

Guernsey ODCA Notice of Proposed Amendment: 2022-6

1. Title

GAR 119: Omnibus changes; GAR 121/135: changes with respect to standard masses and Dangerous Goods

2. Introduction

This Notice of Proposed Amendment proposes changes to GAR 119 and GAR 121/135 as follows:

- (1) 119.13 and 119.15: reflect the current certification process;
- (2) 119.15: reference to the definition of Principal Place of Business;
- (3) 119.15: include 119.103 in the list of applicable requirements for the AOC holder;
- (4) 119.25: add a requirement for the holder of an AOC to control contracted services;
- (5) 119.53(b)(4): add training to the responsibilities of the nominated postholder ground operations;
- (6) 119.53(f): add a requirement that the Accountable Manager shall not be nominated by another holder of an AOC, unless acceptable to the Director;
- (7) 119.55: add a clarification that the competency requirements for postholders also applies to follow-up postholders;
- (8) 119.81: change the title 'Flight authorization and control' into 'Operational control';
- (9) 119.107: editorial correction: replace 'operator' by 'AOC holder';
- (10) 119.111(e): deletion of the requirement to return the certificate following its amendment;
- (11) 121/135.100: add a note that applications for specific approvals for Dangerous Goods are not accepted;
- (12) 121/135.460: changes to bring the standard masses in line with the regional values;
- (13) 121/135.1000: changes to bring these sections in line with the Technical Instructions as referred to in ICAO Annex 18.

3. Consultation and timeline

3.1 Consultation categories

This Notice of Proposed Amendment is offered to interested parties for both information and public consultation. The proposals in this NPA fall into two categories¹, as follows:

Category 1 – information only. This applies to those proposals that would have no material impact on interested parties, or codify policies and practices that are already in use, or are adaptations to external developments that cannot be influenced by Guernsey;

Category 2 – comments invited on proposed implementation period only. This applies to proposals that ensure compliance of GARs with amendments of ICAO Annexes or other mandatory external standards, or from audits. Interested parties may comment on the proposed publication period but

¹ The Guernsey ODCA NPA process has three different consultation categories. In this NPA, category 3 is not used.

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not on the substance of the change. Any comment for extending the implementation period should be substantiated with the reason and supported with evidence. It should be borne in mind that whilst the proposed implementation period starts on the publication date of the GAR revision, interested parties can start preparing for implementation from the moment that this NPA is published. The effective implementation period for interested parties is therefore longer.

3.2 Consultation categories and proposed implementation periods

Proposal no.	Title of proposal	Consultation category	Interested parties	Proposed effectivity date
1	119.13 – reflect current certification process	1	AOC holders	upon publication
2	119.15: reference to the definition of Principal Place of Business	1	AOC holders	upon publication
3	119.15: add 119.103 to the list of applicable requirements for the AOC holder	1	AOC holders	upon publication
4	119.25: add a requirement for the holder of an AOC to control contracted services;	2	AOC holders	3 months from GAR revision date
5	119.53(b)(4): add training to the responsibilities of the nominated postholder ground operations	2	AOC holders	3 months from GAR revision date
6	119.53(f): add a requirement that the Accountable Manager shall not be nominated by another holder of an AOC, unless acceptable to the Director	1	AOC holders	upon publication
7	119.55: add a clarification that the competency requirements for postholders also apply to follow-up postholders	1	AOC holders	upon publication
8	119.81: change the title ‘Flight authorization and control’ into ‘Operational control’	1	AOC holders	upon publication
9	119.107: editorial correction: replace ‘operator’ by ‘AOC holder’	1	AOC holders	upon publication
10	119.111(e): deletion of the requirement to return the certificate following its amendment	1	AOC holders	upon publication
11	121/135.100: add a note that applications for specific approvals for Dangerous Goods are not accepted	1	AOC holders	upon publication
12	121/135.460: changes to bring the standard masses in line with the regional values	2	AOC holders	3 months from GAR revision date
13	121/135.1000: changes to bring these sections in line with the Technical Instructions as referred to in ICAO Annex 18	2	AOC holders	3 months from GAR revision date

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3.3 Method of consultation

Interested parties should use the commenting form as published on www.2-reg/consultations for submitting their comments.

