

**CRD TO NPA 2008-22C AND 2009-02C
ORGANISATION REQUIREMENTS**

RESULTING TEXT PART-OR (IR)

(CRD b.2)

Commentor:	UK CAA
Pages 8, 9 and 51 - Paragraph No: OR.GEN.120(c) / OR.GEN.145(a)(2) / Appendix 1 to Annex 1 Part-OR	
Comment: The intent of a Declaration (see GM1.OR.OPS.DEC.100) is to require the operator to acknowledge its responsibilities, notify the CA of its existence, and to enable the CA to discharge its oversight responsibilities. To require declaring organisations to notify the CA when they use Alternative Means of Compliance is over-prescriptive and takes the process too far towards a certification regime.	
Justification: Such notification is almost certain to require submission of operations manual extracts causing unnecessary burdens and costs upon organisations and CAs, and would be disproportionate to the safety benefit as the organisation is in any case required to comply with the Implementing Rules. It puts the CA on notice, attracting additional potential liabilities in the event of an accident or incident and will require the CA to assess the submitted AMCs thereby applying a regulatory burden which is disproportionate for this sector of stakeholders.	
Proposed Text: Delete: <ul style="list-style-type: none">▪ OR.GEN.120(c).▪ OR.GEN.145(a)(2)▪ "List of alternative.... declaration)" from Appendix 1 to Annex 1 Part-OR	

Commentor:	UK CAA
Page 8 - Paragraph No: OR.GEN.130 (a)	
Comment: The phrase "shall require prior approval by the competent authority" in subparagraph (2) should be moved to make it clear that it refers also to subparagraph (1).	
Justification: Legal clarity	

Commentor:	UK CAA
Page 8 - Paragraph No: OR.GEN.135(a)(3)	
Comment: Include reference to suspension of the certificate.	
Justification: Certificates should cease to be valid while suspended.	
Proposed Text: “.....surrendered, suspended or revoked”.	

Commentor:	UK CAA
Page 9 - Paragraph No: OR.GEN.155	
Comment: UK CAA interprets “mandatory safety information” mentioned at (b) as not including “information” to be disseminated by Agency under article 22.1 of Regulation (EC) no 216/2008 – although the Agency presentation at the AR/OR Conference on 21/22 October suggested that it did.	
Justification: Legal clarity is needed on this point. The intention of the regulators was that the Agency would not issue mandatory information to EU operators under 22.1 as they do not issue any approvals to operators or oversee them in any way. The text does not refer to mandatory safety information as it does in Article 5.5(d), indicating that something different was intended.	

Commentor:	UK CAA
Page 17 - Paragraph No: OR.OPS.AOC.110(c)(1)(iii)	
Comment: This rule is overly restrictive. This rule states that an applicant for the approval of a wet lease-in of an aircraft from a third country operator needs to demonstrate compliance with Regulation (EC) No 2042/2003. This includes EASA Part M (continuing airworthiness); Part 145 (maintenance organisation approvals); Part 66 (certifying staff) and Part 147 (training organisations requirements)	
Justification: This, de facto, will prevent the vast majority of wet leasing-in arrangements from third countries because such aircraft are unlikely to have EASA Part M / Part 145 / Part 66 approval. NPA 2010-10 proposes a new part, Annex V (Part-T), establishing standards and technical requirements to be compiled with in various circumstances, including by aircraft registered in a third country and subject to a wet leased-in agreement.	
Proposed Text: “...complies with the applicable requirements of Regulation (EC) No 2042/2003”.	
Note: A cross-reference will need to be made in the revised paragraph in Article 1 of EC Regulation 2042/2003, (Objective and Scope) to direct such wet lease applications to Annex V (Part-T) only.	

Commentor: UK CAA

Page 17 - Paragraph No: OR.OPS.AOC.100(c)(2)

Comment:

This rule is overly restrictive. This rule states that all aircraft operated have a certificate of airworthiness in accordance with Part 21. This is linked to AR.OPS.110 (a) (1).

Justification:

This, de facto, will prevent the vast majority of dry leasing-in arrangements from third countries, unless first obtaining an Exemption under Article 14(4) of Regulation (EC) No. 216/2008, because third country registered aircraft are unlikely to have a certificate of airworthiness issued in accordance with EASA Part 21.

The Legislator clearly did not envisage this restriction, as various EU Regulations include provisions for this type of lease. Regulation (EC) No. 1008/2008, Article 2(24) defines a dry lease agreement and Article 13(2) requires prior approval in accordance with Community or national law on aviation safety. Article 4(1)(c) of Regulation (EC) No. 216/2008, and OPS 1.165(c)1 of Council Regulation (EEC) No 3922/91, Annex III (EU-OPS), also provides the ability to dry lease-in third country registered aircraft.

Dry leases are usually requested on the grounds of seasonal capacity, with an initial lease period between 5-7 months (IATA traffic seasons). However, exemptions are usually considered to be on the grounds of unforeseen circumstances – i.e. specific exceptions to a general rule. Given the current proposals, notification to the Commission, EASA and other Member States of Article 14(4) exemptions issued for dry leasing-in of third country registered aircraft would become the norm.

