

Planned amendments to the GCAA Regulations for Commercial and non commercial air transport operations by Foreign air operations

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On 23 February 2011, the General Civil Aviation Authority (GCAA) released a Notice of Proposed Amendment (No. 2 of 2011) in relation to the regulations concerning foreign air operators within the United Arab Emirates (UAE). The replaces the Notice on the same topic, issued in February 2010.

The amendments rely upon Article 1 of the Chicago Convention which sets out that contracting states shall have complete sovereignty over the airspace above its territory. As such, a foreign air operator must comply with the Civil Aviation Law and Regulations of the UAE when operating within its territory.

The proposed amendment to the regulations insist that a foreign air operator operating into and out of UAE certified aerodromes, will not only have to comply with the terms and conditions of its State's Air Operator Certificate (AOC), but shall also have to obtain a Foreign Air Operator Certificate (FAOC) issued by the GCAA with conditions and limitations as may be applicable.

The proposed changes to the regulations conform with the International Civil Aviation Organisation (ICAO) "Manual of Procedures for Operations, Inspections, Certification and Continued Surveillance" of Air Operators (DOC 8335) which was developed in order to allow signatory States to address specific safety concerns of foreign aircraft operating within their territory and take any necessary action. The above mentioned manual was developed as part of the ICAO's strategy to address safety concerns resulting from operators obtaining flags of convenience from States with inadequate safety oversight.

The proposed amendment to the UAE regulations ¹ also give the GCAA the authority to board foreign aircraft within the UAE at any time, without notice, for the purpose of inspecting the aircraft, its documents and manuals (as provided in the Safety Assessment of Foreign Aircraft (SAFA) program) to ensure compliance with the regulations, ICAO Annexes and minimum insurance requirements.

The GCAA shall only recognize documentation (such as AOCs, licenses, certificates etc.) from other Contracting States. Differences filed by contracting states, that do not conform to UAE law, regulation, operational directives or instructions issued by the GCAA, will not be accepted. Non contracting States may still submit an application for a FAOC which will be determined by the GCAA on a case-by-case basis, presumably upon ensuring its compatibility with UAE laws, regulations and directives. When evaluating the applications for a FAOC, the GCAA will, in the case of negative findings or deficiencies, discuss these with the State of the Operator seeking resolution prior to granting approval of a FAOC. In cases of significant negative findings or deficiencies, a FAOC will be denied.

An FAOC will be valid for two years unless suspended or revoked, or the Operations Specifications issued by the operator's State are suspended or revoked. The FCAA can be renewed or amended provided that the operator meets all of the safety and regulatory requirements applicable. The GCAA may revoke or suspend the FAOC or take lesser enforcement action based upon the findings of a SAFA inspection/investigation.

The proposed regulations also specify that specific permission is required for the GCAA prior to issuing a FAOC where the operator proposes to partake in aerial work (such as sightseeing flights, aerial photography, air shows amongst other non-standard transport operations), and special operations (such as reduced vertical separation minimum, performance based navigation, extended range operations by aero planes with two turbine engines, carriage of dangerous goods and low visibility takeoff and Category II and Category III operations).

The draft regulations make it incumbent upon all foreign air operators to possess a copy of the Aeronautical Information Publication of the UAE and subscribe to the revision service of the Aeronautical Information Publication. The nationality and registration of the aircraft must be displayed in a prominent position near the main entrance and all foreign operators must ensure that they have an Aircraft Operator Security Program (AOSP) which is accepted by the GCAA and carried in the flight deck library, prior to commencement of operations in the UAE. All personnel with responsibility for the aircraft must be familiar and compliant with the requirements of the UAE National Civil Aviation Security Program. Training programs must also be in place to deal with actions of unlawful interference and for cabin crew to provide pre-flight security checks to ensure weapons, explosives or other dangerous devices are not concealed in the cabin. Commercial air transport aircraft must have reinforced doors which are capable of being locked from the flight deck in order to prevent unauthorised access.

In keeping with the GCAA's broader aviation regulations, the proposed regulations also state that foreign air operators shall not carry military weapons or munitions into or out of the UAE or within the airspace of the UAE, unless prior approval has been granted by the GCAA and the UAE military/national security authorities, in such cases detailed declarations of cargo need to be provided.

The foreign air operator must establish that it has procedures for reporting incidents and accidents to the GCAA. It must also comply with the UAE's regulations in respect of reporting requirements of incidents and accidents occurring within the territory of the UAE, which includes (where the aircraft has a flight recorder) the preservation of original recorded data of flight recorders for a period of sixty days unless otherwise directed by the investigation authority of the UAE.

Along with the proposed regulation "CAR-OPS 4" the GCAA has also released Notice of Proposed Amendment No.1 of 2011 on 2 January 2011, proposing to amend CAR Part X to come into line with ICAO requirements regarding "Safety Management System Manual" (Doc. 9859). This proposed re-issue of Part X clarifies the Organisations' ² Safety Management System (SMS), providing more detailed guidelines for SMS application and acceptance, record keeping guidelines and other minor editorial/structural changes.

The new proposed regulations are a step closer to ensuring that all operators operating within the UAE territory comply with minimum safety requirements recognized internationally and comply with the UAE Civil Aviation Law, UAE regulations (including CAR-OPS 4) and all operational directives and instructions promulgated by the GCAA. The proposed regulations provide the GCAA with the authority to carry out checks on foreign aircraft within its territory, to ensure suitable safety measures have been implemented in compliance with the regulations. However, the specifics of the procedures that will be followed by the GCAA and relevant authorities to enforce these regulations, and the procedures that will be followed in the event of a dispute, are yet to be seen.

¹The proposed regulations are to be found under Part IV of the Operational Regulations and will be named “CAR-OPS 4: Commercial and Non Commercial Air Transport Operations by Foreign Air Operators in the United Arab Emirates”

²“Organisation” means any organisation certified to provide aviation related services.