'Part Ops' Presentation Brief

History

Before the establishment of the JAA (as the Joint Airworthiness Authorities) in 1970, all regulation of UK civil aviation was administered by the CAA with the statutory instrument being the ANO (CAP393). In 1987 the JAAs scope was widened to include operation of aircraft, maintenance. licensing etc.. however, it was not a regulatory body. The idea was that under ECAC sponsorship the JAA would become the European Aviation Authority by common consent, but this was not seen favourably by the EC. In 1999 the UK adopted the requirements of the JARs in total as UK law and became one of the first fully compliant JAA member states. The JAA published JAR-OPS 1 which was an attempt to harmonise the rules for commercial aviation. In the UK, the ANO was amended to recognise the requirements as UK law.

In 2002 the EC adopted regulation 1592 which set up EASA which 'absorbed' most of the functions of the JAA (for EASA member states - only EU states). In this context in 2008, JAR-OPS 1 was replaced with EC Regulation 859 - Common Technical Requirements and Administrative Procedures Applicable to Transportation by Aeroplane. To this was added 19 sub-parts which together form what we know as EU-OPS.

EU-OPS soon became largely out of date and did not reflect the rulemaking processes of the EC and EASA. So also in 2008, EASA began a process of drafting new rules for the implementation of regulation 859/2002 which was quickly replaced by Regulation 216/2008. This is now known as the 'Basic Regulation.'

Rule Making Schedule

Under the Basic Regulation, EASA would assume full authority for all regulation of all aviation functions within EU member states with effect from 8 April 2012. To this end a process of rulemaking began in earnest in 2009 with the publication of NPA 2009-02. The NPA proposed that the regulation of all aviation activities associated with organisations and operation of aircraft should come under one set of rules as a sub set of the original law. This subset was called 'Part OPS'.

This process is now (Nov 10) effectively 1 year behind schedule. This is mainly due to the grossly underestimated response to the NPA. In essence, EASA was swamped and the staffing of EASA wasn't sufficient to cope with it. In short, to attempt to cope with this, the process was truncated and a supplementary process of comment review was introduced using external advisory personnel from aviation backgrounds.

The problem was and remains that 8 April 2012 is set in European concrete!

The Rule Structure

As previously mentioned the 'law' is EC Regulation 216/2008 (the Basic Regulation (BR)) which repealed Regulation 1592/2002. This has 70 articles and 5 annexes. The articles are the 'law' and the annexes are the essential requirements that must be met to ensure that the law is enforceable and practical. This then has to be made into 'implementing rules' (IR) and to do this further 'law' is required. The regulation that enables the IR is called the 'cover regulation.'

Cover Regulation

To date, there are 5 cover regulations:

      Authority
      Organisation
      Operation
      Personnel
      Third Country Operators

More will follow in time, for instance:

      Aerodromes
      Airspace
      ATC

The cover regulation lays down the 'requirements' for the IR. From the authority of the cover regulations, the IR are specified. To achieve this, the cover regulation is divided into rule areas called 'Parts'.

The 'Parts'

'Part OPS' no longer exists as a separate entity. Each cover regulation has one or more parts depending upon the complexity of the requirement. So, cover regulation Authority Requirements, has just one part, whereas cover regulation Operations Requirements has five parts.

Most of the 'parts' have 'sub parts' and even 'sub-sub parts.'

Each 'part' has a structure covering general and specific rules. So if you wanted to know what the rules are for the carriage of manuals, logs and records, you would look in Part OR.OPS.MLR. But unfortunately, it isn't quite that simple.

Implementing Rules

The European Commission has a policy of 'no duplication.' This prevents a 'rule' being stated more than once. The idea is to prevent alternative interpretation of the intent. This creates a problem. We will have effectively four levels of rules, the BR; the cover regulation, the IR and the supporting material. If a compliance statement is made in the BR then it cannot be repeated in any of the lower levels of the rules. This was not the case under JAR-OPS or EU OPS. The effect is to make the IR disjointed and unnecessarily complex. In some cases, to get the entire 'picture' you need to look in 3, 4 or even 5 different documents, whereas under JAR-OPS it was all under the one cover.

The IR are uniquely referenced and numbered. As an example, the IR for the MEL is at OR.OPS.MLR.105:

> *Part Organisation Requirements, Sub Part Air Operations, Sub-Sub Part Manuals, Logs and Records, rule 105.*

All IR are by definition mandatory and must include the word 'shall.' This, by direction of the European Parliament is a command to comply. If any organisation (corporate body or individual person) does not do what is required, this is a breach of the rules and will be subject to corrective action.

Acceptable Means of Compliance (AMC)

Some of the IR are quite simple and clear in intent and the method of compliance. However, some are more complex and require guidance as to the actual intent of the rule and the accepted way that compliance can be achieved. Following each 'part' there is a section entitled 'Acceptable Means of Compliance and Guidance Material to Part .....'

