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*Our reference number:* 07/03-2-3

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1 June 2001

## **JAR-11: JAA REGULATORY AND RELATED PROCEDURES**

Please find attached a copy of the first issue of JAR-11 dated 1 June 2001.

A comment/response document, detailing the comments made during consultation and the JAA's replies to those comments, is not appended for this JAR, but is available on the JAA website ([www.jaa.nl](http://www.jaa.nl)).

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Queries regarding the technical content of the code should be made to JAA Headquarters at the above address.

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# **Joint Aviation Requirements**

**JAR-11**

**JAA Regulatory and  
Related Procedures**

# **Joint Aviation Requirements**

**JAR-11**

**JAA Regulatory and  
Related Procedures**

Initial Issue  
1 June 2001

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The members of the Joint Aviation Authorities Committee are representatives of the Civil Aviation Authorities of the countries that have signed the 'Arrangements Concerning the Development and the Acceptance of Joint Aviation Requirements'. A list of these countries is kept by European Civil Aviation Conference, 3 bis Villa Emile Bergerat, 92522 NEUILLY SUR SEINE Cedex, France. A list of these countries,\* at the issue date of this document can be found at the end of this page.

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\* These countries are:-

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**PREAMBLE**

**JAR-11**

This initial issue of JAR-11 was adopted by the JAA Committee on 13 March 2001 and published on 1 June 2001.

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**SECTION 1 - REQUIREMENTS**

1        *PRESENTATION*

1.1        Section 1 of JAR-11 is presented in two columns on loose pages being identified by the date of the Amendment number under which it is amended or reissued.

1.2        Explanatory notes not forming part of the JAR text appear in a smaller typeface. Sub-headings are in italic typeface.

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## SUBPART A – GENERAL

JAR 11.005 (continued)

**JAR 11.001 Applicability**

(a) JAR-11 prescribes the requirements applicable to:

- (1) the retention by the Central JAA of documentation related to the development and production of JARs;
- (2) the format and structure of JARs;
- (3) the development of JARs and amendments to JARs until their publication by JAA;
- (4) the contents of exemption paragraphs in the JARs;
- (5) the Joint Implementation Procedures (reserved);
- (6) the procedure for consultation on Special Conditions; and
- (7) the development of ACJ until their publication by JAA.

(b) This JAR-11 becomes effective 01 June 2001, except for the provisions, related to Regulatory Impact Assessment, as referred to in JAR 11.065(b)(1) and JAR 11.075(b)(2), which will be effective on 1 January 2003.

**JAR 11.005 Terminology**

*ACJ (Advisory Circular Joint):* Means an accompanying text, containing explanations, interpretations or acceptable means of compliance, in order to clarify and to provide guidance for the application of requirements

*Adoption:* Means the act of the competent body of the JAA pursuant to the Cyprus Arrangements, by which the administrative procedure for the establishment of a JAR or an amendment to a JAR is concluded and the JAR or an amendment to a JAR becomes eligible for external publication.

*A-NPA (Advance Notice of Proposed Amendment):* Means a document used to seek early advice from interested parties on a possible, future NPA.

*Exemption:* Means a statement in writing made by a national aviation authority, in accordance with a JAR, by virtue of which a requirement to comply with a legal obligation does not apply in the circumstances and subject to any conditions specified in the exemption.

*Interested Parties:* Representative International Organisations whose members are subject to regulation in accordance with JARs.

*JAR (Joint Aviation Requirements):* Means the code containing requirements and the associated advisory circular joint (ACJ).

*JIP (Joint Implementation Procedure):* Working methods for national aviation authorities which, if followed, are intended to make a single compliance findings investigation acceptable to all these authorities.

*NPA (Notice of Proposed Amendment):* Means a document used to propose new JARs and/or amendments to existing JARs.

*Working Party:* Means a group of people in charge of developing JAA material according to the terms of reference defined by the body to which the working party reports.

**JAR 11.010 Retention of documentation: General**

In respect of the JAA regulatory and related procedures such documentation shall be maintained by the Central JAA in order to enable the JAA to show the justification for its decisions and to show that the proper procedures have been followed.

**JAR 11.015 The Central JAA files**

(a) A full set of all published JARs, both current and superseded, shall be retained by the Central JAA indefinitely.

(b) A file for each proposed NPA containing the following information shall be retained indefinitely by the Central JAA (see ACJ 11.015(b)):

- (1) The submission initiating the NPA;
- (2) Relevant correspondence;
- (3) The published NPA including justification; and
- (4) A Comment/Response Document, as referred to in JAR 11.070.

(c) A file for each Working Party containing the following information shall be retained by the Central JAA:

- (1) Terms of Reference of the Working Party referred to in JAR 11.060 or

JAR 11.015(c) (continued)

other authorising statement (for an indefinite period) (see ACJ 11.015(c)(1));

(2) Notes of the Working Party meetings (for an indefinite period);

(3) Documents submitted to the Working Party and discussed under specific items (for at least 10 years); and

(4) Correspondence files (for at least 10 years).

**JAR 11.020 Conditions of Access to information**

(a) Access to information kept under 11.015(a) and (b) must be limited by practical considerations (See ACJ 11.020(a)).

(b) Access to information kept under 11.015(c) is limited to Authorities and Interested parties (See ACJ 11.020(b)).

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## SUBPART B – JOINT AVIATION REQUIREMENTS

**JAR 11.025 General**

This Subpart prescribes requirements for:

- (a) The Format and Structure of JARs; and
- (b) The development, adoption and publication of new JARs and amendment to a JAR by the JAA.

**JAR 11.030 Structure**

Each JAR must consist of:

- (a) A preamble;
- (b) A Section One containing requirements;
- (c) A Section Two containing Advisory Circular Joint, if appropriate.

**JAR 11.035 (Reserved)****JAR 11.040 Preamble**

(a) The purpose of the Preamble is to present, following the initial adoption of a JAR, a summary of the contents of the amendments made to the JAR (see ACJ 11.040(a)).

- (b) The Preamble has no regulatory status.

**JAR 11.045 Section One**  
(See ACJ 11.045)

(a) The Section One of a JAR will only contain requirements. When appendices to requirements are used they also have the same status as the requirement with which they are associated.

(b) Section One must include the scope of applicability and dates of effectivity of the JAR and allow for a transition period (See ACJ 11.045(b)).

(c) If it is to be permitted that an exemption may be granted from any provision of a JAR, the Section One of that JAR must include a provision which conforms with Appendix 1 to Subpart B (See ACJ 11.045(c)).

**JAR 11.050 Section Two**  
(See ACJ 11.050)

(a) Section Two of a JAR contains material that is not requirements such as acceptable

JAR 11.050(a) (continued)

means of compliance and interpretative and explanatory material.

(b) Status and development of Section Two material are defined in Subpart E.

(c) ACJ material which applies to more than one JAR may be placed in a specific JAA document. Such material will be developed in the same way and have the same status as material appearing in Section 2 of a JAR.

**JAR 11.055 Initiation of a new JAR or amendments to a JAR**

(a) Any person or organisation may propose the development of a new JAR or an amendment to a JAR.

(b) Any proposal must be sent to the Central JAA and the Central JAA must acknowledge each proposal.

(c) Any proposal must include a justification (see ACJ 11.055(c)).

(d) *Initiation*

(1) *For a new JAR:* The decision to initiate the development of a new JAR will be made by the JAAB based on a co-ordinated advice from Central JAA and the relevant JAA bodies. Before taking its decision the JAAB shall consult Interested Parties.

(2) *For amendment to a JAR:* The decision to initiate the development of an amendment to JAR will be made by the Central JAA in co-ordination with the relevant Sectorial Team.

(e) *Rationale*

(1) *For a new JAR:* The decision of the JAA body referred to in paragraph (d)(1) and its rationale must be published (See ACJ 11.055(e)):

(i) If the JAAB agrees to the proposal, this takes the form of Terms of Reference for the Working Party (See ACJ 11.055(e)). The Terms of Reference shall include Tasks, Composition, Working Methods, Timescales to complete the tasks and Reporting.

(ii) If the JAAB body rejects the proposal, this takes the form of a response to the author of the proposal

JAR 11.055(e) (continued)

with copies to representatives of Interested Parties.

(2) *For amendments to a JAR:* Decisions will be published together with the rationale - this will take the form of Terms of Reference. If the proposal is rejected, this decision will take the form of a response to the author of the proposal with copies to representatives of Interested Parties.

(f) *Set-up of a Working Party*

(1) *For a new JAR:* Where necessary the Central JAA will organise the set up of the Working Party (See ACJ 11.055(f)(1)).

(2) *For amendments to a JAR:* The Central JAA will organise appropriate action (See ACJ 11.055(f)(2)).

