



# Confused by rules? – This may help

FLYING RULES • CLIFF WHITTAKER



When browsing online, writes Cliff Whittaker, I often see there is confusion about aspects of the legal requirements for model flying – such as Flyer IDs, Operator Registration and knowledge tests – and also people asking why the CAA website doesn't show information relevant to us. The aim of this article is to try to address some of that – particularly as there is to be a small change to Flyer IDs in 2023.

## CATEGORIES OF OPERATIONS

**To understand the rules it helps to know how model flying fits within the broader unmanned aircraft regulations. The law now defines three categories of unmanned aircraft operations: 'Certified', 'Open' and 'Specific'.**

The Certified Category refers to aircraft that will have to gain an airworthiness certificate (similar to manned aircraft) due to their large size or particular kind of operation – such as flying heavy freight over populated areas. That category need not concern us at all here.

The Open Category is for any 'Joe Public' who wants to fly unmanned aircraft. The Open Category limitations are set out on the CAA website as 'The Drone and Model Aircraft Code'.

The key point here is that the 'drone code', together with the DMARES online knowledge test and most of the other information published on the CAA website, is for the Open Category only.

The CAA's published information is generally NOT applicable to flying by BMFA members because we are in the Specific Category – see next paragraph.

The Specific Category is for anyone who wants to do more than the Open Category rules allow – such as flying above 400ft. To do this application has to be made to the CAA for a specific Authorisation – hence *Specific Category*.

The applicant has to define

the intended flying activities and explain how they will be conducted safely. The CAA has issued an Authorisation for use by BMFA members. BMFA members flying in accordance with the Authorisation are in the Specific Category – and the Open Category rules do not apply to them.

## THE BMFA'S ARTICLE 16 AUTHORISATION ISSUED BY THE CAA

Our model flying activities commonly exceed the limits that have been set for the Open Category and so there needs to be a specific authorisation in place to enable us to carry on flying as we have always done.

During the rulemaking process the BMFA's Dave Phipps, with the support of European model aircraft associations, negotiated a special case of the Specific Category for members of established model flying associations. It is in the 16th article of the legislation – hence 'Article 16 Authorisation'.

The text of the legislation accepts that model flying, as currently practised by members of established associations, has a good safety record and so should be allowed to continue in the same manner into the future.

Article 16 provides the legal means for the CAA to issue an Authorisation that allows BMFA members to fly their aircraft in accordance with the rules that are set out in that Authorisation, instead of complying with the Open Category rules.

## WHY CAN'T I FIND ANYTHING ABOUT THE BMFA RULES OR THE BMFA TEST ON THE CAA WEBSITE?

BMFA members are not the only people flying in the Specific Category. We are just one group of an ever growing number. For a start there is the Large Model Association, but also numerous police forces, fire services, mountain rescue teams, pipeline and powerline inspection teams, film and TV companies etc., etc..

All of these organisations are flying to their own bespoke rules, including their own pilot knowledge requirements, as set out in the Authorisations that the CAA has granted to them. It would be a significant job for the CAA to maintain all of the information for all of those organisations on their website (and many of them don't want their documents on public view anyway). It is also unnecessary.

The logic is that if you have been granted an Authorisation containing the rules that you asked for, then you will know what those rules are. Accordingly, the CAA only publishes the Open Category rules, to be used by those flying without an Authorisation.

That is all you will find on the CAA website. BMFA members using the Article 16 Authorisation should refer to the BMFA's website.

## COMPARISON OF THE OPEN CATEGORY AND THE BMFA ARTICLE 16 AUTHORISATION

Set out below is a comparison of the Open Category (that anyone can use) and the Article

16 Authorisation (that only members of the BMFA can use).

For illustrative purposes just the operating rules for the outdoor operation of radio-controlled aeroplanes and helicopters exceeding 250g are shown here. (None of the rules apply to aircraft flown inside buildings or to control-line or round-the-pole aeroplanes under 7.5kg).

The most significant differences between the Open Category and the Article 16 Authorisation are:

- BMFA members can fly aeroplanes and helicopters (with 1 or 2 lifting rotors) up to 7.5kg above 400ft – consistent with maintaining control / collision avoidance / line of sight<sup>1</sup>; and
- BMFA members have 3 alternative ways to comply with the remote pilot knowledge requirements.

## 1 NOTE REGARDING THE 400FT LIMIT

When the 400ft height limit was first being discussed, I decided to find out how high I normally fly my aeroplanes. I fitted a plug-in altitude logger to my old IC-powered Wot 4 and went flying. I found that my normal 'stooging around' height is between 250 ft and 350ft above the field, and the tops of loops are typically at 500ft. I also took the Wot 4 up to the highest level I was comfortable controlling it – given its wingspan – and found this to be 650ft. My conclusion from this exercise was that I exceed 400ft every time I fly and so I definitely need the Authorisation the BMFA has negotiated.



