



OPINION No 05/2008
OF THE EUROPEAN AVIATION SAFETY AGENCY
of 29 September Month 2008

for a Commission Regulation amending Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

"Time limit for demonstrating compliance with knowledge and experience requirements"

I. General

1. The purpose of this opinion is to suggest the Commission to amend Commission Regulation (EC) No 2042/2003¹. The scope of this rulemaking activity is outlined in Terms of Reference (ToR) 66.004 and is described in more detail below.
2. The opinion has been adopted, following the procedure specified by the European Aviation Safety Agency's (the Agency) Management Board², in accordance with the provisions of Article 19 of Regulation (EC) No 216/2008³ (hereinafter referred to as the Basic Regulation).

II. Consultation

3. Notice of Proposed Amendment (NPA) 2007-02⁴ that contained the draft opinion for a Commission Regulation amending Commission Regulation (EC) 2042/2003 was published on the Agency website on 20 March 2007.
4. By the closing date of 21 June 2007, the Agency had received 196 comments from 55 national authorities, professional organisations and private companies.
5. All comments received have been acknowledged and incorporated into a Comment Response Document (CRD) 2007-02, which was published on the Agency's web site on 1 April 2008⁵. This CRD contains a list of all persons and/or organisations that have provided comments and the answers of the Agency.
6. Two military organisations and one operator engaged in commercial air transport have reacted to the CRD. The reactions from the military organisations are similar to each other and show that the mechanism described here-below had not be understood: As a matter of fact, this amendment specifically proposed a way for military maintenance staff to later join the civil market without loosing the validity of their initial basic knowledge demonstration that they may have been performed when working for the Military. However, an evaluation for examination credits may be necessary. The reaction from the civil operator is a complete rejection of the full proposal and is disregarded due to the fact that the comment is unique and does not perceive the overall safety benefit.

III. Content of the Opinion of the Agency

7. On 20 November 2003 the European Commission adopted Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical parts and appliances, and on the approval of organisations and personnel involved in these tasks. The provisions of its Annex III (Part-66) give a system of licensing for certifying staff.
8. The issuance of any aircraft maintenance licence is based upon basic knowledge and experience requirements.

¹ Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 315, 28.11.2003, p. 1). Regulation as last amended by Commission Regulation (EC) No 376/2007 (OJ L 94, 4.4.2007, p. 18).

² Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of Opinions, Certifications Specifications and Guidance Material (Rulemaking Procedure). EASA MB 08-2007, 13.06.2007.

³ 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, 19.03.2008, p. 1)

⁴ See Rulemaking Archives at http://www.easa.europa.eu/ws_prod/r/r_archives.php.

⁵ See Rulemaking Archives at http://www.easa.europa.eu/ws_prod/r/r_archives.php.

In addition, type ratings can be endorsed on the licence once the holder meets the required theoretical and practical elements of the type training.

9. European National Civil Aviation Authorities (NAAs) were of the opinion that the period during which compliance with knowledge and experience requirements has to be demonstrated and an application for a licence or type rating endorsement submitted should be limited for both the basic licence and the type rating. This would guarantee that the experience is recent and that the subjects covered by the knowledge demonstration were not obsolete. Such a limitation existed in the past in some national systems and would help to maintain a high level of knowledge and safety.
10. The task to develop an opinion to change Part-66 and/or a decision to change its related AMC/GM was given to a drafting group, which made an analysis as outlined below. The group was composed of both industry members and National Aviation Authorities. This rulemaking task was called 66.004 ("Time limit for demonstrating compliance with knowledge and experience requirements").
11. When analysing the issue, the group found that:
 - Regarding basic knowledge requirements, the current Appendix II of Part-66 states that all modules that make up a complete Part-66 aircraft maintenance licence category or subcategory must be passed within a five year period of passing the first module (except in the case of common modules to more than one Part-66 aircraft maintenance licence category or sub category already passed). However, there are no limits regarding the number of attempts or waiting periods between attempts for each specific module.
 - In addition, in the current regulations there is no limit related to the amount of time available in order to apply for a licence once the basic knowledge has been demonstrated. For example, it is possible to apply for a licence 25 years after having demonstrated the basic knowledge.
 - Regarding basic experience requirements, and according to the current 66.A.30, in the most restrictive case the applicant for an aircraft maintenance licence shall have acquired five years of practical maintenance experience on operating aircraft if the applicant has no previous relevant technical training. However, there is no limit related to the amount of time available in order to apply for a licence once the required experience has been acquired. For example, it is possible to apply for a licence 25 years after having completed the required experience (other than the minimum recent experience currently required).
 - Regarding, type training, there is currently no time limit established for:
 - Completing the type training;
 - Applying for a licence once type training has been completed.
 - The consistency of the current requirement is not ensured as the following aspects are not defined:
 - Which type of documents have to be provided together with the application;
 - When the documentation supporting the application has to be sent to the NAA for issuing the Aircraft Maintenance Licence;
 - Whether the knowledge and experience requirements for both the basic licence and the type rating have to be met before the application can be sent to the NAA.
 - Furthermore, it is not specified within what timeframe a complete package of modules has to be provided with the application.
12. Based on the above described analysis, the following elements are proposed to be introduced into Part-66 and into Part 147:

