and the implications of changing for BTOs. We believe this would cause significant confusion between training organisations and competent authorities It might also cause problems if a BTO wished to add courses for which approval as an ATO is required but this might require a change in CA.</p>

			Justification: The term is not defined and inconsistent with other regulations.
747	3.1. Draft Regulation (Draft EASA Opinion) — ARA.BTO.100 Application process and certification	28 - 29	<p>Page No: 28</p> <p>Paragraph No: ARA.BTO.100(a)(3) and (7); BTO.GEN.130(3);</p> <p>Comment: The rule refers to a 'Representative', which is not defined or explained in the explanatory note or AMC/GM. This is not a term used previously within the Regulations and it is unclear as to the accountabilities and competencies of this individual.</p> <p>The UK CAA recommends using the established roles in the regulation - such as Accountable Manager – which EASA have introduced in other parts of the Aircrew Regulation and other EU documents. The other roles can be expanded on within the AMC/GM rather than in the rule.</p> <p>Justification: Clarity, consistency and accountability.</p>
748	3.1. Draft Regulation (Draft EASA Opinion) — ARA.BTO.100 Application process and certification	28 - 29	<p>Page No: 29 and 31</p> <p>Paragraph No: ARA.BTO.100(a)(6); BTO.GEN.130(6)</p> <p>Comment: The UK CAA recommends the word 'qualified' should be inserted in these two paragraphs, as shown below.</p> <p>Justification: Consistency</p> <p>Proposed Text: Amend paragraphs ARA.BTO.100(a)(6) and BTO.GEN.130(6), to read:</p> <p>"The qualified FSTDs to be used for the training, if applicable; and"</p>
750	3.1. Draft Regulation (Draft EASA Opinion) — ARA.BTO.110 Assessment of BTO training programme(s)	29	<p>Page No: 29</p> <p>Paragraph No: ARA.BTO.110</p> <p>Comment: The UK CAA seeks clarification on the purpose and method for the assessment of training programmes. BTOs are not required to submit a training manual, as they may follow commercially produced programmes or the AMC material. However, the latter may not be considered as a "training programme" – more a list of exercises contained within the syllabus.</p> <p>It is recommended that EASA should develop associated AMC or GM material to ensure that the existing syllabi in Part FCL AMC materials are enhanced and that Competent Authorities understand the regulation and can enact in a proportionate manner.</p> <p>Justification: Clarification</p>
749	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.100 — General	29	<p>Page No: 29, 31, 32</p> <p>Paragraph No: BTO.GEN.100; BTO.GEN.160; BTO.GEN.210;</p> <p>Comment: The UK CAA understands the Agency's ambition to reduce the burden on the BTO, however removing all reference to compliance is not appropriate. The BTO must still be aware of its responsibilities towards the regulations and the need for compliance with the Basic Regulation and all of the implementing rules.</p>

			<p>In terms of findings and the annual internal review, an element must be to ensure that the BTO has assured itself that they are compliant with the regulations.</p> <p>It is recommended that the text in ORA.GEN.115(b) should be used for consistency and safety.</p> <p>Justification: To ensure that the BTO is aware of their responsibilities towards compliance with the regulations.</p>	
751	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.110 — Competent authority	29	<p>Page No: 29</p> <p>Paragraph No: BTO.GEN.110(b)</p> <p>Comment: The UK CAA understands that the task force believed that BTOs should only be approved when they reside inside a member state. If this is not to be the case, it is not understood how the Competent Authority will verify that FIs conducting the flight training hold the appropriate licence, rating or certificate.</p> <p>The amount of oversight planned to be given to BTOs and the fact that there is minimal checking and verification made prior to approval issue means that allowing organisations based outside EASA, utilising non-EASA Licensed instructors, may be conducting training without any checks made that they comply with the requirements of FCL900 (c)</p> <p>A decision needs to be made as to whether it is appropriate to allow the approval of BTOs located outside EASA states at all or whether a more in depth process of checking needs to take place for such applicants before approval can be issued.</p> <p>Justification: Consistency.</p>	
752	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.120 — Scope	30 - 31	<p>Page No: 30</p> <p>Paragraph No: BTO.GEN.120(b)</p> <p>Comment: The term 'associated' is not defined, and it is unclear whether this means BTOs can offer type rating training on the same types as they are training LAPL/PPL on</p> <p>Justification: Clarification and consistency.</p> <p>Proposed Text: It is recommended that sub-paragraphs (b)(2) and (3) are replaced with sub-paragraphs (b)(2), (3) and (4) as follows:</p> <p>"(2) Flight instruction towards LAPL(H) and PPL(H); (3) training towards single engine piston helicopter type ratings for which the maximal certified seat configuration does not exceed four seats; and (4) training towards night ratings."</p>	
753	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.130 — Application process and certification	31	<p>Page No: 31</p> <p>Paragraph No: BTO.GEN.130(d)</p> <p>Comment: The rule permits BTOs to commence training before receiving the approval certificate. However, the UK CAA has concerns if, for whatever reason, following the review of the application and/or training programmes the approval could not be issued and had to be suspended or revoked.</p>	