(3) The Working Party must be open to all JAA National Authorities, a representative of the Central JAA, representatives of Interested Parties, representatives of the European Commission and other organisations (including non JAA Authorities) whose participation can contribute to the work of the Working Party.

#### JAR 11.060 Drafting of a new JAR or amendments to a JAR

(a) A new JAR or amendments to a JAR must be drafted by the Working Party in accordance with the terms of reference required by JAR 11.055(e). The Working Party may propose changes to the terms of reference to the Central JAA as justified by the progress of their work. The Central JAA will inform the JAAB on the decision it has taken with regard to the proposed amendment of the terms of reference.

(b) A Working Party must work in accordance with generic working procedures addressing at the least the following issues:

- (1) Chair/Secretary elections;
- (2) Obtaining of consensus and resolution of conflicts; and
- (3) Preparation of minutes.

Each Working Party must define its own detailed working methods (See ACJ 11.060(b)).

(c) In case a Working Party has determined the timeframe will be exceeded, it will seek further guidelines from the Central JAA.

(d) Drafting must comply with the accepted JAR-format and rules of construction as defined by JAR 11.030 to JAR 11.050.

JAR 11.060 (continued)

(e) Drafting must take into account the following principles:

(1) Systematic consideration of ICAO Standards and Recommended Practices;

(2) Harmonisation with other Authorities and International Organisations in compliance with JAA policies;

(3) Systematic consideration of an implementation programme defining a transition period and taking into account translation delays;

(4) Resolution of any interface issues with existing JARs;

(5) Member States' legal systems and European Union legal system; and

(6) Consistency with the JAA regulatory system (See ACJ 11.060(e)(6)).

#### JAR 11.065 Consultation for new JARs or amendments to a JAR

(a) Consultation in order to elicit comments must be made through the Notice of Proposed Amendment (NPA) process.

(b) The Notice of Proposed Amendment must be sent by the Working Party Chair to the relevant Sectorial Director and must contain the following elements (see ACJ 11.065(b)):

(1) Explanatory note describing the development process, significant or contentious or interface issues, the situation with respect to ICAO Standards and Recommended Practices and relative to harmonisation with other Authorities or International Organisations, a Safety Justification / Explanation and a Regulatory Impact Assessment.

(2) Proposed Section One or amendments to Section One, and if appropriate, Section Two or amendments to Section Two.

(c) *Consultation*

(1) The decision that the NPA is mature for consultation will be taken by the Central JAA in co-ordination with the relevant Sectorial Teams. (See ACJ 11.065(c)(1)).

(2) The decision referred to in subparagraph (c)(1) shall be taken without unnecessary delay and in accordance with the time schedules included in the defined Terms of Reference mentioned in JAR 11.055(e)(1),

## JAR 11.065(c) (continued)

and the need to fit in with the meeting schedules of the JAA Committee.

(3) If the decision referred to in subparagraph (c)(1) indicates that the NPA is not mature for consultation, the Central JAA shall refer the NPA back to the relevant Sectorial Team.

(d) The Notice of Proposed Amendment (NPA) will be circulated by the JAA Regulation Division to the National Authorities, the organisations represented in the Interested Parties Advisory Panel, selected Foreign Organisations and Authorities, the European Commission and to those persons that are subscribers to the NPA process.

(e) Duration of the Consultation is 3 months but may be extended if deemed necessary by the bodies referred to in paragraph (c)(1). The Regulation Division may also agree to extend the duration of consultation defined above upon receipt of justified request (see ACJ 11.065(e)).

(f) Comments must be sent to the JAA Regulation Division and must contain the following elements (See ACJ 11.065(f)):

- (1) NPA Number;
- (2) Position of the commentor, relative to the proposal;
- (3) Proposed text/comment (if any) with reasons for proposed text/comment; and
- (4) Identification of the commentor.

#### **JAR 11.066 Advance Notice of Proposed Amendment (A-NPA)**

(a) Prior to the consultation as provided for in JAR11.065 the Regulation Director may decide to initiate a consultation process through the Advance Notice of Proposed Amendment (A-NPA) process.

(b) The decision will have arisen from a need to broadly discuss new concepts or the needs for further information or data to assist in the drafting of a formal NPA.

(c) An A-NPA proposal will contain: an explanatory note (including a justification for using the A-NPA process), a preliminary of the new JAR or amendment of a JAR, a preliminary proposal for an ACJ.

(d) An A-NPA proposal will be circulated for comments according to JAR 11.065. The duration of consultation will be determined by

## JAR 11.066(d) (continued)

the Regulation Director and will be at least one month. The Regulation Director may extend the duration of consultation.

(e) The Regulation Director may adapt the number of parties to be consulted, according to the scope of the NPA.

(f) The status of an A-NPA is regarded to be of pre-legislative or pre-regulatory act. The initiation of an A-NPA procedure does not affect any obligation or privilege provided for under JAR 11.065. The paragraphs (a) and (b) of JAR 11.070 are accordingly applied.

#### **JAR 11.070 Review of Comments for new JARs or amendments to a JAR**

(a) Comments received must be sent by the Regulation Division to the Working Party.

(b) The Working Party shall determine the time frame needed for the review of comments and inform the Central JAA. If in the course of the review process it appears that time frame may not be sufficient the Working Party shall inform the Central JAA and seek further guidance. (See ACJ 11.070(c))

(c) The Working Party must review the comments and document the responses thereby establishing a Comment/Response Document. (See ACJ 11.070(b)).

(d) The Comment/Response Document will be made available to all commentors who participated in the consultation process in accordance with JAR 11.065 to inform them of the results of their comments.

(e) If the result of the review of comments is that the final text is significantly different from that circulated in accordance with JAR 11.065, the Working Party must consider another consultation in accordance with JAR 11.065. (See ACJ 11.070(e)).

#### **JAR 11.075 Adoption of a JAR or amendments to a JAR**

(a) The decision to adopt a JAR or amendments to a JAR must be taken by the JAAC in accordance with the applicable rules of procedures based on a proposal from the Central JAA in co-ordination with the relevant Sectorial Teams. The JAAC may decide to adopt the JAR or any amendment to the JAR or to task the Working Party with further work or to decide to consult again in accordance with JAR 11.065.

JAR 11.075(a) (continued)

(b) The JAAC must be provided with the following through the Central JAA at least 2 months before the decision to adopt a JAR or amendments to a JAR is planned to be taken:

(1) The final Draft of the JAR or amendments to the JAR;

(2) A presentation note describing major changes compared to the corresponding NPA, remaining contentious or interface issues, situation relative to ICAO Standards And Recommended Practices, situation relative to Harmonisation, Regulatory Impact Assessment addressing major differences compared to the corresponding NPA and a future work programme, co-ordination with European Commission relative to dates of effectivity and transition period (See ACJ 11.075(b)(2)); and

(3) The Comment/Response Document as required by JAR 11.070 (See ACJ 11.075(b)(3) and (c)).

(c) The JAR when adopted will be signed on behalf of the JAAC by its Chair (See ACJ 11.075(b)(3) and (c)).

#### **JAR 11.080 Publication of new JARs and amendments to a JAR**

(a) The Central JAA will organise the publication of new JARs and the amendments to a JAR.

(b) The Comment/Response Document required by JAR 11.070 will be published with the first issue of the JAR or an amendment thereto.

(c) Publication shall take place within 3 months after adoption.

#### **JAR 11.085 Declaration of National Variants in new JARs or amendments to a JAR**

(a) National Variant is a national requirement or regulation imposed by a country in addition to or instead of a JAR.

(b) The formal declaration by the National Authority must be made when the JAAC is adopting the JAR or the amendment to a JAR. The declaration must be recorded in the minutes of the meeting of the said JAA body, together with supporting rationale.

(c) The actual text of the National Variant must be provided to the Central JAA not later

JAR 11.080(b) (continued)

than one month after the meeting referred to in subparagraph (b), together with supporting rationale.

(d) The text of the National Variant shall be issued with the relevant JAR.

(e) The National Authority must propose to the JAA within one year from declaration a solution to resolve the National Variant.

(f) The solution achieved on the proposals by the National Authority shall be published within two months of the date applicable under (e).

(g) When in the course of the implementation of a JAR, a National Variant is required, the National Authority shall declare this National Variant at the earliest possible meeting of the JAAC. The paragraphs (b) to (f) included are accordingly applicable.

(h) The JAA shall annually publish a report listing all National Variants and proposed solutions and progress towards their elimination.

(i) National authorities and interested parties shall be notified as soon as possible, and within two months, of the actual text required by (c) above.

