



**European Aviation Safety Agency**

**COMMENT RESPONSE DOCUMENT (CRD)  
TO NOTICE OF PROPOSED AMENDMENT (NPA) 2008-22c & 2009-02c**

**for an Agency Opinion on a Commission Regulation establishing the  
Implementing Rules for organisations in the field of air operations and  
personnel requirements**

**and**

**a draft Decision of the Executive Director of the European Aviation Safety  
Agency on Acceptable Means of Compliance and Guidance Material  
related to the Implementing Rules for organisations in the field of air  
operations and personnel requirements**

***“Organisation Requirements”***

**CRD b.1 – Cover Regulation**

Proposal for a

**COMMISSION REGULATION**

**on Organisation Requirements**

THE COMMISSION OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC<sup>1</sup>, amended by Regulation (EC) No 1108 of the European Parliament and of the Council of 21 October 2009<sup>2</sup> and in particular Articles 7 and 8 thereof,

Whereas:

- (1) Regulation (EC) No 216/2008 establishes common essential requirements to provide for a high uniform level of civil aviation safety and environmental protection; it requires the Commission to adopt the necessary Implementing Rules to ensure their uniform application; it establishes the 'European Aviation Safety Agency' (hereinafter referred to as the 'Agency') to assist the Commission in the development of such Implementing Rules.
- (2) Articles 7 and 8 of Regulation (EC) No 216/2008 mandate the Commission to adopt common technical requirements and administrative procedures for air operators of aircraft, for pilot training organisations and aero-medical centres to ensure compliance with the essential requirements laid down in Annexes III, IV and Vb of that Regulation.
- (3) In order to ensure a smooth transition and a high level of civil aviation safety in the European Union, Implementing Rules should reflect the state of the art, including best practices, and scientific and technical progress in the field of pilot training and air operations. Accordingly, technical requirements and administrative procedures agreed under the auspices of the International Civil Aviation Organisation (hereinafter referred to as "ICAO") and the European Joint Aviation Authorities (hereinafter referred to as "JAA"), as well as existing European and national rules, should be considered.
- (4) With a view to ensuring uniformity in the application of common requirements, it is necessary that common procedures be followed by the competent authorities and, where applicable, the Agency when assessing compliance with these requirements; the Agency should develop Acceptable Means of Compliance and Guidance Material to facilitate the necessary regulatory uniformity.
- (5) It is necessary to provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework, in accordance with Article 70 of Regulation (EC) No 216/2008, and to recognise

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<sup>1</sup> OJ L 79, 13.3.2008, p.1.

<sup>2</sup> OJ L 309, 24.11.2009, p. 51.

the validity of certificates issued before the entry into force of this Regulation under certain conditions, in accordance with Article 69 of that Regulation.

- (6) The measures provided by this Regulation are based on the Opinion issued by the Agency in accordance with Articles 17 and 19 of the Basic Regulation.
- (7) The measures provided for in this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee established by Article 65 of the Basic Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

***Objective and scope***

- 1. This Regulation establishes:
  - (a) Common technical requirements for the administration and management system and the conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates of:
    - (i) air operators of aircraft referred to in Article 4(1)(b) and (c) of Regulation (EC) No 216/2008 involved in the operation of complex motor-powered aircraft and/or commercial operations;
    - (ii) pilot training organisations and aero-medical centres involved in the qualification of the personnel referred to in Article 7 of the Basic Regulation;
  - (b) The conditions in accordance with which non-commercial operators of complex motor-powered aircraft shall declare their capability and means to discharge their responsibilities associated with the operation of aircraft;
  - (c) The conditions for the certification of flight simulation training devices (FSTD) and common technical requirements for the organisation and management system of organisations operating and using those devices.
- 2. This Regulation shall not apply to:
  - (a) aircraft referred to in Article 4(5) of Regulation 216/2008. Pending the adoption of common technical requirements for these aircraft, they shall be operated under the conditions set out in Commission Decision C(2009) 7633 of 14.10.2009;
  - (b) airships, tilt-rotor aircraft, tethered balloons and unmanned aerial systems. Pending the adoption of common technical requirements for the operation of these aircraft, they shall be operated under the conditions set out in Member States' national law;
  - (c) in the case of flights related to the introduction or modification of aircraft types conducted by design or production organisations within the scope of their privileges. Pending the adoption of common technical requirements for these flights, they shall continue to be operated under the conditions set out in Member States' national law.

