

EN

EN

EN

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ()

amending Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency to extend its scope to the regulation of air operations, pilot licensing and third country aircraft

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the Opinion of the Economic and Social Committee²,

Having consulted the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) The second considering clause of Regulation (EC) No 1592/2002⁵ specifies, inter alia, that appropriate essential requirements should be developed to cover operations of aircraft and the flight crew licensing and its application to third country aircraft; article 7 of that Regulation requires the Commission to submit as soon as possible proposals to the European Parliament and to the Council with regard to the basic principles, applicability and essential requirements for the regulation personnel and organisation involved in the operation of aircraft.
- (2) The scope of Community action shall be clearly defined so that persons, organisations and products subject to this Regulation and rules taken for its implementation can be identified without ambiguity; such scope is better defined by referring to a list of aircraft whose operations are excluded from Community action; the list of excluded aircraft as defined in Annex II to Regulation (EC) No 1592/2002 should be used for such a purpose, subject to amendment to facilitate its understanding.

¹ To be issued

² To be issued

³ To be issued

⁴ To be issued

⁵ OJ L 240, 7.9.2002, p. 1.

- (3) European citizens should enjoy at all times a high and uniform level of protection, third country aircraft operated to, from or in the territory where the Treaty applies, should be subject to an appropriate oversight at Community level.
- (4) The Community should lay down, in line with standards set by the Chicago Convention, essential requirements, applicable to persons and organisations involved in the operation of aircraft, as well as to persons and product involved for the training and medical examination of pilots; such requirements should be developed when appropriate for the regulation of flight engineers. The Commission should be empowered to develop the necessary implementing rules.
- (5) The effective functioning of a Community civil aviation safety in the fields covered by this Regulation requires strengthened co-operation between the Community, the Member States and the European Aviation Safety Agency to detect unsafe conditions and take remedial measures as appropriate.
- (6) The promotion of a safety culture and the proper functioning of a regulatory system in the fields covered by this Regulation require that incidents and occurrences are spontaneously reported by their witnesses; such reporting would be facilitated by the establishment of a non punitive environment, appropriate measures should be taken at Member States level to provide for the protection of such information and of their reporters.
- (7) Consistent with the principles of good governance, appropriately accredited assessment bodies should be entitled to issue licences to pilots involved in recreational operations.
- (8) In order to properly assist the Community, the European Aviation Safety Agency should be able to issue itself certificates to persons, organisations and products subject to this Regulation when centralised action is more efficient than certification at Member States level; the Agency should for the same reason be allowed to take decisions related to the operation of aircraft, the qualification of crew or the safety of third country aircraft when this is the best means to ensure uniformity and facilitate the functioning of the internal market; the Agency should be given the necessary authority to fulfil these tasks.
- (9) Amendments should be made to several articles of Regulation (EC) No 1592/2002 to provide regulated persons with the necessary remedies when the Agency is entitled under this regulation to take decisions that affect them; new definitions should be introduced to facilitate the understanding of the articles added to that regulation.
- (10) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed action, namely the establishment and uniform application of common rules for the regulation of flight crew licensing, air operation and third country aircraft, cannot be sufficiently achieved by the Member States and can therefore, by reason of European-wide scope of this Regulation, be better achieved by the Community. This Regulation confines itself to the minimum required in order to achieve those objectives and does not go beyond what it is necessary for that purpose.
- (11) This Regulation establishes an appropriate and comprehensive framework for the oversight of third country aircraft when operating to, from or in the territory where the

Treaty applies. Directive 2004/36/CE⁶ on the safety of third country aircraft using Community airports should therefore be repealed in due time.

- (12) The measures provided by this Regulation are based on the opinion issued by the European Aviation Safety Agency⁷ in accordance with Articles 12(2)(b) and 14(1) of Regulation (EC) No 1592/2002.
- (13) Regulation (EC) No 1592/2002 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1592/2002 is hereby amended as follows:

1. In Article 3, the following points (h) to (n) are added:

- “(h) “operator” means any legal or natural person, operating or proposing to operate one or more aircraft.
- (i) “commercial operation” means a remunerated aeronautical activity covered by a contract between an operator and a customer, where the customer is not, directly or indirectly, an owner of the aircraft used for the purpose of this contract and the operator is not, directly or indirectly, an employee of the customer.
- (j) “complex-motor-powered aircraft” means:
- (i) an aeroplane:
 - with a maximum certificated take-off mass exceeding 5,700kg or;
 - with a maximum approved passenger seating configuration of more than 9 or;
 - certificated for operation with a minimum crew of at least 2 pilots or;
 - equipped with (a) turbojet engine(s); or
 - (ii) a helicopter:
 - with a maximum certificated take-off mass exceeding 3,175kg or;
 - with a maximum approved passenger seating configuration of more than 5 or;
 - certificated for operation with a minimum crew of at least 2 pilots; or
 - (iii) a tilt rotor aircraft.

⁶ OJ L 143, 30.4.2004, p. 76.