## Appendix 1 to JAR-11 Subpart B (continued)

**Appendix 1 to JAR-11 Subpart B****1. Insert in JAR***(a) Power to grant and the effect of Exemptions*

(1) Provided it is satisfied that an acceptable level of safety will be maintained the Authority may in exceptional circumstances grant an exemption from any requirement contained in this JAR [other than -- Working Group drafting JAR to decide].

(2) An exemption shall have effect for the period stated therein.

*(b) Application and Justification*

(1) Any person may apply for an exemption, according to the national application procedure.

(2) The applicant must set out the requirement from which the exemption is sought, explain the interests of the applicant in the action requested including the nature and extent of the relief sought and any information or arguments available to the applicant to support the action. This information or arguments must describe any action to be taken by the applicant to mitigate any effect on safety or provide compensation for any such effect.

*(c) Grant of Exemption*

(1) An exemption must be in writing and must be signed by the Authority. It may be granted subject to such conditions as the Authority thinks fit.

(2) A summary of any exemption which is granted shall be made available by the Authority to every interested person, industry or organisation who or which asks for it.

**2. Insert in ACJ for the JAR**

(a) For the purpose of this JAR, a short term exemption is one granted for six months or less and a long term exemption is one granted for more than six months.

(b) A long term exemption should be applied for on a standardised JAA prescribed form to assist with data management. Short term exemptions should normally also be applied for on such form but in the event of urgent action where that is not practicable the form can be dispensed with; with the agreement of the Authority.

(c) Typically, there may be a set of circumstances which were unanticipated at the time the requirement was drawn up or circumstances such that imposition of the requirement would result in restrictions unnecessary for the purpose of ensuring an acceptable level of safety for the particular operation. Exemptions should not be used simply to reduce the burden or cost of compliance where there are no such exceptional circumstances.

(d) The Authority should consider imposing substitute conditions or if not possible consider imposing mitigating or otherwise compensating the exempted condition, e.g. by providing that no passengers should be carried or that the flight should not take place over a congested area.

(e) Sufficient details of the exemption should be made available so that the rationale is understandable and in particular so that any interested party would appreciate the type of circumstances in which an exemption may be granted. However, care should be taken not to disclose personal or sensitive details concerning the applicant for the exemption including in particular, the name and address of the applicant and medically or commercially confidential information. The purpose is to ensure that no-one is unfairly disadvantaged because they were unaware that an Authority would be prepared to grant an exemption in particular circumstances and had granted such an exemption to a competitor.

**3. Insert in JIP for the JAR***(a) Control Mechanism*

(1) A copy of every exemption granted should be submitted to the Central JAA within 14 days.

(2) The Central JAA should publish three times a year all long term exemptions of which it has been notified

(3) The JAA should retain copies of all short term exemptions with which it has been copied for a period of two years and make copies available for inspection on request to any person.

(4) In determining the period for which an exemption is granted, there should be included the period of any prior similar exemption granted in respect of the same person/organisation/aircraft in force during the previous 12 months or longer depending on maximum period adopted.

## Appendix 1 to JAR-11 Subpart B (continued)

(5) The Central JAA should arrange for a review of all long term exemptions. It will analyse them and make recommendations. It will establish a standardisation review team for this purpose which will also audit short term exemptions granted by Authorities.

(6) The role of the Regulation Director and the Regulation Sectorial Team should be described.

(7) After receipt, the Central JAA should when appropriate refer exemptions to the relevant Working Group.

(8) The result of the review should indicate if an NPA should be initiated.

(9) The need for some mechanism for requesting the National Authority to withdraw the exemption should be considered.

(10) Special procedures for "joint exemption" where subject matter has been certificated jointly, e.g. type certification under JAR-21, should be considered.

(11) Each Exemption should specify its maximum duration. The specialist review team may make recommendations to the Central JAA in co-ordination with the relevant Sectorial Team to initiate NPA action, to withdraw the exemption, to advise that the exemption may remain but similar exemptions should not be granted in future; or that the exemption may remain in force and similar exemptions will be acceptable in future.

(b) Every Member Authority of JAA shall continue to accord mutual recognition notwithstanding the granting of an exemption by any full Member of JAA.

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**SUBPART C – JOINT IMPLEMENTATION PROCEDURES**

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**SUBPART D – PROCEDURES FOR CONSULTATION FOR SPECIAL CONDITIONS**

JAR 11.150 (continued)

**JAR 11.140 Special Condition**

Requirements relative to Special Conditions are contained into JAR-21.

**JAR 11.145 Criteria for consultation**

(See ACJ 11.145).

(a) Important Special Conditions must be submitted to interested parties for comment before adoption.

(b) Irrespective of the criteria given in paragraph (a) of this Article, the applicant may request that the Special Condition be submitted for consultation prior to the adoption provided a justification for the action is submitted to the Authority. The Authority will decide if the request is to be agreed or not.

(c) When a Special Condition has been agreed, the same special condition for another project should not be submitted to comments unless requested.

(d) If a consultation as reflected in paragraph (b) of this Article is requested, the applicant shall ensure that the Special Condition or the document describing that Special Condition does not contain any proprietary information or data.

**JAR 11.150 Consultation**

(See ACJ JAR 11.150)

(a) The decision to consult is made by the Certification Division and the Certification Sectorial Team following a proposal by the Certification Team.

(b) The interested parties to be consulted are those included in a generic list agreed by the JAAC (See ACJ 11.150(b)).

(c) The documentation sent out for consultation must include the text of the Special Condition and a justification for the Special Condition.

(d) Duration of consultation is 3 months but may be extended or reduced by the Certification Division in co-ordination with the Certification Sectorial Team. The Certification Division may also agree to extend the duration of consultation defined above upon justified request (see ACJ 11.065(e)).

(e) Comments received will be reviewed and will be implemented in accordance with the Joint Certification/Validation procedures.

(f) Adoption of the Special Condition will be done in accordance with the Joint Certification/Validation procedures.

**JAR 11.155 Publication**

(See ACJ JAR 11.155)

All Special Conditions must be published within 6 months after the Type Certificate has been issued.

**JAR 11.160 Review Process**

(See ACJ 11.160)

Published Special Conditions must be reviewed regularly by the Certification Division in co-ordination with the Certification Sectorial Team to decide on the necessity to initiate developing amendments to JAR.

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## SUBPART E – ADVISORY CIRCULARS JOINT

JAR 11.175(b) (continued)

**JAR 11.165 General**

(a) This sub-part defines procedures for development, adoption, publication and amendments to ACJs.

(b) ACJs may be developed:

(1) either in association with the corresponding requirements under sub-part B; or

(2) under this sub-part E.

**JAR 11.170 Status**

An applicant showing compliance with requirements in accordance with published ACJ material is assured of the Authority acceptance of such method.

**JAR 11.175 Development of ACJs**  
(See ACJ 11.175)

(a) Any person or organisation may propose ACJ.

(b) *Material developed by JAA:*

(1) The Central JAA in co-ordination with the relevant Sectorial Team, with the advice of appropriate Working Party, will agree to develop ACJs when there is an identified need.

(2) A draft will be prepared by a Working Party as directed by the Central JAA. Unless quoting from section 1 of the JAR, use of mandatory clauses such as “shall” or “must” is prohibited in ACJ material. The Working Party will include Interested Parties Representatives.

(3) The decision that the ACJ is mature for consultation will be made by the Central JAA in co-ordination with the relevant Sectorial Teams and consultation must be made as follows:

(i) Circulation of the draft material to the NAA’s and Organisations represented in the Interested Parties Advisory Panel and announcement of availability of draft material to all JAA subscribers;

(ii) Duration of consultation limited to 2 months, with possible extension if deemed necessary by the Central JAA in co-ordination with the

relevant Sectorial Team (see ACJ 11.065(e));

(iii) Comments to be sent to a contact person of the Working Party, identified in the draft material.

(4) The Working Party must review the comments, and propose the resulting material with documented responses to comments to the Central JAA in co-ordination with the relevant Sectorial team for adoption by the JAA Committee.

(5) The Certification Review Item (CRI procedure) may also be used to develop alternative explanations, interpretations or means of compliance in accordance with the Joint Certification/Validation procedures. Such alternatives should be reviewed on a regular basis to decide on the opportunity to develop ACJs in accordance to subparagraphs (b)(1) to (b)(4).

(c) *Material agreed by an individual National Authority:* (see ACJ 11.175(c))

(1) ACJs accepted directly by NAA must be put to the Central JAA and the relevant Sectorial Team for control and publication within two months of acceptance.

(2) The Central JAA in co-ordination with the relevant Sectorial Team will organise a consultation as prescribed in para (b)(3) above.

