

L.N. 385 of 2004**CIVIL AVIATION ACT
(CAP. 232)****Air Navigation (Amendment) (No. 3) Order, 2004**

IN exercise of the powers conferred by article 3 of the Civil Aviation Act, the Minister for Competitiveness and Communications, with the concurrence of the Prime Minister and Minister of Finance, has made the following Order:-

1. The title of this Order is the Air Navigation (Amendment) (No. 3) Order, 2004, and it shall be read and construed as one with the Air Navigation Order, 1990, hereunder referred to as “the principal Order”. Citation.
L.N. 176 of 1990.

2. Article 52 of the principal Order shall be amended as follows:- Amends article 52 of the principal Order.

(a) in paragraph (1) thereof, the words “Articles 53 and 54” shall be substituted by the words “Articles 53, 54 and 55”;

(b) for paragraph (2) thereof, there shall be substituted the following new paragraph:

“(2) In this Part of this Order, unless the context otherwise requires:

(a) “day” means a continuous period of 24 hours beginning at midnight Universal Coordinated Time;

(b) “duty time” means a period which starts when the crew member is required by an operator to report for a duty and ends when the crew member is free from all duties;

(c) “flight duty period” means the total time from the moment an operating crew member commences duty, immediately subsequent to a rest period and prior to making a flight or a series of flights, to the moment the crew member is relieved of all duties having completed such flight or series of flights;

(d) “flight time” in relation to a person, means all time spent by that person in an aircraft whether or not registered in Malta (other than aircraft of which the maximum total weight authorised does not exceed 1600kg and which is not flying for the purpose of public transport or aerial work) from the time the aircraft first moves from its parking place for the purpose of taking off until it comes to rest on the designated parking position or until all engines are stopped and he is carried therein as a member of the crew thereof;

(e) “rest period” means an uninterrupted and defined period of time during which a crew member is relieved of all duties by the operator.”.

Amends article 53 of the principal Order.

3. In paragraphs (1) (a) and (3) (a) of article 53 of the principal Order, immediately after the words “flight times” there shall be inserted the words “, duty times, flight duty periods and rest periods”.

Amends article 55 of the principal Order.

4. Article 55 of the principal Order shall be amended as follows:-

(a) in the marginal note thereof there shall be substituted the following new marginal note:-

“Flight times, duty times, flight duty periods and rest periods - responsibilities of crew”; and

(b) in paragraph (1) (a) thereof, immediately after the words “exceeds one hundred hours” there shall be added the words “for flight crew or one hundred and fifteen hours for cabin crew”.

Substitutes Schedule 10 to the principal Order.

5. For Schedule 10 to the principal Order there shall be substituted the following:

“SCHEDULE 10

(Article 24)

Public Transport – Operational Requirements

Part A – Operations Manual

The information and instructions that are to be contained in the operations manual referred to in Article 24 (2) of the Order shall be those that are specified in documents JAR OPS 1 and JAR OPS 3.

Part B – Crew Training and Tests

(Article 26)

1. The training, experience, practice and periodical tests required under Article 26 (2) of this Order in the case of members of the crew of an aircraft engaged on a flight for the purpose of public transport shall be:

(1) for pilots and cabin crew in accordance with the provisions contained in JAR OPS 1 and JAR OPS 3; and

(2) for Flight Navigators and Flight Radio Operators as shown below:

(i) **Flight Engineers**

Every flight engineer included in the flight crew shall within the relevant period have been tested by or on behalf of the operator:

(a) as to his competence to perform his duties while executing normal procedures in flight, in an aircraft of the type to be used on the flight;

(b) as to his competence to perform his duties while executing emergency procedures in flight, in an aircraft of the type to be used on the flight.

A flight engineer's ability to carry out normal procedures shall be tested in aircraft in flight.

The other tests required by this sub-paragraph may be conducted either in an aircraft in flight, or under supervision of a person approved by the Director for the purpose by means of a flight simulator approved by the Director.

(ii) **Flight Navigators and Flight Radio Operators**

Every flight navigator and flight radio operator whose inclusion in the flight crew is required under Article 17 (4) and (5) respectively of this Order shall, within the relevant period, have been tested by or on behalf of the operator as to his competence to perform his duties in conditions corresponding to those likely to be encountered on the flight:

(a) in the case of a flight navigator, using equipment of the type to be used in the aircraft on the flight for the purposes of navigation;

(b) in the case of a flight radio operator using radio equipment of the type installed in the aircraft to be used on the flight, and including a test of this ability to carry out emergency procedures.

