



# Explanatory Note to Decision 2016/008/R

Decision amending the AMC & GM to Part-FCL and Part-ARA of Commission Regulation (EU) No 1178/2011, as amended, and the AMC & GM to Part-ORO and Part-ARO of Commission Regulation (EU) No 965/2012, as amended

- Part-FCL (PBN) — Amendment 2
- Part-ARA (PBN, ARA.MED) — Amendment 3
- Part-FCL (Learning Objectives (LOs)) — Amendment 2
- Part-ORO — Issue 2, Amendment 7
- Part-ARO (OCC for MPL) — Issue 3, Amendment 2

‘Revision of the operational approval criteria for performance-based navigation (PBN)’

RELATED NPA/CRD: 2013-25 — OPINION NO 03/2015 — RMT.0256 (MDM.062(A)) & RMT.0257 (MDM.062(B)) — RELATED NPA: 2014-29 (D)(1) & (D)(2) — RMT.0188 (FCL.002(A)) & RMT.0189 (FCL.002(B))

2.5.2016

### EXECUTIVE SUMMARY

This Decision addresses a safety and regulatory coordination issue related to training, testing and checking of pilots who wish to perform performance-based navigation (PBN) operations; it addresses a regulatory coordination issue related to the theoretical knowledge training for aeroplane and helicopter CPL, ATPL, MPL and IR; and it addresses a regulatory coordination issue related to pilot training with an operator after the issue of an MPL. The specific objective is to maintain a high level of safety for holders of the above-mentioned pilot licences.

On 6 April 2016 Commission Regulation (EU) 2016/539 entered into force, which amends Commission Regulation (EU) No 1178/2011 (the Aircrew Regulation) by implementing PBN-related changes to the training, testing and checking of pilots. This Decision proposes the related AMC and GM. It also contains other aircrew-related AMC and GM that were initially related to other Agency rulemaking tasks and, therefore, the following three annexes are annexed to it:

- Annex I: amendments to the AMC and GM to the Aircrew Regulation related to PBN operations (RMT.0256), and AMC and GM to ARA.MED.330 (RMT.0413);
- Annex II: amendments to the AMC and GM to the Aircrew Regulation related to the detailed theoretical knowledge syllabus and learning objectives for ATPL, MPL, CPL and IR for aeroplanes and helicopters (RMT.0188); and
- Annex III: amendments to the AMC and GM to Part-ORO and Part-ARO of Commission Regulation (EU) No 965/2012 related to the removal of the licence restriction to an operator for MPL holders.

The proposed changes are expected to increase safety and ensure compliance with ICAO.

Applicability		Process map	
Affected regulations and decisions:	Commission Regulation (EU) No 1178/2011 (Part-FCL); Commission Regulation (EU) No 290/2012 (Part-ARA & Part-ORA); Commission Regulation (EU) No 965/2012 (Part-ORO & Part-ARO); ED Decision 2011/016/R; ED Decision 2012/006/R; ED Decision 2014/017/R; ED Decision 2014/025/R	Concept paper:	No
Affected stakeholders:	Commercial and non-commercial aircraft operators; pilots; approved training organisations (ATOs); examiners; instructors	Rulemaking group:	Yes
Driver/origin:	Safety (for RMT.0188/0189); Efficiency/proportionality (for RMT.0256/0257)	Terms of reference for RMT.0256/0257:	17.7.2012
Reference:	Annex V (Part-SPA) to Commission Regulation (EU) No 965/2012	Terms of reference for RMT.0188/0189:	20.7.2011
		RIA type:	Light
		Technical consultation during NPA drafting:	No
		Publication of NPA 2013-25:	20.12.2013
		Publication of NPA 2014-29 (D)(1)&(D)(2):	17.12.2014
		Duration of NPA consultation:	3 months
		Review group:	Yes
		Focused consultation:	No
		Publication date of the Opinion:	31.3.2015



## Table of contents

1. Procedural information .....	3
1.1. The rule development procedure.....	3
1.2. Structure of the related documents.....	4
2. Explanatory Note.....	5
2.1. Overview of the issues to be addressed.....	5
2.2. Objectives .....	5
2.3. Outcome of the consultation .....	6
2.3.1 <i>Summary of the regulatory impact assessment (RIA)</i> .....	7
2.4. Overview of the amendments.....	8
3. References.....	10
3.1. Related regulations.....	10
3.2. Affected decisions .....	10



## 1. Procedural information

### 1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed ED Decision 2016/008/R in line with Regulation (EC) No 216/2008<sup>1</sup> (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure<sup>2</sup>.

