

## ARTICLE 85 APPROVALS – Frequently Asked Questions

**Q.** What is meant by Article 85 Approval?

**A.** *It is an approval granted by the Governor of Bermuda under the Air Navigation (Overseas Territories) Order 2007 {AN(OT)O 200} as amended at Article 85.*

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**Q.** Is this just a Bermuda requirement?

**A.** *No. It applies to all the other U.K. Overseas Territories (e.g. Cayman, British Virgin Islands etc.), but Bermuda is the pioneering force.*

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**Q.** Is this just a U.K. /European requirement?

**A.** *No, all ICAO Contracting States will be required to implement these procedures when the revised Annex 6 Part 2 is mandated on 18<sup>th</sup> November 2010. However, it does appear that most Contracting States will delay implementation by filing a difference to the ICAO standard.*

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**Q.** What do we have to do to gain Bermuda approval for our aircraft?

**A.** *Firstly, it is the Operator who needs the approval. You must determine exactly who the Operator of the aircraft is.*

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**Q.** How do I determine who is the Operator?

**A.** *The definition of Operator is to be found in the AN(OT)O at Article 156 (5), with further clarification to be found in OTAC 39 (Commercial Air Transport & Private Operations). This document can be found on:*

*[http://www.airsafety.aero/legislation\\_and\\_otar\\_s/otac\\_s/flight\\_operations/](http://www.airsafety.aero/legislation_and_otar_s/otac_s/flight_operations/)*

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**Q.** I know who the Operator is; so how do I comply and gain approval?

**A.** *The acceptable means of compliance (AMC) are listed in OTAR Part 125 Subpart SPA Appendix A:*

*[http://www.airsafety.aero/legislation\\_and\\_otar\\_s/otars\\_for\\_gazetting/otar\\_125\\_complex\\_general\\_aviation\\_including\\_corporate\\_operations/](http://www.airsafety.aero/legislation_and_otar_s/otars_for_gazetting/otar_125_complex_general_aviation_including_corporate_operations/)*

*OTAR 125.1 describes which aircraft/operators require approval, whilst OTAR Appendix 125.A.15 describes the two(2) methods of achieving approval.*

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**Q.** Is there a date for reaching compliance?

**A.** *Yes, it was 1<sup>st</sup> November 2009, however please read the “Article 85 Approval Update – Autumn 2011” newsletter on the Bermuda DCA website for the latest information.*

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**Q.** There appears to be a choice in gaining approval; either by seeking IS-BAO (International Standard of Business Aircraft Operators) registration or alternatively to produce everything ourselves?

**A.** *Yes, that is correct! The Bermuda DCA encourages the gaining of IS-BAO registration as the preferred method. However, if you do not wish to use this method you must follow the requirements detailed in OTAR 125.A.15 (c).*

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**Q.** If I decide to use the IS-BAO registration method, how do I initiate this process?

**A.** *A visit to the IBAC (International Business Aviation Council) website [www.ibac.org](http://www.ibac.org) will provide links to the IS-BAO information. IBAC provides a list of companies who specialize in assisting Operators through the processes. To start the process, you must purchase the IS-BAO which contains the standard and recommended practices as well as extensive guidance material. This guidance material includes a SMS Toolkit, SMS guidance manual, generic company operations manual, guidance on setting up an internal audit program, guidelines for completing a risk analysis and contains the audit protocols used for the registration audit. IS-BAO workshops are also available to help understand the program.*

*Whether you employ outside assistance or complete the implementation process on your own, you must satisfactorily complete a registration audit conducted by an IBAC accredited auditor before being issued your IS-BAO registration certificate, and subsequently your Bermuda approval.*

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**Q.** If I choose an external Company to assist me in gaining IS-BAO registration, who does the Bermuda DCA recommend?