2. (1) The records required to be maintained by an operator under Article 26 (2) of this Order shall be accurate and up-to-date records so kept as to show, on any date in relation to each person who has during the periods immediately preceding that date flown as a member of the crew of any public transport aircraft operated by that operator, as specified in JAR OPS 1 and JAR OPS 3;

(a) the date and particulars of each test required by this Schedule undergone by that person during the said period including the name and qualifications of the examiner;

(b) the date upon which that person last practised the carrying out of duties referred to in paragraph 1 (1) (b) of this Schedule.

(c) the operator's conclusions based on each such test and practice as to that person's competence to perform his duties;

(d) the date and particulars of any decision taken by the operator during the said period in pursuance of paragraph 1 (5) (a) (i) of this Schedule including particulars of the evidence upon which that decision was based.

(2) The operator shall whenever called upon to do so by any authorised person produce for the inspection of any person so authorised all records referred to in the preceding sub-paragraph and furnish to any such person all such information as he may require in connection with any such records and produce for his inspection all log books, certificates, papers and other documents, whatsoever which he may reasonably require to see for the purpose of determining whether such records are complete or of verifying the accuracy of their contents.

(3) The operator shall, at the request of any person in respect of whom he is required to keep records as aforesaid, furnish to that person, or to any operator of aircraft for the purpose of public transport by whom that person may subsequently be employed, particulars of any qualifications in accordance with this Schedule obtained by such person whilst in his service.

Part C - Training Manual

(Article 25 (2))

The information and instructions in relation to the training experience, practice and periodical tests required under Article 26 (2) of this Order to be included in the training manual referred to in Article 25 (2) of this Order shall be those that are specified in JAR OPS 1 and JAR OPS 3.”.

6. Part II of Schedule 16 to the principal Order shall be amended as follows:—

Amends Schedule
16 to the principal
Order.

(a) paragraphs 10, 11, 12 and 13 shall be renumbered 11, 12, 13 and 14 respectively;

(b) immediately after paragraph 9 thereof, there shall be inserted the following new paragraph 10:-

“10. Approval of Part 145 Aircraft Maintenance Organisation

(1) Upon making an application for the issue of a Certificate of Approval of an Aircraft Maintenance Organisation under Article 4, Annex 3, Part 145 of EC Regulation 2042/2003, the applicant shall pay, depending on the ratings included in the extent of approval contained in the certificate, 50% of the applicable fee from the list of fees below, and the remaining 50% on the issue of the certificate.

Category Rating	Fee (Lm)
A1	10,000
A2	5,000
A3	8,000
A4	3,000
B	1,500
C	1,500
D	1,500

Provided that:

(a) In the case of an A1 rating which covers base maintenance, only half of the fee is payable if more than 50% of the aircraft maintained on an annual basis have a maximum take-off weight authorised of less than 10 tonnes;

(b) Where the organisation has more than one category rating, only the highest of the fees attracted by the ratings shall be payable;

(c) Where the organisation has remotely located secondary sites and facilities, there shall be paid an additional charge as provided for in paragraph 14 together with the cost of travel and accommodation for the investigating Airworthiness Inspectorate survey staff;

(d) Where the actual costs of the Director's investigations leading to the issue of a Certificate of Approval of an Aircraft Maintenance Organisation are higher than those specified above, the Director may charge the actual costs incurred.

(2) Subsequent to the initial issue of a Part 145 Certificate of Approval of an Aircraft Maintenance Organisation, the holder of such certificate shall pay the applicable fee from the list of fees below in respect of the category rating of the certificate on completion of the two-yearly review of the organisation:—

Category Rating	Fee (Lm)
A1	6,000
A2	2,000
A3	4,000
A4	1,500
B	1,000
C	1,000
D	1,000

(3) Where a maintenance organisation already holds a JAR 145 certificate, the fee to be paid for the conversion to a Part 145 certificate will be the same as that payable on completion of the two-yearly review of the organisation.

(4) When the holder of a Part 145 certificate of approval requires the inclusion of a new type of aircraft, engine or component that affects the approval ratings in the certificate, he shall pay a fee equal to 50% of that payable on completion of the two-yearly review in respect of the category rating concerned except that such fee is not payable if the application is processed not more than twelve months before the due date of the next two-yearly review.”.