(3) If, after consultation, the ACJ accepted by the National Authority is found by the Central JAA in co-ordination with relevant Sectorial Team to be consistent with the associated requirement, the Central JAA will publish the new ACJ in Section 2 of the JAR after JAA Committee approval.

(4) If, after consultation, the ACJ accepted by the National Authority is found by the Central JAA in co-ordination with the relevant Sectorial Team to be not consistent with the associated requirement, the Central JAA will inform the National Authority of this finding and will request the National Authority to notify its intention within 2 months.

(5) Following receipt of the National Authority intentions, the Central JAA in co-ordination with the relevant Sectorial Team will report to the JAAC, which will decide upon appropriate actions in accordance with the Arrangements.

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**SECTION 2 - ADVISORY CIRCULARS JOINT (ACJ)**

**1 GENERAL**

1.1 This Section contains Advisory Circular Joint. They are non-requirements that are provided as joint interpretations, explanations and/or acceptable means of compliance and have been agreed for inclusion into the JAR.

1.2 An applicant showing compliance with requirements in accordance with published ACJ material is assured of the Authority's acceptance of such method.

**2 PRESENTATION**

2.1 The Advisory Circular Joint are presented in full page width on loose pages, each page being identified by the date of issue or the Amendment number under which it is amended or reissued.

2.2 The numbering system used is in accordance with ACJ 11.050 para 4.1.

2.3 Explanatory notes not forming part of the ACJ text appear in a smaller type face.

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**SUBPART B – JOINT AVIATION REQUIREMENTS****ACJ 11.005****Terminology****See JAR 11.005**

The definition of Interested Parties reflects established JAA policy.

In the context of the JAA system, the term 'Interested Parties' will normally apply to those entities that are geographically located within the JAA system and are subject to regulation in accordance with JARs. However, 'Interested Party' status may be attributed to authorities and/or organisations whose co-operation and input to the rulemaking process has been determined to be beneficial. Such a decision should be at the discretion of Division Directors or the Chief Executive in accordance established JAA policy.

**ACJ 11.015(b)****Notice of Proposed Amendment (NPA) files****See JAR 11.015(b)**

1 An NPA may vary from a complete new code to a change to a single paragraph or even word of an existing code. Sub-division of a new code into several NPAs, or amalgamation of several small changes into one NPA may be done at the discretion of a Working Party, as agreed by the Regulation Director, to facilitate consultation. (See JAR-11 Subpart B).

2 Relevant correspondence is correspondence relative to the substance of the NPA which can help understanding the intentions of the Working Party.

**ACJ 11.015(c)(1)****Working Party files****See JAR 11.015(c)(1)**

An example of an authorising statement is an extract from the minutes of the meeting of the body that is competent to adopt JARs or amendments thereto. Those minutes would detail the establishment of a Working Party.

Such documents need to be kept in file for an indefinite period.

**ACJ 11.020(a)****Practical consideration for access to documentation****See JAR 11.020(a)**

1 Persons wishing to access documentation kept under JAR 11.015(a) and (b) should contact the Central JAA in advance to allow for practical preparation.

2 The request should specify which documentation is requested (e.g. which NPA or NPAs etc....).

3 Access should be limited to the Central JAA normal working hours.

4 Copies of documentation may be obtained. Payment of a fee may be requested. If a large number of copies is required, a reasonable delay should be expected.

**ACJ 11.020(b)****Access to Working Party files****See JAR 11.020(b)**

JAR 11.020 does not limit the principle of transparency. In accordance with the purpose and spirit of the Cyprus Arrangements, the JAA provides access to the Authorities and the Interested Parties. Primarily, it is the task of the Authorities and the Interested Parties to facilitate its citizens or its members respectively with regard to information requested. In addition, it would be impracticable for the JAA, without additional resources, to manage the access to documents for all interested individuals.

**ACJ 11.040(a)****Preamble****See JAR 11.040(a)**

1 A Preamble explaining, in the case of the Initial Issue, the content and date of issue of the document, and thereafter, detailing the revisions, and their issue dates, contained in subsequent Amendments appears in each JAR. The Preambles for Amendments contain four elements:

- 1.1 The number and date of issue of the amendment;
- 1.2 List of amendments and their issue dates incorporated in the amendment;
- 1.3 Information on status of Basic Code amendments in relation to the amendments; and
- 1.4 Details of the modifications made, listed Subpart by Subpart, listing type of change, paragraph number and reference to the NPA.

**ACJ 11.045****Content of Section One****See JAR 11.045**

1 *General:* The requirements in Section One are presented in a standard format. The following describes the “house style” used in Section One of the JARs.

2 *Language:*

- 2.1 Each clause should contain a requirement necessitating compliance.
- 2.2 Requirements containing mandatory clauses are expressed by use of the word “shall”.
- 2.3 The words “may” and “should” should be used in a permissive sense.
- 2.4 The use of the term “or equivalent” in a requirement should be avoided, unless guidance is available to explain the equivalence.
- 2.5 Words importing the singular should be taken to include the plural and vice versa, unless the clause explicitly states one or the other.
- 2.6 The word “include” should be taken to mean “includes but not limited to”.
- 2.7 British-English spellings should be used in all English language JAR texts.



ACJ 11.045 (continued)

2.8 For brevity the pronoun "he" is used in various parts of the JARs. Where appropriate the pronoun "she" should be assumed.

3 *Definitions & Terminology:* Definitions are found in JAR-1, and wherever possible use should be made of them. If a term specific to a particular a JAR or Subpart is required, then it may be included in that JAR. The writing convention used is that "Definitions" appear in JAR-1, and "Terminology" appears in specific JARs/Subparts.

4 *Paragraph Identification:*

4.1 Paragraph numbering should be consistent with the numbering system used in the Basic Code, since this facilitates future amendment. The Basic Code is that document, upon which the contents of the JAR are based (e.g. JAR-25 is based on FAR Part 25). Where the Basic Code is not the FAR, a numbering system, commencing with number 001, and thereafter rising in five's starting at 005 (e.g. as in JAR-OPS Part 1), should be used as a model. In general, the following numbering system applies:

4.2 The basic paragraph number (e.g. JAR 25.21, JAR-OPS 1.005) is followed by the title of the paragraph.

4.3 The internal division of a paragraph into six additional levels of designation, in the following order, is permitted. However, whenever possible, when preparing new material, it is recommended that the sub-divisions of a paragraph should be kept to a reasonable minimum and, in any case, that no more than four levels are used, since the last two, although distinguished by being italic tend to cause confusion. The levels are:

- (a), (b), (c), etc.
- (1), (2), (3), etc.
- (i), (ii), (iii), etc.
- (A), (B), (C), etc.
- (1), (2), (3), etc.
- (i), (ii), (iii), etc.

4.4 For JARs following a Basic Code very closely, in cases where new JAR material is introduced into Section One and there is no corresponding material in the Basic Code, a number should be chosen which places the new material in the correct context within the numbering system of the Basic Code. In such cases the paragraph number shall be prefixed by the letter " X " (e.g. JAR 25X123).

5 *Appendix to Section One:* Appendices may be included, but it should be recalled that an Appendix to Section One has the same status as the main text itself, that is, a requirement. These may be included either at the end of Section One, or at the end of each Subpart. If they are at the end of Section One they are numbered with letters, A, B, C etc., and if at the end of each Subpart, they are numbered 1, 2, 3 etc. When deciding on the location of Appendices, the writer should consider the readability of the document based on the number and length of the Appendices, and the formats used in the Basic Code, although the latter method is preferred for those JARs whose Basic Code is not a FAR.

6 *Division into Subparts:* JARs are broken up into Subparts according to the subject material contained therein. These divisions will usually follow that used in the Basic Code (e.g. FAR, ICAO Annex). Where no model is available to follow, Subparts will be determined topic by topic (e.g. General, Flight, Structure etc. for airworthiness codes, and General, Student Pilot, PPL, CPL etc. for flight crew licensing).

7 *Paragraph & Sentence Construction:*

7.1 The paragraph is the basic unit of a JAR. Each paragraph should be drafted as a presentation of one principal regulatory preposition and given a short descriptive heading. However, the text should

ACJ 11.045 (continued)

not rely on the heading for any part of its meaning. Headings may also be used for sub-paragraphs wherever they serve to promote easier reading of the text.

7.2 Long sentences should be avoided whenever possible. Long compound sentences can often be divided into short simple sentences with some changes in punctuation and wording. The use of sub-paragraphs can also assist comprehension. This helps to reduce the chance of ambiguity being introduced by the writer and increase the chance of correct interpretation by the reader.