Proposed Text

“...all aircraft operated have a certificate of airworthiness in accordance with Part 21, *or issued in accordance with ICAO Annex 8 if registered outside the Community, and*”.

The proposed text would align itself with the requirement for wet leasing-in from third countries (see OR.OPS.AOC.110 (c) (2)), which allows for ICAO Annex 8 C of As. ICAO Annex 8 is an internationally recognised standard.

Note: CAA UK raised this issue during the consultation process on NPA 2009-02c – see CAA UK comment on NPA 2009-02c, paragraph OR.OPS.015.AOC (c) (2).

Commentor: UK CAA

Page 18 - Paragraph No: OR.OPS.AOC.110(c)(3)

Comment:

This rule is overly restrictive. This rule requires pilots of an aircraft being wet leased-in from a third country (i.e. operating under a third country AOC, under the oversight of the third country NAA, but under the commercial control of a Community operator) to “... hold a Part-FCL licence or a licence that is accepted in accordance with the provisions of Annex III to [*Regulation on personnel requirements*].”

Justification:

This would impact on the wet lease-in arrangements concerning third country registered aircraft, as the vast majority of non-Community flight crew licence holders would not have a Part-FCL licence.

Annex III of the proposed Regulation on personnel requirements provides for validation of pilot

licences issued by or on behalf of third countries. Validation will be permitted up to one year, within which time the pilot would be expected to be taking a skills test in accordance with Part-FCL and by an EASA approved training organisation. The period of the validation may only be extended once by the competent authority that issued the validation when, during the validation period, the pilot has applied, or is undergoing training for the issuance of a licence in accordance with Part-FCL. The extension would cover the period of time necessary for the licence to be issued in accordance with Part-FCL.

An Exemption under Article 14(4) of EC Regulation 216/2008 may be possible; for unforeseen urgent circumstances (which might cover EC Regulation 1008/2008 Article 13(3)(b)(i) and (iii) criteria) or operational needs for a limited duration (which might cover EC Regulation 1008/2008, Article 13(3)(b)(ii) criteria).

Commentor: UK CAA

Page 18 - Paragraph No: OR.OPS.AOC.110(d)

Comment:

This paragraph does not highlight the requirement for operators to ensure that they obtain the required licence validations of Part-FCL / Annex III to the Regulation on personnel requirements, when dry leasing-out a Community registered aircraft to a third country operator.

Justification:

Annex III to the proposed Regulation on personnel requirements requires validation of licences issued by or on behalf of third countries. This would include when a Community registered aircraft is being dry leased-out to a third country operator.

Regulation (EC) No 216/2008, Article 4(2) requires "Personnel involved in the operation of aircraft referred to in paragraph 1(b), (c) or (d) shall comply with this Regulation." Article 4(1)(b) includes Community registered aircraft being dry leased-out to a third country. However, if the regulatory safety oversight of the aircraft has been delegated to a third country and the aircraft is not used by a Community operator, then the Regulation does not apply.

Proposed Text:

"In the case of aircraft dry leased-out to a third country operator, the pilot licence issued in accordance with the requirements of Annex 1 to the Chicago Convention by a third country, has been validated by the competent authority of the Member State, unless the regulatory safety oversight has been delegated to a third country ..."

Commentor: UK CAA

Page 18 - Paragraph No: OR.OPS.AOC.110(d)

Comment:

The wording requires operators wishing to dry lease-out their aircraft to provide the competent authority with "... copies of the intended lease agreement and all other relevant documentation." It does not specify what other relevant documentation is required.

Justification:

With regard to "... the intended lease agreement..." – ICAO Doc 8335, Part V, Chapter 2, Paragraph 2.1.2 (f) states "... copy of the lease agreement or description of lease provisions...". Use of the ICAO wording would provide more flexibility in the process of arranging a lease.

Note: CAA UK raised this issue during the NPA 2009-02c consultation – see CAA UK comment

AMC OR.OPS.030.AOC para 5. This point was accepted by EASA in other areas of the OR text (e.g. CRD to NPA 2009-02c, AMC1-OR.OPS.AOC.110 para 4.)

Proposed Text:

Suggest amending the text to read the same as AMC1-OR.OPS.AOC.110 para 4, which now states "...a copy of the lease agreement or description of the lease provisions, except financial arrangements."

Commentor: UK CAA

Page 18 - Paragraph No: OR.OPS.AOC.110(d)

Comment:

There is no requirement for exempting the operator from the provisions of Subpart-OPS, when a Community registered aircraft is dry leased-out to a third country operator.

Justification:

See CAA UK comment under Resulting text Part-AR, paragraph AR.OPS.110 (c) (3) proposing a new requirement.

Proposed Text:

As above.

Commentor: UK CAA

Page 19 - Paragraph No: OR.OPS.AOC.125

Comment:

The title "...aircraft subject to an AOC..." and text "...aircraft subject to its AOC..." does not clearly capture the intent.