3.4 Timeline

The commenting period for this NPA is one month. All comments received by 15 July 2022 will be processed by the Guernsey Office of the Director of Civil Aviation (ODCA). It is expected that this process will take 1½ months and result in publication of the revised GARs and GACs on 1 September 2022. The changes that would materially affect interested parties would then become effective 3 months after that, i.e. 1 December 2022. Changes that have no effect or would be a relaxation will become effective on the publication date.

4. Proposals - rationale

4.1 Proposal 1 – 119.13 – reflect current certification process

Since the first application for an Air Operator Certificate (AOC) was received and processed in 2016, the Director has applied the ICAO 5 phase process. This is however not reflected in GAR 119.13. This change intends to unambiguously reflect that. In addition, a subsection is proposed that the Director may require an informal meeting ahead of the first phase (pre-application) of the 5 phase process.

4.2 Proposal 2 – 119.15: reference to the definition of Principal Place of Business

The definition of Principal Place of Business (PPB) is codified in The Air Navigation (Bailiwick of Guernsey) (Air Operators' Certificates) Regulations, 2016, section 2. To assist applicants in determining whether their PPB meets the Guernsey regulations, a reference thereto is added in GAR 119.15. The regulations themselves are added as a reference in GAR 119.1(a).

4.3 Proposal 3 - 119.15: add 119.103 to the list of applicable requirements for the AOC holder

Current GAR 119.15 lists the requirements of Subpart B as the relevant requirements for the applicant to meet. However, an equally important set of requirements is in GAR 121 or, as the case may be, GAR 135. By adding a reference in GAR 119.15 to GAR 119.103, these are now formally included, thus codifying an existing practice.

4.4 Proposal 4 – 119.25: add a requirement for the holder of an AOC to control contracted services

GAR 119 currently requires that AOC holders maintain control when contracting out the following services:

- training (GAR 119.55 refers);
- maintenance (GAR 119.73 refers).

There is a trend for AOC holders to outsource many services that are relevant to safety. A few examples of such services are:

- preparing flight plans;
- compiling maps and charts;
- compiling manuals;
- crew scheduling;
- flight data monitoring.

ICAO Annex 6 Part I, Standard 4.2.1.3.1, requires that an AOC holder 'develop[s] policies and procedures for third parties that perform work on its behalf.' This is a generic standard that applies

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to any service contracted by an AOC holder. This ICAO standard is not yet captured in Guernsey regulations. To correct that, new GAR 119.25 is proposed.

4.5 Proposal 5 – 119.53(b)(4): add training to the responsibilities of the nominated postholder ground operations

Current 119.53(b)(4) lists the responsibilities of the nominated postholder ground operations. It has been determined that one important element is missing: training of personnel engaged in ground operations. This proposal adds such training to the list of responsibilities.

4.6 Proposal 6 – 119.53(f): add a requirement that the Accountable Manager shall not be nominated by another holder of an AOC, unless acceptable to the Director

There may be cases where the same person is nominated as the Accountable Manager for more than one AOC holder. In some cases, such as where both AOC holders are small and non-complex or share many of the same postholders and staff, this may be acceptable. In order to better control this, it is proposed that any such case be subject to formal acceptance by Director.

4.7 Proposal 7 – 119.55: add a clarification that the competency requirements for postholders also applies to follow-up postholders

Current GAR 119.55 requires formal notification to, and acceptance by, the Director of a postholder. For the avoidance of any doubt, it is proposed to add that this also applies to any temporary replacements, as well as permanent replacements. This practice is currently already applied by the Director, but not yet codified.

4.8 Proposal 8 - 119.81: change the title 'Flight authorization and control' into 'Operational control'

The requirement of 119.81 reflects the ICAO definition of 'operational control'. It is therefore proposed to change the title of 119.81 accordingly from 'Flight authorization and control' into 'Operational control'. This will add clarity as to the intent of this requirement.

