

MAR-300
FOR PASSENGER TRANSPORT ON DUTCH MILITARY AIRCRAFT

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MAR-300 FOR PASSENGER TRANSPORT ON DUTCH MILITARY AIRCRAFT

Article 1 Definitions

1. For the purposes of this Military Aviation Regulation (MAR), the following definitions shall apply:
 - a. *Military aircraft*: aircraft that are part of or that are listed in a military aviation register as being intended to become part of the Netherlands armed forces;
 - b. *Commander*: the Commander of the Royal Netherlands Air Force or Commander Multi-Role Tanker Transport Multinational Unit (MMU);
 - c. *Passenger*: a person on board a military aircraft who is not a member of the flight crew;
 - d. *Equipment*: the combat equipment for military personnel, including weapons and organic ammunition and hazardous substances, or items included in the "Equipment list of hazardous substances for military personnel";
 - e. *Hazardous substances*: substances or objects that could pose a threat to health, safety or the environment during transport, as meant by Section 1.1, sub-section 1 ad c of the Aviation Act.
2. The following types of passengers are distinguished:
 - a. *Category A Troops*: Dutch or foreign military personnel with equipment flying on a military aircraft as part of a mission, operation or exercise of (part of) the armed forces that the flight belongs to;
 - b. *Category B Mission-essential personnel*: individuals who work for the Netherlands armed forces or foreign armed forces flying on a military aircraft as part of a mission, operation or exercise of (part of) the armed forces that the flight belongs to;
 - c. *Category C Government personnel*: individuals who are part of or employed by the (national, provincial or local) Dutch or a foreign government flying on a military aircraft as part of a military support operation, duty travel or familiarisation;
 - d. *Category D Other persons*: passengers flying on a military aircraft who are not part of one of the other categories of passengers.

Article 2 Aim

The aim of this MAR is to regulate the carriage of passengers on Dutch military aircraft.

Article 3 Aircraft certified for passenger transport or by Interim Directive/OD

For an „overview of passenger categories per type of aircraft“, please consult the publications of the Military Aviation Authority (MAA) via the intranet of the Netherlands Defence organisation.

1. The transport of passengers on aircraft certified for passenger transport or authorised to transport passengers through MAA Interim Directives or Operational Directives is permitted provided that:
 - a. the travel is related to duty; and
 - b. the aircraft in question has a valid airworthiness certificate; and
 - c. the passenger falls under a category of passenger permitted for the military aircraft and the type of flight in question, as further elaborated in the flow chart in Annex 1.
2. The Director of the Military Aviation Authority can – if special circumstances so require – issue additional directives in respect of the provisions of paragraph 1, sub-paragraph b, above. When issuing such directives, the importance of the circumstances will be weighed against the risks to safety, as well as the administrative, political and publicity-related risks.
3. The Commander can – if special circumstances so require – grant a written exemption to the provisions of paragraph 1, sub-paragraph c. When issuing such an exemption, the importance of the circumstances will be weighed against the risks to safety as well as the administrative, political and publicity-related risks. When granting an exemption, the Commander may impose additional guidelines and assignments. When making use of this provision, the Commander will report that fact in writing and stating reasons in the „Non-standard Personnel Transport“ register. At least the following information must be entered in the register: date of the flight, flight number, type of aircraft, number and category of passengers, and the reason for the granted exemption. Records filed in the register must be kept for a period of 3 years and must be made available to the Director of the Military Aviation Authority on request.

4. When there is doubt about whether or to what extent the passenger transport is in the interests of the service, or the category under which a passenger falls, the Commander is authorised to make a decision on the issue. Requests for such decisions must, in principle, be submitted to the Commander in writing. In his decision, the Commander may issue additional guidelines and assignments in respect of how the flight will be conducted. When making use of this provision, the Commander will report that fact in writing and stating reasons in the „Non-standard Personnel Transport“ register as mentioned in the previous paragraph.
5. If a request as meant in the third and fourth paragraphs cannot be submitted to the Commander, the captain of the aircraft will decide on behalf of the Commander. The captain will inform the Commander of his decision at the earliest opportunity. The Commander will record the decision in writing and stating reasons in the „Non-standard Personnel Transport“ register as mentioned in the previous paragraph.

