Commission Regulation (EU) 2015/1039 of 30 June 2015 amending Regulation (EU) No 748/2012 as regards flight testing (Text with EEA relevance)

COMMISSION REGULATION (EU) 2015/1039

of 30 June 2015

amending Regulation (EU) No 748/2012 as regards flight testing

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC[(1)], and in particular Articles 5(5) and 7(6) thereof,

Whereas:

(1) Commission Regulation (EU) No 748/2012[(2)] should be amended in order to regulate, as part of the flight conditions, the competence and experience for pilots and for lead flight test engineers, depending on the complexity of the flight tests performed and of the aircraft, with a view to increasing safety and enhancing the harmonisation of the competency and experience requirements for flight test crew members within the Union.

(2) Requirements for production and design organisations conducting flight testing, a requirement to have a flight test operations manual defining the organisation's policies and the necessary procedures in relation to flight test should also be introduced, so as to promote the safe conduct of flight testing. That manual should include policies and procedures for crew composition and competence, presence on board of persons other than crew members, risk and safety management, identification of instruments and equipment required to be carried.

(3) Commission Regulation (EC) No 2042/2003[(3)] has been recast in the interest of clarity. Since the EASA Form 15a, as laid down in the Appendix II to the Annex I (Part 21) to Regulation (EU) No 748/2012, refers to Regulation (EC) No 2042/2003, it is necessary to update that reference.

(4) It is necessary to provide sufficient time for the aeronautical industry and the Member States to adapt to those requirements. Therefore, appropriate transitional provisions should be provided for. For certain amendments, however, a specific deferred application date should be provided in light of the nature of those amendments.

(5) The measures provided for in this Regulation are based on the opinion issued by the Agency in accordance with Article 19(1) of Regulation (EC) No 216/2008.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/1039. (See end of Document for details)*

(6) The measures provided for in this Regulation are in accordance with the opinion of the European Aviation Safety Agency Committee, established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment

Annex I (Part 21) to Regulation (EU) No 748/2012 is amended in accordance with the Annex to this Regulation.

Article 2

Transitional provisions

1 Member States that at 21 July 2015 issued national licences for flight test crew members other than pilots may continue to do so in accordance with their national law until 31 December 2017. The holders of those licences may continue to exercise their privileges until that date.

2 After 31 December 2017, applicants for or holders of a permit to fly may continue to use the services of pilots engaged in Category Three or Four flight tests referred to in Appendix XII to Annex I to Regulation (EU) No 748/2012 and of flight test engineers that were conducting flight test activities in accordance with the applicable rules of national law before that date. Any such use shall remain limited to the scope of functions of the flight test crew members as established before 31 December 2017.

The scope of functions of the flight test crew member shall be established by the applicant for or holder of a permit to fly that uses or plans to use their services, based on the flight test crew members' flight test experience and training, and on the relevant records of the applicant for or the holder of a permit to fly. That scope of functions of a flight test crew member shall be made available to the competent authority.

Any addition or any other amendment to the scope of the functions established for these flight test crew members by the applicant for or holder of a permit to fly that uses or plans to use their services shall comply with the requirements of Appendix XII to Annex I to Regulation (EU) No 748/2012.

3 Until 31 December 2015, the competent authorities may continue to issue the airworthiness review certificate EASA Form 15a, as laid down in Appendix II to Annex I to Regulation (EU) No 748/2012, in force prior to 21 July 2015. Certificates issued before 1 January 2016 remain valid until they are changed, suspended or revoked.

Article 3

Entry into force and application

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2015/1039. (See end of Document for details)*

It shall apply from 21 July 2015.

However:

(a) points 2 and 3 of the Annex shall apply from 1 January 2016; to the extent reference is made to Appendix XII to Annex I to Regulation (EU) No 748/2012, point (b) applies;

(b) point 6 of the Annex as regards point D of Appendix XII shall apply from 1 January 2018, without prejudice to requirements already resulting from the Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011[(4)].

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

Done at Brussels, 30 June 2015.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/1039. (See end of Document for details)*

ANNEX

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

(1) in the table of contents the following entry is added:

Appendix XII — Categories of flight tests and associated flight test crew qualifications 85;

(2) in point 21.A.143 (a), the following point 13 is added:

13. if flight tests are to be conducted, a flight test operations manual defining the organisation's policies and procedures in relation to flight test. The flight test operations manual shall include:

(i) a description of the organisation's processes for flight test, including the flight test organisation involvement into the permit to fly issuance process;

(ii) crewing policy, including composition, competency, currency and flight time limitations, in accordance with Appendix XII to this Annex I (Part 21), where applicable;

(iii) procedures for the carriage of persons other than crew members and for flight test training, when applicable;

(iv) a policy for risk and safety management and associated methodologies;

(v) procedures to identify the instruments and equipment to be carried;

(vi) a list of documents that need to be produced for flight test.;

(3) in point 21.A.243, point (a) is replaced by the following:

(a) The design organisation shall furnish a handbook to the Agency describing, directly or by cross-reference, the organisation, the relevant procedures and the products or changes to products to be designed. If flight tests are to be conducted, a flight test operations manual defining the organisation's policies and procedures in relation to flight test shall be furnished. The flight test operations manual shall include:

(i) a description of the organisation's processes for flight test, including the flight test organisation involvement into the permit to fly issuance process;

(ii) crewing policy, including composition, competency, currency and flight time limitations, in accordance with Appendix XII to this Annex I (Part 21), where applicable;

(iii) procedures for the carriage of persons other than crew members and for flight test training, when applicable;

(iv) a policy for risk and safety management and associated methodologies;

(v) procedures to identify the instruments and equipment to be carried;

(vi) a list of documents that need to be produced for flight test.;

(4) in point 21.A.708 (b), point 2 is replaced by the following:

2. any conditions or restrictions put on the flight crew to fly the aircraft, in addition to those defined in Appendix XII to this Annex I (Part 21).;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2015/1039. (See end of Document for details)*

(5) Appendix II is replaced by the following:

Appendix II

Airworthiness Review Certificate — EASA Form 15a

[MEMBER STATE]

A Member of the European Union (*)

AIRWORTHINESS REVIEW CERTIFICATE

ARC reference: .....

Pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council for the time being into force, the [COMPETENT AUTHORITY OF THE MEMBER STATE] hereby certifies that the following aircraft:

Aircraft manufacturer: .....

Manufacturer's designation: .....

Aircraft registration: .....

Aircraft serial number: .....

is considered airworthy at the time of the review.

Date of issue: ..... Date of expiry: .....

Airframe Flight Hours (FH) at date of issue (**): .....

Signed: ..... Authorisation No: .....

1st Extension: The aircraft has remained in a controlled environment in accordance with point M.A.901 of Annex I to Commission Regulation (EU) No 1321/2014 for the last year. The aircraft is considered to be airworthy at the time of the issue.

Date of issue: ..... Date of expiry: .....

Airframe Flight Hours (FH) at date of issue (**): .....

Signed: ..... Authorisation No: .....

Company Name: ..... Approval reference: .....

2nd Extension: The aircraft has remained in a controlled environment in accordance with point M.A.901 of Annex I to Commission Regulation (EU) No 1321/2014 for the last year. The aircraft is considered to be airworthy at the time of the issue.

Date of issue: ..... Date of expiry: .....

Airframe Flight Hours (FH) at date of issue (**): .....

Signed: ..... Authorisation No: .....

Company Name: ..... Approval reference: .....

EASA Form 15a Issue 4
(*) Delete for non-EU Member States.
(**) Except for balloons and airships.