13. BASIC KNOWLEDGE AND EXPERIENCE: General concept

- A “ten year” period preceding the application for an aircraft maintenance licence has been established in order to pass all the basic knowledge modules and to complete all the required experience.

The objective is to ensure that the experience is recent and the basic knowledge syllabus passed is not significantly obsolete due to the introduction of new technology. Any change in technology occurred during the 10 year period will be compensated by the recent experience, which acts as a safety net.

The “ten year” period was finally selected in order to cover the “worst case scenario” of the current rule, which is, a person (usually a self-starter) who spends five years to pass all the basic modules (maximum currently allowed) and afterwards needs to cover a maximum of five years of experience.

Those persons attending an approved basic training course will most likely spend between two and four years (four years in particular for some Nordic countries or for some military organisations that have decided to implement Part-147 training as part of their requirements). However, in this case, the experience required is only two years, and ten years should be enough to complete the full process and apply for a licence.

It should be explained that, at an early stage, the NPA proposed only seven years for completion of basic knowledge and basic experience and applying for a licence. Module examinations older than seven years would have been to be repeated. This was considered too restrictive by a significant number of commentators during the NPA public consultation, who suggested to increase the limit to 10 years taking into account several factors such as:

- The military service;
- The difficulty for studying and working at the same time;
- Some situations of long term illness / injury (in some cases produced at work);
- The introduction of a one year waiting period after three consecutive failed attempts before re-sitting for examination (see below).

These commentators were also concerned about the need to repeat all expired modules. This also was the case of military organisations that have decided to implement Part-147 training as part of their requirements would have faced difficulties in retaining their personnel (those not holding a Part-66 licence) because they will be forced to leave the Military before the end of the ten year period in order to gain the necessary experience in civil aviation maintenance. These organisations would consider in such a case not to follow Part-147 as part of their training, which would not be in line with the objectives of Basic Regulation EC No 216/2008 where promotion of the Community rules is recommended. The final proposal, as further described in this opinion, does not require the repetition of modules older than ten years. However, credits must be granted by the competent authority after examining the changes suffered in the basic knowledge syllabus (Appendix I to Part 66) during the previous ten years.

Consequently, the previous “five-year” validity for completing the basic knowledge has been deleted and is now replaced by “ten year” validity in order to gain both the basic knowledge and the experience preceding the AML application.

14. BASIC KNOWLEDGE: granting of credits

- As mentioned above, this opinion proposes not to automatically consider as expired those modules which go beyond the ten year limit, allowing the competent authority to evaluate whether the basic knowledge syllabus has changed during that period of time, and grant the appropriate credits for those modules, sub-modules, items that have not changed. Therefore, some modules or sub-modules or items may need to

be repeated if they have become amended in relation to current Part-66 Appendix I requirements.

- The current Appendix II to Part 66 (examination for the basic knowledge) excluded modules 1, 2, 3 and 4 from any time limit because they are of a general nature and are not expected to change over time. This provision is not required anymore, because this will be addressed by the competent authority when granting credits. Those modules which have not changed will be fully granted a credit.