4.9 Proposal 9 - 119.107: editorial correction: replace 'operator' by 'AOC holder'

For reasons of clarity and consistency throughout GAR 119, it is proposed to replace in 119.107 'operator' by 'AOC holder'.

4.10 Proposal 10 - 119.111(e): deletion of the requirement to return the certificate following its amendment

Current 119.111(e) requires that when an AOC is amended, the preceding AOC document is returned to the Director. This is not based on an ICAO standard, recommendation or other published practice and in practice not carried out. It is therefore proposed to be deleted.

4.11 Proposal 11 – 121/135.100: add a note that applications for specific approvals for Dangerous Goods are not accepted

For logistical reasons the Director has, since the start of the Guernsey Aircraft Registry, not accepted applications for specific approvals for carrying Dangerous Goods. Neither was there any interest from applicants. In order to formally notify this, a note is proposed to be added to 121/135.100.

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4.12 – Proposal 12 – 121/135.460: changes to bring the standard masses in line with regional values

(a) The current standard masses for passengers and crew are based on values based on those previously established for United States air carriers. However, Guernsey AOC holders operate predominantly in Europe and therefore the Director considers it more appropriate to align the standard masses with those established by EASA for European air operators. This results in a proposal for reduction for standard masses as follows:

- Male flight crew members and on aircraft with 19 passenger seats or less, female flight crew members: from 87 kg to 85 kg;
- Female crew members, for aircraft with more than 19 passenger seats: from 85 kg or 78 kg to 75 kg (note: this includes cabin crew members where required);
- Male cabin crew members, where required: from 82 kg to 75 kg;
- Adult male passengers: no change;
- Adult female passengers: from 84 or 82 kg to 78 or 74 kg, subject to number of passenger seats;
- Children: from 38 kg to 35 kg.

(b) For clarity, 121/135.460(b)(3) and (b)(4) are proposed to include text that standard masses include hand baggage. This does not constitute a material change as the current text intends this.

(c) The titles of the tables are proposed to be changed so as to avoid confusion, as follows:

- 121/135.460 Table 1 becomes Subpart D Table 1;
- 121.460 Table 2 becomes Subpart D Table 2;
- 135/121.460 Table 3 becomes Subpart D Table 3.

(note: Table 1 applies to GAR 135 operations; Tables 2 and 3 apply to GAR 121 operations)

4.13 Proposal 13 – 121/135.1000: changes to bring these sections in line with the Technical Instructions as referred to in ICAO Annex 18

The Technical Instructions as referred to in ICAO Annex 18 (TI) require that air operators provide guidance and training to their operational staff on the recognition of undeclared Dangerous Goods. This applies to any AOC holder, regardless of whether that operator is approved to carry Dangerous Goods or not. It is noted that NPA 2022-5, proposal 45 already proposes, as per ICAO Annex 6, Part I, section 14.2b, the identification, rejection and reporting of undeclared dangerous goods to be included in the Operations Manual. However, the following elements need to be addressed as well to meet the standards of the TI:

- The training being subject to approval by the Director;
- The categories of operational staff requiring training;
- Training on the recognition of undeclared Dangerous Goods.

GAR 121/135.1000 is proposed to be changed accordingly.

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5 Proposals – The changes and their justification

