

Proposal for a

COMMISSION REGULATION (EC) No .../..

of [...]

amending Commission Regulation (EC) No 1702/2003, 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 COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ¹ (hereinafter referred to as ‘the Basic Regulation’), and in particular Articles 5 and 6 thereof,

Having regard to Commission Regulation (EC) No 1702/2003 of 24 September 2003, 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 organisations²,

Whereas :

- (1) Attributing a privilege to approved continuing airworthiness management organisations for the issuance of permits to fly is considered contributing to more efficiently dealing with operational needs to perform one or more flights with an aircraft without a valid certificate of airworthiness,
- (2) Continuing airworthiness management organisations are capable of attesting conformity of an individual aircraft with a specified design because they are fully aware of the configuration of the aircraft, for which they bear the responsibility for airworthiness,
- (3) Continuing airworthiness management organisations can already have the privilege to issue airworthiness review certificates based on the knowledge of the configuration of the aircraft for which they bear the responsibility for airworthiness and the envisaged privilege for the issuance of permits to fly is based on a similar technical evaluation,

¹ OJ L 240, 7.9.2002, p.1. Regulation as last amended by Commission Regulation (EC) 1701/2003 of 24 September 2003 (OJ L 243, 27.9.2003, p. 5).

² OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Commission Regulation (EC) No 375/2007 of 30 March 2007 (OJ L 94, 4.4.2007, p. 3).

- (4) It was found necessary to make minor adjustments and editorial corrections to the existing rules for issuance of permits to fly,
- (5) A regulation amending Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks³, is supporting this regulation,
- (6) The measures provided by this Regulation are based on the opinion issued by the Agency⁴ in accordance with Articles 12(2)(b) and 14(1) of the Basic Regulation,
- (7) The measures provided for in this Regulation are in accordance with the opinion⁵ of the European Aviation Safety Agency Committee established by Article 54(3) of the Basic Regulation,
- (8) The Commission Regulation (EC) No 1702/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex (Part 21) to Commission Regulation (EC) 1702/2003 is hereby amended as follows:

- 1) In the table of contents Section A “SUBPART H – AIRWORTHINESS CERTIFICATES” is replaced by the following:
“SUBPART H – CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS”
- 2) In the table of contents Section A “21A.185 Issue of permits to fly” is deleted.
- 3) In the table of contents Section A “(SUBPART P – NOT APPLICABLE)” is replaced by the following:
“SUBPART P – PERMIT TO FLY
21A.701 Scope
21A.703 Eligibility
21A.705 Competent Authority
21A.707 Application for permit to fly
21A.708 Flight conditions
21A.709 Application for approval of flight conditions
21A.710 Approval of flight conditions

³ OJ L 315, 28.11.2003, p. 1. Regulation as last amended by Regulation (EC) No 376/2007 (OJ L 94, 4.4.2007, p. 18).

⁴ [Opinion 04/2007]

⁵ [To be issued.]

21A.711	Issue of a permit to fly
21A.713	Changes
21A.715	Language
21A.719	Transferability
21A.721	Inspections
21A.723	Duration and continued validity
21A.725	Renewal of permit to fly
21A.727	Obligations of the holder of a permit to fly
21A.729	Recordkeeping”

4) In the table of contents Section B “SUBPART H – AIRWORTHINESS CERTIFICATES” is replaced by the following:

“SUBPART H – CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS”

5) In the table of contents Section B “21B.330 - Suspension and revocation of airworthiness certificates” is replaced by the following:

“21B.330 Suspension and revocation of certificates of airworthiness and restricted certificates of airworthiness”

6) In the table of contents Section B “(SUBPART P – NOT APPLICABLE)” is replaced by the following:

“SUBPART P – PERMIT TO FLY

21B.520	Investigation
21B.525	Issue of permits to fly
21B.530	Revocation of permits to fly
21B.545	Record keeping”

7) Subparagraph (k) of paragraph 21A.165 is replaced by the following:

“(k) Where applicable, under the privilege of 21A.163(e), establish compliance with 21A.711(c) and (e) before issuing a permit to fly (EASA Form 20b, see Appendix) to an aircraft.”

