



# Explanatory Note to Decision 2018/009/R

## Acceptable Means of Compliance and Guidance Material to Annex VIII (Part-DTO) to Regulation (EU) No 1178/2011 and update of the related Acceptable Means of Compliance and Guidance Material to Annex I (Part-FCL) and to Annex VI (Part-ARA) to Regulation (EU) No 1178/2011

RELATED NPA/CRD: 2015-20 — OPINION NO 11/2016 — RMT.0657

### EXECUTIVE SUMMARY

This Decision issues the Acceptable Means of Compliance (AMC) and Guidance Material (GM) to Annex VIII (Part-DTO) to Regulation (EU) No 1178/2011 (the Aircrew Regulation).

In the context of the introduction of Annex VIII (Part-DTO), this Decision amends the AMC and GM to Annex I (Part-FCL) and to Annex VI (Part-ARA) by inserting references to declared training organisations (DTOs), where necessary. Additionally, existing AMC and GM to Annex I (Part-FCL) and to Annex VI (Part-ARA) have been revised in order to address proportionality and flexibility issues.

The new AMC and GM to Annex VIII (Part-DTO) as well as the DTO-related amendments to Annex I (Part-FCL) and to Annex VI (Part-ARA) are expected to assist Member States and the general aviation (GA) training industry in the implementation of Annex VIII (Part-DTO). The additional amendments to the AMC and GM to Annex I (Part-FCL) and to Annex VI (Part-ARA) are expected to improve the regulatory framework by providing for more proportionality and flexibility in the areas concerned.

As this Decision contains the initial issue of the AMC and GM to Annex VIII (Part-DTO) as well as the amendments to the AMC and GM to Annex I (Part-FCL) and to Annex VI (Part-ARA), the following four annexes are established:

- Annex I: AMC/GM to Part-DTO (Initial issue),
- Annex II: AMC/GM to Part-FCL (Amendment 5),
- Annex III: AMC/GM to Part-ARA (Amendment 5),
- Annex IV: AMC/GM to Commission Regulation (EU) No 1178/2011.

<b>Action area:</b>	General aviation		
<b>Affected rules:</b>	Annex I (Part-FCL), Annex VI (Part-ARA) and Annex VIII (Part-DTO) to Commission Regulation (EU) No 1178/2011		
<b>Affected stakeholders:</b>	Pilots; operators; ATOs; competent authorities (CAs)		
<b>Driver:</b>	Efficiency/proportionality	<b>Rulemaking group:</b>	No
<b>Impact assessment:</b>	Light	<b>Rulemaking Procedure:</b>	Standard

#### ● EASA rulemaking process



13.10.2015

18.12.2015

7.9.2016

31.7.2018

14.9.2018



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## 1. About this Decision

The European Aviation Safety Agency (EASA) developed ED Decision 2018/009/R in line with Regulation (EU) 2018/1139<sup>1</sup> (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure<sup>2</sup>.

This rulemaking activity is included in the EASA's 5-year Rulemaking Programme<sup>3</sup> under rulemaking task RMT.0657. The scope and timescales of the task were defined in the related Terms of Reference<sup>4</sup>.

The draft text of this Decision has been developed by EASA based on the input of the 'Training outside ATO' Task Force<sup>5</sup> (hereinafter referred to as 'TF'). All interested parties were consulted through Notice of Proposed Amendment (NPA) 2015-20<sup>6</sup>. 1 193 comments were received from all interested parties, including industry and CAs.

EASA reviewed the comments received during the public consultation. The comments received and the EASA responses thereto are presented in Comment-Response Document (CRD) 2015-20<sup>7</sup>. Based on the comments received, EASA published Opinion No 11/2016<sup>8</sup> on 7 September 2016, which was addressed to the European Commission. The related EU regulation (Commission Regulation (EU) 2018/1119) was adopted on 31 July 2018<sup>9</sup>.

The final text of this Decision with the AMC and GM has been developed by EASA, taking into consideration the comments received on NPA 2015-20 and the results of an AMC and GM review meeting with the EASA Rulemaking Advisory Bodies (GA TeB and FS.TEC) (focused consultation) held at EASA on 25 January 2018.

The major milestones of this rulemaking activity are presented on the title page.