Article 4 Aircraft not certified for passenger transport or by Interim Directive/OD

1. The transport of passengers on aircraft not certified for passenger transport or for which transport of passengers is not permitted by MAA Interim Directives or Operational Directives is not permitted.
2. In the interests of the service, the Commander is authorised – if special circumstances so require – to grant a written exemption to the provisions of paragraph 1. When issuing such an exemption, the importance of the circumstances will be weighed against the risks to safety – whereby, at least, the detailed elaboration in the flow chart included in Annex 1 will be taken into account – as well as the administrative, political and publicity-related risks. When granting the exemption, the Commander may issue additional guidelines and assignments in respect of how the flight will be conducted. When making use of this provision, the Commander will report that fact in writing and stating reasons in the „Non-standard Personnel Transport“ register. At least the following information must be entered in the register: date of the flight, flight number, type of aircraft, number and category of passengers, and the reason for the granted exemption. Records entered in the register must be kept for a period of 3 years and must be made available to the Director of the Military Aviation Authority on request.
3. If a request for exemption as meant in the second paragraph cannot be submitted to the Commander, the captain of the aircraft will decide on behalf of the Commander. The captain is required to inform the Commander of his decision at the earliest opportunity. The Commander will record the decision in writing and stating reasons in the „Non-standard Personnel Transport“ register as meant in the previous paragraph.

Article 5 Instructions

1. Passengers will always be informed of the emergency and other procedures before the flight starts.
2. The requirement stated in the first paragraph may be waived for the passengers meant under Article 1, paragraph 2, sub-paragraph a (Category A *Troops*), if those passengers were sufficiently instructed when training for the mission and they have kept that knowledge and those skills current, in accordance with current regulations.

Article 6 Mandate

1. The Commander may mandate the authority meant in Article 3, paragraphs 3 and 4, in respect of mission-essential personnel (cat. B passengers) within his command to a level no lower than that of “air-base commander” or “captain of a ship”. The person who has been so mandated will decide on behalf of the Commander.
2. The Commander may delegate the authorities meant in Article 4, paragraph 2, in respect of mission-essential personnel (cat B passengers) to a level no lower than that of Director of Operations. The person who has been so mandated will decide on behalf of the Commander.
3. Mandate as meant in paragraph 1 or 2 has taken place, the reports as meant in Article 3, paragraph 5, and Article 4, paragraph 3, will be made to the person mandated.

Article 7 Implementation stipulations

In respect of specific aspects related to the transport of personnel on military aircraft, the Commander will issue more detailed implementation stipulations in accordance with this MAR.

Article 8 Final provisions

1. This MAR will be known as "MAR for passenger transport on Dutch military aircraft".
2. This MAR replaces the MLE-300 „Passagiersvervoer met Nederlandse Militaire Luchtvaartuigen" version 1.0 (1 January 2010).
3. This MAR comes into effect on 1 March 2019.

This MAR will be promulgated through publication on the intranet of the Netherlands Defence organisation, notice of which will be given in the Netherlands Government Gazette.

The Hague,

The Director Military Aviation Authority,



J.P. Apon
Air Commodore

Guidance Material

General

For the purposes of clarity and precision and to implement MAR OPS X.005 a and b, regulations have been developed that govern which persons may fly, and under which circumstances, as passengers on board aircraft registered in the Dutch register of military aircraft. Other matters concerning passengers, usually related to procedures, such as registration, will be elaborated in standing orders.

This MAR is intended to provide guidance in respect of Dutch military aircraft and is therefore not concerned with passenger travel on non-military aircraft or military aircraft from other Powers. Those situations are covered by "Aanwijzing SG-006 (Mede)gebruik van civiel luchttransport en niet-Nederlands militair luchttransport door Defensiepersoneel".

