Commission Regulation (EU) No 69/2014 of 27 January 2014 amending Regulation (EU) No 748/2012 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 (Text with EEA relevance)

COMMISSION REGULATION (EU) No 69/2014

of 27 January 2014

amending Regulation (EU) No 748/2012 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

(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 Article 5(5) thereof,

Whereas:

(1) Article 5 of Regulation (EC) No 216/2008 dealing with airworthiness was extended to include the elements of operational suitability evaluation into the implementing rules for type-certification.

(2) The European Aviation Safety Agency (the 'Agency') found that it was necessary to amend Commission Regulation (EU) No 748/2012[(2)] in order to allow the Agency to approve operational suitability data as part of the type-certification process.

(3) The Agency prepared draft implementing rules on the concept of operational suitability data and submitted them as an opinion[(3)] to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.

(4) Article 5 of Regulation (EU) No 748/2012 derives from Article 2c of Commission Regulation (EC) No 1702/2003[(4)]. Article 2c of Regulation (EC) No 1702/2003 was introduced for a temporary grandfathering of types that were not grandfathered by Article 2a of Regulation (EC) No 1702/2003. As this transitional regime ended definitively on 28 September 2009, Article 5 of Regulation (EU) No 748/2012 should be deleted.

(5) In order to avoid confusion and legal uncertainty with regard to Article 3, points 21.A.16A, 21.A.16B, 21.A.17, 21.A.31, 21.A.101 and 21.A.174 of Annex I (Part 21) to Regulation (EU) No 748/2012, it is necessary to replace the references to 'airworthiness codes' with 'certification specifications'.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 69/2014. (See end of Document for details)*

(6) In order to avoid confusion and legal uncertainty with regard to points 21.A.4, 21.A.90A, 21.A.90B, 21.A.91, 21.A.92, 21.A.93, 21.A.95, 21.A.97, 21.A.103, 21.A.107, 21.A.109, 21.A.111, 21.A.263 and 21.A.435 of Annex I (Part 21) to Regulation (EU) No 748/2012, it is necessary to replace the references to 'type design' with 'type-certificate'.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) Article 3 is amended as follows:

(a) in paragraph 1, point (a), point (i) is replaced by the following:

(i) its type-certification basis was:

— the JAA type-certification basis, for products that have been certificated under JAA procedures, as defined in their JAA data sheet, or

— for other products, the type-certification basis as defined in the type-certificate data sheet of the State of design, if that State of design was:

— a Member State, unless the Agency determines, taking into account, in particular, certification specifications used and service experience, that such type-certification basis does not provide for a level of safety equivalent to that required by Regulation (EC) No 216/2008 and this Regulation, or

— a State with which a Member State had concluded a bilateral airworthiness agreement or similar arrangement under which such products have been certificated on the basis of the certification specifications of that State of design, unless the Agency determines that such certification specifications or service experience or the safety system of that State of design do not provide for a level of safety equivalent to that required by Regulation (EC) No 216/2008 and this Regulation.

The Agency shall make a first evaluation of the implication of the provisions of the second indent in view of producing an opinion to the Commission including possible amendments to this Regulation;;

(b) in paragraph 2, points (c) and (d) are replaced by the following:

(c) by way of derogation from point 21.A.17A 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 purpose of complying with points 21.A.20(a) and (d) of Annex I (Part 21).;

(2) Article 5 is deleted;

(3) the following Article 7a is inserted:

Article 7a

Operational suitability data

1 The holder of an aircraft type-certificate issued before 17 February 2014 intending to deliver a new aircraft to an EU operator on or after 17 February 2014 shall obtain approval in accordance with point 21.A.21(e) of Annex I (Part 21) except for the minimum syllabus of maintenance certifying staff type rating training and except for aircraft validation source data to support the objective qualification of simulator(s). The approval shall be obtained not later than 18 December 2015 or before the aircraft is operated by an EU operator, whichever is the latest. The operational suitability data may be limited to the model which is delivered.

2 The applicant for an aircraft type-certificate for which the application was filed before 17 February 2014 and for which a type-certificate is not issued before 17 February 2014 shall obtain approval in accordance with point 21.A.21(e) of Annex I (Part 21) except for the minimum syllabus of maintenance certifying staff type rating training and for aircraft validation source data to support the objective qualification of simulator(s). The approval shall be obtained not later than 18 December 2015 or before the aircraft is operated by an EU operator, whichever is the latest. Compliance findings made by the authorities in Operational Evaluation Board processes conducted under the responsibility of the JAA or the Agency before the entry into force of this Regulation shall be accepted by the Agency without further verification.

3 Operational Evaluation Board reports and master minimum equipment lists issued in accordance with JAA procedures or by the Agency before the entry into force of this Regulation shall be deemed to constitute the operational suitability data approved in accordance with point 21.A.21(e) of Annex I (Part 21) and shall be included in the relevant type-certificate. Before 18 June 2014 the relevant type-certificate holders shall propose the Agency a division of the operational suitability data in mandatory data and non-mandatory data.

4 Holders of a type-certificate including operational suitability data shall be required to obtain approval of an extension of the scope of their design organisation approval or procedures alternative to design organisation approval, as applicable, to include operational suitability aspects before 18 December 2015.;

(4) Annex I (Part 21) is amended in accordance with the Annex to this Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 69/2014. (See end of Document for details)*

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*.

Points 16-34 and point 43 of the Annex shall apply to applicants for the approval of a change to a type-certificate as well as applicants for a supplemental type-certificate from 19 December 2016.

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

Done at Brussels, 27 January 2014.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 69/2014. (See end of Document for details)*

ANNEX

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

(1) point 21.A.4 is replaced by the following:

21.A.4 Coordination between design and production

Each holder of a type-certificate, restricted type-certificate, supplemental type-certificate, ETSO authorisation, approval of a change to type-certificate or approval of a repair design, shall collaborate with the production organisation as necessary to ensure:

(a) the satisfactory coordination of design and production required by 21A.122, 21A.130(b)(3) and (4), 21A.133 and 21A.165(c)(2) and (3) as appropriate, and

(b) the proper support of the continued airworthiness of the product, part or appliance.;

(2) in point 21.A.15, the following point (d) is added:

(d) An application for a type-certificate or restricted type-certificate for an aircraft shall include, or be supplemented with, after the initial application, the application for approval of operational suitability data, consisting of, as applicable:

1. the minimum syllabus of pilot type rating training, including determination of type rating;

2. the definition of scope of the aircraft validation source data to support the objective qualification of simulator(s) associated to the pilot type rating training, or provisional data to support their interim qualification;

3. the minimum syllabus of maintenance certifying staff type rating training, including determination of type rating;

4. determination of type or variant for cabin crew and type specific data for cabin crew;

5. the master minimum equipment list; and

6. other type-related operational suitability elements.;

(3) point 21.A.16A is replaced by the following:

21.A.16A Certification specifications

The Agency shall issue in accordance with Article 19 of Regulation (EC) No 216/2008 certification specifications, including certification specifications for operational suitability data, as standard means to demonstrate compliance of products, parts and appliances with the relevant essential requirements of Annex I, III and IV to Regulation (EC) No 216/2008. Such specifications shall be sufficiently detailed and specific to indicate to applicants the conditions under which certificates will be issued, amended or supplemented.;

(4) point 21.A.16B is replaced by the following: