

UPDATE ON CAA CHANGES TO OFFSHORE HELICOPTER REGULATION – April 2014

The UK Civil Aviation Authority (CAA) has announced a series of measures which aim to increase the safety of offshore helicopter flights. These changes are the result of a review undertaken in conjunction with the Norwegian CAA and the European Aviation Safety Agency (EASA) following a number of fatal accidents in the North Sea. Significant measures announced importantly include increased restrictions on flying in certain weather conditions, changes to seating configurations and increased safety equipment on board, as well as proposed changes to helipads.

Initial implementation is imminent, scheduled from June 2014 through to 2016, with the urgency of these deadlines raising considerable concerns. These concerns relate both to issues of practicality, on account of the complexity of the changes required, and the possibly of unintended safety risks being introduced given the relatively short deadlines for some of the CAA measures. There are implications for all companies with offshore operations as a result of this review, with the changes applicable to all aircraft over the UK continental shelf irrespective of registration as well as to all G-registered aircraft operating worldwide. Scheduling changes, limitations on number of passengers, restrictions on personnel permitted to fly and changes in training are likely to result in an increased number of transfer flights and a decrease in flight flexibility. A time and cost burden on all offshore operations is therefore inevitable.

BACKGROUND

Offshore helicopter services are vital to the viability of the oil and gas industry, with helicopter transfer the only feasible way to transport the workforce to and from offshore installations.

The Health and Safety Executive (HSE) and the CAA have shared responsibility for regulating aviation and offshore safety. This is a regulatory environment that is changing as aviation safety in the UK evolves from a national to a pan-European model governed by EASA. Following a review undertaken jointly by the CAA, EASA and the Norwegian CAA, in a recent report the CAA has announced a number of changes which aim to enhance safety in offshore helicopter operations.

KEY CHANGES

The changes identified by the CAA cover a number of areas with varying responsibility for implementation. Measures to be implemented by the CAA which we foresee having the greatest impact on offshore oil and gas operations are summarised as follows:

- From **1 June 2014**, the CAA will prohibit operators from conducting offshore flights (other than in response to an emergency) if the sea state at the offshore location exceeds sea state 6 (wave height of 4-6 meters).
- As of **1 September 2014** (initially 1 June 2014), the CAA will prohibit the occupation of passenger seats which are not adjacent to push-out window emergency exit seats unless passengers are wearing improved emergency breathing systems (Category A) or the helicopter is fitted to the side floating helicopter scheme.
- From **1 September 2014**, operators will also be prohibited from conducting offshore flights if the sea state at the offshore location exceeds the certified ditching performance of the helicopter.
- As of **1 April 2015**, there will be a prohibition on passengers whose body size, whilst wearing required safety and survival equipment, is not compatible with the size of push out window emergency exits.
- From **1 January 2015** (brought forward from 1 April 2016), the CAA will require occupants of all operations to wear Category A emergency breathing equipment.
- Later this year (no date as yet specified), the CAA will review helicopter safety cases for night operations to bow decks to assess procedures and mitigations and determine whether these operations should continue.

HELIDECKS

The CAA also intends to introduce changes to helipad requirements and regulation. A review will be undertaken later this year to determine whether operations at helidecks should continue where the overall dimensions and/or loading values are insufficient to accommodate the helicopter types now in use in the UK. There is a concern that helidecks are not adequate for certain helicopters that have been introduced to the UK sector in recent years. According to the CAA, 56 helideck operations on the UK continental shelf do not fully meet the recommended national criteria. In early 2015, the CAA intends to assume responsibility for helideck certification with the CAA expected to consult with the industry on this issue. Offshore oil and gas operators should consider whether helipads on their installations meet the recommended standard and assess whether any changes may be needed to enable continued operation.

ADDITIONAL REQUIREMENTS, RECOMMENDATIONS AND TIMESCALES

As well as imposing actions and recommendations on themselves, the CAA has also set out recommendations for EASA, helicopter operators and the oil and gas industry. In particular, in 2014 the CAA expects the oil and gas industry to:

- review and enhance safety and survival training standards with regard to the fidelity and frequency of training provided (directed at industry organisation OPITO); and
- incorporate fire fighting provisions detailed in CAP 437 (Standards for Offshore Helicopter Landing Areas) for Normally Unattended Installations without delay.

The CAA has recognised that a number of the recommendations are beyond their power to enforce but have said they expect “a positive safety culture within the oil and gas industry” to result in changes being made.