⁷ Opinion of the European Aviation Safety Agency 3/2004, XXXX

- (k) “recreational operation” means any non commercial operation with a non complex-motor-powered aircraft.
- (l) “assessment body” means a body which may assess conformity of legal or natural persons with the rules established to ensure compliance with the essential requirements and issue the related certificate.
- (m) “flight synthetic training device” means any type of device in which flight conditions are simulated on the ground; they include flight simulators, flight training devices, flight navigation and procedures trainers and basic instrument training devices.
- (n) “rating” means a statement entered on a pilot licence, setting forth special conditions, privileges or limitations pertaining to such licence.”

2. Article 4 is amended as follows:

- (a) points (b) and (c) of paragraph 1 are replaced by the following:
 - “(b) registered in a Member State, unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator; or
 - (c) registered in a third country and used in the territory of Member States by an operator established or residing in the Community;”
- (b) the following point (d) is added to paragraph 1:
 - “(d) registered in a third country and used by a third country operator in the territory of a Member State.”
- (c) the last sentence of paragraph 1 is replaced by the following:
 - “shall comply with this Regulation.”
- (d) paragraphs 2 and 3 are replaced by the following:
 - “2. Personnel involved in the operations of aircraft referred to in paragraph 1(b) or (c) shall comply with this Regulation.
 - 3. Operations of aircraft referred to in paragraph 1 (b), (c) or (d) shall comply with this Regulation.”
- (e) the following paragraph 4 is added:
 - “4. Paragraphs 1, 2 and 3 shall not apply to aircraft referred to in Annex II.”
- (f) paragraph 3 is renumbered 5.

3. Article 5 is amended as follows:

- (a) paragraph 2 is replaced by the following:
 - “2. Compliance of aircraft referred to in Article 4(1)(b), and of products, parts and appliances mounted thereon shall be established in accordance with the following.”

- (b) point (d) of paragraph 2 is replaced by the following:
- “(d) Organisations responsible for the maintenance of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.”
- (c) the following point (e) is added to paragraph 2:
- “(e) Organisations responsible for the design and manufacture of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.”
- (d) points (e) and (f) of paragraph 2 are renumbered (f) and (g);
- (e) the following paragraph 3 is added:
- “3. Aircraft referred to in Article 4(1)(a) and products, parts and appliances mounted thereon shall comply with paragraph 2 (a) (b) and (e).”
- (f) the initial sentence of paragraph 3 is replaced by the following:
- “By way of derogation from paragraphs 1, 2 and 3:”
- (g) the following point (j) is added to paragraph 4:
- “(j) how aircraft referred to in Article 4(1)(c) and (d) are to show compliance with the essential requirements.”
- (h) the initial sentence of paragraph 5 is replaced by the following:
- “When establishing the implementing rules referred to in paragraph 5, the Commission will take specific care that they:”
- (i) the following point (d) is added to paragraph 5:
- “(d) do not impose on aircraft referred to in Article 4(1) (c) and (d) requirements which would be incompatible with the ICAO obligations of Member States.”
- (j) paragraphs 3, 4, and 5 are renumbered 4, 5 and 6.
4. Article 7 is replaced by the following:

“Article 7

Flight crew licensing

1. Flight crew involved in the operation of aircraft referred to in Article 4(1)(b) and (c) and organisations, flight synthetic training devices and persons involved in their training, testing, checking and medical assessment shall comply with the essential requirements laid down in Annex III.

2. A pilot can only operate an aircraft if he/she holds a licence and a medical certificate appropriate to the operation performed:

- (a) a pilot shall be issued a licence when it is shown that he/she complies with the rules established to ensure compliance with the essential requirements related to theoretical knowledge, practical skill and language proficiency; such licence may be issued by an assessment body when its privileges are limited to recreational operations.
- (b) a pilot shall be issued a medical certificate when it is shown that he/she complies with the rules established to ensure compliance with the essential requirements related to medical fitness. This medical certificate shall be issued by aero medical examiners or aero medical centres except for pilots involved in recreational operations, where it can be issued by a general practitioner.
- (c) the privileges granted to the pilot and the scope of the licence and the medical certificate shall be specified thereon;
- (d) the requirement in (a) and (b) above may be satisfied by the acceptance of licences and medical certificates issued by or on behalf of a third country as far as flight crew involved in the operation of aircraft referred to in Article 4(1)(c) are concerned.

3. The capability of assessment bodies, pilot training organisations and of organisations responsible for assessing the medical fitness of pilots, to discharge the responsibilities associated with their privileges in relation to the issuance of licenses and medical certificates shall be recognised by the issuance of an approval:

- (a) organisation approvals shall be issued when it is shown that the organisation complies with the rules established to ensure compliance with the related essential requirements ;
- (b) the privileges granted by the approvals shall be specified thereon;

4. A flight synthetic training device used for the training of pilots shall have a certificate and this certificate shall be issued when it is shown that it complies with the rules established to ensure compliance with the related essential requirements.

5. A person responsible for providing training for pilots, for assessing their competence or medical fitness shall be required to hold an appropriate certificate:

- (a) the certificate shall be issued when it is shown that the applicant complies with the rules established to ensure compliance with the related essential requirements;
- (b) the privileges granted by the certificate shall be specified thereon;

6. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this article, specifying in particular:

- (a) the different ratings for pilot's licences and the medical certificates adequate for the different types of activities performed;
- (b) the conditions to issue, maintain, amend, limit, suspend or revoke licences, ratings for licenses, medical certificates, approvals for organisations, assessment bodies and personnel certificates;
- (c) the privileges and responsibilities of the holders of licenses, ratings for licenses, medical certificates, organisation's approvals and personnel certificates.

