# 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 5700 kg or less and approved to carry six to nine passengers with a terrain awareness warning system

## 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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 7(6), Article 8(5) and Article 10(5) thereof,

Whereas:

(1) Commission Regulation (EU) No 965/2012[(2)] lays down detailed rules for commercial air transport operations with aeroplanes and helicopters, including ramp inspections of aircraft of operators under the safety oversight of another Member State or of a third country, when landed at aerodromes located in the territory subject to the provisions of the Treaty. That Regulation also stipulates that crew members are not to carry out duties on an aircraft when under the influence of psychoactive substances or when unfit due to injury, fatigue, medication, sickness or other similar causes.

(2) The European Aviation Safety Agency ('the Agency') has identified a number of safety risks and issued recommendations to mitigate those risks. The implementation of some of those recommendations requires regulatory changes as regards the psychological assessment of the flight crew before commencing line flying, the implementation of a support programme for flight crew, the carrying-out of random alcohol testing on flight and cabin crew members by Member States, and systematic testing of psychoactive substances of flight and cabin crew members by commercial air transport operators.

(3) With regards to psychoactive substance testing, the International Civil Aviation Organisation (ICAO) Manual on Prevention of Problematic Use of Substances in the Aviation Workplace (Doc 9654) should be taken into account.

(4) The existing ramp inspection programme referred to in Subpart RAMP of Annex II to Regulation (EU) No 965/2012 already provides a framework for the systematic, structured and risk-based inspection of operators containing extensive provisions and safeguards for, inter alia, data protection, inspector training, risk-based sampling, the grounding of aircraft and preventing unnecessary delays. It is therefore appropriate to apply that well-established framework to carry out alcohol tests on flight crew and cabin crew members. A flight crew or cabin crew member who refuses to cooperate during tests or who has been identified to be under the influence of psychoactive substances after a confirmed positive test is to be removed from duty.

(5) In some Member States, random tests for psychoactive substances are already carried out by other officials than those authorised under Subpart RAMP of Annex II. Therefore, under certain conditions, Member States should be able to carry out alcohol tests on flight crew and cabin crew members outside of the framework of the ramp inspection programme of Annex II to Regulation (EU) No 965/2012.

(6) Member States should also be given the possibility to carry out additional tests for the presence of psychoactive substances other than alcohol.

(7) ICAO recommends in Parts I and II of Annex 6 to the Chicago Convention that turbine-powered aeroplanes with a maximum certified take-off mass (MCTOM) of 5 700 kg or less and a maximum operational passenger seating configuration between six and nine be equipped with a ground proximity warning system.

(8) In order to be aligned with ICAO Standards and Recommended Practices and to mitigate the risks of controlled flights into terrain, Regulation (EU) No 965/2012 should be amended accordingly.

(9) The measures provided for in this Regulation are based on Opinions No 14/2016 and No 15/2016 issued by the Agency in accordance with Article 19(1) of Regulation (EC) No 216/2008.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

*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:

*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

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EU) 2018/1042. (See end of Document for details)*

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.

**[**[F1]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.**]**

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2020/745 of 4 June 2020 amending Regulation (EU) 2018/1042 as regards postponing dates of application of certain measures in the context of the COVID-19 pandemic (Text with EEA relevance).

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2018/1042. (See end of Document for details)*

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.