As regards the acceptable means of compliance (AMC) and guidance material (GM) of Annex I to this Decision, the rulemaking activity is included in the Agency's Rulemaking Programme for 2012–2015 under rulemaking task (RMT) 0256 & 0257 (former MDM.062(a)&(b))<sup>3</sup>. The scope and timescales of the task were defined in the related terms of reference (ToR) (see process map on the title page).

The draft text of Annex I to this Decision has been developed by the Agency based on the input of the RMT.0256 and RMT.0257 Rulemaking Group. All interested parties were consulted in accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure through NPA 2013-25<sup>4</sup>. 200 comments were received from interested parties, including industry, national aviation authorities and social partners.

The Agency has reviewed the comments received on the NPA. The comments received, and the Agency's responses thereto, are presented in Comment-Response Document (CRD) 2013-25<sup>5</sup>.

The Agency developed under RMT.0287 & RMT.0288 a requirement that introduced 'special medical circumstances' to the implementing rules of Part-ARA (Annex VI) to Regulation (EU) No 1178/2011. The Commission included this requirement as a new paragraph 'ARA.MED.330 Special medical circumstances' in Commission Regulation (EU) 2015/445<sup>6</sup>.

As regards the AMC and GM of Annex II, the rulemaking activity is included in the Agency's Rulemaking Programme for 2012–2015 under RMT.0188 and RMT.0189 (former FCL.002(a)&(b)). The scope and timescales of the task were defined in the related ToR<sup>7</sup>.

The draft text of Annex II to this Decision has been developed by the Agency based on the input of the RMT.0188 and RMT.0189 Rulemaking Group. All interested parties were consulted in accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure through NPA 2014-29 (D)(1) 'Amendments to Commission Regulation (EU) No 1178/2011 (the Aircrew

<sup>1</sup> 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 (OJ L 79, 19.3.2008, p. 1).

<sup>2</sup> The Agency is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as the 'Rulemaking Procedure'. See Management Board Decision No 01-2012 of 13 March 2012 concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material.

<sup>3</sup> Rulemaking Programme 2012-2015 (<http://www.easa.europa.eu/system/files/dfu/RMP%202012-2015%20and%20inventory.pdf>).

<sup>4</sup> NPA 2013-25 'Revision of operational approval criteria for performance-based navigation (PBN)' ([http://www.easa.europa.eu/system/files/dfu/NPA%202013-25\\_0.pdf](http://www.easa.europa.eu/system/files/dfu/NPA%202013-25_0.pdf)).

<sup>5</sup> CRD 2013-25 'Revision of operational approval criteria for Performance-Based Navigation (PBN)' ([http://www.easa.europa.eu/system/files/dfu/Opinion%20No%2003-2015\\_1.pdf](http://www.easa.europa.eu/system/files/dfu/Opinion%20No%2003-2015_1.pdf)).

<sup>6</sup> Commission Regulation (EU) 2015/445 of 17 March 2015 amending Regulation (EU) No 1178/2011 as regards technical requirements and administrative procedures related to civil aviation aircrew (OJ L 74, 18.3.2015, p.1).

<sup>7</sup> ToR FCL.002 Issue 1 (<http://www.easa.europa.eu/system/files/dfu/EASA-ToR-FCL.002-00-21072011.pdf>).



Regulation) — Learning Objectives (LOs) (first part)<sup>8</sup>, and NPA 2014-29 (D)(2) 'Amendments to Commission Regulation (EU) No 1178/2011 (the Aircrew Regulation) — Learning Objectives (LOs) (second part)<sup>9</sup>. 425 comments were received from interested parties, including industry, national aviation authorities and social partners.

The Agency has reviewed the comments received on the above-mentioned NPAs and the decision was taken that those comments be dealt with by RMT.0595, which is included in the Revised 4-year Rulemaking Programme 2014–2017<sup>10</sup>. To cover the 4-year period from today until the completion of RMT.0595, the Agency publishes in Annex II to Decision 2016/008/R the Learning Objectives (LOs) in the same way as they were presented in NPA 2014-29 (D)(1) and (D)(2).

As regards the AMC and GM of Annex III, the rulemaking activity is included in the Agency's Rulemaking Programme for 2014–2017 under RMT.0587<sup>11</sup> as a task for the regular update of Part-FCL. The task will address miscellaneous issues of non-controversial nature identified during the implementation of the Aircrew Regulation. The scope and timescales of the task will be defined in the related ToR which are planned to be published in 2016/Q2.

