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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 2.6.2022 amending Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation

Delegations will find attached document C(2022) 3234 final.

Encl.: C(2022) 3234 final



Brussels, 2.6.2022
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COMMISSION DELEGATED REGULATION (EU) .../...

of 2.6.2022

amending Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

It has been recognised by the Agency and within Regulation (EU) 2018/1139 that there is a need to have greater proportionality in Commission Regulation (EU) No 748/2012 for the rules relating to the design and production of aircraft that are intended primarily for sports and recreational use. Article 19 of Regulation (EU) 2018/1139 offers some tools for the European Commission to bring in greater proportionality when adopting such rules, and calls, in particular, in recitals (6) and (25) for the possibility for the organisations involved in the design and production of lower-risk aeronautical products to be able to declare the compliance of the design of those products with the relevant industry standards. Article 140(3) Regulation (EU) 2018/1139 provides that the Agency shall make proposals for amendments to Commission Regulation (EU) No 748/2012 and the applicable certification specifications in order to adapt them, as regards aircraft intended primarily for sports and recreational use, to that Regulation.

The rules laid down in this proposal will allow this proportionality to be achieved by:

- (a) the simplification of the requirements and processes that an applicant must follow to achieve type certification (or a supplemental type certificate) for a product intended primarily for sport and recreational aviation;
- (b) the adaptation of the requirements and processes to provide, for certain categories of products, the possibility to declare to the Agency the compliance of the design with a set of predetermined technical specifications instead of obtaining EASA certification of such a product;
- (c) the possibility for organisations involved in the design and production of products intended primarily for sport and recreational aviation to use a declaration, instead of an approval, to attest their design or production capabilities and compliance with the relevant organisational requirements.

A dedicated Annex (Annex Ib) to Commission Regulation (EU) No 748/2012 is proposed that provides appropriate measures to regulate this segment of the aviation sector and provide proportionate, cost-efficient and flexible rules. These specific rules avoid creating unnecessary administrative and financial burden for the manufacturers and operators of these lower-risk products while ensuring the necessary levels of safety.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with Article 128(4) of Regulation (EU) 2018/1139, before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The draft delegated act was presented to the Air Safety experts group, which includes representatives from the Member States, at its meeting on 17 February 2022. The present delegated act is based on EASA Opinion No 05/2021 whose contents had been consulted through focused consultation workshops and consultation of draft material with the relevant Advisory Bodies.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

In accordance with Article 128(4) of Regulation (EU) 2018/1139, before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance

with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The draft delegated act was presented to the Air Safety experts group, which includes representatives from the Member States, at its meeting on 17 February 2022. The present delegated act is based on EASA Opinion No 05/2021 whose contents had been consulted through focused consultation workshops and consultation of draft material with the relevant Advisory Bodies.

COMMISSION DELEGATED REGULATION (EU) .../...

of 2.6.2022

amending Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91¹, and in particular Articles 19(1) and 62(13) thereof,

Whereas:

- (1) Commission Regulation (EU) No 748/2012² lays down the requirements for the airworthiness and environmental certification of products, parts and appliances of civil aircraft, such as engines, propellers and parts to be installed therein.
- (2) Pursuant to Article 140(3) of Regulation (EU) 2018/1139, sport and recreational aviation is to be subject to simple and proportionate rules to avoid putting unnecessary administrative and financial burdens for the organisations involved in the design and production of such aircraft. Those rules are to be proportionate, cost-effective and flexible, while ensuring the necessary level of safety.
- (3) Organisations involved in the design and production of certain categories of products used in sport and recreational aviation should be provided with the possibility, as an alternative to design certification, to declare the compliance of the design of an aircraft, and if applicable of the engine and propeller, with the relevant industry standards, where it is considered that this will ensure an acceptable level of safety.
- (4) Organisations involved in the design and production of products used in sport and recreational aviation should also be provided with the possibility to utilise a more proportionate process for the certification of such products.
- (5) Organisations involved in the design and production of products used in sport and recreational aviation should be provided with the possibility, as an alternative to an organisational approval, to declare their capability to design and produce products and parts. Those organisations should be able to use existing approvals as a means to demonstrate their capability in conducting design and production activities.

¹ OJ L 212, 22.08.2018, p. 1.

² Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

- (6) Environmental protection requirements should be also laid down for the products the design of which is subject to a declaration of design compliance. Such environmental protection requirements should be based on requirements contained in Volumes I, II and III of Annex 16 to the Convention on International Civil Aviation³ in order to ensure the same, uniform level of environmental protection irrespective of whether a product is subject to type certification or a declaration of design compliance.
- (7) Regulation (EU) No 748/2012 should therefore be amended accordingly.
- (8) A sufficient transitional period should be provided for organisations involved in the design and production of aircraft primarily used in sport and recreational aviation to ensure their compliance with the new rules and procedures introduced by this Regulation.
- (9) The measures provided for in this Regulation are in accordance with Opinion No 05/2021⁴, issued by the European Union Aviation Safety Agency in accordance with Article 76(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 748/2012 is amended as follows:

- (1) the title is replaced by the following:

‘COMMISSION REGULATION (EU) No 748/2012

of 3 August 2012

laying down implementing rules for the airworthiness and environmental certification or declaration of compliance of aircraft and related products, parts and appliances, as well as for the capability requirements of design and production organisations

(recast)’;

- (2) Article 1 is replaced by the following:

‘Article 1

Scope and definitions

1. This Regulation lays down, in accordance with Articles 19 and 62 of Regulation (EU) 2018/1139, common technical requirements and administrative procedures for the airworthiness and environmental certification of products, parts and appliances specifying:

³ Convention on International Civil Aviation, signed at Chicago on 7 December 1944 (the ‘Chicago Convention’).

⁴ Opinion 05/2021 of 22 Oct 2021 of the European Union Aviation Safety Agency, Part 21 Light — Certification and declaration of design compliance of aircraft used for sport and recreational aviation and related products and parts, and declaration of design and production capability of organisations, <https://www.easa.europa.eu/document-library/opinions/opinion-052021>

- (a) the issue of type certificates, restricted type certificates, supplemental type certificates and changes to those certificates;
 - (b) the issue of certificates of airworthiness, restricted certificates of airworthiness, permits to fly and authorised release certificates;
 - (c) the issue of repair design approvals;
 - (d) the showing of compliance with environmental protection requirements;
 - (e) the issue of noise certificates and restricted noise certificates;
 - (f) the identification of products, parts and appliances;
 - (g) the certification of certain parts and appliances;
 - (h) the certification of design and production organisations;
 - (i) the issue of airworthiness directives;
 - (j) the making of declarations of design compliance and changes to those declarations;
 - (k) the making of declarations of design and production capability.
2. For the purpose of this Regulation, the following definitions shall apply:
- (a) ‘JAA’ means the ‘Joint Aviation Authorities’;
 - (b) ‘JAR’ means ‘Joint Aviation Requirements’;
 - (c) ‘Part 21’ means the requirements and procedures for the certification of aircraft and related products, parts and appliances, and of design and production organisations laid down in Annex I (Part 21) to this Regulation;
 - (d) ‘Part 21 Light’ means the requirements and procedures for the certification or declaration of design compliance of aircraft intended primarily for sports and recreational use and related products and parts, and declaration of design and production capability of organisations laid down in Annex Ib (Part 21 Light) to this Regulation;
 - (e) ‘principal place of business’ means the head office or registered office of the undertaking within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised;
 - (f) ‘article’ means any part and appliance to be used on civil aircraft;
 - (g) ‘ETSO’ means European Technical Standard Order. The European Technical Standard Order is a detailed airworthiness specification issued by the European Union Aviation Safety Agency (the ‘Agency’) to ensure compliance with the requirements of this Regulation as a minimum performance standard for specified articles;
 - (h) ‘EPA’ means European Part Approval. European Part Approval of an article means that the article has been produced in accordance with approved design data not belonging to the type-certificate holder of the related product, except for ETSO articles;
 - (i) ‘ELA1 aircraft’ means the following manned European Light Aircraft:

- (i) an aeroplane with a maximum take-off mass (MTOM) of 1 200 kg or less that is not classified as complex motor-powered aircraft;
 - (ii) a sailplane or powered sailplane of 1 200 kg MTOM or less;
 - (iii) a balloon with a maximum design lifting gas or hot air volume of not more than 3 400 m³ for hot air balloons, 1 050 m³ for gas balloons, 300 m³ for tethered gas balloons;
 - (iv) an airship designed for not more than four occupants and a maximum design lifting gas or hot air volume of not more than 3 400 m³ for hot air airships and 1 000 m³ for gas airships;
- (j) ‘ELA2 aircraft’ means the following manned European Light Aircraft:
- (i) an aeroplane with a maximum take-off mass (MTOM) of 2 000 kg or less that is not classified as complex motor-powered aircraft;
 - (ii) a sailplane or powered sailplane of 2 000 kg MTOM or less;
 - (iii) a balloon;
 - (iv) a hot air airship;
 - (v) a gas airship complying with all of the following characteristics:
 - 3 % maximum static heaviness,
 - non-vectored thrust (except reverse thrust),
 - conventional and simple design of structure, control system and ballonet system,
 - non-power assisted controls;
 - (vi) a rotorcraft with an MTOM not exceeding 600 kg which is of a simple design, designed to carry not more than two occupants, not powered by turbine and/or rocket engines; restricted to VFR day operations;
- (k) ‘operational suitability data (OSD)’ means data, which is part of an aircraft type certificate, restricted type certificate or supplemental type certificate, consisting of all of the following:
- (i) the minimum syllabus of pilot type rating training, including determination of type rating;
 - (ii) the definition of scope of the aircraft validation source data to support the objective qualification of simulators or the provisional data to support their interim qualification;
 - (iii) the minimum syllabus of maintenance certifying staff type rating training, including determination of type rating;
 - (iv) determination of type or variant for cabin crew and type-specific data for cabin crew;
 - (v) the master minimum equipment list.’;

(3) Article 2 is replaced by the following:

Article 2

Certification of products, parts and appliances

1. Products, parts and appliances shall be issued certificates as specified in Annex I (Part 21).
 2. By way of derogation from paragraph 1 of this Article, certificates may be alternatively issued as specified in Annex Ib (Part 21 Light) for the following products:
 - (a) an aeroplane with a maximum take-off mass (MTOM) of 2 000 kg or less and a maximum operational seating configuration of four persons;
 - (b) a sailplane or powered sailplane of 2 000 kg MTOM or less;
 - (c) a balloon;
 - (d) a hot air airship;
 - (e) a passenger gas airship designed for not more than four persons;
 - (f) a rotorcraft of 1 200 kg MTOM or less and a maximum operational seating configuration of four persons;
 - (g) a piston engine or fixed pitch propeller that is intended to be installed on an aircraft referred to in points (a) to (f); or
 - (h) a gyroplane.
 3. By way of derogation from paragraphs 1 and 2 of this Article, a declaration of design compliance may alternatively be made, as specified in Annex Ib (Part 21 Light), for the following products:
 - (a) an aeroplane of 1 200 kg MTOM or less that is not jet-powered and with a maximum operational seating configuration of two persons;
 - (b) a sailplane or a powered sailplane of 1 200 kg MTOM or less;
 - (c) a balloon designed for not more than four persons;
 - (d) a hot air airship designed for not more than four persons.
 4. By way of derogation from paragraphs 1 to 3 of this Article, aircraft, including any installed product, part and appliance, which are not registered in a Member State shall be exempted from the provisions of Subparts H and I of Section A of Annex I (Part 21) and Subparts H and I of Section A of Annex Ib (Part 21 Light). They shall also be exempted from the provisions of Subpart P of Section A of Annex I (Part 21) and Subpart P of Section A of Annex Ib (Part 21 Light), except where aircraft identification marks are prescribed by a Member State.’;
- (4) the following Article 2a is inserted:

‘Article 2a

Transitional arrangements for certificates previously issued under Annex I (Part 21)

1. A holder of a valid type certificate or a supplemental type certificate issued, or deemed to have been issued, by the Agency under Annex I (Part 21) may, until [OP please insert date: **3 years after the date of entry into force**] request to the

Agency to maintain, from a given date, the type design approved under that certificate in accordance with Annex Ib (Part 21 Light), provided that the product covered by that certificate is within the scope of Article 2(2).

