



Brussels, **XXX**

[...] (2021) **XXX** draft

Annex IIIa to EASA Opinion No 05/2021

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

of **XXX**

amending Commission Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation (Part 21 Light)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

It has been recognised by the Agency and within Regulation (EU) 2018/1139 that there is a need to have greater proportionality in Commission Regulation (EU) No 748/2012 for the rules relating to the design and production of aircraft that are intended primarily for sports and recreational use. Article 19 of Regulation (EU) 2018/1139 offers some tools for the European Commission to bring in greater proportionality when adopting such rules, and calls, in particular, in recitals (6) and (25) for the possibility for the organisations involved in the design and production of lower-risk aeronautical products to be able to declare the compliance of the design of those products with the relevant industry standards. Article 140(3) Regulation (EU) 2018/1139 provides that the Agency shall make proposals for amendments to Commission Regulation (EU) No 748/2012 and the applicable certification specifications in order to adapt them, as regards aircraft intended primarily for sports and recreational use, to that Regulation.

The rules laid down in this proposal will allow this proportionality to be achieved by:

- (a) the simplification of the requirements and processes that an applicant must follow to achieve type certification (or a supplemental type certificate) for a product intended primarily for sport and recreational aviation;
- (b) the adaptation of the requirements and processes to provide, for certain categories of products, the possibility to declare to the Agency the compliance of the design with a set of predetermined technical specifications instead of obtaining EASA certification of such a product;
- (c) the possibility for organisations involved in the design and production of products intended primarily for sport and recreational aviation to use a declaration, instead of an approval, to attest their design or production capabilities and compliance with the relevant organisational requirements.

A dedicated Annex (Annex IV) to Commission Regulation (EU) No 748/2012 is proposed that provides appropriate measures to regulate this segment of the aviation sector and provide proportionate, cost-efficient and flexible rules. These specific rules avoid creating unnecessary administrative and financial burden for the manufacturers and operators of these lower-risk products while ensuring the necessary levels of safety.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE DELEGATED 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 present draft delegated act was presented to the Air Safety experts group, which includes representatives from the Member States, at its meeting on [...]. The present draft delegated act is based on EASA Opinion No 05/2021 whose contents had been consulted through focused consultation workshops and consultation of draft material with the relevant Advisory Bodies.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Articles 19 and 62(13) of Regulation (EU) 2018/1139 empower the Commission to adopt delegated acts, in accordance with Article 128 of that Regulation, laying down detailed rules with regard to the necessary features and functionalities related to the airworthiness of aircraft and the related certification, oversight and enforcement tasks.

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

of **XXX**

amending Commission Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation (Part 21 Light)

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 Articles 19(1) and 62(13) thereof,

Whereas:

- (1) Commission Regulation (EU) No 748/2012 ⁽²⁾ lays down the requirements for the design and production of civil aircraft, as well as engines, propellers and parts to be installed therein.
- (2) Commission Regulation (EU) No 748/2012 should be amended to provide simple and proportionate rules for sport and recreational aviation as stipulated in recitals (6) and (25) of Regulation (EU) 2018/1139. The amended rules should be proportionate, cost-effective and flexible for this aviation sector and avoid creating unnecessary administrative and financial burdens for the organisations involved in the design and production of such aircraft, while ensuring the necessary level of safety.
- (3) Organisations involved in the design and production of some categories of products used in sport and recreational aviation should be provided with the possibility, as an alternative to design certification, to declare the compliance of the design of an aircraft, and if applicable of the engine and propeller, with the relevant industry standards, where it is considered that this will ensure an acceptable level of safety.
- (4) Organisations involved in the design and production of products used in sport and recreational aviation should also be provided with the possibility to utilise a more proportionate process for the certification of these products than the process provided for in Annex I to Commission Regulation (EU) No 748/2012.
- (5) Organisations involved in the design and production of products used in sport and recreational aviation should be provided with the possibility, as an alternative to an organisational approval, to declare their capability to design and produce products and parts.

⁽¹⁾ OJ L 212, 22.08.2018, 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).