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- <sup>1</sup> Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1536149403076&uri=CELEX:32018R1139>)
  - <sup>2</sup> EASA is bound to follow a structured rulemaking process as required by Article 115(1) of Regulation (EU) 2018/1139. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See MB Decision No 18-2015 of 15 December 2015 replacing Decision 01/2012 concerning the procedure to be applied by EASA for the issuing of opinions, certification specifications and guidance material (<http://www.easa.europa.eu/the-agency/management-board/decisions/easa-mb-decision-18-2015-rulemaking-procedure>).
  - <sup>3</sup> <http://easa.europa.eu/rulemaking/annual-programme-and-planning.php>
  - <sup>4</sup> <https://www.easa.europa.eu/system/files/dfu/ToR%20RMT.0657%20Issue%201.pdf>
  - <sup>5</sup> See Chapter 5 of ToR RMT.0657 Issue 1 (<https://www.easa.europa.eu/system/files/dfu/ToR%20RMT.0657%20Issue%201.pdf>).
  - <sup>6</sup> In accordance with Article 115 of the Basic Regulation, and Articles 6(3) and 7 of the Rulemaking Procedure.
  - <sup>7</sup> <https://www.easa.europa.eu/system/files/dfu/CRD%202015-20.pdf>
  - <sup>8</sup> <https://www.easa.europa.eu/document-library/opinions/opinion-112016>
  - <sup>9</sup> Commission Regulation (EU) 2018/1119 of 31 July 2018 amending Regulation (EU) No 1178/2011 as regards declared training organisations (OJ L 204, 13.8.2018, p. 13).



## 2. In summary — why and what

### 2.1. Why we need to amend the AMC and GM

The major goal of the EASA General Aviation (GA) Roadmap<sup>10</sup> is to work towards simpler, lighter and better rules for GA. Since the introduction of the Aircrew Regulation and in particular the establishment of the regulatory framework for pilot training (Annex VII (Part-ORA)), many stakeholders have repeatedly reported that a training system which consists only of approved training organisations (ATOs) in accordance with Part-ORA is not the best and most proportionate way to deliver training towards the full range of non-commercial Part-FCL pilot licences.

EASA, therefore, launched rulemaking task RMT.0657 ‘Training outside approved training organisations (ATOs)’, which resulted in the publication of Opinion No 11/2016, proposing to add a new annex, i.e. Annex VIII (Part-DTO), to the Aircrew Regulation in order to introduce the declared training organisation (DTO) — a lighter, more GA-oriented category of pilot training organisation which benefits from revised requirements which, compared to the ATO framework, are more proportionate to GA training activities.

Following the adoption of Part-DTO by the Commission (see Chapter 1), EASA, in accordance with Article 76 of the Basic Regulation, issued AMC and GM to Part-DTO.

The implementation of Part-DTO requires several amendments to existing AMC and GM to Part-FCL and to Part-ARA, mainly consisting of new references to DTOs and respective text revisions. Additionally, certain provisions of existing AMC and GM to Part-FCL have to be revised in order to address widely discussed flexibility and proportionality issues.

### 2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 1 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2.

The specific objective of this Decision is, therefore, to:

- provide, through the issuing of the AMC and GM related to the provisions of Part-DTO, support to GA training providers and CAs in the implementation of Part-DTO;
- continuously improve the regulatory framework by reducing complexity and providing flexibility, where needed.

### 2.3. How we want to achieve it — overview of the amendments

This Decision introduces the AMC and GM (Initial issue) to Part-DTO, and amends the AMC and GM to Part-FCL (Amendment 5) and to Part-ARA (Amendment 5). Additionally, AMC and GM to Regulation (EU) No 1178/2011 are introduced for the reasons specified below at the end of this Chapter.

Taking into consideration all the comments received on NPA 2015-20, the draft AMC and GM contained therein have been completely revised in order to reflect the concept of DTOs (instead of ‘basic training organisation’). This revised version was already published together with Opinion

<sup>10</sup> <https://www.easa.europa.eu/easa-and-you/general-aviation/general-aviation-road-map>

No 11/2016, in which the reasons for amending particular points were explained. The list below, therefore, only lists the major final amendments that were made after the publication of Opinion No 11/2016.