Legal basis

The MAR for passenger transport on Dutch military aircraft contains provisions that can be considered to be policy regulations as meant by the General Administrative Law Act, Section 1:3, sub-section 4, provisions directed at military and civilian government personnel. Those last provisions, being internal regulations of the Ministry of Defence, can be based on Article 44, sub-paragraph 1, of the Constitution. The former provisions provide guidance in respect of when and under what conditions passengers may be carried on military aircraft. The second category concerns provisions that apply as conduct directives for government personnel.

By article

Article 1

Several definitions that are important for this MAR have been defined in more detail. In doing so, an effort was made to align the definitions with definitions created previously or elsewhere in legislation and regulations. The definition of „hazardous substances“, for example, is derived from Section 1:1, sub-section 1 sub c of the Aviation Act.

In paragraph 2, the definition of „passenger“ is sub-divided into four categories reflecting, in general, the degree of the passenger's involvement with the main tasks of the Defence organisation. The definition of „troops“ also includes military personnel in the service of foreign armed forces. „Mission essential personnel“ also includes personnel who are not part of the Netherlands Defence organisation. That includes, for example, people who are contracted to provide technical services in mission areas. Note: „mission-essential personnel“ always have a direct or indirect contractual relationship with the Netherlands Defence organisation or foreign armed forces. Foreign military personnel are also included in the category A, B, and C definitions. „Other personnel“ is a catch-all category that usually includes people who do not have a contractual relationship with the government. That could include passengers who are passengers on a military aircraft as part of military support under the principle of good neighbourly relations, building positive impressions, or charitable purposes (see further, Military Support in the Public Interest and Social Support by the Defence Organisation to Third Parties Regulations).

Article 3

This article concerns permission requirements for passenger travel in aircraft. The aircraft are certified and equipped for passenger carriage. Detailed implementation stipulations (see Article 7) in respect of permission requirements will be drawn up by the operator for each specific type of aircraft, such as (K)DC-10, A-330, C-130, Gulfstream IV, CH-47, AS-532 and NH-90. Before permission to fly on the aircraft is granted, three criteria, which are outlined in the first paragraph, must be met.

The first two criteria are general conditions concerning the nature and necessity of the flight (first paragraph, sub-paragraph a: service interests) and the condition of the aircraft (first paragraph, subparagraph b: airworthiness requirements).

The third criterion makes a more specific link between the nature of the mission, the type of aircraft and the category of the passenger (first paragraph, sub-paragraph c). In principle, all three conditions must be met. It is only possible to deviate from the requirements in special situations. The three criteria are elaborated further below.

Incidentally, the general request procedures used by the Defence Movement and Transport Organisation and the RNLAf continue to apply in full.

Service interests

In respect of the first general criterion (first paragraph, sub-paragraph a), it should be noted that passengers may only be carried in military aircraft if the flight is in the interests of the service. This condition applies at all times and under all circumstances. The concept of „interests of the service“ merits further clarification, however. It is not possible to formulate an all-encompassing definition of „interests of the service“. It is, however, possible to isolate some of the factors that should be considered when making an assessment of this criterion. The first of these is the „necessity“ requirement. If the flight is not 'necessary', it cannot be considered to be in the interests of duty. Nevertheless, the concept of „necessity“ should not be interpreted too narrowly. A high degree of desirability – e.g. in cases of „humanitarian“ or „public relations“ interests of the Defence organisation – also satisfies the „necessity“ requirement. The principles of „subsidiarity“ – can the objective be met in another way, are there alternatives available? – and proportionality – can the objective be achieved with fewer resources? – should also be used in considering whether a flight is „in the interests of duty“. Those principles could, for example, result in using civilian rather than military aircraft or another form of transport, e.g. by road, being used.

The Commander will have to conduct a risk analysis, in which the category of the passenger will be the decisive factor (i.e. some risks can be accepted more readily for „mission-essential personnel“ than for „other passengers“).

And finally, financial-economic matters can be important in determining whether specific categories of passengers may be carried on a military aircraft. If, for example, a shuttle flight with a military aircraft frequently flies to the area of operations, a cost/benefit analysis could result in all categories of passengers being carried on this aircraft. Take note: the cost/benefit analysis may never be the initial consideration in the assessment.