- (6) Environmental protection requirements should be also laid down for the products the design of which is subject to a declaration of design compliance. These environmental protection requirements should be based on requirements contained in Volumes I, II and III to Annex 16 to the Chicago Convention in order to ensure the same, uniform level of environmental protection irrespective of whether a product is subject to type certification or a declaration of design compliance.
- (7) Regulation (EU) No 748/2012 should therefore be amended by introducing a new Annex IV (Part 21 Light)
- (8) Annex I (Part 21) to Commission Regulation (EU) No 748/2012 should also be amended to permit organisations involved in the design and production of products used in sport and recreational aviation to use existing approvals as a means to demonstrate their capability when conducting design and production activities under this new Annex IV.
- (9) A sufficient transition period should be provided for organisations involved in the design and production of aircraft primarily used in sport and recreational aviation to ensure their compliance with the new rules and procedures introduced by this Regulation.
- (10) The measures provided for in this Regulation are based on Opinion No 05/2021 ⁽³⁾, issued by the European Union Aviation Safety Agency in accordance with Article 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) The title of Commission Regulation (EU) No 748/2012 is replaced by the following:

**‘COMMISSION REGULATION (EU) No 748/2012
of 3 August 2012**

**laying down implementing rules for the airworthiness and environmental certification
or declaration of compliance of aircraft and related products, parts and appliances, as
well as for the capability requirements of design and production organisations**

(recast)’;

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

- (2) Article 1 is replaced by the following:

‘Article 1

Scope and definitions

1. This Regulation lays down, in accordance with Articles 19 and 62 of Regulation (EU) 2018/1139, common technical requirements and administrative procedures for the airworthiness and environmental certification of products, parts and appliances specifying:
 - (a) the issue of type certificates, restricted type certificates, supplemental type certificates and changes to those certificates;
 - (b) the issue of certificates of airworthiness, restricted certificates of airworthiness, permits to fly and authorised release certificates;
 - (c) the issue of repair design approvals;
 - (d) the showing of compliance with environmental protection requirements;
 - (e) the issue of noise certificates and restricted noise certificates;
 - (f) the identification of products, parts and appliances;
 - (g) the certification of certain parts and appliances;
 - (h) the certification of design and production organisations;
 - (i) the issue of airworthiness directives;
 - (j) the making of declarations of design compliance and changes to those declarations;
 - (k) the making of declarations of design and production capability.
2. For the purpose of this Regulation, the following definitions shall apply:
 - (a) ‘JAA’ means the ‘Joint Aviation Authorities’;
 - (b) ‘JAR’ means ‘Joint Aviation Requirements’;
 - (c) ‘Part 21’ means the requirements and procedures for the certification of aircraft and related products, parts and appliances, and of design and production organisations laid down in Annex I to this Regulation;
 - (d) ‘Part 21 Light’ means the requirements and procedures for the certification or declaration of design compliance of aircraft intended primarily for sports and recreational use and related products and parts, and declaration of design and production capability of organisations laid down in Annex IV to this Regulation;
 - (e) ‘principal place of business’ means the head office or registered office of the undertaking within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised;
 - (f) ‘article’ means any part and appliance to be used on civil aircraft;