### **AMC and GM to Part-DTO**

#### ***(major amendments to the draft AMC and GM to Part-DTO as published with Opinion No 11/2016)***

- GM1 DTO.GEN.115 has been renamed to GM1 DTO.GEN.115(a) and reworded, and its content with regard to aircraft registration marks has been transferred to new AMC1 DTO.GEN.115(a)(5).
- New GM2 DTO.GEN.115(a) has been added in order to describe the responsibility of the DTO for the successful submission of the declaration.
- New AMC1 DTO.GEN.115(a)(2) has been added in order to illustrate the required information on the aerodromes and operating sites of a DTO that needs to be submitted with the declaration.
- New AMC1 DTO.GEN.115(a)(5) has been added in order to illustrate the required information on the aircraft and FSTDs used by the DTO that needs to be submitted with the declaration.
- New AMC1 DTO.GEN.115(c) has been added in order to clarify that in certain cases it is sufficient to attach to the declaration only a reference to the training programme.
- New GM1 DTO.GEN.210(a)(1)(i) has been added in order to provide guidance on how a DTO can establish compliance with the provisions of Regulation (EU) No 376/2014.
- AMC1 DTO.GEN.210 has been renamed into AMC1 DTO.GEN.210(a)(1)(ii) and slightly reworded.
- AMC2 DTO.GEN.210 has been renamed into AMC1 DTO.GEN.210(a)(2) and fully reworded in order to provide a more performance-based approach and flexibility of the qualification requirements for the head of training. Point (c) has been deleted as it was decided that the representative of the DTO should in any case be the point of contact for the CA.
- GM1 DTO.GEN.210 and GM2 DTO.GEN.210 have been deleted as it was decided that their content is already sufficiently covered by the requirements in point DTO.GEN.210.
- New GM1 DTO.GEN.210(a)(2) has been added in order to explain how to understand the term 'sufficient experience' of the head of training, as used in the new AMC1 DTO.GEN.210(a)(2).
- New GM1 DTO.GEN.210(c) has been added in order to illustrate the conditions under which a candidate for the post of the representative or the head of training of a DTO cannot be trusted.
- New AMC1 DTO.GEN.210(d);(e) has been added in order to illustrate how DTOs should monitor the qualification of their instructors.
- GM3 DTO.GEN.210 has been renamed into GM1 DTO.GEN.210(d);(e) and amended to provide more flexibility, as appropriate, to the DTO activities.
- GM4 DTO.GEN.210 and GM5 DTO.GEN.210 have been deleted as they were not deemed to be necessary.
- AMC1 DTO.GEN.230 has been restructured and slightly reworded. Point (a)(3) (former point (c)) has been amended to be less prescriptive. A new point (b) refers to non-mandatory training elements established in accordance with Regulation (EU) No 748/2012 (operational suitability data (OSD)) (with regard to the DTO training scope only relevant for helicopters).

- AMC1 DTO.GEN.240 point (a) has been restructured and an additional point (a)(2) has been added in order to consider the number of training locations for the necessary number of training aircraft.
- In GM1 DTO.GEN.240, the word ‘course’ has been replaced by the word ‘exercise’ in order to provide more flexibility with regard to the use of different training aircraft.
- In AMC1 DTO.GEN.250, in point (a), ‘sailplanes’ have been included (only balloon DTOs are excluded, which is done for consistency with AMC1 ORA.GEN.140). Point (a)(1) has been slightly reworded in order to provide more flexibility, and point (d) has been added in order to address cases of necessary special training areas.
- New AMC1 DTO.GEN.250(b) has been added to illustrate the necessary additional resources of a DTO that provides training for aeroplanes or helicopters at more than one aerodrome or operating site.
- AMC1 DTO.GEN.270(a) has been reworded and restructured in order to better reflect the final version of Part-DTO.
- In AMC1 DTO.GEN.270(b), points (a)(2) and (a)(4) have been reworded in order to consider DTOs that use more than one training aerodrome or operating site. According to the revised point (a)(3), the annual activity report will need to contain only the number of students per training course, but not the names of the students.

#### **AMC and GM to Part-FCL**

##### ***(major amendments to the draft amendments to the AMC and GM to Part-FCL as published with Opinion No 11/2016)***

- In AMC1 FCL.115(c), as well as in AMC1 FCL.210(c), the text has been amended to better express the applicant’s obligation to request a copy of the training records.
- In AMC1 FCL.740(b), in point (d), the wording ‘or other appropriate documental evidence’ has been replaced with ‘another document specified by the competent authority’ in order to allow the CA to determine the format of such documents.
- The draft for AMC2 FCL.740(b)(1) has been deleted, and its content has been integrated into the revised AMC1 FCL.740(b) (former AMC1 FCL.740(b)(1)). The new AMC offers more flexibility when determining the amount of refresher training needed by an individual applicant.
- In AMC1 FCL.1015, in point (d)(1)(vii), the text has been changed in order to ensure that all examiners receive theoretical training on both the management system of ATOs and the organisational structure of DTOs.
- In AMC2 FCL.1015, in point (r), the text has been reworded in order to take into account skill tests or proficiency checks which are conducted not in accordance with an ATO’s operations manual but with the operations manual of an air operator or in line with the limitations applied by a DTO.
- New GM1 FCL.1015(a); FCL.1025(b)(2) has been inserted in order to avoid misinterpretations of the conditions for examiner courses provided by a DTO.