7. When establishing the implementing rules referred to in paragraph 6, the Commission will take specific care that they:

- (a) reflect the state of the art and the best practices in the field of flight crew training;
- (b) allow for immediate reaction to established causes of accidents and serious incidents.”

5. The following Article 7 bis is inserted:

“Article 7 bis

Aircraft operations

1. The operation of aircraft referred to in Article 4(1) (b) (c) and (d) shall comply with the essential requirements laid down in Annex IV.

2. Operators engaged in commercial operations shall demonstrate their capability and means to discharge the responsibilities associated with their privileges;

- (a) these capabilities and means shall be recognised through the issuance of a certificate;
- (b) the privileges granted to the operator and the scope of the operations shall be specified in the certificate.
- (c) the requirement of this paragraph may be satisfied as appropriate by the acceptance of certificates issued by or on behalf of a third country as far as operators involved in the operation of aircraft referred to in Article 4(1)(d) are concerned .

3. Operators engaged in the non-commercial operation of complex motor powered aircraft shall declare their capability and means to discharge the responsibilities associated with the operation of the aircraft.

4. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this article, specifying in particular:

- (a) the conditions to operate an aircraft in compliance with the essential requirements laid down in Annex IV;
- (b) the conditions to issue, maintain, amend, limit, suspend or revoke the operator's certificate referred to in paragraph 2;
- (c) the privileges and responsibilities of operators and of the holders of certificates.

5. When establishing the implementing rules referred to in paragraph 4, the Commission will take specific care that they:

- (a) reflect the state of the art and the best practices in the field of air operations;
- (b) take into account worldwide aircraft experience in service, and scientific and technical progress;
- (c) allow for immediate reaction to established causes of accidents and serious incidents;
- (d) do not impose on aircraft referred to in Article 4(1) (c) and (d) requirements which would be incompatible with the ICAO obligations of Member States.”

6. The following Article 7 ter is inserted:

“Article 7 ter

Flight engineers

With regard to the basic principles, applicability and essential requirements for the licensing of flight engineers, the Commission shall, as soon as possible, submit proposals thereon to the European Parliament and to the Council.”

7. The following Article 7 quater is inserted:

“Article 7 quater

Collective oversight

1. Member States and the Agency shall co-operate in ensuring through appropriate collection, including ramp inspection, and sharing of information that the provisions of this Regulation and its implementing rules are actually implemented.

2. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this article, specifying in particular:

- (a) the conditions for the collection and exchange of information;
- (b) the conditions to conduct ramp inspections;
- (c) the conditions under which an aircraft that do not comply with this Regulation and its implementing rules shall be grounded.”

8. In Article 8, paragraph 2 is replaced by the following:

“2. Pending adoption of the implementing rules referred to in Articles 5(4), 7(5) and 7 bis (3), and without prejudice to Article 57(2), certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations.”

9. Article 10 is amended as follows:

- (a) paragraph 5 is replaced by the following:

“5. Where an equivalent level of protection to that attained by the application of the implementing rules for Articles 5, 6, 7 and 7 bis, can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant approval derogating from those implementing rules. In such cases, the Member State concerned shall notify the Commission that it intends to grant such approval and shall give reasons demonstrating the need to derogate from the rule concerned, as well as the conditions laid down to ensure that an equivalent level of protection is achieved.”

(b) a new paragraph 7 is added:

“7. The Agency may also grant exemptions or approvals in accordance with paragraphs 3 and 5 when it acts as a competent authority. In this case Member States and the Commission shall be notified by the Agency and the decision referred to in paragraphs 4 and 6 shall be taken in accordance with the procedure referred to in Article 54(3).”

10. The following Article 11 bis is inserted:

“Article 11bis

Protection of the safety information

1. When information referred to in article 11 has been provided by a natural person on a voluntary basis, the related reports shall be disidentified regarding the source of such information.

2. Without prejudice to the applicable rules of penal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in application of this Regulation and its implementing rules, except in the cases of gross negligence.

3. In accordance with the procedures defined in their national laws and practices, Member States shall ensure that employees who provide information in application of this Regulation and its implementing rules are not subjected to any prejudice by their employer, except in the cases of gross negligence.”

11. In article 13, point (c) is replaced by the following:

“c) take the appropriate decisions for the application of Articles 15, 15 bis, 15 ter, 45 and 46.”

