



**DECISION BY THE CAA
FOLLOWING A REGULATORY REVIEW**

No: 30

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**A DECISION BY THE CAA FOLLOWING A REVIEW PURSUANT TO REGULATION 6 OF THE
CIVIL AVIATION AUTHORITY REGULATIONS 1991, HELD ON 15 MARCH 2010 AT CAA HOUSE**

CAA Board members: Captain Roger Whitefield (Chair)
Dr Catherine Bell

Issue

- 1) The question for us to decide was whether S92 pilots operating public transport flights should be limited to a maximum of two different helicopter types. Facts

Facts

- 1) The intent of JAR-OPS 3.980 is to ensure that the safety of an operation is not compromised by the introduction of too many types onto a pilot's licence. It starts from the position that only one type will be operated. However, a regulator can exercise a discretion to add more types/variants. In this case, the CAA has allowed a maximum of three types in the under 5,700 kgs category: a concession that is not disputed and is in accordance with the AMC.
- 2) For helicopters over 5,700 kgs, the CAA has applied the relevant AMC by allowing no more than two helicopter types to be flown, which as a general principle, seems to us to be a reasonable starting point given that an increase in the number of types/variants of heavy types that a pilot can fly contemporaneously increases the risk of confusion and error.
- 3) Of particular interest on the issue of interpretation of the AMC was the opinion SRG sought from the Rulemaking Directorate of EASA. In an e-mail of February 2010, an Air Operations Officer concluded that "the intent of the rule and AMC, due to the 'complexity' of the helicopters involved (those above 5700kg or with more than 19 passengers), is that when one helicopter is in this category it is reasonable that the operation should be limited to a maximum of two types".
- 4) SRG disputed almost every element of the representations in the documents and at the hearing. Fundamentally they stress the importance of the UK's responsibilities as a former JAA member in terms of a harmonised approach to such requirements, particularly when it appears likely that EASA's implementing rules will use the same words as JAR-OPS 3. The distinction they draw is not between the on-shore and off-shore environment, but between

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public transport and private operations. They do not accept the implication that on-shore flights are less demanding so that pilots may safely fly a greater number of types. They disagree with the implication that the operations manual permits operation of the S92 and two further types. They consider that the weight of the aircraft is a fair representation of its sophistication and complexity.

Findings

- 1) Your legal counsel pointed out a degree of ambiguity in the wording of the AMC but given that it is an acceptable means of compliance, and not the only means of compliance, your legal counsel was rightly less concerned to focus on the niceties of the wording than the more fundamental question of whether the type of operation suggested by the company was safe. For us this is the fundamental issue in question and goes back to the CAA's basic discretion under the ANO that in granting a national AOC, it must be satisfied that "the holder of the certificate is competent to secure that aircraft operated on such flights are operated safely".
- 2) Your legal counsel made a number of general points about the safety of the company's operation, highlighting the S92's private operation for five years; that it was a very specific type of operation concentrating on VIPs and distinct from offshore or scheduled operations. Your legal counsel stated that it was not subject to the same stresses and strains as other operations on helicopters of an equivalent size and stressed the importance of the CAA looking at the particular operation, rather than a generalised view of the wider industry. The complexity of the three helicopter types were accepted but some of the common equipment, the input into the specification of the aircraft systems and the close connection of their speeds and limitations were not totally dissimilar.
- 3) The company indicated that the pilots would be flying a relatively small number of hours and was prepared to agree to a condition that the aircraft should only be flown up to a certain number of hours of usage. The crews' qualifications across the three types were stressed in that they all currently fly single and dual crew in all the aircraft, for private purposes and emphasised also the importance placed on good crew co-operation, noting the required two pilot operation of the S92 and the times when for various reasons the smaller helicopters are flown with two pilots even though they are certificated for single pilot operation. As far as the requested safety case was concerned, the company felt that this had been successfully established.
- 4) The fundamental issue however is overall safety and central to this is that in April 2009, SRG asked the company to "provide the CAA with a robust safety case to support the intention to permit pilots to operate three complex IFR helicopter types when one of those has a MTLM of greater than 5,700kgs". In this regard, in April 2009 the company set out its case to SRG including some notes on risk management considerations and pitfalls to avoid. At the hearing, it was pointed out that this did not represent a safety case that the CAA would recognise on any grounds. It was deemed as "not a starter as far as a formalised risk assessment was concerned – it did not even look at the risks in terms of operating the aircraft".
- 5) More particularly, as set out in the first of SRG's comments on the company's submissions, the "safety case" of the operator submitted was not in any recognised form for such a document. It did not identify hazards, analyse or assess safety risks nor consider control and mitigation.
- 6) The company claimed to have followed the format and headlines of safety cases on a CAA website, but SRG said they would be very surprised if they came from their website. There