- AMC1 FCL.1025 has been amended to take into consideration the new terminology in point FCL.1025 ('examiner refresher course' instead of 'examiner refresher seminar').
- The draft AMC2 FCL.1025 has been deleted, as the subject matter is fully covered by the existing AMC1 FCL.1025 and its general wording.

### **AMC and GM to Part-ARA**

#### ***(major amendments to the draft amendments to the AMC and GM to Part-ARA as published with Opinion No 11/2016)***

- GM1 ARA.GEN.105 (list of acronyms used in the AMC and GM to Part-ARA) has been deleted; for more information, please refer to the end of this Chapter.
- Additional amendments to GM1 ARA.GEN.200(a)(2), AMC1 ARA.GEN.210(d), AMC1 ARA.GEN.220(a)(4), GM1 ARA.GEN.220(a)(4), AMC1 ARA.GEN.220(a)(7) and GM1 ARA.GEN.300(d) have been made in order to render these AMC and GM applicable to DTOs too.
- After GM1 ARA.GEN.220(a)(4), new GM2 ARA.GEN.220(a)(4) has been added to also address DTOs.
- In AMC1 ARA.GEN.305(f), points (d) and (f) have been amended: in point (d), the obligation for a CA to inspect a DTO within 12 months after the initial declaration has been deleted, as it should be completely up to the CA and its risk- and performance-based oversight planning to decide when to inspect a DTO. The only remaining requirement is that every DTO should be inspected once within a 72-month period. Due to the amendments to point (d), point (f) (transitional provision to exempt existing training organisations from the 12-month initial inspection time frame when becoming DTOs) has been deleted.
- After GM1 ARA.GEN.350, new GM1 ARA.GEN.350(e) has been added in order to explain how to understand this point in the context of the CAs not being required to categorise findings issued to DTOs.
- After GM1 ARA.GEN.350(e), new GM1 ARA.GEN.355(b)(1) has been added to illustrate proportionate enforcement measures to be taken for pilots who do no longer comply with the Part-FCL requirements.
- In AMC1 ARA.DTO.110, the text has been amended to clarify that the 6-month time frame for the CA to verify the Part-FCL compliance of a DTO's training programme does not apply in cases where the DTO uses a training programme which has already been verified as being in compliance with Part-FCL (see also the amendments to AMC1 DTO.GEN.115(c)). From this rewording, it should also be clear that in such a case it is not necessary for the CA to re-verify the Part-FCL compliance of the training programme — this task (as required in point ARA.DTO.110(a)) has already been done in such a case.
- New GM1 ARA.DTO.100(a) has been inserted to provide guidance on how to create the individual DTO reference number.

### **AMC and GM to Regulation (EU) No 1178/2011**

Following the deletion of point ARA.GEN.105 and the transfer of the list of definitions it contained to Article 2 'Definitions' of Regulation (EU) No 1178/2011, consequently GM1 ARA.GEN.105 (list of acronyms used in the AMC and GM to Part-ARA) has been deleted. In order to keep the link between the list of definitions and the list of acronyms, this list is reintroduced as GM to Article 2 'Definitions' of Regulation (EU) No 1178/2011.





### 3. References

#### 3.1. Related regulations

- Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1), as amended

#### 3.2. Affected decisions

- Decision N° 2011/016/R of the Executive Director of the European Aviation Safety Agency of 15 December 2011 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council ('Acceptable Means of Compliance and Guidance Material to Part-FCL'), as amended
- Decision N° 2012/006/Directorate R of the Executive Director of the Agency of 19<sup>th</sup> April 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council ('Acceptable Means of Compliance and Guidance Material to Part-ARA'), as amended

#### 3.3. Other reference documents

- Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1)
- General Aviation Road Map (*see also Section **Error! Reference source not found.***) (<https://www.easa.europa.eu/easa-and-you/general-aviation/general-aviation-road-map>)
- NPA 2015-20 'Review of the Aircrew Regulation in order to provide a system for private pilot training outside approved training organisations, and of the associated acceptable means of compliance and guidance material' (<http://www.easa.europa.eu/system/files/dfu/NPA%202015-20.pdf>)



#### 4. Appendices

N/A