			<p>Furthermore, there is a risk that the Competent Authority may not ever receive the application from the Training Organisation, thus there is a risk that training may be taking place without the Competent Authority ever acknowledging the BTO status of the company or conducting any oversight.</p> <p>Additionally, if during the period between application and receiving the approval certificate an applicant for a training course with a different state of licence issue, applies for a licence, rating or certificate, how will the Competent Authority know if the BTO is approved or not.</p> <p>Justification: Introduces an unnecessary safety risk and inability to integrate within the aviation system, for example BTOs being added to the list of training organisations.</p> <p>Proposed Text: Replace BTO.GEN.130(d) with the following:</p> <p>“(d) (1) Applications for a BTO from individuals and/or organisations who previously held an ATO certificate or Registered Training Facilities may commence training for courses within the scope of approval in accordance with ARA.BTO.100(c).</p> <p>(2) Applications for a BTO from individuals and/or organisations for initial approval may only commence training for courses within the scope of approval once in receipt of the approval certificate.”</p>	
754	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.150 — Access	31	<p>Page No: 31</p> <p>Paragraph No: BTO.GEN.150</p> <p>Comment: The rule refers to access by the Competent Authority only to determine if an acceptable level of safety is met in accordance with this regulation. This is incorrect as the BTO must comply with the Basic Regulation and its implementing rules and the Competent Authority must have access to ensure compliance with all applicable regulations.</p> <p>It is strongly recommended the text in ORA.GEN.140 should be used for consistency and safety.</p> <p>Justification: To ensure compliance and safety the Competent Authority needs to be permitted to have access to the BTOs facility, documents, records etc.</p>	
755	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.190 — Tasks, responsibilities and procedures	32	<p>Page No: 32</p> <p>Paragraph No: BTO.GEN.190; AMC 1 BTO.GEN.190</p> <p>Comment: The rule requires the BTO to comply with the scope and conditions of its approval. Unfortunately, there is no corresponding person or role accountable for such compliance.</p> <p>Additionally paragraph (c) requires compliance with Part-FCL, again there is no corresponding person or role accountable for such compliance.</p> <p>It is recommended that the rule should concentrate on advising the BTO to ensure that it meets its obligations under Paragraph (a) and that it adhered to its safety policy. A separate BTO.GEN section should be written outlining the purposes, content and the obligation</p>	