12. Article 15 is amended as follows:

(a) the initial sentence of paragraph 1 is replaced by the following:

“With regard to products, parts and appliances referred to in Article 4(1) (a), and (b), the Agency shall, where applicable and as specified in the Chicago Convention or its Annexes, carry out on behalf of Member States the functions and tasks of the State of design, manufacture or registry when related to design approval. To that end, it shall in particular:”

- (b) the following points (k) and (l) are added to paragraph 1:
 - “(k) for each aircraft for which a permit to fly is requested for a single flight, establish the appropriate limitations;
 - (l) issue permits to fly to aircraft when such permits are required for the execution of a series of flights.”
- (c) a new paragraph 3 is added:
 - “3. With regard to aircraft referred to in Article 4(1)(b), the Agency shall define as appropriate training requirements for the issuing of ratings to be added on the personnel certificate of persons responsible for the release of a product, part or appliance after maintenance”

13. The following Article 15 bis is inserted:

“Article 15 bis

Personnel certification

1. With regard to aircraft referred to in Article 4(1) (a), (b) and (c), the Agency shall define as appropriate training requirements for the issuing of individual ratings required for their operation.
2. With regard to personnel referred to in Article 4(2) and organisations, the Agency shall:
 - (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the organisations and assessment bodies it certifies;
 - (b) issue and renew the certificates of:
 - (i) personnel training organisations and aero-medical centres located within the territory of the Member States, if requested by the Member State concerned; or
 - (ii) personnel training organisations and aero-medical centres located outside the territory of the Member States;
 - (iii) assessment bodies if requested by such bodies.
 - (c) amend, limit, suspend or revoke the relevant organisation certificate when the conditions according to which it was issued are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.
- 3 With regard to flight synthetic training devices the Agency shall:
 - (a) conduct, itself or through national aviation authorities or qualified entities, technical inspections of the devices it certifies ;
 - (b) issue and renew the certificates of:

- (i) flight synthetic training devices located within the territory of the Member States, if requested by the Member State concerned; or
 - (ii) flight synthetic training devices used by training organisations certified by the Agency or located outside the territory of the Member States;
- (c) amend, limit, suspend or revoke the relevant certificate when the conditions according to which it was issued are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.”

14. The following Article 15 ter is inserted:

“Article 15 ter

Operations

1. With regard to aircraft referred to in article 4 (1) (a) and (b) the Agency shall define as appropriate a Master Minimum Equipment List containing the items of equipment required for each aircraft type that may temporarily be inoperative while maintaining an acceptable level of safety.

2. With regard to operators engaged in commercial operations, the Agency shall:

- (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the operators it certifies;
- (b) issue and renew the certificates of:
 - (i) operators located within the territory of the Member States, if requested by the Member State concerned; or
 - (ii) operators located outside the territory of the Member States;
- (c) amend, limit, suspend or revoke the relevant operator’s certificate when the conditions according to which it was issued are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

3. The Agency may mandate by means of an operational directive that an operation shall be prohibited, limited or subject to certain conditions in the interest of safe operations.

4. With regard to flight time limitation the Agency shall:

- (a) establish and notify the applicable certification specifications to ensure compliance with the essential requirements.
- (b) approve individual flight time specification schemes of operators when such schemes cannot be approved under an applicable certification specification.”

15. In article 29, point (a) of paragraph 3 is replaced by the following:

“(a) to approve the measures of the Agency as defined in Articles 13, 15, 15 bis and 15 ter within the limits specified by this Regulation, its implementing rules and any applicable law;”

16. In article 35, paragraph 1 is replaced by the following:

“1. An appeal may be brought against decisions of the Agency which have been taken pursuant to Article 15, 15 bis, 15 ter, 46 or 53.”

17. In article 46, the initial sentence of paragraph 1 is replaced by the following:

“1. For the application of Article 15, 15 bis and 15 ter, the Agency may itself conduct or allocate to national aviation authorities or qualified entities all necessary investigation of undertakings. Investigations shall be carried out in compliance with the legal provisions of the Member States in which they are to be undertaken. To that end, the persons authorised under this Regulation are empowered:”

18. In article 57, the following paragraph 3 is added:

“3. Directive 2004/36/CE shall be repealed as from”

19. In article 58, the second paragraph is replaced by the following:

“Articles 5 and 6, 7, 7 bis, 7 ter and 7 quater shall apply as from the dates specified in the implementing rules.”

Article 2

Annex II to Regulation (EC) No 1592/2002 is amended by Annex I to this Regulation.

Article 3

A new Annex III is added to Regulation (EC) No 1592/2002 according to the text of Annex II to this Regulation.

Article 4

A new Annex IV is added to Regulation (EC) No 1592/2002 according to the text of Annex III to this Regulation.

Article 5

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, XX XX XXX

*For the European Parliament
The President*

*For the Council
The President*

Annex I

“Annex II

Aircraft referred to in Article 4(4)

Aircraft to which Article 4(1), (2) and (3) does not apply are aircraft that are within one or more of the categories of this annex set out below:

(a) historic aircraft meeting the criteria below:

(i) non complex aircraft whose:

- initial design was established before 01.01.1955 and
- production has been stopped before 01.01.1975.

or

(ii) aircraft having a clear historical relevance, related to:

- a participation in a noteworthy historical event; or
- a major step in the development of aviation; or
- a major role played into the armed forces of a Member State

(b) aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers;

(c) aircraft of which at least 51 % is built by an amateur, or a non-profit making association of amateurs, for their own purposes and without any commercial objective;

(d) aircraft that have been in the service of military forces, unless the aircraft is of a type for which a design standard has been adopted by the Agency;