The draft text of Annex III to Decision 2016/008/R has been developed by the Agency based on the scope of RMT.0587. All interested parties were consulted through a focused consultation. 15 comments were received from interested parties, including industry, national aviation authorities and social partners.

The Agency has reviewed the comments received during the focused consultation and has included their content, if relevant, into the draft text of Annex III. The comments received and the Agency's responses will be presented to the interested parties by correspondence.

The process map on the title page summarises the major milestones of the related rulemaking activities.

## 1.2. Structure of the related documents

Chapter 1 contains the procedural information related to this task. Chapter 2 summarises the conclusions from the regulatory impact assessment (RIA) for RMT.0256 & RMT.0257, and explains the core technical content of all three annexes. Chapter 3 contains the references and the text of the AMC and GM, which are annexed to Decision 2016/008/R.

<sup>8</sup> <http://www.easa.europa.eu/system/files/dfu/NPA%202014-29%20%28D%29%281%29.pdf>

<sup>9</sup> <http://www.easa.europa.eu/system/files/dfu/NPA%202014-29%20%28D%29%282%29.pdf>

<sup>10</sup> Revised 4-year Rulemaking Programme 2014-2017 — Detailed view (<http://www.easa.europa.eu/system/files/dfu/2013-029-R-Revised%204-year%20RMP%20%282014-2017%29%20-%20Detailed%20view.pdf>).

<sup>11</sup> Rulemaking Programme 2012-2015 (<http://www.easa.europa.eu/system/files/dfu/RMP%202012-2015%20and%20inventory.pdf>).



## 2. Explanatory Note

On 6 April 2016 Commission Regulation (EU) 2016/539 entered into force, which amends Commission Regulation (EU) No 1178/2011 (the Aircrew Regulation) by implementing PBN-related changes to the training, testing and checking of pilots. Following the publication of the amending Regulation, the Agency publishes now the Decision with the related AMC and GM. The Decision also contains other aircrew-related AMC and GM that were initially related to other Agency rulemaking tasks.

### 2.1. Overview of the issues to be addressed

The Decision contains three annexes:

- Annex I: amendments to the AMC and GM to the Aircrew Regulation related to PBN operations (RMT.0256), and to the AMC and GM to ARA.MED.330 (RMT.0413);
- Annex II: amendments to the AMC and GM to the Aircrew Regulation related to the detailed theoretical knowledge syllabus and learning objectives for ATPL, MPL, CPL and IR for aeroplanes and helicopters (RMT.0188); and
- Annex III: amendments to the AMC and GM to Part-ORO and Part-ARO of Regulation (EU) No 965/2012 related to the removal of the licence restriction to an operator for MPL holders.

The material contained in Annex I and II was developed in the context of regular rulemaking tasks and therefore was subject to public consultation.

The GM contained in Annex III was developed by the Agency after the EASA Committee meeting on 4 and 5 November 2015. The two new GMs were drafted to answer the concerns raised by two Member States during the comitology procedure for Regulation (EU) 2016/539 implementing the PBN-related amendments and the removal of the MPL restriction. The concerns were that once the restriction to the operator that was involved in the training of the holder of the MPL is removed, the operator that employs the pilot would not pay enough attention to the content of the operator conversion course (OCC), and that the competent authority would not have the possibility to perform proper oversight.

Following the above considerations, the GMs contained in Annex III can be classified as regulatory material with expected negligible impact and, therefore, the Agency decided to apply Article 15 of the MB Decision 18-2015 and consulted the draft GMs only with its Advisory Bodies (ABs). The material is organised in one GM to ORO.FC.220(c) to enhance the importance of the content of the OCC for MPL holders when taking their first OCC, and a second GM to ARO.GEN.300(a) to make sure that the competent authority performs proper oversight of such OCCs. This rulemaking activity falls under RMT.0587 'Regular update of Regulations (EU) Nos 1178/2011 and 965/2012 regarding pilot training and licensing and the related oversight', whose terms of reference were consulted with the ABs from 31 March until 20 April 2016.

### 2.2. Objectives

The overall objectives of the EASA system are defined in Article 2 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 Annex I to Decision 2016/008/R is, therefore, to:



- establish safe and cost-efficient pilot training and checking requirements in order to remove the need for a special approval (SPA) for some PBN operations; and
- reduce the number of cases in which an operational approval for PBN operation is required for CAT, SPO, NCC, and NCO operators.

The specific objective of Annex II to Decision 2016/008/R is, therefore, to:

- amend the AMC and GM to the implementing rules of the extended Basic Regulation as regards pilot licensing in relation to the learning objectives for the theoretical knowledge training for aeroplane and helicopter pilots.