Justification:

Clarity

Proposed Text:

Title: "...of aircraft ~~subject to an AOC~~ listed in the Operations Specification by the holder of an AOC"

Text: "...an aircraft **otherwise used for commercial operations under** ~~subject to its AOC and listed in the Operations Specification...~~"

Commentor: UK CAA

Page 19 - Paragraph No: OR.OPS.AOC.125

Comment:

The text constitutes an exemption from OR.GEN.145(a)(1). Instead, it should provide that the required declaration can be submitted within the operations manual of AOC applicants and holders.

Justification:

One IR cannot exempt from another. The same information is required whether or not the operator has applied for or holds an AOC.

Proposed Text:

~~“..... without being required to submit a declaration in accordance with this Part, by submitting the declaration required by this Part within its operations manual, provided that.....”~~

Commentor:

UK CAA

Page 31 - Paragraph No: OR.OPS.CC.110 (c)**Comment:**

Delete “,” after “operating”

Justification:

Typo

Proposed Text (if applicable):

“Operating cabin crew members....”

Commentor:

UK CAA

Page 32 - Paragraph No: OR.OPS.CC.125 (c) (3) Aircraft Type and Operation Conversion**Comment:**

Security training should be included in Operator Conversion training items.

Justification:

Security training is subject to the National Aviation Safety Programme (NASP) and EC Reg 300/2008. Whilst initial general training requirements from the EC Reg may be covered during Initial training, items that form part of the NASP must be included in Operator Conversion training.

Proposed Text (if applicable):

Include new item (c) (3) (ix) security requirements and procedures.

Commentor:

UK CAA

Page 33 - Paragraph No: OR.OPS.CC.140 Recurrent Training (b)(ii)**Comment:**

Current text would permit the use of the flight crew compartment security door and flight seats, and pilot incapacitation, to be trained by video or demonstration.

Justification:

Pilot incapacitation was previously a practical exercise under EU-OPS 1.1015; therefore the text should be clarified to ensure that the requirements remain the same. In addition, training for the flight crew compartment door must be practical to ensure cabin crew are familiar with its use.

Proposed Text (if applicable):

Insert the word ‘Actual’ before the text in (b)(ii).

Commentor:	UK CAA
<p>Page 34 - Paragraph No: OR.OPS.CC.140 Recurrent Training (c)</p> <p>Comment: Three yearly training does not have the same flexibility as annual training. Annual training can be conducted up to three months early but still retains the original validity date. Three yearly training appears to be three years to the day.</p> <p>Justification: Operators generally combine the three yearly training requirements within their annual recurrent training. It allows for flexibility and does not penalise operators who may need some flexibility with planning training sessions.</p> <p>Proposed Text (if applicable): Insert new point – (c)(2) For three yearly training, the validity period shall be 36 calendar months counted from the end of the month when the check was taken. Renumber (2) to (3) Renumber (3) to (4)</p>	

Commentor:	UK CAA
<p>Page 40 - Paragraph No: OR.ATO.100</p> <p>Comment: Unlike OPS.MLR.100, there is no obligation specified in Subpart ATO that requires the ATO to comply with OR.GEN.200. OR.GEN identifies a number of generic requirements that are not replicated or referenced in Subpart ATO or the associated AMC. Furthermore, the application process for an ATO shown in AMC1 – OR.ATO.105 makes no reference to an Accountable manager, or a compliance monitoring system. OR.OPS.AOC.100 defines the application process for an AOC and contains a more generic reference to management systems and the Accountable Manager. This seems to be an omission in OR.ATO.</p> <p>Justification: Without a clear reference in Subpart ATO, an applicant would have no obligation or compliance criteria to refer to that would require them to demonstrate compliance with OR.GEN.200 requirements.</p> <p>Proposed Text: OR.ATO.100 should include the following: This subpart establishes additional requirements to be followed by an approved training organisation.</p> <p>Note: This text is derived from OR.OPS.GEN.100</p>	

Commentor:	UK CAA
<p>Page 40 - Paragraph No: OR.ATO.130</p> <p>Comment: Please see UK CAA comment on OR.ATO.100</p> <p>Justification: Please see UK CAA comment on OR.ATO.100</p> <p>Proposed Text:</p> <p>OR.ATO.130 should include the following;</p> <p>The contents of the Operations Manual (OM) shall reflect the requirements set out in OR.GEN, as applicable.</p> <p>Note: This text is derived from OR.OPS.MLR.100</p>	

Commentor:	UK CAA
<p>Page 49 - Paragraph No: OR.AeMC.115(b)</p> <p>Comment: Paragraph reference is incorrect.</p> <p>Justification: Editorial.</p> <p>Proposed Text: 'OR.AeMC.115 (b) in addition to the documentation for the approval of an organisation required in OR.GEN.045 115.....'</p>	

Commentor:	UK CAA
<p>Page 51 - Paragraph No: Appendix 1 to Annex 1 Part-OR</p> <p>Comment: The form should include information about where the aircraft are based.</p> <p>Justification: This information is needed for the CA to be able to assess the complexity and risks of the operation and to plan its oversight programme.</p> <p>Proposed Text: "Type(s) of aircraft, and registration(s) and base(s)"</p>	