

## Guernsey ODCA Notice of Proposed Amendment: 2022-4

### 1. Title

**Changes to all GARs to reflect that they form the means of compliance with ICAO Annexes**

### 2. Introduction

This Notice of Proposed Amendment proposes the following change:

Amend the purpose sections of the GARs by adding text emphasizing that they form the means of compliance with ICAO Annexes and are therefore mandatory to holders of a certificate, licence, approval or other authorisation issued by the Director.

The 'purpose' sections of the GARs have essentially been unchanged since their introduction in 2013. From their start the GARs are the means of compliance by the Bailiwick of Guernsey of its international obligation under article 37 of the Chicago Convention. Pursuant to section 5 of the Aviation (Bailiwick of Guernsey) Law, 2008, these obligations rest with the Director. Section 5 specifies that the Director 'must ensure that the Bailiwick complies, so far as possible, with the Chicago Convention and the Annexes thereto'. The Director is meeting this regulation by issuing the GARs which incorporate the standards of the Annexes as mandatory material. Thus, it is achieved that certificates, licences and other authorisations issued by the Director will be recognized by other states in accordance with Article 33 of the Chicago Convention. Whilst this concept is generally recognized by stakeholders, there have been cases where the mandatory status of the GARs has been questioned. The Director therefore considers it appropriate to unequivocally make clear that the GARs form the means of compliance with the standards as promulgated in the Annexes to the Chicago Convention and are therefore mandatory for any international activity by the holders of any authorisation issued by the Director pursuant to the GARs.

### 3. Consultation and timeline

#### 3.1 Information only.

This Notice of Proposed Amendment is offered to interested parties for information only. This proposal constitutes an administrative change to add clarity to stakeholders as to the status of the Guernsey Aviation Requirements but does not entail a change that would affect interested parties.

#### 3.2 Timeline

This change will be incorporated in all GARs when being changed for other reasons.

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## 4. Proposals - rationale

### 4.1 Proposal – add text to make clear that the GARs reflect the standards of ICAO Annexes

It is proposed to amend the text of two paragraphs of the purpose sections (typically the second and third paragraph) of the GARs by adding text that makes it unequivocally clear that the GARs meet the standards of the relevant ICAO Annex and, thus, that they are mandatory for any applicant for, and holder of, a certificate, licence, approval or other authorisation issued by the Director, or Registrar as appropriate, when engaging in international civil aviation.

## 5 Proposals – The changes and their justification

### 5.1 Proposal – add text to make clear that the GARs reflect the standards of ICAO Annexes

#### 5.1.1 The changes

Current GAR text (typical)	Proposed GAR text (typical)	Gist of change
<b>xx.1(c)</b> These Requirements are not in themselves Law. Failure to comply may not constitute an offence. However, the Requirements repeat or reproduce many of the provisions of the Air Navigation (Bailiwick of Guernsey) Law 2012, as amended (“the Law”), including the Rules of the Air set out in Schedule 4 to the Law. Therefore, failure to comply with these Requirements may: (1) constitute a breach of the Law; and (2) result in proceedings for breaches of the Law; or (3) result in the refusal of an application for renewal of a certificate; or (4) result in action to suspend or revoke a certificate.	<b>xx.1(c)</b> These Requirements are not in themselves Law. Failure to comply may not constitute an offence under Guernsey penal law. However, the Requirements repeat or reproduce provisions of the Air Navigation (Bailiwick of Guernsey) Law 2012, as amended (“the Law”). In addition, the Requirements are the means for the Bailiwick of Guernsey, as a contracting substate of the Convention on International Civil Aviation, to meet the standards and, where applicable, recommended practices as set forth in Annex [insert relevant number] to the 1944 Chicago Convention. Therefore, failure to comply with these Requirements may: (1) constitute a breach of the Law; and (2) result in proceedings for breaches of the Law; or (3) result in the refusal of an application for initial issue or renewal of a certificate, approval or other authorisation issued by the Director; or (4) result in action to suspend or revoke a certificate, approval or other authorisation issued by the Director.	<ul style="list-style-type: none"><li>• Addition of reference to penal law.</li><li>• Addition of reference to ICAO Annex</li><li>• Adding clarity that ‘certificate’ also refers to approvals and other authorisations issued by the Director or, for GAR 47, the Registrar.</li><li>• Adding clarity that the scope is not limited to renewal of certificates, but also pertains to initial issue.</li></ul>

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xx.1(d) [typical, example is for GAR 39]	xx.1(d) [typical]	
<p>The Law details the legal obligations governing the continuing airworthiness of aircraft on Guernsey’s register. The Law specifies these obligations in rather general terms, therefore there is a provision in Section 135 (Publication of Requirements) to the Law which requires the Director to publish Requirements to augment, amplify and detail more precisely the manner in which these obligations shall be met. The Requirements are the means by which the owner, the charterer by demise, the Technical Co-ordinator, the Continuing Airworthiness Management Organisation or maintenance organisation will be able to satisfy the Director as to the fulfilment of the obligations in respect of continuing airworthiness and the entitlement of the holder to hold and exercise the privileges of a certificate, approval issued by the Director.</p>	<p>The Law and the international obligations pursuant to the Bailiwick of Guernsey’s status as a contracting substate of the Convention on International Civil Aviation detail the legal obligations governing the [subject of specific GAR]. The Law specifies these obligations in rather general terms, therefore there is a provision in Section 135 (Publication of Requirements) to the Law which requires the Director to publish Requirements to augment, amplify and detail more precisely the manner in which these obligations shall be met. In addition, the Director is required, pursuant to section 5 of the Aviation (Bailiwick of Guernsey) Law, 2008 to ensure that the standards of the Annexes of the Chicago Convention are complied with. The Requirements, which meet or exceed those standards, are thus the mandatory means by which the [authorisation holders] will be able to satisfy the Director as to the fulfilment of their obligations.</p>	<ul style="list-style-type: none"> <li>• Addition of reference to international obligation and to the relevant Annex of the Chicago Convention;</li> <li>• Addition of a reference to the Director’s obligation to ensure compliance with the ICAO Annexes;</li> <li>• Adding the word ‘mandatory’ in front of ‘means’.</li> </ul>

## 5.1.2 – Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is neutral. The proposed changes do not materially change the requirements. They are an elucidation of existing practice and intent and are made to avoid any confusion on the part of stakeholders.	<p><b>ICAO:</b> Chicago Convention, articles 33 and 37</p> <p><b>The Aviation (Bailiwick of Guernsey) Law, 2008</b> (as valid April 2021): s. 5</p>