5.1 Proposal 1 – 119.13 – reflect current certification process

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.13	119.13	
<p>Each applicant for the grant of an AOC shall complete an application form that shall require:</p> <p>(a) the name and address of the applicant in Guernsey; and</p> <p>(b) the details required by paragraph 119.21(b) for the operations specifications; and</p> <p>(c) the operations manual required by paragraph 119.67 for an AOC in accordance with the provisions of Parts 121 or 135; and</p> <p>(d) such further particulars relating to the applicant as may be required by the Director or as indicated on the form;</p> <p>and submit it to the Director, not less than 90 days before the date of intended operation, unless a shorter period is acceptable to the Director.</p>	<p>(a) Each applicant for the grant of an AOC shall complete a pre-application form and submit it to the Director, not less than 90 days before the date of intended operation, unless a shorter period is acceptable to the Director.</p> <p>(b) The process for the initial application and granting of an AOC by the Director will follow the ICAO 5 phase approach, which has the following sequence:</p> <p>(1) Pre-Application Phase;</p> <p>(2) Formal Application Phase;</p> <p>(3) Document Evaluation Phase;</p> <p>(4) Demonstration and Inspection Phase;</p> <p>(5) Certification Phase.</p> <p>(c) The Director may determine that prior to the start of the pre-application phase, an informal meeting is required.</p>	<p>The haphazard list of application items is replaced by the referral to the 5 phase process, which is more comprehensive. In addition, the practice of the informal meeting is formalised.</p>

Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is neutral. The proposal does not change a practice that has been applied since the start of AOC issuing.	<p>ICAO: Annex 6, Pt 1 (amdt 46), 4.2.1; Annex 6, Pt 3 (amdt 23), II-2.2; Doc 8335;</p> <p>ANL (as valid April 2022): s. 59A</p>

5.2 Proposal 2 – 119.15: reference to the definition of Principal Place of Business

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.15(a)	119.15(a)	
<p>Each applicant for the grant of an AOC is entitled to an AOC if the Director is satisfied that:</p> <p>(1) the applicant's principal place of business is located within the Bailiwick of Guernsey; and</p>	<p>Each applicant for the grant of an AOC is entitled to an AOC if, following completion of the 5 phase documented certification procedure, the Director is satisfied that:</p> <p>(1) the applicant's principal place of business is located within the Bailiwick of Guernsey, in accordance with the definition within the Regulations; and</p>	<p>A reference is added to the legal definition of PPB.</p>

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Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is neutral. The proposal does not change a practice that has been applied since the start of AOC issuing.	ICAO: none AN(AOC)R, s.2

5.3 Proposal 3 - 119.15: add 119.103 to the list of applicable requirements for the AOC holder

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.15(a)(2)	119.15(a)(2)	
the applicant meets the applicable requirements of Subpart B; and	the applicant meets the applicable requirements of Subpart B and 119.103; and	Reference to 119.103, and thereby GAR Parts 121 and 135, is added.

Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is neutral. The proposal does not change a practice that has been applied since the start of AOC issuing.	ICAO: Annex 6, Pt 1 (amdt 46), Ch. 2; Annex 6, Pt 3 (amdt 23), Ch. 2; ANL: s.59A

5.4 Proposal 4 – 119.25: add a requirement for the holder of an AOC to control contracted services

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
[void]	119.25 Third party contracts	
[void]	(a) An operator shall maintain responsibility for functions and tasks that have been contracted to third parties. (b) An operator shall develop policies and procedures relevant to third parties that are contracted to perform work on its behalf.	This addition clarifies that all of the AOC holders activities that are contracted fall under the responsibility of the AOC holder.

Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is positive. By means of this change, any ambiguity is removed as to the responsibility of the AOC holder for activities that are contracted out.	ICAO: Annex 6, Pt 1 (amdt 46), 4.2.1.3.1; Annex 6, Pt 3: none ANL: s. 59A

5.5 Proposal 5 – 119.53(b)(4): add training to the responsibilities of the nominated postholder ground operations

The change

119.53(b)(4)	119.53(b)(4)	Gist of change

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The nominated postholders required by paragraph 119.53(a)(2) shall unless otherwise acceptable to the Director as a consequence of the size and expected scope of the applicant's organisation, each be responsible for no more than one of the following functions: [...] (4) ground operations, including such activities as embarkation and disembarkation, loading and unloading, fueling, de-icing and anti-icing of aircraft and security;	The nominated postholders required by paragraph 119.53(a)(2) shall unless otherwise acceptable to the Director as a consequence of the size and expected scope of the applicant's organisation, each be responsible for no more than one of the following functions: [...] (4) ground operations, including such activities as embarkation and disembarkation, loading and unloading, fueling, de-icing and anti-icing of aircraft, security and any associated training;	Training of personnel engaged in ground operations is added to the responsibilities of the nominated postholder ground operations.
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Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is positive. By means of this change, any ambiguity as to the responsibility of the postholder ground operations with respect to training of staff engaged in ground operations is removed.	ICAO: none ANL: s.59A,; AN(AOC)R, s. 9