*Article 2***Definitions**

Within the scope of this Regulation:

1. 'Basic Instrument Training Device Model (BITD Model)' means a defined hardware and software combination, which has obtained a BITD qualification;
2. 'Cabin crew member' means an appropriately qualified crew member, other than a flight crew or technical crew member, who is assigned by an operator to perform duties related to the safety of passengers and flight during operations;
3. 'Dry lease agreement' means an agreement between commercial operators pursuant to which the aircraft is operated under the AOC of the lessee;
4. 'Flight Data Monitoring (FDM)' means the pro-active and non-punitive use of digital flight data from routine operations to improve aviation safety;
5. 'Flight Instructor (FI)' means an instructor with the privileges to provide training in an aircraft, in accordance with Part-FCL;
6. 'Flight Simulation Training Device (FSTD)' means a training device which is:
  - (a) in the case of aeroplanes, a Full Flight Simulator (FFS), a Flight Training Device (FTD), a Flight Navigation Procedures Trainer (FNPT), or a Basic Instrument Training Device (BITD);
  - (b) in the case of helicopters, a Full Flight Simulator (FFS), a Flight Training Device (FTD) or a Flight Navigation Procedures Trainer (FNPT);
7. 'FSTD Qualification' means the level of technical ability of an FSTD as defined in the compliance document;
8. 'FSTD User' means the organisation or person requesting training, checking or testing through the use of an FSTD to an ATO;
9. 'JAR' means Joint Aviation Requirements;
10. 'Organisation' means a natural or legal person, or part of a legal person, established at one or more than one location, whether or not within the territory of the Member States, holding a certificate or subject to a declaration obligation in accordance with this Regulation;
11. 'Other Training Device (OTD)' means a training aid other than an FSTD which provides for training where a complete flight deck or cockpit environment is not necessary;
12. 'Part-OR' means the implementing rules to Regulation (EC) No 216/2008 establishing requirements for organisations;
13. 'Principal place of business' means the head office or registered office of the organisation within which the principal financial functions and operational control of the activities referred to in this Part are exercised;
14. 'Qualification Test Guide (QTG)' means a document designed to demonstrate that the performance and handling qualities of an FSTD represent those of the aircraft, class of aeroplane or type of helicopter, simulated within prescribed limits and that all applicable requirements have been met. The QTG includes both the data of the aircraft, class of aeroplane or type of helicopter and FSTD data used to support the validation;

15. 'Rectification Interval' means the maximum time an aircraft may be operated between the deferral of an inoperative item and its rectification as specified in the MEL;
16. 'Wet lease agreement' means an agreement between commercial operators pursuant to which the aircraft is operated under the AOC of the lessor.

*Article 3*

***Pilot Training Organisations***

1. Pilot training organisations shall be approved in accordance with the provisions of Annex I to this Regulation, hereon referred to as Part-OR.
2. Pilot training organisation approvals issued or recognised before the applicability of this Regulation in accordance with the applicable JAR-FCL requirements and procedures by a Member State having implemented JAR-FCL and having been recommended for mutual recognition within the JAA system in relation to such JAR, shall be deemed to have been issued in accordance with this Regulation.
3. In such case:
  - (a) The privileges of these organisations shall be limited to those included in the approval issued by the Member State;
  - (b) the period for closure of level two findings, referred to in Subpart GEN of Part-AR, shall not exceed 2 years when those findings arise from differences with previous national legislation reflecting JAR-FCL requirements and procedures.
4. The competent authority shall replace the certificates of these pilot training organisations with certificates complying with the format laid down in Part-AR no later than [3 years after entry into force].