7.3 The following is a list of good drafting practices:

- a. Avoid technical jargon, sentences with many inter-related clauses and wandering sentences.
- b. Make short paragraphs and sentences.
- c. Use positive rather than negative sentences.
- d. Use the present tense as much as possible.
- e. Use the same words consistently for the same meaning.
- f. Avoid unnecessary definitions/terminology and long and unfamiliar words. When in doubt, writers can always refer queries to the JAA Regulation Division.

8 *Page layout:* In order to distinguish requirements from other material, Section One is laid out in a two column format.

9 *Underlining:* Where a JAR is very closely based on its Basic Code, the differences between the two should be indicated by underlining changed or additional text. Where a part of the Basic Code is omitted from the JAR text, this will be indicated by leaving a small space, underlined as for changed text.

10 *Notes:* The use of Notes in Section One is not acceptable.

11 *Forms:*

11.1 If Forms are added then it should be recalled that, if included in Section One, their use will automatically be mandatory; they will become requirements.

11.2 It is acceptable for Forms to contain more detailed requirements than those in the Section One requirement that introduces them.

12 *References:*

12.1 References to material not published in JAR should give the full title of the material and its availability.

12.2 Non-specific references should not be used, (e.g. "herein", "above" and "below"). The specific Part, Subpart or paragraph(s) should be quoted.

13 *General Introduction:*

13.1 Each JAR should commence with a standard general introduction. Its contents should include:

- a. General description of the contents of the JAR;
- b. Reference to any Basic Code on which the JAR is based; and
- c. Information relating to the JAR's presentation and numbering.

**ACJ 11.045(b)****Implementation of a JAR****See JAR 11.045(b)**

1 The implementation of a JAR should take place in accordance with the following procedure:

- a. The JAR should be adopted by the JAAC - this is to be termed D1;
- b. The JAR should stipulate the date after which either the new JAR or existing national regulations may be used by each Member State - D2;
- c. The JAR should further specify the date after which only the new JAR must be used throughout the JAA - D3.

2 Careful consideration should be given to specifying the appropriate date for D2 and the duration of the transition period between D2 and D3.

3 In particular, the following should be taken into account:

- a. The availability in all EU-Member State languages when annexed to Regulation (EC) 3922/91 of all necessary material including requirements and JIP;
- b. The difficulty of the transition for industry or individuals affected including the availability of any necessary new equipment or staff and time needed for training;
- c. The time needed by the National Authorities to implement any new provisions including the acquisition of any appropriate new skills by way of recruitment or training;
- d. Wider international obligations, including in particular any effectivity dates stipulated in any Annex to the Chicago Convention;
- e. The significance of any safety benefits to be obtained from implementation of the new provision;
- f. The costs of transition; and
- g. Any other relevant factors.

4 In considering the paragraphs 1 to 3 included, the views of all interested parties should be taken into account. In some cases, it may be appropriate to include proposals for transition in an NPA and seek comment during the consultation stage. In any event, advantage should be taken of any opportunities for obtaining views by other appropriate means.

5 A realistically aggressive approach to setting the transition period is generally appropriate. The period should be adequate for those affected to complete the transition by the use of reasonable endeavours. The difficulties of setting too short a transition period are obvious. If too long a period is set the risk is that those affected will defer the process of transition and the necessary momentum will not be acquired.

6 The transition should be carefully monitored to ensure that appropriate progress is being made and action taken to get the transition back on track. A focal point will need to be established for receiving reports from National Authorities on the progress of the transition within each State and for co-ordinating any necessary action.

7 If at any stage during the transition it becomes apparent that it will not be reasonably practicable to complete the transition in the specified time, an amendment to the legislation will need to be sought to defer D3. Any such action, while it should of course be avoided if at all possible, should be taken as soon as it becomes apparent that it will be necessary and should be widely publicised at the earliest possible stage.

ACJ 11.045(b) (continued)

8 If either D3 is deferred at some stage during the transition period or when the end of the transition period arrives some of those affected have not completed the transition and are granted some form of exemption, it should be appreciated that those who have expended time and money in complying with the originally specified transition period will have reasonable grounds for complaint.

9 If during the transition period, requests are received for D3 to be deferred or for confirmation that exemptions will be forthcoming in the event that particular individuals or companies are not in a position to comply by D3, and the NAAs determine that there should be no such deferral or exemption, the position should be made clear to all parties concerned. It will inevitably be a difficult matter of judgement. On the one hand, any indication that D3 may be deferred or exemptions available will reduce the pressure on those affected to maintain their efforts to comply within the specified transition period. On the other hand, where it is obvious that significant numbers of persons or companies will not comply by D3, a blanket refusal to consider alternatives may be unrealistic and a last minute change of view by the JAA/NAAs will damage its credibility for the future.

10 An unrealistically short transition period should not be specified merely as a spur for action in the knowledge that it is unlikely to be sufficient.

11 Where there is a deferral of D3 or exemptions granted, this should be exceptional and on a one time basis. Generally, the practice should be to stick to the originally specified transition period. If JAA and National Authorities get into the habit of setting appropriate periods and sticking to them, it will introduce some certainty, which will be of beneficial effect in the long run to industry.

#### **ACJ 11.045(c)**

##### **Exemptions**

##### **See JAR 11.045(c)**

1 The Working Party responsible for developing a new JAR should have a responsibility for determining whether exemptions are to be permitted in respect of all, some, or none of the provisions of the JAR. If they determine that no part of the JAR should be subject to exemption, it will clearly be unnecessary to include a provision dealing with exemptions. Whenever a JAR is being amended, consideration should be given as to whether any new or modified provisions being introduced by way of the amendment should be subject to exemption and the exemption provision should have an appropriate consequential amendment to it (or should be introduced if previously no exemptions have been permitted).

If an exemption provision is inserted into a JAR, the meaning of the Authority will be as in that JAR.

2 An exemption should:

- a. State the name of the Authority granting it;
- b. Specify the legal provision under the power of which the exemption is granted;
- c. Specify the circumstances in which it may be used, including the period during which the exemption will be in force. Attention is drawn to the problem of setting a maximum period for an exemption where it may expire before an agreed amendment to the requirement can be brought into force;
- d. Specify the addressee of the exemption;
- e. Specify the legal provision(s) which will not apply in those circumstances; and
- f. Specify any conditions, which must be complied with when making use of the exemption.

**ACJ 11.050****Content of Section Two****See JAR 11.050**

1 *General:* Section Two consists of that advisory material issued to complement Section One requirements, and are presented in a standard format. Two formats exist at present, ACJ and AMC/IEM. ACJ (Acceptable Means of Compliance) material is deemed to be equivalent to AMC material, and ACJ (Interpretative Material) texts are deemed to be equivalent to IEMs. The following describes the “house style” used in Section Two of the JARs. It should be noted that this JAR is presented in the standard format, and may be used as a guide when drafting texts. Therefore the only abbreviation used is ACJ.

2 *Language:*

2.1 Section Two texts cannot contain requirements.

2.2 The words “may” and “should” should be used in a permissive sense throughout Section Two.

2.3 The use of the term “or equivalent” in an ACJ should be avoided, unless guidance is available to explain the equivalence.

2.4 Words importing the singular should be taken to include the plural and vice versa, unless the clause explicitly states one or the other.

2.5 The word “include” should be taken to mean “includes but not limited to”.

2.6 British-English spellings should be used in all English language JAR texts.

2.7 For brevity the pronoun “he” is used in various parts of the JARs. Where appropriate the pronoun “she” should be assumed.

3 *Definitions & Terminology:* Definitions are found in JAR-1, and wherever possible use should be made of them. If a term specific to a particular a JAR or Subpart is required, then it may be included in that JAR. The writing convention used is that “Definitions” appear in JAR-1, and “Terminology” appears in specific JARs/Subparts.

4 *Paragraph Identification:*

4.1 Paragraph numbering should be consistent with the numbering system used in Section One of the JAR. The Section Two material has a cross-reference to Section One via its number.

4.2 The internal division of a paragraph into three levels of designation, in the following order is permitted. The levels are:-

1, 2, 3, etc.

1.1, 2.1, 3.1, etc.

a, b, c, etc.

4.3 Advisory material is usually linked to individual paragraphs or sub-paragraphs, but it may be linked to more than one paragraph if necessary.

5 *Appendix to Section Two:* Appendices may, when justified (e.g. inclusion of a table), be included, but it should be recalled that an Appendix to Section Two has the same status as the main text itself, that is guidance material. Appendices should be placed immediately after the appropriate ACJ.

6 *Division into Subparts:* Section Two material follows the Subpart structure of Section One.