Requirement	Open Category	BMFA Article 16 Authorisation
Operator Registration – The person responsible for the flying of the aircraft must be registered as an Operator with the CAA.	Operator registration must be obtained and then renewed annually directly with the CAA.	Operator registration must be obtained and then renewed annually. Either: through the BMFA; or directly with the CAA.
Remote Pilot Competence (knowledge). The person flying the aircraft must demonstrate knowledge of the rules they are operating to.	The Remote Pilot must pass the CAA's online DMARES test every 5 years.	The Remote Pilot must meet one of the following requirements. Either: hold a BMFA 'A' or 'B' Certificate passed prior to 31/12/2020 (this does NOT expire); or pass the BMFA's online Registration Competency Certificate (RCC) test every 5 years; or pass the CAA's online DMARES test every 5 years.
Operating rules	Open Category	BMFA Article 16 Authorisation
Maximum operating height	No flying more than 400 ft (120m) above ground level. There are no exceptions.	- Up to 7.5kg – No height limit for aeroplanes or for helicopters with 1 or 2 lifting rotors. - 7.5kg to 25kg - 400ft; or up to 1500ft by BMFA Permit based on an acceptable risk assessment. - All multi-rotors (with more than 2 lifting rotors) 400ft maximum.
Minimum distance from uninvolved people	50m	30m 50m from an assembly of people if aircraft over 7.5kg.
Minimum distance from commercial, residential or industrial areas	150m	Dependent on an acceptable risk assessment to BMFA guidelines.
Overflight of Crowds	Not permitted.	
Flight within Airfield Flight Restricted Zones	Only with the permission of the aerodrome management.	
Specific airspace restrictions: Prisons, nuclear facilities etc	Restrictions must be complied with.	
Local bye laws or land owner restrictions.	Restrictions must be complied with.	

#### POTENTIAL CONFUSION REGARDING THE DIFFERENT KNOWLEDGE TESTS AND AUTOMATED EMAILS

I have seen much confusion online about the alternative Remote Pilot knowledge tests and the CAA's Flyer ID. This is often triggered by the

automated emails members receive advising them that their tests have expired and must be re-taken. I will now try to address this issue.

The BMFA online Registration Competency Certificate (RCC) test operates through the BMFA website. If you pass the test the BMFA system will email you

when the RCC expires; (5 years after the date of the test). That is all it does.

It assumes you took the BMFA test because you needed it to fly legally. The RCC system is not programmed to check whether you have a pre-2021 A (or B) Certificate and so do not need to pass a test. And it cannot

check whether you have a valid CAA DMARES test certificate either.

If you take the BMFA RCC test you will get an automated email when the RCC expires, regardless of whether you actually need it to fly legally.

Similarly, the CAA DMARES test operates through the CAA website. If you pass the test the CAA system will email you five years later when its validity expires.

Because the CAA assume that the only reason you took the DMARES test is that you are flying in the Open Category, their email may also say it is illegal for you to continue to fly unless you pass the test again.

The computer running the DMARES test has no way to know whether you are a BMFA member flying under the Article 16 Authorisation, or whether you have an old BMFA Achievement Certificate or a valid RCC.

If you take the DMARES test the CAA's system assumes you are flying in the Open Category and so must take the CAA test again after 5 years. Note that the BMFA RCC and BMFA Achievement Certificates are not valid for flying in the Open Category.

I have seen many times online that some people have been confused by emails telling them a test has expired when they believe, usually correctly, that they don't need to re-take it to continue to fly. The CAA is about to make a change that may actually improve things in that respect.

#### THINGS ARE ABOUT TO CHANGE – BUT ONLY SLIGHTLY

At the time of writing, December 2022, only those who fly in the Open Category must have a Flyer ID. A Flyer ID is issued automatically to anyone who passes the CAA DMARES test. Currently, BMFA members who have a pre-2021 BMFA Achievement Certificate,



or a valid BMFA online test certificate, don't get a Flyer ID.

That is going to change in the coming year – but BMFA members will not need to do anything new.

The CAA has decided that to simplify the competence system (largely for the benefit of the Police who are tasked with enforcement), everyone must have a valid Flyer ID – but the 3 alternative methods for BMFA members to demonstrate knowledge will remain unchanged.

BMFA members will qualify for a Flyer ID by having either:

- a BMFA Achievement Certificate obtained prior to 31/12/2020; or
- a valid BMFA RCC (through passing the BMFA online test); or
- a valid CAA DMARES test pass.

