Commission Delegated Regulation (EU) 2019/897 of 12 March 2019 amending Regulation (EU) No 748/2012 as regards the inclusion of risk-based compliance verification in Annex I and the implementation of requirements for environmental protection (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/897

of 12 March 2019

amending Regulation (EU) No 748/2012 as regards the inclusion of risk-based compliance verification in Annex I and the implementation of requirements for environmental protection

(Text with EEA relevance)

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 3922/91[(1)], and in particular Article 19(1) thereof,

Whereas:

(1) In accordance with Article 77 of Regulation (EU) 2018/1139, the European Union Aviation Safety Agency ('the Agency') is to carry out on behalf of Member States the functions and tasks of the state of design, manufacture or registry related to design certification. In accordance with Article 77(1)(a) in conjunction with Article 62(2)(a) of Regulation (EU) 2018/1139 the Agency is to receive and assess the applications made to it and issues the appropriate certificates. For this purpose the Agency is to establish and notify to the applicant the certification basis, applicable environmental protection requirements and operational suitability data certification basis.

(2) Under Commission Regulation (EU) No 748/2012[(2)] an applicant is to receive a certificate issued by the Agency after it is shown that the product to be certified meets the applicable certification basis including the applicable airworthiness certification specifications and environmental protection requirements. Applicants for those certificates are to demonstrate full compliance with all aspects of the established certification basis. In accordance with Article 83 of Regulation (EU) 2018/1139, the Agency itself, or through national aviation authorities or qualified entities, is to carry out investigations necessary for the performance of its certification tasks. The Agency assesses the applications but it is not required to carry out exhaustive investigation in all cases pursuant to Article 83 of Regulation (EU) 2018/1139. Therefore, in order to better

mitigate any safety risks due to selective investigations and to improve the effectiveness, transparency and predictability of the certification process, certain selection criteria should be provided to allow determining which compliance demonstrations should be verified by the Agency and how exhaustively. Those criteria should be based on the safety oversight and management principles set out in Annex 19 to the Convention on International Civil Aviation (]'the Chicago Convention').

(3) Furthermore, under Regulation (EU) No 748/2012 holders of design organisation approvals are to take certain certification decisions, instead of the Agency, in line with their terms of approval and under the relevant procedures of the design assurance system. Based on the experience with those existing privileges and in order to reduce administrative burden, while considering the risks to aviation safety and environmental protection requirements, holders of design organisation approvals should also be entitled to certify certain major changes to type certificates and issue certain supplemental type certificates. In order to limit risks to aviation safety and having regard to environmental protection requirements, those new privileges should only relate to certification of major changes of a limited novelty and should be granted only to those holders who can correctly exercise those new privileges. The latter should be demonstrated through showing a satisfactory performance in previous similar major changes with the involvement of the Agency.

(4) For reasons of clarity, Annex I to Regulation (EU) No 748/2012 should be amended in such a manner that section A sets out the requirements applicable only to applicants for, and holders of, any certificate issued or to be issued in accordance with that Annex and its section B sets out the requirements applicable only to the competent authorities, including the Agency.

(5) Air operators are to conduct check flights after maintenance to ensure the proper functioning of certain aircraft systems that cannot be verified on the ground. Accidents or serious incidents encountered in the past during those flights reveal that certain maintenance check flights should not be conducted under a certificate of airworthiness (or restricted certificate of airworthiness) but should require a permit to fly. Therefore, flying an aircraft for troubleshooting purposes or to check the functioning of one or more systems, parts or appliances after maintenance should be added to the list of flights for which a permit to fly is required.

(6) Certain inconsistencies of Regulation (EU) No 748/2012 with Regulation (EU) 2018/1139 as regards the content of the type-certification basis and the notification process should be corrected.

(7) Article 9(2) of Regulation (EU) 2018/1139 requires that, as regards noise and emissions, aircraft and their engines, propellers, parts and non-installed equipment are to comply with the environmental protection requirements contained in Amendment 12 of Volume I, in Amendment 9 of Volume II, and in the initial issue of Volume III of Annex 16 to the Chicago Convention, as applicable on 1 January 2018.

