

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B**

**COMMISSION REGULATION (EU) 2018/1042
of 23 July 2018**

amending Regulation (EU) No 965/2012, as regards technical requirements and administrative procedures related to introducing support programmes, psychological assessment of flight crew, as well as systematic and random testing of psychoactive substances to ensure medical fitness of flight and cabin crew members, and as regards equipping newly manufactured turbine-powered aeroplanes with a maximum certified take-off mass of 5 700 kg or less and approved to carry six to nine passengers with a terrain awareness warning system

(OJ L 188, 25.7.2018, p. 3)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Implementing Regulation (EU) 2020/745 of 4 June 2020	L 176	11	5.6.2020

**COMMISSION REGULATION (EU) 2018/1042****of 23 July 2018**

amending Regulation (EU) No 965/2012, as regards technical requirements and administrative procedures related to introducing support programmes, psychological assessment of flight crew, as well as systematic and random testing of psychoactive substances to ensure medical fitness of flight and cabin crew members, and as regards equipping newly manufactured turbine-powered aeroplanes with a maximum certified take-off mass of 5 700 kg or less and approved to carry six to nine passengers with a terrain awareness warning system

Article 1

Regulation (EU) No 965/2012 is amended as follows:

(1) Article 4 is replaced by the following:

*Article 4***Ramp inspections**

1. Ramp inspections of aircraft of operators under the safety oversight of another Member State or of a third country shall be carried out in accordance with Subpart RAMP of Annex II.

2. Member States shall ensure that alcohol testing of flight crew and cabin crew members is carried out with regard to operators under their own oversight as well as with regard to operators under the oversight of another Member State or of a third country. Such testing shall be performed by ramp inspectors within the framework of the ramp inspection programme of Subpart RAMP of Annex II.

3. By way of derogation from paragraph 2, Member States may ensure alcohol testing of flight crew and cabin crew members to be carried out by other authorised officials and outside the framework of the ramp inspection programme of Subpart RAMP of Annex II, provided that such alcohol testing meets the same objectives and adheres to the same principles as tests carried out under the framework of Subpart RAMP of Annex II. Results of such alcohol tests shall be included in the centralised database in accordance with point (b) of ARO.RAMP.145.

4. Member States may carry out additional testing for psychoactive substances other than alcohol. In that case, the Member State shall notify the European Aviation Safety Agency ('the Agency') and the Commission.;

(2) Article 9b is replaced by the following:

▼B*Article 9b***Review**

1. The Agency shall conduct a continuous review of the effectiveness of the provisions concerning flight and duty time limitations and rest requirements contained in Annexes II and III. No later than 18 February 2019 the Agency shall produce a first report on the results of this review.

That review shall involve scientific expertise and shall be based on operational data gathered, with the assistance of Member States, on a long-term basis after the date of application of this Regulation.

The review shall assess the impact of at least the following on the alertness of aircrew:

- (a) duties of more than 13 hours at the most favourable times of the day;
- (b) duties of more than 10 hours at less favourable times of the day;
- (c) duties of more than 11 hours for crew members in an unknown state of acclimatisation;
- (d) duties including a high level of sectors (more than 6);
- (e) on-call duties such as standby or reserve followed by flight duties; and
- (f) disruptive schedules.

2. The Agency shall conduct a continuous review of the effectiveness of the provisions concerning support programmes, the psychological assessment of flight crew and the systematic and random testing of psychoactive substances to ensure the medical fitness of flight crew and cabin crew members set out in Annexes II and IV. No later than 14 August 2022, the Agency shall produce a first report on the results of this review.

That review shall involve relevant expertise and shall be based on data gathered, with the assistance of Member States and the Agency, on a long-term basis.’;

- (3) Annexes I, II, IV, VI, VII and VIII are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 14 August 2020.

▼M1

However, points 1 and 3 of Article 1 shall apply from 14 February 2021 and points 3(f) and 6(b) of the Annex shall apply from 14 August 2018.

▼B

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

▼B*ANNEX*

Annexes I, II, IV, VI, VII and VIII are amended as follows:

(1) Annex I is amended as follows:

(a) the following point (78a) is inserted:

‘(78a) “misuse of substances” means the use of one or more psychoactive substances by flight crew, cabin crew members and other safety-sensitive personnel in a way that:

- (a) constitutes a direct hazard to the user or endangers the lives, health or welfare of others, and/or
- (b) causes or worsens an occupational, social, mental or physical problem or disorder;’;

(b) the following point (98a) is inserted:

‘(98a) “psychoactive substances” means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, with the exception of caffeine and tobacco;’;

(c) the following point (105a) is inserted:

‘(105a) “safety-sensitive personnel” means persons who might endanger aviation safety if they perform their duties and functions improperly, including flight crew and cabin crew members, aircraft maintenance personnel and air traffic controllers;’;

(2) Annex II (Part-ARO) is amended as follows:

(a) the following point ARO.RAMP.106 is inserted:

‘ARO.RAMP.106 Alcohol testing

- (a) The competent authority shall carry out alcohol testing on flight and cabin crew.
- (b) The Agency shall provide competent authorities with a list of Union and third-country operators for the prioritisation of alcohol testing within the ramp inspection programme in accordance with ARO.RAMP.105 based on a risk assessment performed by the Agency, taking into account the robustness and effectiveness of existing psychoactive testing programmes.
- (c) When selecting operators for alcohol testing of flight and cabin crew, the competent authority shall use the list established in accordance with point (b).
- (d) Whenever data concerning alcohol tests is included in the centralised database in accordance with point (b) of point ARO.RAMP.145, the competent authority shall ensure that such data excludes any personal data of the crew member concerned.
- (e) In case of a reasonable cause or suspicion, alcohol tests may be carried out at any time.
- (f) The alcohol testing methodology shall apply recognised quality standards that ensure accurate testing results.
- (g) A flight crew or cabin crew member who refuses to cooperate during tests or who has been identified to be under the influence of alcohol after a positive test shall not be allowed to continue his or her duty.’;

▼B

(3) Annex IV (Part-CAT) is amended as follows:

(a) in point CAT.GEN.MPA.100, point (c)(1) of is replaced by the following:

‘(1) when under the influence of psychoactive substances or when unfit due to injury, fatigue, medication, sickness or other similar causes;’;

(b) point CAT.GEN.MPA.170 is replaced by the following:

‘CAT.GEN.MPA.170 Psychoactive substances

(a) The operator shall take all reasonable measures to ensure that no person enters or is in an aircraft when under the influence of psychoactive substances to the extent that the safety of the aircraft or its occupants is likely to be endangered.

(b) The operator shall develop and implement a policy on the prevention and detection of misuse of psychoactive substances by flight and cabin crew members and by other safety-sensitive personnel under its direct control, in order to ensure that the safety of the aircraft or its occupants is not endangered.

(c) Without prejudice to the applicable national legislation on data protection concerning testing of individuals, the operator shall develop and implement an objective, transparent and non-discriminatory procedure for the prevention and detection of cases of misuse of psychoactive substances by its flight and cabin crew and other safety-sensitive personnel.

(d) In case of a confirmed positive test result, the operator shall inform its competent authority and the authority responsible for the personnel concerned, such as a medical assessor of the licensing authority.’;

(c) point CAT.GEN.MPA.175 is replaced by the following:

‘CAT.GEN.MPA.175 Endangering safety

(a) The operator shall take all reasonable measures to ensure that no person recklessly, intentionally or negligently acts or omits to act so as to:

(1) endanger an aircraft or person therein; or

(2) cause or permit an aircraft to endanger any person or property.

(b) The operator shall ensure that flight crew has undergone a psychological assessment before commencing line flying in order to:

(1) identify psychological attributes and suitability of the flight crew in respect of the work environment; and

(2) reduce the likelihood of negative interference with the safe operation of the aircraft.

(c) Considering the size, nature and complexity of the activity of an operator, an operator may replace the psychological assessment referred to in point (b) with an internal assessment of the psychological attributes and suitability of flight crew.’;

▼B

(d) the following point CAT.GEN.MPA.215 is inserted:

‘CAT.GEN.MPA.215 Support programme

- (a) The operator shall enable, facilitate and ensure access to a proactive and non-punitive support programme that will assist and support flight crew in recognising, coping with, and overcoming any problem which might negatively affect their ability to safely exercise the privileges of their licence. Such access shall be made available to all flight crew.
- (b) Without prejudice to applicable national legislation on the protection of individuals with regard to the processing of personal data and on the free movement of such data, the protection of the confidentiality of data shall be a precondition for an effective support programme as it encourages the use of such a programme and ensures its integrity.’;

(e) in point CAT.GEN.NMPA.100, point (b)(1) is replaced by the following:

- ‘(1) when under the influence of psychoactive substances or when unfit due to injury, fatigue, medication, sickness or other similar causes;’;

(f) in point CAT.IDE.A.150, the following point (c) is added:

- ‘(c) Turbine-powered aeroplanes for which the individual certificate of airworthiness (CofA) was first issued after 1 January 2019 and having an MCTOM of 5 700 kg or less and an MOPSC of six to nine shall be equipped with a TAWS that meets the requirements for Class B equipment, as specified in an acceptable standard.’;

(4) Annex VI (Part-NCC) is amended as follows:

(a) in point NCC.GEN.105, point (e)(2) is replaced by the following:

- ‘(2) when under the influence of psychoactive substances or for other reasons as referred to in 7.g of Annex IV to Regulation (EC) No 216/2008.’;

(5) Annex VII (Part-NCO) is amended as follows:

(a) in point NCO.SPEC.115, point (e)(2) is replaced by the following:

- ‘(2) when under the influence of psychoactive substances or for other reasons as referred to in 7.g of Annex IV to Regulation (EC) No 216/2008.’;

(6) Annex VIII (Part-SPO) is amended as follows:

(a) in point SPO.GEN.105, point (e)(2) is replaced by the following:

- ‘(2) when under the influence of psychoactive substances or for other reasons as referred to in 7.g of Annex IV to Regulation (EC) No 216/2008.’;

(b) point SPO.IDE.A.130 is replaced by the following:

‘SPO.IDE.A.130 Terrain awareness warning system (TAWS)

- (a) Turbine-powered aeroplanes with a maximum certified take-off mass (MCTOM) of more than 5 700 kg or an MOPSC of more than nine shall be equipped with a TAWS that meets the requirements for:

▼B

- (1) class A equipment, as specified in an acceptable standard, in the case of aeroplanes for which the individual certificate of airworthiness (CofA) was first issued after 1 January 2011; or
 - (2) class B equipment, as specified in an acceptable standard, in the case of aeroplanes for which the individual CofA was first issued on or before 1 January 2011.
- (b) When used in commercial operations, turbine-powered aeroplanes for which the individual CofA was first issued after 1 January 2019 and having an MCTOM of 5 700 kg or less and an MOPSC of six to nine shall be equipped with a TAWS that meets the requirements for class B equipment, as specified in an acceptable standard.’.