*Article 4*

***Flight Simulation Training Devices***

1. FSTDs used for pilot training, with the exception of developmental FSTDs used for flight test training, shall be certificated in accordance with the provisions of Part-OR.
2. FSTD qualification certificates issued or recognised before the applicability of this Regulation in accordance with the applicable JAR-FSTD requirements and procedures by a Member State having implemented JAR-FSTD and having been recommended for mutual recognition within the JAA system in relation to such JAR, shall be deemed to have been issued in accordance with this Regulation.
3. The competent authority shall replace the certificates of these FSTDs with certificates complying with the format laid down in Part-OR no later than [3 years after entry into force].

*Article 5***Aero-medical Centres**

1. Aero-medical centres shall be approved in accordance with the provisions of Part-OR.
2. Aero-medical centre approvals issued or recognised before the applicability of this Regulation in accordance with the applicable JAR-FCL 3 requirements and procedures by a Member State having implemented JAR-FCL 3 and having been recommended for mutual recognition within the JAA system in relation to such JAR, shall be deemed to have been issued in accordance with this Regulation.
3. In such case:
  - (a) the privileges of these aero-medical centres shall be limited to those included in the approval issued by the Member State;
  - (b) the period for closure of level two findings, referred to in Subpart GEN of Part-AR, shall not exceed 2 years when those findings arise from differences with previous national legislation reflecting JAR-FCL 3 requirements and procedures.

The competent authority shall replace the certificates of aero-medical centres with certificates complying with the format laid down in Part-AR no later than [3 years after entry into force].

*Article 6***Air Operators**

1. Operators of aeroplanes, helicopters, sailplanes and balloons shall only operate an aircraft for the purpose of commercial air operations under the terms and conditions of a certificate issued in accordance with the provisions of Part-OR.
2. Air operator certificates issued or recognised by a Member State before the applicability of this Regulation shall be deemed to have been issued in accordance with this Regulation if they were issued in accordance with:
  - (a) Regulation (EC) No 3922/1991; or
  - (b) the applicable JAR-OPS 3 requirements and procedures, if the Member State that issued the certificate has implemented JAR-OPS 3 and was recommended for mutual recognition within the JAA system in relation to such JAR.
3. In such case:
  - (a) the privileges of these operators shall be limited to those included in the approval issued by the Member State;
  - (b) the period for closure of level two findings, referred to in Subpart GEN of Part-AR, shall not exceed 2 years when those findings arise from differences with Regulation (EC) No 3922/1991 or previous national legislation reflecting JAR-OPS 3 requirements and procedures, as applicable.
4. Operators involved in non-commercial operations of complex motor-powered aeroplanes and helicopters shall declare their capability and means to

discharge their responsibilities associated with the operation of aircraft in accordance with the provisions of Part-OR.

*Article 7*

***Management system***

Organisations referred to in Article 1(1) that at the date of entry into force of this Regulation have not implemented a management system complying with all the elements required in OR.GEN.200 shall establish an implementation plan with milestones.

This implementation plan shall be agreed with the competent authority before the applicability of this Regulation.

*Article 8*

***Entry into force***

1. This Regulation shall enter into force on the 20<sup>th</sup> day following its publication in the Official Journal of the European Union and shall become applicable as from 8 April 2012.
2. By way of derogation from paragraph 1, Member States may elect not to apply:
  - (a) the provisions of Part-OR to operators other than commercial air transport operators of aeroplanes and helicopters until [*3 years after the applicability of this Regulation*];
  - (b) the provisions of Part-OR to operators involved in non-commercial operations with complex motor-powered aircraft until [*2 year after the applicability of this Regulation*],
  - (c) the provisions of Part-OR to training organisations providing training only for LAPL, PPL, BPL or SPL until up to [*3 years after the applicability of this Regulation*];
3. When a Member State makes use of the provisions of paragraph 2, it shall notify the Commission and the Agency. This notification shall describe the justification for such derogation as well as the programme for implementation containing actions envisaged and related timing.

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

Done at Brussels, XXXX.

*For the Commission*