



Brussels, **XXX**
[...](2019) **XXX** draft

ANNEX I TO EASA OPINION No 07/2019

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

of **XXX**

amending Commission Regulation (EU) No 748/2012 as regards the clarification of the status of the instructions for continued airworthiness and the introduction of alleviations that permit the production of certain parts and appliances to be used during maintenance without the need to be accompanied by an authorised release certificate (EASA Form 1)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

In accordance with Regulation (EU) 2018/1139 (the EASA Basic Regulation), the Commission is empowered to adopt delegated acts with regard to the airworthiness of aircraft.

Instructions for continued airworthiness (ICA) have to be produced by design approval holders (DAHs) as part of the product/part certification. If properly implemented, they should ensure that the product/part remains airworthy during its intended life. Experience has shown that the current rules and standards are open to interpretation, leading to differences as regards what qualifies as ICA as well as how they are distributed to organisations which are required to apply them, and therefore may lead to possible safety risks.

Furthermore, parts that are manufactured for installation in an aircraft shall be accompanied by an EASA Form 1, certifying that the part was manufactured in conformity to approved design data. This Form can be issued by an approved production organisation (POA), or by other production organisations, but in the latter case it needs to be validated and countersigned by the competent authority. For parts that have a negligible safety impact, an EASA Form 1 does not provide for additional safety to the aircraft and creates a burden to the aviation industry.

Maintenance companies, operators, continued airworthiness management organisations (CAMOs) and aircraft owners have in some cases difficulties in obtaining certain parts (spare parts or parts that belong to a design change/repair) accompanied with an EASA Form 1, as required. In other cases, an EASA Form 1 is issued ‘artificially’ (that is, by an organisation that did not manufacture the part but has only inspected it, because the part manufacturer does not hold the privilege to issue such form). This is compliant with the airworthiness requirements, but does not meet the regulatory intent that the manufacturer of the part certifies that the part has been manufactured in conformity with the approved design data.

Therefore, it is proposed to amend Commission Regulation (EU) No 748/2012 (the initial airworthiness Regulation) and Commission Regulation (EU) No 1321/2014 (the continuing airworthiness Regulation) in order to:

- establish ICA as part of the type certificate (TC) in order to strengthen the control of the ICA by the DAH, including the amendments to the ICA, and
- legally permit that parts that have a negligible safety impact on the aircraft operation can be manufactured without a production organisation approval (POA) and can be released without an EASA Form 1 and installed on airworthy aircraft.

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 [...]. The draft delegated act is based on EASA Opinion No 07/2019 whose contents had been publicly consulted through Notice of Proposed Amendment (NPA) 2017-19 ‘Installation of parts and appliances that are released without an EASA Form 1 or equivalent’ (RMT.0018) and NPA 2018-01 ‘Instructions for continued airworthiness’ (RMT.0252 (MDM.056)) published by EASA on 14 December 2017 and 29 January 2018 respectively, and also with the affected stakeholders.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Commission is empowered to adopt delegated acts, in accordance with Article 128 of Regulation (EU) 2018/1139, laying down detailed rules with regard to the necessary features and functionalities related to the initial and continuing airworthiness of aircraft.

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

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amending Commission Regulation (EU) No 748/2012 as regards the clarification of the status of the instructions for continued airworthiness and the introduction of alleviations that permit the production of certain parts and appliances to be used during maintenance without the need to be accompanied by an authorised release certificate (EASA Form 1)

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) Commission Regulation (EU) No 748/2012 ⁽²⁾ lays down the requirements for the production and availability of instructions for continued airworthiness as well as for the production of parts and appliances to be installed in civil aircraft.
- (2) Instructions for continued airworthiness have to be produced by design approval holders as part of the product/part certification which, if properly implemented, should ensure that the product/part remains airworthy during its intended life. As there is too much room for interpretation in the current rules and standards, different type-certificate holders have different interpretations of what is a complete set of instructions for continued airworthiness and to what level they are required to control the data that constitutes the instructions for continued airworthiness.
- (3) Therefore, Commission Regulation (EU) No 748/2012 should be amended to include a definition for ‘instructions for continued airworthiness’ and to establish instructions for continued airworthiness as part of the type certificate in order to strengthen the control of the instructions for continued airworthiness by the design approval holder, including the amendments to the instructions for continued airworthiness.
- (4) The requirements for record keeping, manuals and instructions for continued airworthiness are spread among the various subparts of Annex I (Part 21), leading to duplication of similar requirements.

⁽¹⁾ OJ L 212, 22.8.2018, 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).

- (5) Therefore, Commission Regulation (EU) No 748/2012 should be amended to merge the requirements related to record keeping, manuals and instructions for continued airworthiness in the various subparts of Annex I (Part 21) into a single requirement.
- (6) An EASA Form 1 is issued in accordance with point 21.A.307(a) of Annex I (Part 21) to Commission Regulation (EU) No 748/2012 for a part or appliance to certify that the item was manufactured in conformity to approved design data.
- (7) An EASA Form 1 can only be issued by a production organisation which is approved in accordance with Subpart G of Annex I (Part 21) to Commission Regulation (EU) No 748/2012, or which demonstrates the conformity of parts and appliances with the applicable design data in accordance with the procedures established in Subpart F of Annex I (Part 21) to Commission Regulation (EU) No 748/2012. In the latter case, the EASA Form 1 issued by the production organisation also has to be validated by the competent authority.
- (8) For parts and appliances for which their effect on the safety of the operation of aircraft is negligible in case of non-conformity with their design, a high production standard, as certified with an EASA Form 1, does not provide additional safety for air operations, and the issuance of an EASA Form 1 is therefore an administrative burden.
- (9) Commission Regulation (EU) No 748/2012 should therefore be amended to permit the production of certain parts and appliances without the need to certify their conformity with the design data through the issuance of an EASA Form 1 as well as to permit the installation of such parts and appliances in type-certified products.
- (10) The measures provided for in this Regulation are based on Opinion No 07/2019 ⁽³⁾ of the European Union Aviation Safety Agency (EASA) in accordance with Articles 75(2)(b) and 76(1) of Regulation (EU) 2018/1139.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) In Article 9, paragraph 1 is replaced by the following:

‘1. An organisation responsible for the manufacture of products, parts and appliances shall demonstrate its capability in accordance with the provisions of Annex I (Part 21). This demonstration of capability is not required for the parts or appliances that an organisation manufactures which, in accordance with the provisions of Annex I (Part 21), are eligible for installation in a type-certified product without the need to be accompanied by an authorised release certificate (i.e. EASA Form 1).’;
- (2) Annex I (Part 21) is amended in accordance with Annex I to this Regulation.

⁽³⁾ <https://www.easa.europa.eu/document-library/opinions>

Article 2

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply [please insert the date 1 year after its entry into force].

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

Done at Brussels,

For the Commission

The President

[...]