The BMFA is working with the CAA on this so that those members who use the BMFA RCC or a BMFA Achievement Certificate as confirmation of competency will be issued with a Flyer ID automatically by the CAA. Their Flyer ID's will be added to their BMFA membership record in the JustGo system.

The only thing you will have to do (and only do once) is to tick a box that says you agree to the BMFA passing your test/achievement data to the CAA for this purpose. This option will appear when you renew your BMFA membership, or you can do it anytime by logging into your membership profile on the JustGo system.

If you choose not to have the BMFA obtain a Flyer ID for you, then you will have to obtain one from the CAA directly. And the only way to do that is to pass the CAA DMARES online test – which, of course, will test your knowledge of the Open Category drone code rules, not the BMFA flying limits specified in the Authorisation.

## KEEPING LEGAL

### For model flying the legal requirements are:

1. You must hold a valid Operator Registration – and the aircraft you are responsible for must carry that registration number. You can register, and renew your registration, through the BMFA or directly with the CAA.
2. You must be clear in your own mind whether you are flying under the BMFA's Article 16 Authorisation or in the Open Category and then comply with the relevant rules.

If you are flying under the BMFA's Authorisation you must:

- be a member of the BMFA; and
- comply with any one of the 3 permitted means to demonstrate your knowledge (and so hold a Flyer ID from 2023 onwards); and
- fly within the limits defined in the Article 16 Authorisation.

The Article 16 Authorisation rules are explained in guidance documents on the BMFA website. The Open Category rules and related information published on the CAA website do not apply to you when you are flying under the BMFA's Authorisation.

If you are flying in the Open Category you must:

- have a valid CAA DMARES test and Flyer ID; (the BMFA alternatives are not valid for Open Category); and
- fly within the Open Category limits published by the CAA on its website – in the 'Drone and Model Aircraft code'; (not the BMFA Authorisation limits).

*That's it.*

In my view BMFA members are better off steering clear of the CAA website altogether to avoid being confused by the differences between the

Open Category and the BMFA's Article 16 Authorisation rules. Unless of course you have a compelling reason to fly in the Open Category, but I can't think of any circumstance when I would want to fly under those more restrictive rules.

Having gained my BMFA 'A' Certificate in the 1980's I don't have to do any new knowledge tests. But I have taken the BMFA RCC test anyway and I'm glad I did. It only took me about 10 minutes, but some of the questions made me think – so it was a good refresher.

## WHY OPERATORS AND REMOTE PILOTS?

Sooner or later someone will ask why the operator registration and remote pilot competence are separate instead of one thing? So I thought I would explain that too.

The distinction between operator and pilot comes from full-size commercial aviation. A commercial air transport company, whether a large airline or a small air taxi firm, has to hold an Air Operator's Certificate. Those companies are 'Operators'.

The operators employ pilots who must have the knowledge and skills to ensure their flights are completed safely and legally. As the primary purpose of the new regulations is to facilitate the widespread commercial use of unmanned aircraft it was logical to copy the same structure.

But hang on a minute, you may say, manned aircraft that operate privately don't have operators, so why do we have to register as operators to fly our models? The answer is because it is by far the easier, lower cost and less complex solution.

It is correct that Air Operator Certificates do not apply to privately-operated manned aircraft. But the regulation of private flying relies on each individual aircraft having its own unique registration. For

a long time, the draft text of the new rules for unmanned aircraft said just that. i.e. Every aircraft – including every single one of my models and yours – would have to be individually registered with the CAA.

And of course, when you bought, sold, gave away or scrapped a model, you would have to notify the CAA, (similar to buying or selling a second hand car). Imagine the form filling and charges that would have involved!

Fortunately, the repercussions of that proposal were recognised during the rulemaking process. It was agreed that for smaller unmanned aircraft a better solution would be to register the 'Operator' who could then have any number of aircraft, provided each one carries the operator's number.

So that is why we have operator registration to fly our models – it's much easier and cheaper than registering every aircraft.

## SUMMARY

My advice to BMFA members is to get all of your information from the BMFA website, not the CAA website. Most of the information published by the CAA is for the Open Category only and so does not match the BMFA's information about the Article 16 Authorisation that we use.

If you fly within the terms of the Article 16 Authorisation – which has been created especially for you – you do not need to look at the CAA website. You can apply for and renew your Operator registration (and in future your Flyer ID) through the BMFA website and pass the BMFA's RCC test every 5 years.

If you have a pre-2021 Achievement Certificate you don't need to do the RCC test, but doing it is a good refresher of your knowledge.