ACJ 11.050 (continued)

7 *Sentence Construction:* The following is a list of good drafting practices:

7.1 Avoid technical jargon, sentences with many inter-related clauses and wandering sentences.

7.2 Make short paragraphs and sentences.

7.3 Use positive rather than negative sentences.

7.4 Use the present tense as much as possible.

7.5 Use the same words consistently for the same meaning.

7.6 Avoid unnecessary definitions/terminology and long and unfamiliar words. When in doubt, writers can always refer queries to the Regulations Division.

8 *Page layout:* In order to distinguish requirements from other material, Section Two is laid out in a full page format.

9 *Underlining:* Even where underlining appears in the Section One of a JAR, it does not appear in Section Two.

10 *Notes:* The use of Notes in Section Two should be avoided.

11 *Forms:* If Forms are added then it should be recalled that, if included in Section Two, the use of other forms would require National Authority approval. This is because a Form in an ACJ becomes an Acceptable Means of Compliance, and the use of another would have to be in accordance with the procedures for the acceptance of alternative ACJs.

12 *References:*

12.1 References to material not published in JAR should give the full title of the material and its availability.

12.2 Non-specific references should not be used, (e.g. "herein", "above" and "below" ). The specific Part, Subpart or paragraph(s) should be quoted.

13 *General Introduction:*

13.1 The Section Two texts to each JAR commence with a standard general introduction. Its contents include:

- a. General description of the contents of the Section Two;
- b. Explanation of what ACJ material is;
- c. Guidance on the development of new ACJ material; and
- d. Information relating to the JAR's presentation and numbering.

14 The specific JAA document referred to in JAR 11.050(c) is intended to cover those ACJs related to more than one JAR, across various disciplines, and which, if desired, may be published only once. This document is currently known as GAI-20.

15 ACJ may make cross-references to other documents (for instance FAR-documents), provided that they are well identified and in case more issues of such documents are available, the applicable issue is clearly stated.

**ACJ 11.055(c)****Initiation - Justification****See JAR 11.055(c)**

The Justification, needed to decide whether or not to develop a new JAR or an Amendment to a JAR, should contain the following elements:

- Identification, when relevant, of the affected JAR Section 1/Section 2 paragraphs.
- Title of the initiative.
- Statement of issue: description of the problem to be addressed, including obvious costs and expected benefits.
- Situation emerging from the comparison with other regulatory systems (FAA, ICAO, ...):
  - will it create dis-harmonisation with existing FARs ?;
  - will it generate differences with existing ICAO Annexes ?;
  - etc.
- Specific tasks: description of the planned tasks to address the problem and expected output.
- Working Methods: use an existing Working Party; create a new Working Party; introduce into the Harmonisation Work Programme.
- Milestones: expected dates for completion of tasks
- Resources: estimate of the resources needed to complete the tasks.

**ACJ 11.055(d)****Initiation****See JAR 11.055(d)**

The JAAB takes a decision on the initiation a new JAR when deciding on the JAA Work Programme. This programme will be described as part of the JAA management system and contains the following key-elements:

- The Sectorial Director prepares in consultation with his Sectorial team a draft work programme for his Sector. Inputs may come from various sources. The draft work programme should respect the principle of JAR Stabilisation agreed by Agenda for Change.
- The Chief Executive presents to the JAAB the draft JAA work programme.
- The JAAB approves the JAA work programme after advice from the JAAC.
- The Executive implements the agreed JAA Work Programme.

**ACJ 11.055(e)****Terms of Reference for Working Party****See JAR 11.055(e)**

1 The following sets out the general content of the Terms of Reference for Working Party. They should address at least Tasks, Composition, Working Methods, Timescales and Reporting. The Terms of Reference will be developed by the Central JAA. In practice this will be the relevant Director.

ACJ 11.055(e) (continued)

- 2 *Tasks:* The Working Party Tasks are typically:
  - 2.1 To develop the draft of the new JAR or the amendment to an existing JAR;
  - 2.2 To propose the NPA to the appropriate division of Central JAA;
  - 2.3 To review the comments following the consultation process of the NPA;
  - 2.4 To generate responses to the comments, Comment/Response Document, (if practicable); and
  - 2.5 To set up the final draft of the new JAR or the amendment to an existing JAR.
- 3 *Composition:* The Working Party Composition depends on the specific JAR to be developed or amended. Nevertheless in the most general case it comprises of representatives of JAA National Authorities, Interested parties, Central JAA and of the European Commission, as well as representatives of any organisation whose participation could give beneficial contributions to the Working Party.

The composition of the working party should respect the balance between Authorities and Interested Parties and should achieve an appropriate representation of Interested Parties in relation with the Tasks to be done.
- 4 *Working Methods:* The organisation of work should be clarified in such a way that timescales are complied with. Liaisons such as with Chief Executive, Sectorial Teams, other working parties and non-JAA Authorities should be considered if deemed necessary.
- 5 *Timescales:* The target date for proposing to the appropriate division of Central JAA the draft of the new JAR or the amendment to an existing JAR should be established. It could be provisions of a schedule for drafting the main parts of the new JAR, if appropriate. Finally target dates for other steps of the rulemaking process (adoption, consultation, review of comments, etc.) can be referred to.
- 6 *Reporting:* The Working Party reports to the Central JAA through the relevant Director.

#### **ACJ 11.055(f)(1)**

##### **Administrative actions to set up a Working Party**

##### **See JAR 11.055(f)(1)**

- 1 Upon approval by the JAAB of the establishment of a Working Party, Central JAA should initiate the administrative actions described below to carry forward the corresponding tasks.
- 2 Firstly, requests should be issued inviting nominations of representatives on the Working Party. Addressees of such requests should be JAA National Authorities, Interested Parties, Central JAA and the European Commission, as well as representatives of any organisation whose participation could give beneficial contributions to the Working Party, unless the composition of the Working Party has already been decided upon by the JAAB in which case nominations should be invited accordingly.
- 3 Once the composition of the Working Party is settled, Central JAA should make arrangements for the holding of the first meeting of the Working Party. Its venue should be Central JAA in order to provide the Working Party with a general introduction to JAA organisation. Also, in respect of the first meeting of the Working Party, Central JAA should undertake the following actions:
  - 3.1 Prepare and send out a convening notice and agenda for the meeting; and
  - 3.2 Assemble and send out background material, including the Terms of Reference of the Working Party and relevant information to its establishment.



ACJ 11.055(f)(1) (continued)

4 Concerning the agenda of the meeting, the opening and initial chairing of which should be undertaken by Central JAA, its items should be arranged so as to enable early election of a Chair

**ACJ 11.055 (f)(2)**

**Administrative actions to be taken for amendment to JAR**

**See JAR 11.055(f)(2)**

In the case of amendment to a JAR a range of options exists:

- The task can be given to an existing working party or the task can be given to a new or modified existing Working Party, in which case the procedures of ACJ 11.055(f)(1) will be followed, as applicable.

**ACJ 11.060(b)**

**Generic Working Procedures for Working Party**

**See JAR 11.060(b)**

1 *Chairman:*

1.1 The Chair of a Working Party is the person responsible for the efficiency of the Working Party and the fulfilment of the Working Party's Terms of Reference.

1.2 He is elected, among the NAA's representatives, by the members of the Working Party. He is chosen on the basis of his personal skills for this role, his availability and his experience of the JAA system and of the domain relevant to the Terms of Reference of the Working Party. Should this be impossible, the Chair may be chosen among the Central JAA or industry representatives, Any difficulty in choosing the Chair of a Working Party must be reported to the Central JAA.

1.3 The Chairman is responsible for:

- a. Proposing the agendas of the Working Party;
- b. Organising the discussions, and notably for ensuring that all representatives may express their opinions; and
- c. Establishing the synthesis of all the opinions expressed in the Working Party.

1.4 The expected neutral role of the Chairman allows the organisation he belongs to, to request the participation of a further representative. The Chair represents the Working Party in any other forum when needed.

2 *Secretary:*

2.1 The secretary of a Working Party is the person responsible for the organisation of the work of the Working Party.

2.2 He is elected by the members of the Working Party among themselves.

2.3 The Secretary is responsible for:

- a. Making the reports of each meeting of the Working Party;
- b. Distributing reports, agendas and any other relevant material to the Working Party members; and

ACJ 11.060(b) (continued)

c. Keeping the Working Party files as needed for efficient work of the Working Party.

2.4 The expected neutral role of the Secretary allows the organisation he belongs to, to request the participation of a further representative.

### 3 *Representatives:*

3.1 It is intended that the representatives in a Working Party act primarily as independent experts, but should have the objective that the conclusion is acceptable to their organisation.

3.2 Representatives should attend on a regular basis the Working Party meetings.

4 (Reserved)

### 5 *Creation of Sub-Groups:*

In order to be more efficient, a Working Party may request to the body to which it reports, the creation of permanent sub-groups of people to develop materials concerned by its Terms of Reference. These sub-groups would then report to the Working Party, and ultimately to the body to which the Working Party reports.