To illustrate the situations where the „interest of the service“ criterion applies, the following may be of some help. In fact, activities that are part of or are an extension of the general tasks of the Defence organisation are always considered to be in the interests of the service. The transport of passengers not employed by the Netherlands armed forces can also be in the interests of the service. That could, for example, include the transport of personnel from foreign armed forces on Dutch military aircraft as part of an operation or exercise, or as part of a cooperation agreement in the area of air transport. Sometimes, it may also be necessary to carry civilians as part of a humanitarian operation (evacuation, transport of casualties, etc.). Flights that contribute to the positive public opinion concerning Defence activities (public relations) may also fall under the permissible, if the flight is primarily in the interest of the Defence organisation. Examples include the transport of persons involved with preparing a media report on the Defence organisation, or transport related to orientation and/or recruitment activities in the interests of the service. Furthermore, it is also possible to carry passengers who are not in the service of the Defence organisation as part of one of the Defence tasks (as mandated by legislation or regulations). When carrying out a Defence task, the „interests of the service“ criterion always applies. Examples include medevac flights, SAR flights, VIP flights, deportation flights and the transport of refugees.

Condition of the aircraft

A general principle in aviation is that the use that an aircraft will be put to will determine how it is equipped and the certification requirements that it must meet. Military aircraft should be certified to carry out their designated tasks in accordance with the Ministerial Regulations concerning

Characteristics, Registration, and Airworthiness of Military Aircraft, dated 15 October 2001, and more fully elaborated in applicable airworthiness requirements per aircraft type. That means that it must be shown that the applicable airworthiness and certification requirements have been met. The certification determines the formal operating scope of the aircraft in a specific configuration. The certification will determine the possibilities and the limitations of the aircraft. That relationship is formalised – e.g. in respect of numbers of passengers allowed in a specific configuration – in the process of certifying a military aircraft (by means of interim measures, the certification documents, and, ultimately, in the flight manual).

Passenger category

The last condition (first section, sub-section c) makes a link between the type of passengers (Article 1, second paragraph), the type of military aircraft and the type of flight. Based on special circumstances, the Commander may permit deviations in respect of the type of passenger and the type of aircraft and nature of the flight, while remaining within the legislative framework. The Commander must prepare a written report of the risk analysis and the decision. If the Commander makes use of that authority, he makes a report in a register of non-standard personnel transport and informs the aviation authority accordingly.

When there is doubt whether and to what extent the flight is in the interests of the service, or in respect of a passenger's category, a written request for a decision should be submitted to the Commander (fourth paragraph). That request should, in principle, be done in writing and comprise a detailed description of the (type of) passengers, the aircraft type, the configuration in which the flight will be carried out, and the nature of the flight. The Commander is authorised to make a decision based on the request, with due regard for the factors for consideration as discussed above.

It will usually be possible for a request, either in writing or otherwise, to be submitted to the Commander in advance. For category B passengers, the authority to grant an exemption in respect of aircraft which are certified for passenger transport or authorised for passenger transport through Interim Directives or Operational Directives may be delegated to the level of „air-base commander“ or „captain of a ship“ (see Article 6). In exceptional circumstances, it will not be possible to make such requests in advance, not even verbally. Exceptional circumstances include, for example, the evacuation of civilians from a crisis or disaster area abroad following a sudden change to the situation, and situations where there are inadequate means of communication. Sometimes, there is simply no time to submit a request. In those situations, the captain will take the decision (pursuant to the third paragraph), with due regard, of course, for the same considerations that apply for the competent authority. The captain will report the incident after the fact to the Commander. The Commander will then inform the Military Aviation Authority.

If both an „aircraft commander“ and „flight commander“ are in place, it is the flight commander who will act as captain for the purposes of this MAR.

The fifth paragraph explains when, under what conditions, and to what degree the possibility to deviate from standard situations occurs. As a standard procedure, every deviation is reported and recorded in the Commander's register. This register makes it possible for the Military Aviation Authority to identify trends that could lead to additional measures or to amending this MAR.