The specific objective of Annex III to Decision 2016/008/R is, therefore, to:

- assist Member States in fulfilling their obligations under the Chicago Convention by providing for a uniform implementation of its provisions, which are more specifically contained in its Annex I on pilot licensing and which are related to the issue of an MPL.

### 2.3. Outcome of the consultation

The comments received during the consultation of the AMC and GM, which are contained in Annex I, are included in the related CRD 2013-25. The amendments to a number of AMC and GM (mainly to Part-FCL, Part-ARA, and to various Parts of the Air OPS Regulation proposed with NPA 2013-25) have been substantially supported during the consultation and thus did not require any changes compared to the text proposed with the NPA.

The comments received during the consultation of the AMC and GM, which are contained in Annex II, will be considered in the context of RMT.0595 'Technical review of theoretical knowledge syllabi, learning objectives, and examination procedures for the Air Transport Pilot Licence (ATPL), Multi-Crew Pilot Licence (MPL), Commercial Pilot Licence (CPL), and Instrument Rating (IR)'.

The comments received during the consultation of the AMC and GM, which are contained in Annex III, were related to the content of the first OCC for MPL holders. They were duly considered and taken over to the text, whenever possible.

The proposed text changes that were accepted are the following:

- that the wording 'after the licence issue' should be removed;
- the assessment of the OCC will evaluate whether the operator in the process of development of the OCC took the following aspects into account: the time between base training and line flying under supervision (LIFUS); hiring after completion of the initial training; and the necessary feedback loop between the ATO and the initial operator.

The proposed text changes that were not accepted are the following:

- The proposal to replace 'should' with 'shall' was not accepted because 'shall' can only be used in implementing rules.
- The proposal that special attention should be paid to the oversight in case the ATO and the operator fall under the oversight of different civil aviation authorities (CAAs) was not accepted because training and oversight follow the same standards and therefore it is irrelevant which CAA performs the oversight.



- The proposal to take cultural aspects (company or country) into account within the initial crew resource management (CRM) training was not accepted because training and oversight follow the same standards in all Member States and the content of the CRM training is covered by a different Part of the Aircrew Regulation and is not MPL-specific.
- The proposal that the GM to Part-ARO should contain a statement that the OCC is subject to assessment by the competent authority in all cases where a change of operator occurred, irrespective of the phase of the MPL course where the change of operator occurred was not accepted. The oversight of the MPL course is submitted to the oversight in accordance with Part-FCL and the proposed GM is related to Part-ARO and Part-ORO.
- The proposal that type changes should not be mentioned in the GM to Part-ORO and Part-ARO was not accepted because the GM covers only very specific cases where pilots are no longer required to follow a single predetermined course of action. With the rule change published with Commission Regulation (EU) 2016/539, some Member States wanted to be sure that any possible gap would be filled. A type change during the MPL course will be handled in accordance with Part-FCL and thus be subject to the oversight foreseen in Part-ARA — what the Agency meant to cover was a possible type or operator change after the licence training. The Agency considered the following scenarios: OCC with the same operator that was part of the MPL course on the type entered in the licence; OCC with the same operator that was part of the MPL course on a different type than the one entered in the licence; OCC with a different operator than the one that was part of the MPL course on the type entered in the licence; and OCC with a different operator than the one that was part of the MPL course on a different type than the one entered in the licence. With the GM the Agency wants to ensure that operators and competent authorities are aware of the differences in these scenarios, that operators are enabled to provide the required courses, and that competent authorities can perform proper oversight.

### 2.3.1 Summary of the regulatory impact assessment (RIA)

For the AMC and GM contained in Annex I, the following detailed conclusions were reached concerning SPA for the PBN procedures based on the RIA published with NPA 2013-25:

- SPA are removed for some PBN types;
- Part-FCL rules on training and checking are adapted in order to reflect the changed requirements in theoretical knowledge (TK) and practical skill (PS) in order to cover PBN;
- retain the reasonable and required elements for instrument rating (IR) while adding the PBN-related elements for the initial qualification of the IR pilots while keeping the scope similar in duration; existing IR holders will need to update their TK on PBN while PS shall be demonstrated in courses or at the first periodic check;
- ATOs shall comply by 25 August 2020 and shall notify the competent authority;
- flight instructor (FI) transition will be governed by the existing rules for revalidation;
- examiner transition and competences are assured through the periodical refresher seminar;
- SPA is retained for required navigation performance authorisation required approach (RNP AR APCH), RNP 0,3, and for some cases of Advanced RNP, no difference between commercial and non-commercial operators.