5.6 Proposal 6 – 119.53(f): add a requirement that the Accountable Manager shall not be nominated by another holder of an AOC, unless acceptable to the Director

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.53(f)	119.53(f)	
[void]	A person nominated under 119.53(a) shall not be nominated by another holder of an AOC, unless acceptable to the Director.	This section is new.

Justification

Drive for this proposal:	Safety impact:	Regulatory verification:
See introduction	The safety impact is positive. The proposal will reduce the likelihood of situations where the management of an AOC may suffer from an Accountable Manager being unable to give his or her full attention to the operator's organisation.	ICAO: none ANL: s. 59A

5.7 Proposal 7 – 119.55: add a clarification that the competency requirements for postholders also applies to follow-up postholders

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.55(a)	119.55(a)	
Nominated postholders within the operator's organisation shall meet the competency requirements at Appendix A.	Nominated postholders, including those nominated as a result of temporary or permanent postholder changes, within the operator's organisation shall be formally notified to and acceptable to the Director, and meet the competency requirements at Appendix A.	Temporary and permanent postholder changes added.

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Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be positive. By unambiguously making clear that temporary or permanently replaced postholders must also meet the competency requirements, any avoidance of doubt is removed.	ICAO: none ANL: s.59A

5.8 Proposal 8 - 119.81: change the title 'Flight authorization and control' into 'Operational control'

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.81 Flight authorisation and control	119.81 Operational control	
An applicant for the grant of or holder of an AOC shall establish and maintain procedures to ensure that the initiation, continuation, and termination of a flight or series of flights is authorised by the person required by paragraph 119.53(b)(1).	An applicant for the grant of or holder of an AOC shall establish and maintain procedures to ensure that the initiation, continuation, and termination of a flight or series of flights is authorised by the person required by paragraph 119.53(b)(1).	Title change only.

Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be positive. The new title reflects the substance of this requirement and brings it in line with the ICAO definition of 'operational control' and thus bring clarity.	ICAO: Annex 6, Pt 1 (amdt 46), Ch. 1; Annex 6, Pt 3 (amdt 23), Ch. 1 ANL: s.59A

5.9 Proposal 9 - 119.107: editorial correction: replace 'operator' by 'AOC holder'

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.107	119.107	
No operator may charter, lease or interchange aircraft with another operator without the approval of the Director.	No holder of an AOC may charter, lease or interchange aircraft with another holder of an AOC without the approval of the Director.	Editorial change only, for consistency throughout the Part.

Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be neutral. The change is of an editorial nature only.	ICAO: none ANL: none

5.10 Proposal 10 - 119.111(e): deletion of the requirement to return the certificate following its amendment

The change

Current GAR 119 text	Proposed GAR 119 text	Gist of change
119.111(e)	119.111(e)	

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Where any of the changes referred to in paragraph 119.111(b) requires an amendment to the certificate, the certificate holder shall forward the certificate to the Director as soon as practicable.	[void]	Removal of section.
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Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be neutral. The current requirement is of an administrative nature only and not upheld in practice.	ICAO: none ANL: none

5.11 Proposal 11 – 121/135.100: add a note that applications for specific approvals for Dangerous Goods are not accepted

The change

Current GAR 121/135 text	Proposed GAR 121/135 text	Gist of change
[void]	[below 121/135.100c] <i>Note: until further notice, the Director will not accept applications for a specific approval as per 121.100c.</i>	Note added

Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be neutral. The change is merely a notification of an existing practice.	ICAO: Annex 6, Pt 1 (amdt 46), ch. 14; Annex 6, Pt 3 (amdt 23), 1.4 Annex 18 (amdt 12) AN(DG)R