			<p>of the safety policy statement.</p> <p>AMC 1 BTO.GEN.190 also needs to be amended and the text referring to the safety policy statement should be either included within the new BTO.GEN text or made an AMC of this new paragraph.</p> <p>Justification: Consistency and accountability.</p>	
756	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.200 — Personnel requirements	32	<p>Page No: 32</p> <p>Paragraph No: BTO.GEN.200; AMC 1 BTO.GEN.200</p> <p>Comment: The rule refers to a “Representative”. In the explanatory note it is stated that the “Representative” is the focal point for the Competent Authority. It then mentions the “Legal Representative”, this is not defined and it is not mentioned in AMC or GM.</p> <p>The explanatory note indicates that Representative will have a Head of Training who is responsible for compliance with Part-FCL, this role is not in the rule and as such cannot be enforced.</p> <p>The “Representative” also has a safety role but there is no specified level of competence to undertake the safety role.</p> <p>The post of Representative/Legal Representative seems to mirror that of the Accountable Manager defined in other regulations and annexes within the Aircrew Regulation. By not using the same term there is a lack of consistency with other regulations and within the differing parts of the Aircrew Regulation.</p> <p>Additionally the way the rule reads it seems to imply that the personnel at the BTO are not accountable for the training, training standards and operations.</p> <p>The text in ORA.GEN.210 and ORA.ATO.110 should be considered by the Agency to ensure a consistent terminology and accountability, including the Head of Training role.</p> <p>Justification: Lack of accountability and consistency.</p>	
757	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.210 — Annual internal review	32	<p>Page No: 32</p> <p>Paragraph No: BTO.GEN.210(a)</p> <p>Comment: We believe the reference to “BTO.GEN.200” at the end of sub-paragraph (a) is incorrect and should read “BTO.GEN.190”</p> <p>Justification: BTO.GEN.200 is ‘personnel requirements’</p> <p>Proposed Text: Amend to read:</p> <p>“(a) conduct an annual internal review of the tasks and responsibilities identified in BTO.GEN.190.”</p>	
758	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.220 — Record-keeping	32	<p>Page No: 32</p> <p>Paragraph No: BTO.GEN.220; AMC 1 BTO.GEN.220;</p> <p>Comment: The rule refers to the record to be maintained by the BTO. It mentions, details of training and progress reports for applicants but it does not mention other applicant details mentioned</p>	

			<p>in ORA.ATO.120.</p> <p>Justification: Consistency and data protection.</p> <p>Proposed Text: The Agency should consider using the text in ORA.GEN.220 and ORA.ATO.120.</p> <p>Additionally paragraph (c) should be included in BTO.GEN.210 and paragraph (d) should be included in BTO.GEN.230.</p>	
759	3.1. Draft Regulation (Draft EASA Opinion) — BTO.GEN.230 — BTO training programme	32	<p>Page No: 32</p> <p>Paragraph No: BTO.GEN.230</p> <p>Comment: The rule states that “the BTO shall have BTO training programme(s) to cover the scope of the training provided”</p> <p>Justification: Error and consistency.</p> <p>Proposed Text: Replace BTO.GEN.230 with the following:</p> <p>“The BTO shall have training programme(s) to cover the scope of all of the training courses provided.”</p>	
760	Amendment to ED Decision 2011/016/R — AMC2 FCL.740(b)(1) Validity and renewal of class and type ratings	36 - 37	<p>Page No: 36</p> <p>Paragraph No: AMC 2 FCL.740(b)(1)</p> <p>Comment: The UK CAA would like to recommend a number of amendments to this paragraph to improve clarity, as shown below.</p> <p>Justification:</p> <p>(i) The paragraph is not clear that it includes the renewal of helicopter single engine piston type ratings.</p> <p>(ii) The paragraph states that a BTO can only instruct for class ratings that have expired for less than 3 years. However as ab-initio LAPL/PPL instruction can be taught at BTO then refresher training for ratings expired for more than 3 years should be included at a BTO.</p> <p>(iii) By allowing an ‘independent’ instructor to conduct the training there is no accountability, supervision, oversight, or standardisation for the training and no training records are required to be kept</p> <p>(iv) Use of the word proficiency check in para (4) is incorrect as a Proficiency Check is conducted after the training.</p> <p>Proposed Text: Amend ‘AMC2 FCL.740(b)(1) Validity and renewal of class and type ratings as follows:</p> <p>“RENEWAL OF NON-HIGH-PERFORMANCE SINGLE-ENGINE PISTON CLASS AND TYPE RATINGS WHEN THE RATING HAS EXPIRED FOR LESS THAN THREE YEARS, AT AN ATO, A OR BTO OR BY AN INSTRUCTOR: REFRESHER TRAINING</p> <p>(a) The objective of the refresher training at an ATO, or a BTO or by an instructor is to reach the level of proficiency necessary to safely operate the single-engine piston class or type rating, except high performance aeroplanes, when the rating has expired for less than three years. The amount of refresher training needed should be determined on a case-by-case basis by the ATO or the BTO or the</p>	