- (g) ‘ETSO’ means European Technical Standard Order. The European Technical Standard Order is a detailed airworthiness specification issued by the European Union Aviation Safety Agency (the ‘Agency’) to ensure compliance with the requirements of this Regulation as a minimum performance standard for specified articles;
- (h) ‘EPA’ means European Part Approval. European Part Approval of an article means that the article has been produced in accordance with approved design data not belonging to the type-certificate holder of the related product, except for ETSO articles;
- (i) ‘ELA1 aircraft’ means the following manned European Light Aircraft:
- (i) an aeroplane with a maximum take-off mass (MTOM) of 1 200 kg or less that is not classified as complex motor-powered aircraft;
 - (ii) a sailplane or powered sailplane of 1 200 kg MTOM or less;
 - (iii) a balloon with a maximum design lifting gas or hot air volume of not more than 3 400 m³ for hot air balloons, 1 050 m³ for gas balloons, 300 m³ for tethered gas balloons;
 - (iv) an airship designed for not more than four occupants and a maximum design lifting gas or hot air volume of not more than 3 400 m³ for hot air airships and 1 000 m³ for gas airships;
- (j) ‘ELA2 aircraft’ means the following manned European Light Aircraft:
- (i) an aeroplane with a maximum take-off mass (MTOM) of 2 000 kg or less that is not classified as complex motor-powered aircraft;
 - (ii) a sailplane or powered sailplane of 2 000 kg MTOM or less;
 - (iii) a balloon;
 - (iv) a hot air airship;
 - (v) a gas airship complying with all of the following characteristics:
 - 3 % maximum static heaviness,
 - non-vectored thrust (except reverse thrust),
 - conventional and simple design of structure, control system and ballonet system,
 - non-power assisted controls;
 - (vi) a rotorcraft with an MTOM not exceeding 600 kg which is of a simple design, designed to carry not more than two occupants, not powered by turbine and/or rocket engines; restricted to VFR day operations;
- (k) ‘operational suitability data (OSD)’ means data, which is part of an aircraft type certificate, restricted type certificate or supplemental type certificate, consisting of all of the following:

- (i) the minimum syllabus of pilot type rating training, including determination of type rating;
- (ii) the definition of scope of the aircraft validation source data to support the objective qualification of simulators or the provisional data to support their interim qualification;
- (iii) the minimum syllabus of maintenance certifying staff type rating training, including determination of type rating;
- (iv) determination of type or variant for cabin crew and type-specific data for cabin crew;
- (v) the master minimum equipment list.’;

(3) Article 2 is replaced by the following:

Article 2

Certification of products, parts and appliances

1. Products, parts and appliances shall be issued certificates as specified in Annex I (Part 21).
2. By way of derogation from paragraph 1, certificates may be alternatively issued as specified in Annex IV (Part 21 Light) for the following products:
 - (a) an aeroplane with a maximum take-off mass (MTOM) of 2 000 kg or less and a maximum operational seating configuration of four persons;
 - (b) a sailplane or powered sailplane of 2 000 kg MTOM or less;
 - (c) a balloon;
 - (d) a hot air airship;
 - (e) a passenger gas airship designed for not more than four persons;
 - (f) a rotorcraft of 1 200 kg MTOM or less and a maximum operational seating configuration of four persons;
 - (g) a piston engine or fixed pitch propeller that is intended to be installed on an aircraft referred to in points (a) to (f); or
 - (h) a gyroplane.
3. By way of derogation from paragraphs 1 and 2, a declaration of design compliance may alternatively be made, as specified in Annex IV (Part 21 Light), for the following products:
 - (a) an aeroplane of 1 200 kg MTOM or less that is not jet-powered and with a maximum operational seating configuration of two persons;
 - (b) a sailplane or a powered sailplane of 1 200 kg MTOM or less;

- (c) a balloon designed for not more than four persons;
 - (d) a hot air airship designed for not more than four persons.
4. By way of derogation from paragraphs 1 to 3, aircraft, including any installed product, part and appliance, which are not registered in a Member State shall be exempted from the provisions of Subparts H and I of Section A of Annex I (Part 21) and Subparts H and I of Section A of Annex IV (Part 21 Light). They shall also be exempted from the provisions of Subpart P of Section A of Annex I (Part 21) and Subpart P of Section A of Annex IV (Part 21 Light), except when aircraft identification marks are prescribed by a Member State.’;

- (4) Article 2a is inserted as follows:

‘Article 2a

Transition arrangements for certificates previously issued under Annex I (Part 21)