(8) Therefore, Annex I to Regulation (EU) No 748/2012 should be adapted to reflect the environmental protection requirements contained in Annex 16 of the Chicago Convention. Furthermore, since Annex 16 of the Chicago Convention provides for

exemptions from the environmental protection requirements for specific engines or aircraft, Regulation (EU) No 748/2012 should provide the possibility for production organisations to apply to their competent authority for exemptions from the environmental requirements.

(9) In addition, in order to eliminate technical issues arising from the application of the standards and recommended practices and related guidance for aircraft and engine certification, certain provisions of Regulation (EU) No 748/2012 should be amended in order to improve their clarity.

(10) Regulation (EU) No 748/2012 should therefore be amended accordingly.

(11) It is necessary to provide sufficient time to all parties concerned to adapt to the amended regulatory framework created as a consequence of the measures laid down in this Regulation.

(12) The measures provided for in this Regulation are based on the opinions 07/2016[(3)], 01/2017[(4)] and 09/2017[(5)] issued by the Agency in accordance with Article 76(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

(1) In Article 1(2), the following point (k) is added:

(k) "Operational Suitability Data (OSD)" means data, which are 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;

(2) In Article 9, the following paragraph 4 is added:

4. By way of derogation from paragraph 1, the production organisation may apply to the competent authority for exemptions from the environmental requirements referred to in the first subparagraph of Article 9(2) of Regulation (EU) 2018/1139[(6)].;

(3) Annex I to Regulation (EU) No 748/2012 is amended in accordance with the Annex to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/897. (See end of Document for details)*

[X1 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 23 March 2020, with the exception of Article 1(2) and point 11, points 13 to 14, points 23 to 26, point 28, point 30, point 21.B.85 in point 40 and point 43 of Annex which shall apply from 23 June 2019.**]**

Editorial Information

X1 Substituted by Corrigendum to Commission Delegated Regulation (EU) 2019/897 of 12 March 2019 amending Regulation (EU) No 748/2012 as regards the inclusion of risk-based compliance verification in Annex I and the implementation of requirements for environmental protection (Official Journal of the European Union L 144, 3 June 2019).

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/897. (See end of Document for details)*

ANNEX

Annex I (Part-21) to Regulation (EU) No 748/2012 is amended as follows:

(1) the table of contents is replaced by the following:

21.1. General

SECTION A TECHNICAL REQUIREMENTS

SUBPART A GENERAL PROVISIONS

21.A.1 Scope

21.A.2 Undertaking by another person than the applicant for, or holder of, a certificate

21.A.3A Failures, malfunctions and defects

21.A.3B Airworthiness directives

21.A.4 Coordination between design and production

SUBPART B TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

21.A.11 Scope

21.A.13 Eligibility

21.A.14 Demonstration of capability

21.A.15 Application

21.A.19 Changes requiring a new type-certificate

21.A.20 Demonstration of compliance with the type-certification basis, operational suitability data certification basis and environmental protection requirements

21.A.21 Requirements for the issuance of a type-certificate or restricted type-certificate

21.A.31 Type design

21.A.33 Inspections and tests

21.A.35 Flight tests

21.A.41 Type-certificate

21.A.44 Obligations of the holder

21.A.47 Transferability

21.A.51 Duration and continued validity

21.A.55 Record-keeping

21.A.57 Manuals

21.A.61 Instructions for continued airworthiness

21.A.62 Availability of operational suitability data

(SUBPART C NOT APPLICABLE)

SUBPART D CHANGES TO TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

21.A.90A Scope

21A.90B Standard changes

21.A.91 Classification of changes to a type-certificate

21.A.92 Eligibility

21.A.93 Application

21.A.95 Requirements for approval of a minor change

21.A.97 Requirements for approval of a major change

21.A.101 Type-certification basis, operational suitability data certification basis and environmental