### 6 *Resolution of Conflicts/ Use of the consensus:*

6.1 Consensus is agreement by all that a specific course of actions is acceptable. Consensus can be unanimous or near-unanimous. Consensus does not mean "majority rules". It is important to reach consensus in every phase of the joint regulatory process because disagreement in later phases of the process is counter productive to its objectives and extremely costly to it.

#### (a) Levels of Consensus

- Full Consensus means that agreement among members is unanimous. All members of the Working Party agree fully in context and principle and all members fully support the specific course of action.
- General Consensus means that, although there may be disagreement among the members of the group, the Working Party has heard, recognised, acknowledged, and reconciled the concerns or objections to the general acceptability of the Working Party. Although not every member fully agrees in context and principle, all members support the overall position of the Working Party, and agree not to object to the proposed recommendation.

#### (b) When Consensus Cannot be Achieved (No Consensus)

6.2. Each Member has the right and responsibility to have its objections considered. The following guidance is provided for those situations where consensus cannot be obtained:

- The Dissenting Member(s) must present written objections to the group in a format that can be understood clearly by all members. To ensure communication and understanding, the Working Party's position, relative to the objections, must be documented with reasons why the Working Party chose to retain its position. The documentation of objections and positions offers additional opportunity for meaningful communication among all group members in the hope of attaining consensus. By this means, disagreements can, through compromise, be resolved. If consensus still cannot be attained, the Working Party has the documentation required to elevate the disagreement to a higher level for resolution. With this resolution, the Working Party can proceed with the task, because all members' concerns have been addressed by this higher level. The decision of the higher level provides consensus to the Working Party.

ACJ 11.060(b) (continued)

- Sometimes Reaching a Consensus is a matter of ensuring that all avenues of the problem have been explored and investigated. At times it is advantageous to bring in a Working Party facilitator to help with the process.
- If All Above Attempts to Attain Consensus Fail and major opposition to the Working Party's position still exists, the proponents of the existing opposition must document their position, summarise their understanding of the Working Party's position, and state why they believe their opposing position is superior. The Working Party must document its position, summarise the opposition's position and state why the Working Party believes its position is superior and why the opposing position should not be accepted. This documentation must be submitted to the higher level as part of the Working Party's report.

#### **ACJ 11.060(e)(6)**

##### **Consistency with the JAA regulatory system**

##### **See JAR 11.060(e)(6)**

The consistency with the JAA regulatory system means the use of consistent terminology and the use of comparable approaches to comparable problems

#### **ACJ 11.065(b)**

##### **NPA - Justification**

##### **See JAR 11.065(b)**

1 *General:* The following sets out guidance relating to the content of the Justification that accompanies each proposal to be processed under the NPA Scheme. The justification is split into two main parts: The Safety Justification/Explanation, and the Regulatory Impact Assessment

2 *Safety Justification/Explanation:*

2.1 The intent described in the justification should be consistent with the wording of the proposed rules and/or ACJ material. This is very important as justifications may be used during disputes occurring during application of a rule.

2.2 The proposal should be adequately substantiated. With the introduction of a new concept the need to regulate at JAA level should be explained if relevant. This is especially valid for new JARs; service experience; incident/accident data; supporting research data, etc. are possible reasons for the proposals.

2.3 Major points should be clearly highlighted notably contentious issues where specific comments are sought. Although the JAA principle is to achieve consensus ("best centre of gravity of opinions"), there may be cases where this is not achievable. In such instance the rationales for the majority position and minority position should be clearly explained. The reasons for adopting the majority position should also be described. Finally, the majority should be qualified (large, narrow, etc.).

2.4 The extent of Harmonisation with FAA and should be outlined along the lines of the JAA policy concerning JAA/FAA harmonisation as developed in 1994 (see JAA policy letter 07/04-2-3-1-1 94-L143 dated 11 April 1994). Also the extent of harmonisation with ICAO should be addressed. Any future Harmonisation work programme should be described. As Harmonisation is one of the main JAA objectives this deserves a specific paragraph in the justification/explanatory note.

2.5 When differences with ICAO are introduced which would make the JAR more severe, less severe or different in character to the corresponding ICAO standards this should be highlighted so that JAA States are aware and take necessary steps to notify the difference when adopted.

ACJ 11.065(b) (continued)

2.6 The rules and/or ACJ material development process (when relevant) should be described, which organisations were involved in the Working Party, which bodies were consulted, etc.

3 *Regulatory Impact Assessment:*

3.1 A Regulatory Impact Assessment should be presented. It should indicate who is affected; the impact on affected parties (e.g. increase in capital; changes in organisation; changes in work force; increase in direct operating costs; increase of compliance costs (tests instead of analysis, new tests, new analysis); changes in documentation) and impact on authorities resources (when relevant) and hazards to be addressed, effectiveness of proposed measures).

3.2 It is important to note that what is requested is not a detailed economic analysis as FAA does. Of course nothing prevents the use of the economic analyses done by FAA in case of harmonisation projects.

Note: This paragraph will be expanded at a later stage, in order to reflect the methodology to be used for the Regulatory Impact Assessment.

**ACJ 11.065(c)**

**Consultation**

**See JAR 11.065(c)**

1 *General:* The NPA Scheme is used to process draft new JARs for consultation, both JAA internal, and public consultation. The following steps describe the usual process.

2 *Review of new draft JAR or an amendment to an existing JAR:* Following preparation of the draft JAR by the specialist Working Party a review of the NPA will be organised by the Regulation Division. The review should address the points described in 2.3 below.

2.1 The purpose of the review is to ensure that the proposal is a clearly set out document, complete with justification and sufficient background material to be easily understood.

2.2 The length of this review is clearly reflected in JAR 11.065(c)(2). This review usually lasts for three months. Longer or shorter periods may be approved by the Regulation Director, in consultation with the relevant Sectorial Team, the Central JAA Directors or Working Party.

2.3 The review of regulatory texts of new NPAs and draft final rules addresses in general the extent to which JAR-11 requirements have been met and more specifically the following aspects:

- Interface issues;
- Coherence of the Regulatory system and in particular consistency of approaches to comparable problems and co-ordination issues;
- Compatibility with relevant national and international legislation. Relative to the latter, particular attention should be paid to ICAO Annexes and EU legislation;
- Extent of Harmonisation with FAA Regulations;
- Quality of justification;
- Quality of Regulatory Impact assessment;
- Format, readability and wording of proposals. Particular attention should be paid on the classification of material between Section 1 and Section 2. Particular attention will also be put on definitions/terminology issues.

ACJ 11.065(c) (continued)

2.4 Based on the decision taken by the Central JAA and the relevant Sectorial Teams, the draft-NPA will either be returned to the Sponsor for further development, or will be issued for public consultation as an NPA.

3 *NPA Scheme Consultation:*

3.1 A three month comment period is usually assigned for the consultation, but this may need to be longer when dealing with large new codes.

3.2 NPAs are sent to the national aviation authorities (NAA), representative Interested Parties, European Commission and to the Secretariat of the European Civil Aviation Conference (ECAC) as well as all subscribers to the NPA Scheme. These are other organisations/persons that pay to receive NPAs. Other addressees are added at the discretion of the Central JAA.

3.3 The NPA file, its retention and access to it, is addressed in JAR 11.015 and JAR 11.020.

**ACJ 11.065(e)**  
**Consultation - Duration**

Except when urgency dictates otherwise, the date by which comments should be received by the Regulation Division is calculated to allow 3 full months for NPA review. This means that the date takes into account printing and postal delays.

**ACJ 11.065(f)**  
**NPA Comment Form**  
**See JAR 11.065(f)**

NPAs should be issued for public consultation with a standard Comment Form. A blank copy of JAA Form 200 is attached:

Attachment to ACJ 11.065(f)  
JAA Comment Form - Front Side

Comment nr: .....  
(For Central JAA use only)

## JOINT AVIATION AUTHORITIES

### NOTICE OF PROPOSED AMENDMENT (NPA) COMMENT FORM

1. **NPA NUMBER:** **NPA-** .....