1. A holder of a valid type certificate or a supplemental type certificate issued, or deemed to have been issued, by the Agency under Annex I may, until [entry into force + 3 years] request to the Agency that, from a given date, the type design approved under that certificate is maintained in accordance with Annex IV (Part 21 Light), provided that the product covered by that certificate is within the scope of Article 2(2).
 2. In that case, that type certificate or supplemental type certificate shall be governed, as of the given date referred to in the first paragraph, by the provisions of Annex IV (Part 21 Light) related to type certificates or supplemental type certificates, as applicable, instead of the provisions of Annex I (Part 21). The Agency shall accordingly amend the type certificate data sheet or supplemental type certificate data sheet, as applicable, with this information.’;
- (5) in Article 3, paragraphs 3 and 4 are replaced by the following:
- ‘3. With regard to products for which a type-certification process was proceeding through the JAA or a Member State on 28 September 2003, the following shall apply:
 - (a) if a product is under certification by several Member States, the most advanced project shall be used as the reference;
 - (b) points 21.A.15(a), (b) and (c) of Annex I (Part 21) shall not apply;
 - (c) by way of derogation from point 21.B.80 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).
 4. With regard to products that have a national type certificate, or equivalent, and for which the approval process of a change carried out by a Member State was not

finalised at the time when the type certificate had to be in accordance with this Regulation, the following shall apply:

- (a) if an approval process is being carried out by several Member States, the most advanced project shall be used as the reference;
- (b) point 21.A.93 of Annex I (Part 21) shall not apply;
- (c) the applicable type-certification basis shall be that established by the JAA or, where applicable, the Member State at the date of application for the approval of change;
- (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 point 21.B.107 of Annex I (Part 21).’;

(6) in Article 8, paragraphs 2 and 3 are replaced by the following:

- ‘2. By way of derogation from paragraph 1, a natural or legal person responsible for the design of products whose principal place of business is in a Member State and who applies for or holds a certificate for the design of products, or changes or repairs thereto, in accordance with Article 2(2) may alternatively demonstrate their capability in accordance with Annex IV (Part 21 Light).
- 3. The demonstration of capability referred to in paragraphs 1 and 2 is not required in the case of a natural or legal person involved in the design of aircraft subject to a declaration of design compliance referred to in Article 2(3).’;

(7) in Article 8, paragraph 4 is inserted:

- ‘4. By way of derogation from paragraph 1, an organisation whose principal place of business is in a non-Member State may demonstrate its capability by holding a certificate issued by that State for the product, part and appliance for which it applies in accordance with Annex I (Part 21), provided that:
 - (a) that State is the State of design; and
 - (b) the Agency has determined that the system of that State includes the same independent level of checking of compliance as provided by this Regulation, either through an equivalent system of approvals of organisations or through direct involvement of the competent authority of that State.’;

(8) in Article 9, the following paragraphs 2 and 3 are inserted:

- ‘2. By way of derogation from paragraph 1, a natural or legal person whose principal place of business is in a Member State and who is responsible for the manufacture of products and their parts and appliances in accordance with Article 2(2) may alternatively demonstrate their capability in accordance with Annex IV (Part 21 Light).
- 3. The demonstration of capability under paragraph 1 or 2 is not required when the production organisation or natural or legal person is involved in:
 - (a) the manufacture of parts or appliances that are eligible, in accordance with Annex I (Part 21), for installation in a type-certified product without the need

to be accompanied by an authorised release certificate (i.e. EASA Form 1);

- (b) the manufacture of parts that are eligible, in accordance with Annex IV (Part 21 Light), for installation in an aircraft that has been subject to a declaration of design compliance without the need to be accompanied by an authorised release certificate (i.e. EASA Form 1);
- (c) the manufacture of an aircraft that has been subject to a declaration of design compliance referred to in Article 2(3), and of parts that are eligible for installation on such aircraft. In this case, the manufacturing activities shall be conducted in accordance with Subpart R of Annex IV (Part 21 Light).’;

(9) Article 10 is replaced by the following:

Article 10

Agency measures

1. The Agency shall develop acceptable means of compliance (hereinafter called ‘AMC’) that competent authorities, organisations and personnel may use to demonstrate compliance with the provisions of Annex I (Part 21) and Annex IV (Part 21 Light) to this Regulation.
2. The AMC issued by the Agency shall neither introduce new requirements nor alleviate the requirements of Annex I (Part 21) and Annex IV (Part 21 Light) to this Regulation.’

Article 2

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

Article 3

The text set out in Annex II to this Regulation is inserted as Annex IV (Part 21 Light) to Commission Regulation (EU) No 748/2012.

Article 4

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

It shall apply from [*OP please insert date: 1 year after the date of 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
Ursula VON DER LEYEN