Article 4

The underlying principle in respect of carrying passengers on aircraft not certified for that purpose or for which no permission to carry passengers is granted on the basis of Interim Directives or Operational Directives is: passenger transport is not permitted unless the Commander grants permission to deviate from this rule. The permission to deviate must be preceded by a risk analysis of, at least, the aspects shown in the flow chart. That includes, for example, a declaration of physical fitness and the exercise of emergency procedures. For example, for flights above water when land cannot be reached in a glide or autorotation flight, attention must be devoted to the equipment available for landing on water. For aircraft in which no automatic removal of oxygen tubes takes place, passengers must have undergone additional dinghy drill training. The currency of that training for the

specific aircraft type that will be used for the flight must be shown before the start of the flight. The risks of the flight and the acceptance of the flight assignment by the captain are also considered. If, for example, the passenger is provided with a parachute, it must be ascertained that the passenger understands the procedure for opening the parachute and that the passenger is strong enough to be able to open it. The first consideration must be the "interests of the service" criterion (see explanation of Article 3). And finally, it is important that the passenger be informed of the flight risks and other risks. For other matters, please see the explanation of Article 3. The following aircraft are not equipped for the carriage of passengers: F-16, AH-64D and PC-7. An exemption granted by the Commander of the RNLAf is therefore always required for these aircraft.

Article 5

In order to ensure optimal passenger safety, passengers must always be informed of the safety and emergency procedures. Including this requirement in the first section underscores the importance of this capstone of passenger safety. The second paragraph grants an exemption to certain units who regularly fly on military aircraft as part of their duties (e.g. units of the airmobile brigade) and who receive sufficient instruction in emergency procedures during their training. If those instructions are repeated regularly – i.e. in accordance with the schedules included in regulations – or the emergency procedures are exercised regularly, those personnel are exempt from this requirement. It must be kept in mind that there can always be circumstances when, due to *force majeure*, it is not possible to meet the training requirement, such as war or crisis conditions, or passengers who do not understand Dutch or English, or who are not able to hear the instructions at that moment.

Article 6

The Commander may mandate the authority granted to him in this MAR to a subordinate, provided that the passengers in question fall into the B category. This may be desirable for practical reasons. In case of aircraft that are equipped for passenger transport, the lowest level to which this authority may be delegated is that of air-base commander (RNLAf) or that of captain of a ship (RNLN). The issue here is the command level. That means, for example, that the authority can be delegated to a detachment commander at a comparable level in a deployment area. The underlying principle is that the authority should only be mandated to someone who has sufficient expertise in respect of the authority mandated.

In case of aircraft not certified for passenger transport or for which the transport of passengers is not permitted on the basis of Interim Directives or Operational Directives, the Commander may mandate the authority with regard to B category passengers to the Director of Operations. Given that transporting passengers on these aircraft is not permitted in principle, the authority to grant permission to deviate from this rule cannot be mandated to a level lower than that of Director of Operations. Both the Royal Netherlands Air Force and the Royal Netherlands Navy have a Director of Operations.

Inasmuch as the decisions are taken on behalf of the Commander, a decision by the mandated authority must also be signed on behalf of the Commander ("... for the Commander, Royal Netherlands Air Force"). If authority is exercised by a mandated authority on behalf of the Commander, all of the reports that this MAR requires to be made to the Commander will be made to the mandated authority.

Article 7

This MAR provides a general framework for passenger transport on Dutch military aircraft. The regulations are elaborated further on the basis of the MAR OPS. Furthermore, changes to operations involving Dutch military aircraft, new technologies, and new insights may make it necessary to draw up additional regulations. It may also be necessary to draw up additional regulations in respect of special subjects.

**FLOWCHART PASSENGERS DUTCH MILITARY AIRCRAFTS
(Version 1.1)**

NOTES:

- (1) Or based upon a MAA interim-instructions, certifying airlift fleet or based upon upon mission instructions.
- (2) On this point operational risk management procedures should be applied.
- (3) Exclusively PC-7 en F16
- (4) According art. 6 par. 1 for Cat. B passengers the authority can be mandated to a level no lower than that of "air-base commander" or "captain of a ship".
- (5) According art. 6 par. 2 for Cat. B passengers the authority can be mandated to a level no lower than that of Director Operations.