(e) aeroplanes, helicopters and powered parachutes having no more than two seats, a maximum take-off mass (MTOM), as recorded by the Member States, of no more than:

(i) 300 kg for a land plane/helicopter, single seater; or

(ii) 450 kg for a land plane/helicopter, two seater; or

(iii) 330 kg for an amphibian or floatplane/helicopter single seater; or

(iv) 495 kg for an amphibian or floatplane/helicopter two seater, provided that, where operating both as a floatplane/helicopter and as a land plane/helicopter, it falls below both MTOM limits, as appropriate;

(v) 472.5 kg for a land plane, two seater equipped with an airframe mounted total recovery parachute system;

(vi) 315 kg for a land plane single seater equipped with an airframe mounted total recovery parachute system.

and, for aeroplanes, having the stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS)

(f) single and two seater gyroplanes with a maximum take off mass not exceeding 560 kg;

- (g) gliders with a maximum empty mass, of less than 80kg when single seater or 100kg when two seater, including those which are foot launched;
- (h) replicas of aircraft meeting the criteria of (a) or (d) above, for which the structural design is similar to the original aircraft;
- (i) unmanned aircraft with an operating mass of less than 150 kg;
- (j) any other aircraft which has a maximum empty mass, including fuel, of less than 70 kg.”

Annex II

“Annex III

Essential requirements for pilot licensing

1. Training
 - 1.a. General
 - 1.a.1. A person undertaking training to fly an aircraft must be sufficiently mature educationally, physically and mentally to acquire, retain and demonstrate the relevant theoretical knowledge and practical skill.
 - 1.b. Theoretical Knowledge
 - 1.b.1. A pilot must acquire and maintain a level of knowledge appropriate to the functions exercised on the aircraft and proportionate to the risks associated to the type of activity. Such knowledge must include at least the following:
 - (i) air law;
 - (ii) aircraft general knowledge;
 - (iii) technical matters related to the category of the aircraft;
 - (iv) flight performance and planning;
 - (v) human performance and limitations;
 - (vi) meteorology;
 - (vii) navigation;
 - (viii) operational procedures, including resource management;
 - (ix) principles of flight; and
 - (x) communications.
 - 1.c. Demonstration and maintenance of theoretical knowledge
 - 1.c.1. The acquisition and retention of theoretical knowledge must be demonstrated by continuous assessment during training, and where appropriate, by examinations.
 - 1.c.2. An appropriate level of competence in theoretical knowledge must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.
 - 1.d. Practical skill
 - 1.d.1. A pilot must acquire and maintain the practical skills as appropriate to exercise his/her functions on the aircraft. Such skills must be proportionate to the risks associated to

the type of activity and must cover, if appropriate to the functions exercised on the aircraft, the following:

- (i) pre-flight and in-flight activities, including aircraft performance, mass and balance determination, aircraft inspection and servicing, fuel planning, weather appreciation, route planning, airspace restrictions and runway availability;
- (ii) aerodrome and traffic pattern operations;
- (iii) collision avoidance precautions and procedures;
- (iv) control of the aircraft by external visual reference;
- (v) flight manoeuvres, including in critical situations, and associated “upset” manoeuvres, as technically achievable;
- (vi) normal and cross-wind take-offs and landings;
- (vii) flight by reference solely to instruments, as appropriate to the type of activity;
- (viii) operational procedures, including team skills and resource management, as appropriate to the type of operation, whether single or multi-crew;
- (ix) navigation and implementation of rules of the air and related procedures, using as appropriate, visual reference or navigation aids;
- (x) abnormal and emergency operations, including simulated aircraft equipment malfunctions;
- (xi) compliance with air traffic services and communications procedures;
- (xii) aircraft type or class specific aspects; and
- (xiii) additional practical skill training that may be required to mitigate risks associated with specific activities.

1.e. Demonstration and maintenance of practical skill

1.e.1. A pilot must demonstrate the ability to perform the procedures and manoeuvres with a degree of competence appropriate to the functions exercised on the aircraft, by:

- (i) operating the aircraft within its limitations;
- (ii) completing all manoeuvres with smoothness and accuracy;
- (iii) exercising good judgement and airmanship;
- (iv) applying aeronautical knowledge; and
- (v) maintaining control of the aircraft at all times in a manner such that the successful outcome of a procedure or manoeuvre is assured.

1.e.2. An appropriate level of competence in practical skill must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The

frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

1.f. Language Proficiency

Except where the related safety risk can be mitigated by other means, a pilot must have demonstrated proficiency in English, which must include:

- (i) the ability to understand weather information documents;
- (ii) the use of aeronautical en-route, departure and approach charts and associated aeronautical information documents; and
- (iii) the ability to communicate with other flight crew and air navigation services in English during all phases of flight, including flight preparation.

1.g. Flight synthetic training devices

When a flight synthetic training device (FSTD) is used for training, or for demonstration that practical skill is acquired or maintained, this FSTD must be qualified to a given level of performance in those areas, which are relevant to completing the related task. In particular, the replication of configuration, handling qualities, aircraft performance, and systems behaviour must adequately represent the aircraft.