The timescale for implementation is raising concerns, especially with regard to actions to be implemented by 1 June 2014, now only a matter of weeks away. Significant change in such a short timescale raises the potential for new risks being introduced. A draft CAA Operational Directive has been circulated to helicopter operators for review and comments, including on timing. The view of the CAA was that there would only be a reassessment of the implementation plan if the introduction of a specific safety action were to cause an “evidenced” safety risk greater than the original safety mitigation. Such concerns have been recognised by the CAA and on 7 May 2014 two

deadlines were changed following evidence from the industry.

In particular, the deadline for implementing seating restrictions was pushed back from 1 June 2014 to 1 September 2014. The initial deadline was considered particularly challenging by the helicopter industry due to inadequate time for testing Category A breathing equipment (which would remove the need to sit adjacent to an exit), workforce training, integration with existing kit and delivery time. Confirmation that the new units would not be ready until mid-July 2014 was a key factor in the CAA's decision to delay this recommendation. It was also recognised that reducing helicopter capacity would impact on safety critical maintenance and fitting of the recently certified gear shaft for Airbus Helicopters EC225.

However, conversely, the deadline for mandatory use of category A Emergency Breathing System has been significantly brought forward from 1 April 2016 to 1 January 2015 so scheduling and budget impact for this measure will need to be re-evaluated by operators.

This Directive will apply to all G-registered aircraft operating worldwide and all aircraft over the UK continental shelf irrespective of registration. A number of the recommendations will also require industry consultations which are to be expected in the coming year from EASA and the CAA in respect of which operators may wish to input.

CONSEQUENCES OF NON-COMPLIANCE

Helicopter operators who fly in contravention of mandatory requirements of the CAA risk revocation of their operating licence. Those who do not meet recommendations by the timescale face a period of being grounded and unable to operate until the requirements are met.

For offshore installation operators, the immediate consequence of non-compliance of helicopter contractors is an impact on business continuity. However, all operators will be alive to the fact that they have a statutory obligation to ensure the safety of their employees and anyone who may be affected by their undertaking (sub-contractors for example being an area of primary risk). Operators should therefore pro-actively seek confirmation from helicopter operators that all CAA and other regulatory requirements are being met and liaise with operators to this end. Helipads that are not fit for purpose would be an issue for, at present, the HSE in conjunction with the CAA with potential prohibition on use. If any breach is identified which presents a risk, as with any offshore safety risk, criminal prosecution could also result.

IMPLICATIONS

A number of the changes identified for implementation during the course of 2014, 2015 and 2016 give rise to significant implications for all companies with offshore oil and gas operations in the UK or operators worldwide using UK registered aircraft.

Restrictions on transfers according to sea state, and potential limitations on night operations, will reduce scheduling flexibility and increase cost. Mandatory changes to seating configurations and emergency equipment may reduce the number of passengers helicopter operators are able to transport per flight, resulting in an increased number of transfers being required. Helicopter operators also may be required to refit their helicopters to meet the CAA's new measures.

In light of the upcoming implementation dates, we recommend offshore operators liaise with helicopter companies to ensure any necessary changes will be implemented by the date required and that no interruption to contracted services is to be expected. Passenger numbers should be confirmed at the earliest opportunity to ensure all personnel can be transported as required. In the longer term, offshore operators should consider whether any essential personnel would be adversely affected by the size restriction on passengers and whether helipads will be considered fit for purpose going forward and how they can best address this issue. As well as ensuring business continuity, the cost burden should be anticipated in order to meet the CAA's upcoming changes.

If you would like to discuss how these updates could affect you, please contact one of the following members of our dedicated Environment and Health and Safety team.

CONTACTS

Louise Moore

Partner, London
T +44 20 7296 2196

Louise.moore@hoganlovells.com



Gary Cassidy

Consultant, London
T +44 20 7296 2557

Gary.cassidy@hoganlovells.com



Kevin O'Connor

Senior Associate, London
T +44 20 7296 5376

kevin.oconnor@hoganlovells.com

Helen Boniface

Associate, London
T +44 20 7296 5963

Helen.boniface@hoganlovells.com



About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses.

Disclaimer

This publication is for information only. It is not intended to create, and receipt of it does not constitute, a lawyer-client relationship.

So that we can send you this email and other marketing material we believe may interest you, we keep your email address and other information supplied by you on a database. The database is accessible by all Hogan Lovells' offices, which includes offices both inside and outside the European Economic Area (EEA). The level of protection for personal data outside the EEA may not be as comprehensive as within the EEA. To stop receiving email communications from us please [click here](#).

The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see <http://www.hoganlovells.com/>.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients.

© Hogan Lovells 2014. All rights reserved. Attorney advertising.