**A.** *The Bermuda DCA will not recommend specific Companies, but a list of Companies that have successfully guided Operators to IS-BAO registration and the subsequent granting of Approval under Article 85, can be found on the Bermuda DCA*

*website under Flight Operations Information and News.*  
<http://www.dca.gov.bm/FlightOps/news.aspx>

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**Q.** As I do not wish to seek IS-BAO registration, what can I do?

**A.** *You have three (3) options at the moment:-*

- 1. To seek the assistance of a Bermuda approved producer of manuals, etc. to support the development of the Operator's Safety Management System (SMS) along with additional requirements of OTAR Part 125. When completed be audited on an annual basis by the Bermuda DCA to gain and subsequently maintain your approval.*
- 2. To produce (write) all the manuals yourself and submit them to the Bermuda DCA for review for compliance with OTAR Part 125. When the documents are deemed acceptable, you will be audited by the Bermuda DCA on an annual basis.*
- 3. If you hold an AOC granted by the State of the Operator you may add additional chapters to your approved Operations Manual, which refer to the specific requirements of OTAR 125. This can be achieved by conducting a gap analysis. This may not be necessary if you operate the Bermuda registered aircraft to the same standards for those aircraft covered under the AOC. (e.g. Same Flight Crew duty limits).*

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**Q.** Who is/are the Bermuda DCA approved producers of manuals for this alternative method?

**A.** *At present there is only one Company and their details are to be found on the Bermuda DCA website. <http://www.dca.gov.bm/FlightOps/news.aspx>*

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**Q.** What are the limits of a Fatigue Management Scheme (FTL) which are acceptable to the Bermuda DCA?

**A.** *The limits defined by the IS-BAO scheme and also those produced by the Bermuda DCA approved manual producers. Those limits are the extreme and variations outside of those parameters will not be entertained unless supported with convincing mitigating circumstances. Applications for variations may be granted based on a risk assessment of the proposed trip and the subsequent mitigation.*

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**Q.** What if we submit our home produced manuals and they fail the review process?

*A. This is often the case, and they have to be corrected (re-written) until compliant. Alternatively, it may be prudent to select another method before too much time and money is spent.*

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**Q. What is the cost for reviewing a manual?**

*A. The Bermuda DCA has to reimburse the reviewers for their efforts and also makes a charge for its own facilitation. This charge is US\$1600 per day and a review can take up to 10 working days depending on the complexity of the submission. Further days may accrue when corrections are required.*

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**Q. Please, could you clarify who does the auditing in each situation?**

*A. For IS-BAO registration, the audit is conducted by one of the IS-BAO approved auditors listed on their panel. The alternative method is audited by Bermuda DCA staff, be they direct employees or contracted staff.*

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**Q. What are the frequencies of the audits?**

*A. IS-BAO audits are normally every two (2) years, but can extend to three (3) years when the SMS is well established. The alternative method demands audits on an annual basis, but this will be extended to two (2) years if the audit produces minimal findings.*

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**Q. How much does the audit cost?**

*A. Under IS-BAO the fee is subject to the negotiated contract between yourself and the auditor. When the audit is conducted by the Bermuda DCA, the daily rate of US\$1600 applies for duty days and US\$800 whilst travelling. Bermuda DCA audits should be completed within 2 working days.*

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**Q. Is there a fee for the issue of the Bermuda DCA Article 85 approval?**

*A. The Approval is granted for a three (3) year period and is charged at US\$3000.*

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**Q. Are there any forms to be submitted to the Bermuda DCA when I am ready to apply for my Article 85 approval?**

**A.** *BDCA Form 9019 on the [www.airs.gov.bm](http://www.airs.gov.bm) needs to be completed and submitted with copies of your IS-BAO registration certificate (if applicable) and a copy of the most recent audit report.*

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**Q.** **What if we decide not to do anything about gaining approval?**

**A.** *If you decide to take this route, you will be advised that you have three (3) months notice before the Bermuda DCA will commence actions to remove the aircraft from the Bermuda Register of Aircraft for non-compliance with the appropriate regulations as stipulated within the AN(OT)O 2007.*