Affected Requirement paragraph:  
Affected ACJ/AMJ or AMC/IEM paragraph:

2. **POSITION:** (cross out the parts that are not applicable)

Agree / Accept / No comment  
Propose different text / General comment  
Propose to delete paragraph

3. **PROPOSED TEXT/COMMENT:**

**Reason(s) for proposed text/comment:**

4. **ORGANISATION :**  
**Address :**

**Phone :**  
**Fax :**

5. **SIGNATURE** .....  
**Name :**

**Date:**

Attachment to ACJ 11.065(f)  
JAA Comment Form - Reverse

## GUIDELINES TO COMMENT ON AN NPA

- 1.. For a better handling of comments we strongly recommend commentors to use this form.
- 2.. Please use one form per comment.
- 3.. If there is insufficient space on the form, use attachments and summarise your comments on the form.
- 4.. In case of disagreement, commentors should be aware that failure to explain the reason(s) for disagreeing may well result in the comments being laid aside for lack of understanding.  
For the same reason, the commentor should explain his/her position for deleting a paragraph.
- 5.. All comments must be sent to the NPA Administrator at Central JAA unless otherwise indicated in the NPA.
- 6.. Please note that, unless an extension period is granted, comments received after the stated comment date (see letter) will only be taken into account if practical.

**ACJ 11.070(b)**  
**Comment period**  
**See JAR 11.070(b)**

The planned time frame shall not be more than one year from the end of the comment period, unless Central JAA specifically accepts a longer period.

**ACJ 11.070(c)**  
**Review of Comments - Comment/Response Document (CRD)**  
**See JAR 11.070(c)(1) & JAR 11.070(c)(2)**

1 *General:* In compliance with JAR 11.070(b) comments should normally be collated and answered in a "Comment/Response Document (CRD)" which will be circulated with the amended version of the NPA. The comment document should contain sufficient information to enable those reading it to follow the disposition of the comments and the reasoning on which this is based. To this end the comment, or a summary of it should be included.

2 *Review of Comments:*

2.1 The Working Party tasked with the review of comments will normally be, but need not always be, the original sponsor. This is especially so where an NPA was originally sponsored by a JAA-NAA or an organisation represented in the consultative body pursuant to the Cyprus Arrangements. The Regulation Director may wish to review the comments and provide additional advice to the sponsor.

2.2 The Working Party is then tasked to consider the comments and respond to each one, amending the draft as required. A Comment/Response Document (CRD) accompanying the final revised text will be the end product of this review of comments. It is one part of the documentation described in this ACJ, all of which should be submitted to the Central JAA once the review of comments is complete, and it is developed as outlined in the paragraphs 3 to 6.

3 *Safety Justification/Explanatory Note:*

3.1 This should highlight the important changes compared to the contents of the draft circulated under NPA. If there are too many important changes, the possibility of a second NPA should be seriously envisaged.

3.2 It should highlight how interfaces issues have been solved and describe a work programme to do so (if not yet fully achieved).

3.3 Remaining contentious issues should be properly highlighted for decision making (see above).

3.4 When differences with ICAO are introduced which would make the JAR more severe, less severe or different in character to the corresponding ICAO standards, this should be highlighted and justified so that JAA States are aware and take necessary steps to notify the difference when adopted.

3.5 Handling of Harmonisation should be described (any changes compared to draft?). If an NPA is relative to an item included in the Harmonisation Work Programme, any remaining significant differences with FAA should be highlighted for decision making. (Joint review of comments with FAA should avoid this).

3.6 If relevant, the future work programme should be described (issues for future NPAs with a priority order).

4 *Purpose of the Comment/Response Document:*

4.1 The purpose of the Comment/Response Document is to provide the reader with the details of the public consultation that has taken place. This can be split into four parts:



ACJ 11.070(c) (continued)

- a. A brief explanation of the intent of the proposals (based on the NPA's justification) along with any other pertinent points (e.g. the NPA may be second or third version - what was the development, there may have been a similar NPA issued previously - what is the relationship between the two, Information on FAA/JAA Harmonisation, etc.).
- b. A list of which organisations/persons commented. This serves as the acknowledgement of receipt of a comment. (The JAA does not respond individually to each commentor).
- c. The explanation behind why certain comments were not adopted.
- d. The explanation behind the changes to the text as a result of certain comments and why these changes have been made.

4.2 If the Comment/Response Document fully covers these four points then it is of use not only as a public record of the JAA's decision making, but it is also of use as a basic guide to the development of a rule. This may be particularly useful in the future when attempting to determine how a rule was written and amended over the passage of time. It may also be useful in the future for the solving of disputes when applying the requirements. The Central JAA and the National Aviation Authorities have easy access to archive files, but that is not the case for many other interested organisations.

#### 5. *Content of the Comment/Response Document:*

5.1 When preparing the Comment/Response Document it is important to note, who it is, that has commented. In the published Comment/Response Document it is not necessary to identify individual comments with their authors as it is more important to explain the intent of the comments than to identify who made them. This is also consistent with the FAA policy. It may however be useful to identify individual commentors in certain cases. For example, it would be logical to identify FAA comments when dealing with matters of JAA/FAA Harmonisation.

5.2 The text of each comment should be explained so that the intent of the comment is easily understood and so as to describe the issue(s) in question. It should not be reduced to the extent that the text merely reads:

*A number of comments were received on stall speed. They were not agreed to.*

5.3 A concise and readable document is possible by dealing with each paragraph and/or subject separately at a time, rather than by methodically discussing the disposal of each comment as presented by each commentor.

5.4 Some Comment/Response Documents have, in the past, referred to specific comments by their author's reference number, rather than explaining the comment. This makes it very difficult to understand what the intent of the comment was, especially if the response is not full. This is to be avoided, as either the comment should be explained, or the original comment printed in full. Additionally, to quote an individual or a company when the comment may be from a company or grouping of companies may be a mis-quoting of the individual's position.

5.5 It may take different forms provided it achieves the above mentioned objective. Where many comments are received, a tabular layout may be easier to draft.

#### 6 *Regulatory Impact Assessment:*

6.1 Any significant change due to incorporation of comments should be highlighted. Information, especially relating to any outstanding contentious issues/points should be given. (Thus detailing the decision making process).

**ACJ 11.070(e)**  
**New consultation**  
**See JAR 11.070 (d)**

The word significant has been used to indicate that a new consultation is only necessary if important changes have been introduced following review of comments.

Editorial changes are obviously not a reason to re-circulate.

Complete change of policy or objectives, reversal of policy (e.g. accept instead of forbid) is a reason to re-circulate.

Between these extremes there is a grey area, therefore judgement should be exercised.

In case of doubt, the advice of the Regulation Division should be sought.

This advice will be based on a review of the changes and of precedents.

**ACJ 11.075(b)(2)**  
**Transition-period**  
**See JAR 11.070(b)(2)**

The meaning of 'transition-period' is explained in ACJ 11.045(b), paragraph 2.

**ACJ 11.075(b)(3) and (c)**  
**Adoption- Comment/Response Document**  
**See JAR 11.070(b)(3) and (c)**

The adoption of the JAR implies the acceptance by the JAAC of the CRD. Consequently, the CRD may be published.

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**SUBPART C – JOINT IMPLEMENTATION PROCEDURES**

**(RESERVED)**

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**SUBPART D – PROCEDURES FOR CONSULTATION ON SPECIAL CONDITIONS****ACJ 11.145****Criteria for consultation****See JAR 11.145**

The following are examples of important special conditions which are only valid when replaced in their historical perspective (i.e. against a conventional standard at a point in time):

Examples of major technological changes are:

- Electronic Flight Instrument Systems
- Fly by Wire/Fly by Light
- Propfans

Examples of new operational concepts are:

- ETOPS at the time of a Type Design Approval
- Vertical Take-Off and Landing Aeroplanes
- Supersonic Transport

Examples of new policies are:

- Protection against high intensity radiated fields
- Passenger credit to be granted to new types of emergency exits.

Based on such examples some generic criteria can be proposed:

- The technological change, the operational concept or the new policy introduces cultural changes that need to be accepted/understood by user and that imply new training philosophies (major human factor aspects).
- The technological change, the operational concept or the new policy request the development of significant factors or introduction of protection against new threats to maintain safety level and public perception of safety.

**ACJ 11.150(b)****Interested Parties to be consulted****See JAR 11.150(b)**

This list is available at the Central JAA.

**ACJ 11.155****Publication****See JAR 11.155**

Special Conditions are published by the Central JAA and are included in Administrative and Guidance Material Section 3, Part 4.

**ACJ 11.160****Periodicity of the review****See JAR 11.160**

The periodicity of the review should be 2 (two) years.

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**SUBPART E – ADVISORY CIRCULAR JOINT**

**ACJ 11.175**  
**Development of ACJ**  
**See JAR 11.175**

For each technical area, the detailed process for developing and agreeing ACJs material including the identification of the parties involved in the process will be described in the corresponding Joint Implementation Procedures.

**ACJ 11.175(c)**  
**Informal consultation by National Authority**  
**See JAR 11.175(c)**

When appropriate National Authorities are encouraged to consult informally other National Authorities or Working Parties on the proposed material before they accept it directly.

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