This section follows the structure of the 'part' and uses the unique numbering of the IR prefixed by AMC (with a number) for acceptable means of compliance, or GM (plus a number) for guidance material. For instance using the example above, the AMC and GM for the MEL are:

> AMC1-OR.OPS.MLR.105 and

> GM1-OR.OPS.MLR.105

It could be that there is another way of ensuring compliance so this would be AMC2 etc..

Under JAR-OPS the AMC (and IEM - interpretative and explanatory material) were simply advisory. They were suggested ways by which the requirements could be complied with. Under the BR, AMC (there are no IEM) are of a different status.

If it is considered necessary that an 'acceptable' means of compliance needs to be specified , then that will be the only 'acceptable' way of achieving compliance. This would indicate that AMC are mandatory, but by definition AMC are 'non-mandatory.' This is because alternative AMC may be specified (AMC2 or even AMC3), and the choice of which to use is left to the organisation. So in this respect, an organisation does not need to comply with all AMC hence non-mandatory (ish!). If an organisation wants to achieve compliance by another means, this is permitted but there is a complex and time consuming process to be followed. In the mean time, the organisation is required to use the published AMC until the alternative is published by EASA (if accepted) at which time it becomes generally available for all organisations to use. GM is just that and totally non-mandatory.

AMC use the word 'should' and GM use the word 'may.'

Prior to the implementation date (8 April 2012) each organisation will be required to 'declare' which AMC it intends to use, where there is an alternative option i.e. AMC2. Once declared, the organisation is then obliged to use that AMC. The unauthorised use of any other relevant MC will be seen as non-compliance and subject to corrective action.

The Chicago Convention

As the JAA was a 'committee' of independent states with each being a signatory to the Chicago Convention and most of them having filed 'differences' under article 38, JAR-OPS 1 and subsequently EU-OPS, were inherently divergent from the ICAO SARPS and PANS. It is one of the stated aims of EASA to bring European aviation back into line as closely as possible with ICAO. One vehicle for achieving this is through the implementation of the BR. To this end, many of the AMC now reflect the ICAO procedures rather than the old JAR processes. This is where the major differences from EU OPS are. Also, in the 1990s ICAO embarked on a philosophical regeneration which encompassed many international standards and practices, for instance EN ISO 9001; Safety Management and environmental issues. Clearly, the opportunity has been taken to embody much of this change into European aviation.

The annex to the Chicago Convention that deals with operation of aircraft is Annex 6. Since the mid 90s, Annex 6 has been totally transformed to include the procedures and processes incorporated in the international standards and practices referred to in the previous paragraph. The attached table shows the relationship between the proposed IR and Annex 6. The constituent parts of Annex 6 are:

> Part 1 - Commercial Air Transport - Aeroplanes
> Part 2 - International General Aviation - Aeroplanes
> > Section 2 - General Aviation Operations
> > Section 3 - Large and Turbojet Aeroplanes
> Part 3 - International Operations - Helicopters
> > Section 2 - International Commercial Air Transport
> > Section 3 - International General Aviation

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NPA 2009-02	Draft Regulations (Implementing Rules)				
Part - Ops	Part - CAT	Part - NCC	Part - NCO	Part - SPO	Part - SPA
Primarily aligned with					
EU OPS/JAR-OPS 3	EU OPS/JAR-OPS 3				EU OPS/JAR-OPS 3
JAR-OPS 0		JAR-OPS 0		JAR-OPS 0	
JAR-OPS 2		JAR-OPS 2			
JAR-OPS 4				JAR-OPS 4	
Annex 6 Pt 1	Annex 6 Pt 1				Annex 6 Pt 1
Annex 6 Pt 2 Sec 2		Annex 6 Pt 2 Sec 2	Annex 6 Pt 2 Sec 2		Annex 6 Pt 2 Sec 2
Annex 6 Pt 2 Sec 3		Annex 6 Pt 2 Sec 3			Annex 6 Pt 2 Sec 3
Annex 6 Pt 3 Sec 2	Annex 6 Pt 3 Sec 2				Annex 6 Pt 3 Sec 2
Annex 6 Pt 3 Sec 3		Annex 6 Pt 3 Sec 3	Annex 6 Pt 3 Sec 3		Annex 6 Pt 3 Sec 3

Notes:
  a.   EU OPS   Incorporates JAR-OPS 1
  b.   JAR-OPS 0   General Operating Rules for JAR-OPS
  c.   JAR-OPS 1   Commercial Air Transport (Aeroplanes)
  d.   JAR-OPS 2   General Aviation Corporate (Aircraft)
  e.   JAR-OPS 3   Commercial Air Transport (Helicopters)
  f.   JAR-OPS 4   Aerial Work (Aircraft)

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