1.h. Training Course

1.h.1. Training must be executed through a training course.

1.h.2. A training course must meet the following conditions:

- (i) a syllabus must be developed for each type of course; and
- (ii) the training course must comprise a breakdown of theoretical knowledge and practical flight instruction (including synthetic training), if applicable.

1.i. Instructors

1.i.1. Theoretical instruction.

Theoretical instruction must be given by appropriately qualified instructors. They must:

- (i) have appropriate knowledge in the field where instruction is to be given; and
- (ii) be capable of using appropriate instructional techniques.

1.i.2. Flight and synthetic flight instruction.

Flight and synthetic flight instruction must be given by appropriately qualified instructors, who have the following qualifications:

- (i) meet the theoretical knowledge and the experience requirements appropriate for the instruction being given;

- (ii) be capable of using appropriate instructional techniques;
- (iii) have practised instructional techniques in those flight manoeuvres and procedures in which it is intended to provide flight instruction;
- (iv) have demonstrated the ability to instruct in those areas in which flight instruction is to be given, including pre-flight, post-flight and ground instruction; and
- (v) receive regular refresher training to ensure that the instructional standards are maintained up to date.

Flight instructors must also be entitled to act as pilot in command on the aircraft for which instruction is being given, except for training on new aircraft types.

1.j. Examiners

1.j.1. Persons responsible for assessing the competence of pilots must:

- (i) meet or have met the requirements for flight instructors;
- (ii) be capable of assessing pilot performance and conducting flight tests and checks.

2. Training Organisations

2.a. Training Organisation requirements

2.a.1. A training organisation providing pilot training must meet the following requirements:

- (i) have all the means necessary for the scope of responsibilities associated with their activity. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
- (ii) implement and maintain a management system relating to safety and the standard of training, and aim for continuous improvement of this system; and
- (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the above requirements.

3. Medical fitness

3.a. Medical criteria

3.a.1. All pilots must periodically demonstrate medical fitness to satisfactorily execute their functions, taking into account the type of activity. Compliance must be shown by appropriate assessment based on aero-medical best practice, taking into account the type of activity and the possible mental and physical degradation due to age.

Medical fitness, comprising physical and mental fitness, means not suffering from any disease or disability, which makes the pilot unable:

- (i) to execute the tasks necessary to operate an aircraft; or

- (ii) to perform assigned duties at any time; or
 - (iii) to perceive correctly his/her environment.
- 3.a.2. Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent flight safety may be implemented.
- 3.b. Aero-medical examiners
 - 3.b.1 An aero-medical examiner must:
 - (i) be qualified and licensed in the practice of medicine;
 - (ii) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained;
 - (iii) have acquired practical knowledge and experience of the conditions in which pilots carry out their duties.
 - 3.c Aero-medical Centres
 - 3.c.1 Aero-medical centres must meet the following conditions:
 - (i) have all the means necessary for the scope of responsibilities associated with their privileges. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
 - (ii) implement and maintain a management system relating to safety and the standard of medical assessment, and aim for continuous improvement of this system;
 - (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with these requirements.”

Annex III

“Annex IV

Essential requirements for air operations

1. General
 - 1.a. A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto.
 - 1.b. A flight must be performed in such a way that the operating procedures specified in the Flight Manual or, where required the Operations Manual, for the preparation and execution of the flight are followed. To facilitate this, a checklist system must be available for use, as applicable, by crew members in all phases of operation of the aircraft under normal, abnormal and emergency conditions and situations. Procedures must be established for any reasonably foreseeable emergency situation.
 - 1.c. Before every flight, the roles and duties of each crew member must be defined. The pilot in command must be responsible for the operation and safety of the aircraft and for the safety of all crew members, passengers and cargo on board.
 - 1.d. Articles or substances, which are capable of posing a significant risk to health, safety, property or the environment, such as dangerous goods, weapons and ammunition, must not be carried on any aircraft, unless specific safety procedures and instructions are applied to mitigate the related risks.
 - 1.e. All necessary data, documents, records and information to record the respect of the conditions specified in point 2.c must be retained for each flight and kept available for a minimum period of time compatible with the type of operation.
2. Flight preparation
 - 2.a. A flight must not be commenced unless it has been ascertained by every reasonable means available that all the following conditions are complied with:
 - 2.a.1. Adequate facilities directly required for the flight and for the safe operation of the aircraft, including communication facilities and navigation aids, are available for the execution of the flight, taking into account available AIS documentation.
 - 2.a.2. The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient related information regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers using specified information.
 - 2.a.3. The pilot in command must be satisfied that:
 - (i) the aircraft is airworthy as specified in point 6;