8) Subparagraph (c)7 of paragraph 21A.263 is replaced by the following:

“7. To issue a permit to fly in accordance with 21A.711(b) for an aircraft it has designed or modified, or for which it has approved under 21A.263(c)6 the conditions under which the permit to fly can be issued, and when the design organisation itself is controlling under its DOA the configuration of the aircraft and is attesting conformity with the design conditions approved for the flight.”

9) Subparagraph (g) of paragraph 21A.265 is replaced by the following:

“(g) Where applicable, under the privilege of 21A.263(c)7., establish compliance with 21A.711(b) and (e) before issuing a permit to fly (EASA Form 20b, see Appendix) to an aircraft.”

10) Paragraph 21A.701 is replaced by the following:

“21A.701 Scope

(a) Permits to fly shall be issued in accordance with this Subpart to aircraft that do not meet, or have not been shown to meet, applicable airworthiness requirements but are capable of safe flight under defined conditions and for the following purposes:

1. development;
2. showing compliance with regulations or certification specifications;
3. design organisations or production organisations crew training;
4. production flight testing of new production aircraft;
5. flying aircraft under production between production facilities;
6. flying the aircraft for customer acceptance;
7. delivering or exporting the aircraft;
8. flying the aircraft for Authority acceptance;
9. market survey, including customer’s crew training;
10. exhibition and air show;
11. flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a place of storage;
12. flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available;
13. record breaking, air racing or similar competition;
14. flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements has been found;
15. for non-commercial flying activity on individual non-complex aircraft or types for which a certificate of airworthiness or restricted certificate of airworthiness is not appropriate.

(b) This Subpart establishes the procedure for issuing permits to fly and approving associated flight conditions, and establishes the rights and obligations of the applicants for, and holders of, those permits and approvals of flight conditions.”

11) Paragraph 21A.703 is replaced by the following:

“21A.703 Eligibility

(a) Any natural or legal person shall be eligible as an applicant for a permit to fly except for a permit to fly requested for the purpose of 21A.701(a)15 where the applicant shall be the owner.

(b) Any natural or legal person shall be eligible for application for the approval of the flight conditions.”

12) Paragraph 21A.711 is replaced by the following:

“21A.711 Issue of a permit to fly

(a) The Competent Authority shall issue a permit to fly:

1. upon presentation of the data required by 21A.707; and
2. when the conditions of 21A.708 have been approved in accordance with 21A.710; and
3. when the Competent Authority, through its own investigations, which may include inspections, or through procedures agreed with the applicant, is satisfied that the aircraft conforms to the design defined under 21A.708 before flight.

(b) An appropriately approved design organisation may issue a permit to fly (EASA Form 20b, see Appendix) under the privilege granted under 21A.263(c)7., when the conditions of 21A.708 have been approved in accordance with 21A.710.

(c) An appropriately approved production organisation may issue a permit to fly (EASA Form 20b, see Appendix) under the privilege granted under 21A.163(e), when the conditions of 21A.708 have been approved in accordance with 21A.710.

(d) An appropriately approved continuing airworthiness management organisation may issue a permit to fly (EASA Form 20b, see Appendix) under the privilege granted under M.A.711(b)(3) when the conditions of 21A.708 have been approved in accordance with 21A.710.

(e) The permit to fly shall specify the purpose(s) and any conditions and restrictions approved under 21A.710.

(f) For permits issued under subparagraph (b), (c) or (d), a copy of the permit to fly and associated flight conditions shall be submitted to the Competent Authority.

(g) Upon evidence that any of the conditions specified in 21A.723(a) are not met for a permit to fly that an organisation has issued pursuant to subparagraph (b), (c) or (d) that organisation shall revoke that permit to fly.”

13) Subparagraph (a) of paragraph 21A.723 is replaced by the following:

“(a) A permit to fly shall be issued for a maximum of 12 months and shall remain valid subject to:

1. compliance with the conditions and restrictions of 21A.711(e) associated to the permit to fly;
2. the permit to fly not being surrendered or revoked under 21B.530;
3. the aircraft remaining on the same register.”

Article 2
Entry into force

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

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

Done at Brussels,

For the Commission

Member of the Commission