5.12 Proposal 12 – 121/135.460: changes to bring the standard masses in line with regional values

The changes

Current GAR 121/135 text	Proposed GAR 121/135 text	Gist of change
(a) change of values in tables		
[The tables are not reproduced here, but the effect of the changes to the tables is given in the next column]	[The tables are not reproduced here, but the effect of the changes to the tables is as follows:] <ul style="list-style-type: none"> Male flight crew members, and on aircraft with 19 passenger seats or less, female flight crew members: from 87 kg to 85 kg; Female crew members, for aircraft with more than 19 passenger seats: from 85 kg or 78 kg to 75 kg; Male cabin crew members, where required: from 82 kg to 75 kg; Adult male passengers: no change; Adult female passengers: from 84 or 82 kg to 78 or 74 kg, subject to number of passenger seats; Children: from 38 kg to 35 kg. 	Reduction of standard masses
(b) – clarification that hand baggage is included		

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135.460(b)(3) passenger standard mass, shown in Table 1; and; 135.460(b)(4)) passenger standard mass, shown in Table 1; and; 121.460(b)(3) passenger standard mass, shown in Table 2; and; 121.460(b)(4)) crew standard mass, shown in Table 3; and;	135.460(b)(3) passenger standard mass, which includes hand baggage, shown in Table 1; and; 135.460(b)(4)) passenger standard mass, which includes hand baggage,, shown in Table 1; and; 121.460(b)(3) passenger standard mass, which includes hand baggage, shown in Table 2; and; 121.460(b)(4)) crew standard mass, shown in Table 3; and	Addition of text 'which includes hand baggage'
(c) titles of Tables		
121/135.460 Table 1 121.460 Table 2 135/121.460 Table 3	Subpart D Table 1 Subpart D Table 2 Subpart D Table 3	Editorial only

Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be neutral, as the standard mass values, even though they are reduced, will better reflect the actual values	ICAO: Annex 6, Pt 1 (amdt 46): none ANL: none

5.12 Proposal 13 – 121/135.1000: changes to bring these sections in line with the Technical Instructions as referred to in ICAO Annex 18

The change

Current GAR 121/135 text	Proposed GAR 121/135 text	Gist of change
121/135.1000	121/135.1000	
a The operator shall ensure that operational staff training programme provides for training in the risks associated with the carriage of dangerous goods. This training shall be carried out on a recurrent basis, at least every two years, and shall include at least the following elements (whether or not the operator holds an approval to carry dangerous goods):	a The operator shall ensure that operational staff training programmes provide for training in the risks associated with the carriage of dangerous goods and are approved by the Director. This training shall be carried out on a recurrent basis, at least every two years, and shall include at least the following elements at a level commensurate with their responsibilities and whether or not the operator holds an approval to carry dangerous goods. [...] 5 an understanding of how to recognize undeclared dangerous goods; b Operational staff referred to in 121.1000a includes: 1 operator's and ground handling agent's staff accepting cargo, mail or stores, other than dangerous goods; 2 operator's and ground handling agent's staff involved in the handling, storage and loading of cargo, mail or stores and baggage; 3 passenger handling staff; 4 flight crew members, load planners and flight operations officers/flight dispatchers; 5 crew members, other than flight crew members. c The training for operational staff identified in 121.1000b1 shall also include an introduction into dangerous goods transport documents and other relevant documentation.	<ul style="list-style-type: none"> • Approval of dangerous goods training programmes added; • Operational staff now identified; • Additional training added for one category of operational staff.

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Justification

Drive for this proposal	Safety impact:	Regulatory verification:
See introduction	The safety impact will be positive, as the recognition of undeclared dangerous good is now required; approval of the training programmes is required and clarity as to the target groups have been added.	ICAO: Annex 6, Pt 1 (amdt 46), Ch. 14; Annex 6, Pt 3: 1.4; Annex 18 (amdt 12) TI, chapter 1, 4.2 AN(DG)R