- (ii) if required, the aircraft is duly registered and that appropriate certificates with respect thereto are aboard the aircraft;
 - (iii) instruments and equipment as specified in point 5 required for the execution of that flight are installed in the aircraft and are operative, unless waived by the applicable MEL or equivalent document;
 - (iv) the mass of the aircraft and centre of gravity location are such that the flight can be conducted within limits prescribed in the airworthiness documentation;
 - (v) all cabin baggage, hold luggage and cargo is properly loaded and secured; and
 - (vi) the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight.
- 2.a.4. Information regarding meteorological conditions for departure, destination and, where applicable, alternate aerodromes, as well as en-route conditions, must be available to the flight crew. Special attention must be given to potentially hazardous atmospheric conditions.
- 2.a.5. In case of flight into known or expected icing conditions, the aircraft must be certified, equipped and/or treated to operate safely in such conditions.
- 2.a.6. For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with these flight rules possible. For a flight based on instrument flight rules a destination and where applicable alternate aerodrome(s) where the aircraft can land must be selected, taking into account in particular the forecasted meteorological conditions, the availability of air navigation equipment, the availability of ground facilities and the instrument flight procedures approved by the State in which the destination and/or alternate aerodrome is located.
- 2.a.7. The amount of fuel and oil on board must be sufficient to ensure that the intended flight can be completed safely, taking into account the meteorological conditions, any element affecting the performance of the aircraft and any delays that are expected in flight. In addition, a fuel reserve must be carried to provide for contingencies. Procedures for in-flight fuel management must be established when relevant.
3. Flight operations
- 3.a. With regard to flight operations, all the following conditions must be complied with:
- 3.a.1. Taking into account the type of aircraft, during take-off and landing, and whenever deemed necessary by the pilot in command in the interest of safety, each crew member must be seated at their crew station and must use the provided restraint systems, taking into account the type of aircraft.
 - 3.a.2. All flight crew members required to be on flight deck duty must be and remain at their station, with their seatbelts fastened except en-route for physiological or operational needs.
 - 3.a.3. Taking into account the type of aircraft, before take-off and landing, during taxiing and whenever deemed necessary in the interest of safety, the pilot in command must

ensure that each passenger occupies a seat or berth with the safety belt properly secured.

- 3.a.4. A flight must be performed in such a way that appropriate separation from other aircraft is maintained and that adequate obstacle clearance is ensured, during all phases of the flight. Such separation must at least be those required by the applicable rules of the air.
- 3.a.5. A flight must not be continued unless known conditions continue to be at least equivalent to those in point 2. Furthermore, for a flight based on instrument flight rules, an approach toward an aerodrome must not be continued below certain specified heights or beyond a certain position, if prescribed visibility criteria are not met.
- 3.a.6. In an emergency, the pilot in command must ensure that all passengers are instructed in such emergency action as may be appropriate to the circumstances.
- 3.a.7. A pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour.
- 3.a.8. An aircraft must not be taxied on the movement area of an aerodrome, or its rotor must not be turned under power, unless the person at the controls is appropriately qualified.
- 3.a.9. The applicable in-flight fuel management procedures must be used, when relevant.

4. Aircraft performance and operating limitations

- 4.a. An aircraft must be operated in accordance with its airworthiness documentation and all related operating procedures and limitations as expressed in its approved flight manual or equivalent documentation, as the case may be. The flight manual or equivalent documentation must be available to the crew and kept up to date for each aircraft.
- 4.b. The aircraft must be operated in accordance with the applicable environmental documentation.
- 4.c. A flight must not be commenced or continued unless the aircraft's scheduled performance, considering all factors which significantly affect its performance level, allows all phases of flight to be executed within the applicable distances/areas and obstacle clearances at the planned operating mass. Performance factors which significantly affect take-off, en-route and approach/landing are, particularly:
 - (i) operating procedures;
 - (ii) pressure altitude of the aerodrome;
 - (iii) temperature;
 - (iv) wind;
 - (v) size, slope and condition of the take-off/landing area; and
 - (vi) the condition of the airframe, the power plant or the systems, taking into account possible deterioration.

- 4.c.1. Such factors must be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data, as appropriate to the type of operation.
5. Instruments, data and equipment
 - 5.a. An aircraft must be equipped with all navigation, communication and other equipment necessary for the intended flight, taking account of air traffic regulations and rules of the air applicable during any phase of the flight.
 - 5.b. When relevant, an aircraft must be equipped with all necessary safety, medical, evacuation and survival equipment, taking account of the risks associated to the areas of operation, the routes to be flown, the flight altitude and the duration of the flight.
 - 5.c. All data necessary for the execution of the flight by the crew must be updated and available on board the aircraft taking account of applicable air traffic regulations, rules of the air, flight altitudes and areas of operation.
6. Continuing Airworthiness
 - 6.a. The aircraft must not be operated unless:
 - (i) the aircraft is in an airworthy condition;
 - (ii) the operational and emergency equipment necessary for the intended flight is serviceable;
 - (iii) the airworthiness document of the aircraft is valid; and
 - (iv) the maintenance of the aircraft is performed in accordance with its maintenance programme.
 - 6.b. Before each flight, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.
 - 6.c. The maintenance programme must contain in particular, maintenance tasks and intervals, especially those that have been specified as mandatory in the instructions for continuing airworthiness.
 - 6.d. The aircraft must not be operated unless it is maintained and released to service by persons or organisations qualified for these tasks. The signed release to service must contain in particular, the basic details of the maintenance carried out.
 - 6.e. All records demonstrating the airworthiness of the aircraft must be kept until the information contained has been superseded by new information equivalent in scope and detail but not less than one year in the case of detailed maintenance records. When an aircraft is permanently withdrawn from service, a minimum period of 90 days applies. When the aircraft is leased, all records demonstrating the airworthiness of the aircraft must be kept at least for the length of the lease.
 - 6.f. All modifications and repairs must comply with the essential requirements for airworthiness. The substantiating data supporting compliance with the airworthiness requirements must be retained.

