

## Note 2

### **Note on transition provisions of the draft Commission Regulation on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks**

#### **I. General**

1. Following the consultation on the implementing rules a number of comments addressed the issue of transition periods. It seems that in some cases the concept reflected in Article 56 of the Basic Regulation has been misinterpreted. Paragraph 1 of Article 56 only refers to the execution of Agency's certification tasks specified in Article 15 of the Basic Regulation.
2. The draft Commission Regulation on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks includes several transition provisions. Some of them are related to the exercise by Member States of certification task which should normally be executed by the Agency. Others are related to the time at which obligations are imposed on e.g. airworthiness management or maintenance organisations. These transition periods should be distinguished from those referred to in Article 56(2).

#### **II. Article 56 of the Basic Regulation**

3. This provision determines the principle that the Agency shall exercise its certification tasks as from 28 September 2003.
4. Until 28 September 2003 these certification tasks are exercised by the respective Member States.
5. Article 56(2) states that during an additional period of 42 months (i.e. until March 2007) the Member States may however continue to execute such certification tasks on their own behalf by way of derogation from the provisions of Articles 5, 6, 9 and 15 of the Basic Regulation. These certification tasks include the issuance of certificates and approvals. The exercise of these tasks is subject to conditions laid down by the Commission in the implementing rules.
6. It follows that Article 56 addresses the situation where the Agency starts its operation and Member States may temporarily (continue to) exercise certification tasks that should normally be executed by the Agency, as prescribed by the Basic Regulation. Article 56 does not address other kinds of transition periods.

#### **III. Determination of transition mechanisms**

7. Apart from those related to Article 56 of the Basic Regulation, the Commission may determine transition provisions in the implementing rules, i.e. when certain obligations imposed on airworthiness management organisations or maintenance organisations are effective. These transition provisions are not related on Article 56 but to Article 5,

paragraph 4 of the Basic Regulation, which states that the Commission shall adopt implementing rules, specifying *in particular* a number of conditions and responsibilities. There is therefore no obligation to apply the period of 42 months for these transition periods specified in the implementing rules.

#### **a) Grand-fathering**

8. As the intent is to ensure continuity in the transition from the JAA to the EASA system and when differences between JARs and the implementing rules do not affect significant elements, it is considered as a matter of principle that certificates, approvals and licences issued by Member States in accordance with the JAA requirements and procedures should be grand-fathered. This would recognise the efforts effected by Member States in implementing their JAA commitments in accordance with the provisions of Council Regulation (EEC) No 3922/91. It would also minimise the administrative burden for those holding such certificates. Since however there may be slight differences between the exact national basis for certification and the newly adopted rules, a period of one year is provided to allow for rectification of such differences, which do not affect safety and can therefore be assimilated to ‘level 2 findings’.

#### **b) Transition periods**

##### 1) Part-M

9. The transition period for Part-M has been divided into two phases, one for commercial air transport and another for the rest of the provisions of Part-M.
10. For commercial air transport, the content of Part-M is very similar if non identical to the requirements of JAR-OPS in the field of continuing airworthiness. Some commenters did require some time to adapt, as there are some variants. A two year transition for the management of continuing airworthiness of aircraft operated in commercial air transport, ending on 28 September 2005, is considered sufficient to adapt national processes that may diverge slightly from the JAA procedures. Of course, issues pertaining to the handling of the airworthiness certificates are not included in this transition, as they were not addressed in the JAA System.
11. The other issues addressed in Part-M, continuing airworthiness of non commercially operated aircraft and the airworthiness review certificate, often bring about concepts that were not required in the JAA system. For these issues, the transition has been fixed at five years, 28 September 2008, as is usually the case for new requirements in the JAA system.

##### 2) Part-145

12. Three transition provisions are provided for:
  - Competence assessment of staff (as required by the human factors amendment 5 to JAR 145) has been transferred into Part-145 with an associated 2 year transition period giving a compliance date of 28 September 2005.
  - A two year transition period for compliance with Part-66 for aircraft above 5700 kg is provided giving a compliance date of 28 September 2005.
  - A five year transition period for compliance with Part-66 for aircraft 5700 kg and below is provided giving a compliance date of 28 September 2008.

### 3) Part-66

13. The transition periods are the following:

- Part-66 licences for large aircraft mandatory in Part-145 organisations will enter into force on 28 September 2005;
- Part-66 licences for other aircraft mandatory in Part-145 organisations will enter into force on 28 September 2008;
- Part-66 licences for all aircraft other than in a Part-145 organisation mandatory will enter into force on 28 September 2008;
- Member States will be required to issue licences for light aircraft after 28 September 2006.

14. In addition, 66.A.70 includes a conversion provision that allows Member States to convert existing national qualification into Part-66 licences. This provision is not time limited.