This mechanism is now described in 66.A.25 (b) and 66.B.405.

- In order to get credits, the applicant must formally apply to the competent authority, who will issue a written confirmation of any credit granted.

15. BASIC KNOWLEDGE: validity of the credits

- The evolution of the basic knowledge syllabus, as described in Appendix I of Part 66, has also to be taken into consideration for a qualification, a diploma, etc when the competent authority establishes and updates the credits. It would thus ensure that the applicant's knowledge will remain up-to-date with current technology.

As a consequence, all credits (for expired modules and for any other qualifications / diplomas) will now expire after ten years. However, the applicant can re-apply for credits on the basis of a new comparison between their original training and the current Part-66 Appendix I. A new paragraph 66.B.410 has been introduced for examination credit validity.

These changes mean that the revision of the corresponding examination credit reports produced by the Competent Authority (as required in 66.B.405(d)) should be carried out not only when the national qualification standard has changed, but also when Part-66 Appendix I has changed. Paragraph 66.B.405 (d) has been revised accordingly in order to better mirror this process.

16. TYPE TRAINING AND TYPE EXAMINATION

- A "three year" time limit to comply with the theoretical and practical elements of a type training before applying for the type rating endorsement on the maintenance licence is introduced: this will prevent:
 - the applicant from obtaining a type rating based on, for example, a 25 year old course certificate
 - a course from being spread over (theoretical and practical elements of the type training) an indefinite number of years.
- A similar provision has been introduced for type examination (where no type training is required). This "three year" limit:
 - ensures a good safety level;
 - is consistent with Member State national systems in place prior to the JAA and (EC) Regulation 2042/2003.
- A maximum of 3 attempts with a one year waiting period for re-training/re-study after the third attempt has been established for basic modules and for type examination (where type training is not required): it means that after three consecutive failed examinations the applicant shall wait one year before re-sitting for examination (Appendix II and Appendix III to Part 66).

This "three attempts" rule is consistent with some Member State national systems in place prior to the JAA and (EC) Regulation 2042/2003. It is commonly accepted that three consecutive failed attempts question the ability of the trainee to pass exams and to succeed in this field. The waiting period will give time to the applicant to re-study the domain where he/she fails and to reconsider his motivation or ability to succeed.

In addition, for type examination (where type training is not required), a waiting period of 30 days after the first failed attempt and 60 days after the second failed attempt has been established. The proposed waiting periods give enough time to the organisation to re-stage the examinations, whilst at the same time allowing the candidate sufficient time to revise the failed subjects.

- In addition the examiner shall not have been involved in the candidate's training where type training is not required. This new requirement ensures independence between the examiner and the trainer.

In the case of several attempts, the use of examiners different from those present in any previous examination is encouraged.

17. APPLICATION for the AML licence or the type endorsement on the AML

- When applying for an examination, the applicant shall confirm in writing to the organisation appropriately approved under Part-147 or the competent authority, the number, dates and examining organisation of any attempts during the previous 12 months. The organisation appropriately approved under Part-147 or the competent authority is responsible for checking the number of attempts within the applicable timeframes (Appendix III to Part 66, sub-paragraph 4)
- In addition, the requirement (66.A.10 (b)) now clearly recalls that the applicant is responsible for demonstrating that he/she complies with all applicable knowledge and experience requirements for both the basic licence and the type rating before the application can be submitted to the NAA and for providing all applicable supporting documents with the application.

18. RECORD KEEPING

- Relevant record keeping requirements have been extended in order to fit the new time limits, for both Part 66 and Part 147.

19. FURTHER ELEMENTS

- These new limitations are similar to the existing mechanism as proposed by JAR-FCL 1 (§1.490 "pass standards" and §1.495 "acceptance period"):
 - the applicant has 18 months to complete the required theoretical knowledge examination
 - a pass in the theoretical knowledge examination remains valid for a period varying from 36 months to 7 years, depending on the licence seeking (CPL or ATPL) in order to gain the flying hour experience;
 - an applicant should re-enter the complete examination if he has failed to pass any single examination paper within four attempts or has failed to pass all papers within six sittings.
- To support the changes as described above:
 - the certificate of recognition for basic training (PART 147) is changed to specify the date of examination completed and passed (for each module)
 - the certificate of recognition for type training (PART 147) is changed to specify the date of examination completed and passed as the start/end date of the type training now has to be recorded.