7. Crew members
 - 7.a. The number and composition of the crew must be determined taking into account:
 - (i) the certification limitations of the aircraft, including if applicable, the relevant emergency evacuation demonstration;
 - (ii) the aircraft configuration; and
 - (iii) the type and duration of operations.
 - 7.b. Cabin crew members must:
 - (i) be trained and checked on a regular basis to attain and maintain an adequate level of competency in order to perform their assigned safety duties; and
 - (ii) be periodically assessed for medical fitness to safely exercise their assigned safety duties. Compliance must be shown by appropriate assessment based on aeromedical best practice.
 - 7.c. The pilot in command must have the authority to give all commands and take any appropriate actions for the purpose of securing the operation and the safety of the aircraft and of persons and/or property carried therein.
 - 7.d. In an emergency situation, which endangers the operation or the safety of the aircraft and/or persons on board, the pilot in command must take any action he/she considers necessary in the interest of safety. When such action involves a violation of local regulations or procedures, the pilot in command must be responsible for notifying the appropriate local authority without delay.
 - 7.e. Emergency abnormal situations must not be simulated when passengers or cargo are being carried.
 - 7.f. No crew member must allow their task achievement/decision making to deteriorate to the extent that flight safety is endangered because of the effects of fatigue, fatigue accumulation, sleep deprivation, number of sectors flown, night hours, etc. Rest periods must provide sufficient time to enable crew members to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.
 - 7.g. A crew member must not perform allocated duties on board an aircraft when under the influence of psychoactive substances or alcohol or when unfit due to injury, fatigue, medication, sickness or other similar causes.
8. Additional requirements for operation for commercial purposes and operation of complex motor-powered aircraft.
 - 8.a. The operation for commercial purposes and the operation of complex motor-powered aircraft must not be undertaken unless the following conditions are met:
 - 8.a.1. the operator must have directly or indirectly through contracts the means necessary for the scale and scope of the operations. These means comprise but are not limited

to the following: aircraft, facilities, personnel, equipment, documentation of tasks, responsibilities and procedures, access to relevant data and record keeping.

- 8.a.2. the operator must use only properly qualified and trained personnel and implement and maintain training and checking programmes for the crew members and other relevant personnel.
- 8.a.3. the operator must establish a Minimum Equipment List (MEL) or equivalent document, taking account of the following:
 - (i) the document must provide for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight;
 - (ii) the document must be prepared for each individual aircraft, taking account of the operator's relevant operational and maintenance conditions; and
 - (iii) the MEL must be based on the Master Minimum Equipment List (MMEL), if available, and must not be less restrictive than the MMEL;
- 8.a.4. the operator must implement and maintain a management system to ensure compliance with these essential requirements for operations and aim for continuous improvement of this system; and
- 8.a.5. the operator must establish and maintain an accident prevention and safety programme, including an occurrence reporting programme, which must be used by the management system in order to contribute to the aim of continuous improvement of the safety of operations.
- 8.b. The operation for commercial purposes and the operation of complex motor-powered aircraft must only be undertaken in accordance with an operator's Operations Manual. Such manual must contain all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. Limitations applicable to flight time, flight duty periods and rest periods for crew members must be specified. The Operations manual and its revisions must be compliant with the approved Flight manual and be amended as necessary.
- 8.c. The operator must establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.
- 8.d. The operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:
 - (i) security of the flight crew compartment;
 - (ii) aircraft search procedure checklist;
 - (iii) training programmes;
 - (iv) protection of electronic and computer systems to prevent intentional system interference and corruption; and
 - (v) reporting acts of unlawful interference.

When security measures may adversely affect the safety of operations, the risks must be assessed and appropriate procedures developed to mitigate safety risks, this may necessitate the use of specialist equipment.

- 8.e. The operator must designate one pilot amongst the flight crew as the pilot in command.
- 8.f. The prevention of fatigue must be managed through a rostering system. For a flight, or series of flights, such a rostering system needs to address flight time, flight duty periods, duty and adapted rest periods. Limitations established within the rostering system must take into account all relevant factors contributing to fatigue such as, in particular, number of sectors flown, time zone crossing, sleep deprivation, disruption of circadian cycles, night hours, positioning, cumulative duty time for given periods of time, sharing of allocated tasks between crew members, and also the provision of augmented crews.
- 8.g. The tasks specified in point 6.a and those described in points 6.d. and 6.e. must be controlled by an organisation responsible for the continuing airworthiness management that must meet, in addition to those requirements of Annex I point 3.a, the following conditions:
 - (i) the organisation must be qualified for the maintenance of products parts and appliances under its responsibility or have established a contract with such a qualified organisation for these products, parts and appliances; and
 - (ii) the organisation must establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation including when applicable a description of administrative arrangements between the organisation and the approved maintenance organisation.”