			<p>instructor, taking into account the following factors:</p> <p>(1) the experience of the applicant by evaluating the pilot's logbook;</p> <p>(2) the amount of time elapsed since the privileges of the rating were last used;</p> <p>(3) whether the applicant has a current rating on another aircraft type or class; and</p> <p>(4) where considered necessary, the performance of the applicant during a proficiency assessment check.</p> <p>It should be expected that the amount of training needed to reach the desired level of competence will increase with the time elapsed since the privileges of the rating were last used. "</p>	
761	Amendment to ED Decision 2012/006/R — GM2 ARA.GEN.305(f) Oversight programme	40	<p>Page No: 40</p> <p>Paragraph No: GM 2 ARA.GEN.305(f)</p> <p>Comment: The last paragraph makes reference to points (c) to (e) only being relevant at a site other than the main operating site. All elements of the inspection are relevant irrespective of the location.</p> <p>Justification: Consistency with oversight programme</p> <p>Proposed Text: It is recommended that the final paragraphs beginning '<i>Points (c) to (e) are only applicable...</i>' is deleted.</p>	
762	ED Decision 2016/xxx/R — GM1 BTO.GEN.190 Tasks, responsibilities and procedures	42 - 44	<p>Page No: 43-44</p> <p>Paragraph No: GM1 BTO.GEN.190</p> <p>Comment: The suggested content of the Operations manual includes '(b) Ground Operations' and '(e) Solo Flight' which are not in the existing Part-ORA AMC for ATOs..</p> <p>The additional section (b) and (e) are already included in other sections of the Operations manual structure contained with AMC to Part-ORA.ATO. To use the suggested format will likely mean that any BTO wishing to become an ATO will be required to make major changes to the format and layout of their manual.</p> <p>Justification: Consistency.</p>	
763	ED Decision 2016/xxx/R — AMC1 BTO.GEN.200 Personnel requirements	46	<p>Page No: 46</p> <p>Paragraph No: AMC1 BTO.GEN.200 (b)</p> <p>Comment: This is AMC but it states the BTO <i>may</i> designate. As it is AMC 'may' should be replaced with 'should'.</p> <p>Justification: This is conventional text for AMC level material</p> <p>Proposed Text: Amend to read:</p> <p>"The representative of the BTO should designate:"</p>	
764	ED Decision 2016/xxx/R — AMC1 BTO.GEN.210 Annual internal review	47	<p>Page No: 47</p> <p>Paragraph No: AMC1 BTO.GEN.210 (a)</p> <p>Comment: The Annual internal review should be attended by the representative, the HT and the safety advisor (whereas the text states the HT or the safety adviser).</p>	

			<p>Justification: For the Annual internal review meeting to be meaningful it is important all these people attend.</p> <p>Proposed Text: Amend to read:</p> <p>“The representative, the HT and the safety adviser should attend the annual internal review meeting”</p>	
765	ED Decision 2016/xxx/R — AMC1 BTO.GEN.210 Annual internal review	47	<p>Page No: 47</p> <p>Paragraph No: AMC1 BTO.GEN.210 (b) (1) (ii)</p> <p>Comment: The UK CAA does not agree with this sub-paragraph which requires the internal review to include completeness of the initial BTO application. We recommend that it should be deleted.</p> <p>Justification: This is a one off activity and will not be part of the internal review once the BTO is approved.</p> <p>Proposed Text: Delete sub-paragraph (b)(1)(ii)</p>	
766	ED Decision 2016/xxx/R — AMC1 BTO.GEN.210 Annual internal review	47	<p>Page No: 47</p> <p>Paragraph No: AMC1 BTO.GEN.220</p> <p>Comment: The wording ‘has completed their training’ could be misinterpreted to indicate that training records are only kept on completion of training and not during the training.</p> <p>Justification: Clarity.</p> <p>Proposed Text: Amend AMC1 BTO.GEN.220 as follows:</p> <p>“The training records should be kept in electronic or paper format by the BTO where the candidate is conducting the training.”</p>	