

Civil Aviation Directorate

Transport Malta-Civil Aviation Directorate, Malta Transport Centre, Pantar Road, Lija LJA 2021 Malta. Tel: +356 2555 5000 cadpel.tm@transport.gov.mt www.transport.gov.mt

1.0 Introduction

This document serves as guidance to persons or organisations on the process to follow for an appeal of an examination, test or assessment or the right for a review of a test or examination.

2.0 Review

2.1 Review of a theoretical knowledge examination result

An applicant may request a review of a theoretical knowledge examination, whereby TMCAD will provide information on the learning objective areas that the applicant did not answer correctly. The fee for a review of paper is €100 per paper.

2.1.1 How do I request a review of a theoretical knowledge examination?

A review must be requested within 20 days of the receipt of the examination result. The request for review of theoretical knowledge examination is to reach the Head of Personnel Licencing through the Chief Theoretical Knowledge Instructor of the Training Organisation. Detailed information about the question/s being requested for a review is to be provided in writing to the TMCAD.

2.1.2 Conditions for the review of a theoretical knowledge examination result

- A review can only be done if the applicant has failed the examination and received a result not lower than 60%.
- The applicant shall ask the Approved Training Organisation for a review and in turn the Organisation shall make the request to TMCAD. NB: if the candidate is undergoing a conversion of a licence, then the request can be done by the individual.
- The review will be conducted by a person nominated by TMCAD Personnel Licensing unit and this person will communicate with the nominated person CTKI of the ATO, or the individual if they are undergoing a conversion of a licence.

2.2 Review of a test conducted by an external TMCAD approved assessor or examiner

TMCAD may conduct unannounced inspections to review tests or examinations at random in accordance with ARA.GEN.300.

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2.2.1 Conditions for the review of a test result

In the event that the result of TMCAD differs from that of the external TMCAD approved assessors or examiners, the ruling of TMCAD will be final and not subject to appeal.

In such case, it will be incumbent on the approved assessor or examiner to re-issue the certificate of the test to the candidate and TMCAD will notify the candidate's competent authority of the final result for appropriate annotation in the licence (if applicable).

2.3 How do I request a review of a language test assessment?

An applicant may request a review of a language test examination whereby TMCAD will provide information on the weak or failed testing criteria established as per ICAO language proficiency requirements. The request for review must be done within 20 days from the receipt of the language assessment result notification and is to reach the Head of Personnel Licensing in writing. The fee for a review of language assessment is €100 per assessment.

A candidate that has failed the test (Level 3 or lower), may exercise his/her privilege of requesting a review of the assessment conducted and request that Transport Malta Civil Aviation Directorate determines whether the test was properly conducted. Mere dissatisfaction with the result is not sufficient reason for requesting a review. The Chief Language Examiner or an assessor assigned by the Head of Personnel Licensing will listen to the audio tape recording and see whether the candidate had reason to lodge his/her request to review. The result of the review will be communicated in writing to the candidate. If the candidate is still unhappy with the outcome of the review conducted, also known as the internal appeal process, he/she may apply the appeal process as stated in the Air Navigation Act (Cap 641), together with its associated regulatory instruments issued pursuant to Article 5, as per section 3 below.

2.4 How do I request a review of a Flight Radiotelephony Operator Licence (FRTOL) test?

A FRTOL examiner will provide the candidate information on the weak or failed testing criteria established as per ICAO FRTOL requirements at the end of the practical test. The request for review must be done within 20 days from the receipt of the FRTOL test result notification and is to reach the Head of Personnel Licensing in writing. The fee for a review of the FRTOL test is €100 per test.

A candidate that has failed the FRTOL test, may request that Transport Malta Civil Aviation Directorate determines whether the test was properly conducted. Mere dissatisfaction with the result is not sufficient reason for requesting a review. The Chief FRTOL examiner or a FRTOL examiner assigned by the Head of Personnel Licensing will listen to the audio tape recording, review the examination documents, and see whether the candidate had reason to lodge his/her request to review. The result of the review will be communicated in writing to the candidate. If the candidate is still unhappy with the outcome of the review conducted, also known as the internal appeal process, he/she may apply the appeal process as stated in the ANA and associated Regulatory Instruments pursuant, as per section 3 below.