The introduction of these changes will keep the European aviation system competitive, harmonised and adjusted to the individual needs of the different operators while retaining and improving the safety of the overall system.

#### **2.4. Overview of the amendments**

The AMC and GM related to PBN operations contained in Annex I to Decision 2016/008/R were not changed compared to the text proposed with NPA 2013-25.

As Part-MED cannot always be up to date with medical advancements, the Agency proposed to reintroduce the requirement for 'special medical circumstances' (former paragraph JAR.FCL 3.046) to the implementing rules of Part-ARA. The aim was to allow competent authorities to consider medical advancements and to establish whether a fit assessment could be possible for certain medical conditions for which existing provisions would inevitably lead to an unfit assessment. With research via new medical assessment protocols, it would be possible to collect specific data in a controlled aviation environment, and to develop specific risk assessments. This amendment was included in Commission Regulation (EU) 2015/445.

Due to lack of resources, the AMC & GM for these provisions were not published at the same time. After being reviewed during the meeting of the RMT.0287 Review Group, the Agency published the AMC & GM to ARA.MED.330 with Decision 2016/008/R for stakeholders to clearly understand the means by which compliance with the ARA.MED.330 provisions could be established.

The AMC and GM related to the Learning Objectives (LOs) contained in Annex II to Decision 2016/008/R were not changed compared to the text proposed with NPA 2014-29 (D)(1)&(D)(2). Only in the introductory text the following paragraph was inserted to provide for a smooth implementation:

'The LOs are intended to be used by an approved training organisation (ATO) when developing the Part-FCL theoretical knowledge elements of the appropriate course. It should be noted, however, that the LOs do not provide a ready-made ground-training syllabus for individual ATOs, and should not be seen by organisations as a substitute for thorough course design. Adherence to the LOs should become part of the ATO's compliance monitoring scheme as required by ORA.GEN.200(a)(6). Any consequential changes to the ATO's documentation should not result in an approval process in accordance with ORA.GEN.130(a). In any case, the ATO should remain responsible for ensuring that the respective theoretical knowledge training courses are carried out while taking into account the LOs provided in this AMC.'

The GM related to the initial OCC for MPL holders contained in Annex III to Decision 2016/008/R represents two new GMs that were drafted by the Agency after the EASA Committee meeting on 4 and 5 November 2015 to answer the concerns raised by two Member States during the comitology procedure for Commission Regulation (EU) 2016/539 implementing the PBN-related amendments and the removal of the MPL restriction. The concerns were that once the restriction to the operator that was involved in the training of the MPL holder is removed, the operator that employs the pilot would not pay enough attention to the content of the OCC and that the competent authority would not have the possibility to perform proper oversight.

The material is organised in one GM to ORO.FC.220(c) to enhance the importance of the content of the OCC for MPL holders when taking their first OCC, and in a second GM to ARO.GEN.300(a) to make sure





that the competent authority performs proper oversight of such OCCs. The comments received during the focused consultation were included as far as possible in the final GMs.



### 3. References

#### 3.1. Related regulations

- Commission Regulation (EU) 2016/539 of 6 April 2016 amending Regulation (EU) No 1178/2011 as regards pilot training, testing and periodic checking for performance-based navigation (OJ L 91, 7.4.2016, p. 1)
- Commission Regulation (EU) 2015/445 of 17 March 2015 amending Regulation (EU) No 1178/2011 as regards technical requirements and administrative procedures related to civil aviation aircrew (OJ L 74, 18.3.2015, p.1)
- Commission Regulation (EU) No 290/2012 of 30 March 2012 amending Regulation (EU) No 1178/2011 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 100, 5.4.2012, p. 1)
- 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)
- Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1)

#### 3.2. Affected decisions

- ED Decision 2011/016/R of the Executive Director of the 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
- ED Decision 2012/006/R of the Executive Director of the Agency of 19 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
- ED Decision 2014/017/R of the Executive Director of the Agency of 24 April 2014 adopting acceptable means of compliance and guidance material to Part ORO of Regulation (EU) No 965/2012 and repealing Decision 2012/017/R of the Executive Director of the Agency of 24 October 2012 – Acceptable means of Compliance and Guidance material to Part-ORO — Issue 2
- ED Decision 2014/025/R of the Executive Director of the Agency of 28 July 2014 on acceptable means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 — Acceptable means of Compliance and Guidance Material to Annex II — Part-ARO — Issue 3