2. Where a request is made pursuant to paragraph 1, that type certificate or supplemental type certificate shall be governed, as of the given date referred to in paragraph 1, by the provisions of Annex Ib (Part 21 Light) regarding the type certificates or supplemental type certificates, as applicable. The Agency shall amend the type certificate data sheet or supplemental type certificate data sheet accordingly.’;

(5) in Article 3, paragraphs 3 and 4 are replaced by the following:

- ‘3. With regard to products for which a type-certification process was proceeding through the JAA or a Member State on 28 September 2003, the following shall apply:

- (a) if a product is under certification by several Member States, the most advanced project shall be used as the reference;
- (b) points 21.A.15(a), (b) and (c) of Annex I (Part 21) shall not apply;
- (c) by way of derogation from point 21.B.80 of Annex I (Part 21), the type-certification basis shall be that established by the JAA or, where applicable, the Member State at the date of application for the approval;
- (d) compliance findings made under JAA or Member State procedures shall be deemed to have been made by the Agency for the purposes of compliance with points 21.A.20(a) and (d) of Annex I (Part 21).

4. With regard to products that have a national type certificate, or equivalent, and for which the approval process of a change carried out by a Member State was not finalised at the time when the type certificate had to be approved in accordance with this Regulation, the following conditions shall apply:

- (a) if an approval process is being carried out by several Member States, the most advanced project shall be used as the reference;
- (b) point 21.A.93 of Annex I (Part 21) shall not apply;
- (c) the applicable type-certification basis shall be that established by the JAA or, where applicable, the Member State at the date of application for the approval of change;
- (d) compliance findings made under JAA or Member State procedures shall be deemed to have been made by the Agency for the purposes of compliance with point 21.B.107 of Annex I (Part 21).’;

(6) in Article 8, paragraphs 2 and 3 are replaced by the following:

- ‘2. By way of derogation from paragraph 1 of this Article, a natural or legal person responsible for the design of products whose principal place of business is in a Member State and who applies for or holds a certificate for the design of products, or changes or repairs thereto, in accordance with Article 2(2) may, alternatively, demonstrate their capability in accordance with Annex Ib (Part 21 Light).

3. Natural or legal persons involved in the design of aircraft subject to a declaration of design compliance referred to in Article 2(3) need not demonstrate their capability.’;

(7) in Article 8, the following paragraph 5 is added:

- ‘5. By way of derogation from paragraph 1 of this Article, an organisation whose principal place of business is in a non-Member State may demonstrate its capability by holding a certificate issued by that State for the product, part and appliance for which it applies in accordance with Annex I (Part 21), provided that:

- (a) that State is the State of design;
- (b) the Agency has determined that the system of that State includes the same independent level of checking of compliance as provided by this Regulation, either through an equivalent system of approvals of organisations or through direct involvement of the competent authority of that State.’;

(8) in Article 9, paragraphs 2 and 3 are replaced by the following:

- ‘2. By way of derogation from paragraph 1 of this Article, a natural or legal person whose principal place of business is in a Member State and who is responsible for the manufacture of products and their parts and appliances in accordance with Article 2(2) may alternatively demonstrate their capability in accordance with Annex Ib (Part 21 Light).

3. The demonstration of capability pursuant to paragraphs 1 or 2 shall not be required where the production organisation or natural or legal person are involved in the following manufacturing activities:

- (a) the manufacture of parts or appliances that are eligible, in accordance with Annex I (Part 21), for installation in a type-certified product without the need to be accompanied by an authorised release certificate (that is to say EASA Form 1);
- (b) the manufacture of parts that are eligible, in accordance with Annex Ib (Part 21 Light), for installation in an aircraft that has been subject to a declaration of design compliance without the need to be accompanied by an authorised release certificate (that is to say EASA Form 1);
- (c) the manufacture of an aircraft that has been subject to a declaration of design compliance referred to in Article 2(3), and of parts that are eligible for installation on such aircraft. In such case, the manufacturing activities shall be conducted in accordance with Subpart R of Section A of Annex Ib (Part 21 Light).’;

(9) Article 10 is replaced by the following:

‘Article 10

Agency measures

1. The Agency shall develop acceptable means of compliance (‘AMC’) which competent authorities, organisations and personnel may use to demonstrate

compliance with the provisions of Annex I (Part 21) and Annex Ib (Part 21 Light).

2. The AMC issued by the Agency shall neither introduce new requirements nor alleviate the requirements of Annex I (Part 21) and Annex Ib (Part 21 Light).’;
- (10) Annex I (Part 21) is amended in accordance with Annex I to this Regulation;
- (11) Annex Ib (Part 21 Light) is added as set out in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [*OP please insert date: 1 year after the date of entry into force*].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2.6.2022

For the Commission
The President
Ursula VON DER LEYEN