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3.0 Appeal Process

3.1 Appeal of a theoretical knowledge question

An appeal of a question must be requested within 20 days of the receipt of the examination result. The request is to reach the Head of Personnel Licencing through the Chief Theoretical Knowledge Instructor of the Training Organisation. The Head of Personnel Licencing can appoint a TMCAD Inspector to review a particular question. If the question results to be unworkable, the Head of Personnel Licencing can approve its crediting in favour of the student concerned.

3.2 Appeal of an examination, check or assessment result; or a refusal, suspension or revocation of a licence, certificate, approval, rating or attestation

An appeal, under Air Navigation Act Article 91, and the relevant EASA regulations, may be applied for in the following circumstances:

1. Any person who has failed any check, test or assessment which must be passed before being granted a licence or exercising the privileges of a personnel licence, certificate, rating or attestation, may request that TMCAD reviews the conduct of the test to determine whether it was properly conducted.
2. Suspension or revocation of a licence, certificate, rating or attestation
3. If an application for an organisation certificate is refused
4. If an application for an FSTD qualification is refused
5. When a decision has been taken to suspend, or limit, an FSTD qualification certificate
6. Revocation of an FSTD certificate

In the above-mentioned cases, such appeals are undertaken by the Director General for Civil Aviation.

3.3 Appeal Process – Organisation

In the event that the application for an organisation certificate is refused, the applicant will be informed in writing by the Head of Personnel Licencing in the capacity representing the Director General for Civil Aviation. The organisation will have the right to present its case appealing from the decision taken. The notification issued by the Head of Personnel Licencing will normally provide details on whom the applicant is to contact to request an appeal.

A request for an appeal from the decision taken by the Personnel Licencing Unit, is to be made in writing. This request must reach the office of the Director General for Civil Aviation and the Aviation Appeals Board within 20 days after receiving the written notification of the outcome of application.

In its representation of the case, the organisation sets out the grounds on which it is being considered that the evaluation of the application for an Organisation was not properly executed.

The final report issued will relay the decision reached by the Aviation Appeals Board following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.

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4.0 Grievance on Appeal Decision

An appeal from the decision of the Director General for Civil Aviation can be put forward to the Aviation Appeals Board, provided that the basis of the decision that a person is not fit to hold a licence, was not based on the deficiency in the appellant's knowledge, experience, competence, skill, physical or mental illness.

Air Navigation Act Article 91

4.1 How do I request an appeal from a Decision?

A request for an appeal from a decision taken by the Personnel Licencing Unit in its capacity representing the Direction General for Civil Aviation, is to be made in writing. This request must reach the office of the Director General for Civil Aviation within 20 days after receiving the written notification of the outcome of application made in any of the circumstances mentioned in section 3 above.

The notification issued by TMCAD will normally provide details on whom the applicant is to contact to request an appeal.

4.2 What happens next?

The following time frame of events will be followed:

Applicant requests appeal	The applicant may request an appeal from a decision or proposal not later than 20 days from date of notification. (Ref: 4.2 above).
The applicant is notified of the timetable for the appeal process	This is handled by the Aviation Appeals Board established in terms of article 89 in the Air Navigation Act.

4.3 The decision

The Aviation Appeals Board will decide whether the decision was properly conducted. In the case of checks, tests, assessments (including medical assessments) and theoretical knowledge examination, the decision will not be based on whether the applicant should have passed or failed but if the process was well conducted.

If the Aviation Appeals Board is satisfied with the evidence submitted, that the decision should be reversed, the Aviation Appeals Board may reverse the decision of the Director General.

The final report issued by TMCAD will relay the decision reached by the Aviation Appeals Board following the appeal process conducted and is to be considered final for all intents and purposes and within the remit of the law.