20. PROVISIONS FOR NON-RETROACTIVITY (Grandfathering rights).

For fairness, this opinion introduces provisions for the applicants who already passed basic knowledge examinations (for one or several modules) or type training examinations or who already gained experience or got examination credits before the entry into force of this proposed regulation:

- Basic knowledge examinations and examination credits passed/granted before the date of entry into force of this opinion may be used for licence application until 10 years after the date of entry into force of this Opinion (new paragraph 66.A.25(c));
- Experience gained before the date of entry into force of this opinion may be used for licence application until 10 years after the date of entry into force of this Opinion (new paragraph 66.A.30(g));
- Theoretical and practical elements of the type training completed before the date of entry into force of this opinion may be used for licence application until 3 years after the date of entry into force of this Opinion (new paragraph 66.A.45 (i)).

IV. Regulatory Impact Assessment

21. As explained in detail in the Regulatory Impact Assessment contained in NPA 2007-02, the following options were initially considered before the NPA was issued:

Option 1 – Do nothing

Continue with the current requirements, which include:

- Five years to pass all the basic module examinations.
- No time limit to complete type training.
- An application for a licence or type rating endorsement can be submitted regardless of how long ago:
 - basic modules were completed
 - basic experience was obtained (except for one year recent experience)
 - type training or type examination were completed

Option 2 – Impose time limits on basic modules and type training to obtain a basic licence or type rating

Option 3 – Eliminate all current time limits

This option would eliminate the current “five year” limit for completion of all basic module examinations.

22. Option 3 was rejected because it may lower the safety level due to the possibility to complete the basic examination over an unlimited period and an unlimited number of attempts. At some point the person may pass the exam, without guaranteeing the proper level of knowledge of the whole subject. This negative effect cannot be compensated by the economic benefit for those few persons (and their organisations) requiring a very long period to pass the exams.

23. Option 2, at the time when the NPA was issued, proposed the following changes:

- All basic module examinations (except 1, 2, 3 and 4) and all the required experience should be completed within seven years prior to the licence application.
- Modules older than seven years (except 1, 2, 3 and 4) would need to be repeated.
- Examination credits could be granted only for technical qualifications gained within the seven years prior to the licence application.
- Type training and type examination must have been started and completed within the three years prior to application for type endorsement on the licence.
- Waiting periods were established after failed basic and type examinations.
- The presence of two examiners was required during type examination.

This Option 2 was selected instead of Option 1 (do nothing) because of the safety improvement associated. The experience would be recent and the basic and type related knowledge would be reasonably up to date.

24. Nevertheless, during the NPA external consultation phase, numerous comments were received pointing that:
- The seven year limit to complete basic knowledge and basic experience was too stringent taking into account several factors such as military service, difficulty for studying and working at the same time, long term illness or injury, etc.
 - The requirement to repeat all the modules that go beyond the seven year limit would impose a serious burden, especially on Military Organisations. As a consequence, these organisations would stop qualifying their personnel in accordance with part-147, reducing also the workforce available for civil organisations.
25. In order to minimize all these impacts, while improving the level of safety, the final text proposed in this opinion introduces the following changes in relation to the NPA text:
- The time limit to pass all the basic examinations, get the required experience and apply for a licence was extended to ten years. This is also applicable to credits granted for other technical qualifications.
 - Those modules or credits for other technical qualifications which go beyond the ten year limit are not automatically considered expired, but there is the possibility to get credits for another ten years. The competent authority will have to compare the original syllabus of the qualification with the current one (Part-66, Appendix I) to identify differences, if any.
 - Waiting periods between after failed basic and type examinations were expanded.
 - Only one examiner is required to be present during the type examination

Cologne, 29 September 2008

P. GOUDOU
Executive Director