

Title:	Opinion and Instruction Document To introduce technical and administrative requirements for Ramp inspections, alcohol testing, psychoactive substances and support programme
Package Number	0007
Headline Purpose:	To introduce technical and administrative requirements related to the implementation of: • A non-punitive support programme for flight crew; • the carrying out of unannounced alcohol testing on flight and cabin crew members as part of the Ramp Inspection Programme; and • A policy and procedures by operators to prevent and detect cases of misuse of psychoactive substances by flight crew, cabin crew members and other safety-sensitive personnel under their direct control.
Proposed action:	To amend Regulation (EU) No. 965/2012 as retained (and amended in UK domestic law) under the European Union (Withdrawal Act) 2018 (" UK Reg (EU) No. 965/2012 ") to introduce such requirements.

Objective

In order to address identified safety risks, it is the CAA's opinion that regulatory changes are required for the implementation of a support programme for flight crew, the carrying-out of random alcohol testing on flight and cabin crew members, and the requirement for operators to develop a policy and procedures to prevent and detect the misuse of psychoactive substances by flight and cabin crew members and other safety-sensitive personnel under their direct control.

The CAA's intention is to introduce the right tools to safeguard the mental fitness of commercial air transport flight crew and positively promote and support their whole health and wellbeing to ensure that the safety of the aircraft or its occupants are assured as far as reasonably practical.

Background

Following the tragic accident of the Germanwings Flight 9525, the EU Commission and EASA, together with a dedicated task force, conducted a review of the matters surrounding the event and, in particular, the medical and psychological conditions of flight crews. From this work, EASA issued [Opinion 14/2016](#) which led to the adoption of Commission Regulation (EU) 2018/1042 of 23 July 2018 ("[CR \(EU\) 2018/1042](#)"). The UK was generally supportive of the proposals.

[CR \(EU\) 2018/1042](#) amended [CR \(EU\) No. 965/2012](#) by introducing several new requirements:

- all Commercial Air Transport ("CAT") operators are to implement a Support Programme ("SP") for flight crew which is designed to put in place systems of peer support to directly support colleagues and signpost them to appropriate resources to provide assistance and information relating to their wellbeing and arising mental health issues.
- all CAT operators are to develop a policy on the detection and prevention of misuse of psychoactive substances by cabin and flight crew and other safety sensitive personnel under their direct control to ensure the aircraft and its occupants are not endangered.
- the introduction of alcohol testing of flight and cabin crew during Ramp inspections, with an option to conduct testing for other psychoactive substances too.

While certain elements of the amendments made by [CR \(EU\) 2018/1042](#) came into effect in the UK on 14 August 2018, the coming into force date for the elements listed above was set as 14 August 2020. Due to the COVID-19 pandemic a delay was introduced by Commission Implementing Regulation (EU) 2020/745 ("[CIR \(EU\) 2020/745](#)"), putting this back to 14 February 2021. As a result, these elements of [CR \(EU\) 2018/1042](#) were not in force on 31 December 2020 and so were not retained in UK law at the end of the Transition Period.

The UK supported the changes when [CR \(EU\) 2018/1042](#) was adopted in June 2018, and it is the CAA's opinion that, with the exception of the changes to CAT.GEN.MPA.175 (Endangering safety), which introduced into Europe the psychological assessment of flight crew by operators (because the CAA does not consider there is a sufficient scientific or medical evidence base to impose such requirements), similar changes should now be made to the equivalent UK Regulation.

However, the CAA agrees with the principle that there should be some form of psychological assessment regime, and this will be subject to further review by the CAA in consultation with industry, with an aim to provide an equivalent level of safety by alternative means. Such means could include the development of specific Acceptable Means of Compliance ("AMC") and/or Guidance Material ("GM") for the psychological assessment of flight crew by operators under the current Regulation, or potentially future proposals to change the law.

What legal powers are being used to achieve the change?

Articles 23 and 31 of Regulation (EU) 2018/1139 as retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2019 ("[the UK Basic Regulation](#)").

Consequence of not making these legislative changes

If the proposed amendments were not introduced, there would be:

- A reduced opportunity for prevention of events such as those leading to the tragic Germanwings accident. This is particularly relevant in the current climate where the extent and effects of the COVID-19 pandemic on flight crew mental wellbeing are still being assessed;
- No opportunity to realise the benefits to flight safety that the proposed amendments would provide (together with updates to the mental health assessment regulations in Part-MED), in addressing a potential safety issue resulting from a decrease in flight crew medical fitness;
- No opportunity to achieve the benefits to flight safety and the reduction of risk by introducing powers for the CAA to conduct random alcohol testing on flight and cabin crew;
- A loss of the ability to participate in the EU Ramp Inspection Programme. In the CAA's opinion, continuing participation in the EU Ramp Inspection Programme is desirable to maintain a high uniform level of civil aviation safety and ensure a harmonised approach to facilitate the enforcement of International Safety Standards.

Affected Law (and, if applicable, UK AMC)

What is the existing UK legal framework which is relevant here?	UK Reg (EU) No. 965/2012
Identify the law that the CAA proposes be changed.	UK Reg (EU) No. 965/2012 which is to be amended to reflect changes made in: • Point 1 of Article 1, • Annex 1 definitions amended by points 1(b) and (c); • Annex II Subpart Ramp ARO.RAMP.106 Alcohol testing is introduced;