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(Acts whose publication is obligatory)

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 tasks****(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 Article 5 and 6 thereof,

Whereas:

- (1) The basic Regulation establishes common essential requirements to provide for a high uniform level of civil aviation safety and environmental protection; it requires the Commission to adopt the necessary implementation rules to ensure their uniform application; it establishes the European Aviation Safety Agency (hereinafter referred to as the 'Agency') to assist the Commission in the development of such implementing rules.
- (2) Existing aviation requirements in the field of maintenance as listed in Annex II to Council Regulation (EEC) No 3922/91 ⁽²⁾ will be repealed as from 28 September 2003.
- (3) It is necessary to adopt common technical requirements and administrative procedures to ensure the continuing airworthiness of aeronautical products, parts and appliances subject to the basic Regulation.
- (4) Organisations and personnel involved in the maintenance of products, parts and appliances should be required to comply with certain technical requirements in order to demonstrate their capability and means of discharging their obligations and associated privileges; the Commission is required to adopt measures to specify conditions of issuing, maintaining, amending, suspending or revoking certificates attesting such compliance.

- (5) The need to ensure uniformity in the application of common technical requirements in the field of continuing airworthiness of aeronautical parts and appliances requires that common procedures be followed by competent authorities to assess compliance with these requirements; the Agency should develop certification specifications to facilitate the necessary regulatory uniformity.
- (6) It is necessary to provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework; it is also necessary to recognise the continuing validity of certificates issued before entry into force of this Regulation, in accordance with Article 57 of the basic Regulation.
- (7) The measures provided by this Regulation are based on the opinion issued by the Agency ⁽³⁾ in accordance with Articles 12(2)(b) and 14(1) of the basic Regulation.
- (8) The measures provided by this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee ⁽⁴⁾ established by Article 54(3) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1***Objective and scope**

1. This Regulation establishes common technical requirements and administrative procedures for ensuring the continuing airworthiness of aircraft, including any component for installation thereto, which are:

- (a) registered in a Member State; or
- (b) registered in a third country and used by an operator for which a Member State ensures oversight of operations.

⁽¹⁾ OJ L 240, 7.9.2002, p. 1; Regulation as last amended by Commission Regulation (EC) No 1701/2003 (OJ L 243, 27.9.2003, p. 5).

⁽²⁾ OJ L 373, 31.12.1991, p. 4; Regulation as last amended by Commission Regulation (EC) No 2871/2000 (OJ L 333, 29.12.2000, p. 47).

⁽³⁾ Opinion of the European Aviation Safety Agency 1/2003, 1 September 2003.

⁽⁴⁾ Opinion of the European Aviation Safety Agency Committee, 23 September 2003.

2. Paragraph 1 shall not apply to aircraft the regulatory safety oversight of which has been transferred to a third country and which are not used by a Community operator, or to aircraft referred to in Annex II to the basic Regulation.

3. The provisions of this Regulation related to commercial air transport are applicable to licensed air carriers as defined by Community law.

Article 2

Definitions

Within the scope of the basic Regulation, the following definitions shall apply:

- (a) 'aircraft' means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;
- (b) 'certifying staff' means personnel responsible for the release of an aircraft or a component after maintenance;
- (c) 'component' means any engine, propeller, part or appliance;
- (d) 'continuing airworthiness' means all of the processes ensuring that, at any time in its operating life, the aircraft complies with the airworthiness requirements in force and is in a condition for safe operation;
- (e) 'JAA' means 'Joint Aviation Authorities';
- (f) 'JAR' means 'Joint Aviation Requirements';
- (g) 'large aircraft' means an aircraft, classified as an aeroplane with a maximum take-off mass of more than 5 700 kg, or a multi-engined helicopter;
- (h) 'maintenance' means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;
- (i) 'organisation' means a natural person, a legal person or part of a legal person. Such an organisation may be established at more than one location whether or not within the territory of the Member States;
- (j) 'pre-flight inspection' means the inspection carried out before flight to ensure that the aircraft is fit for the intended flight.

Article 3

Continuing airworthiness requirements

1. The continuing airworthiness of aircraft and components shall be ensured in accordance with the provisions of Annex I.

2. Organisations and personnel involved in the continuing airworthiness of aircraft and components, including maintenance, shall comply with the provisions of Annex I and where appropriate those specified in Articles 4 and 5.

3. By derogation from paragraph 1, the continuing airworthiness of aircraft holding a permit to fly shall, without prejudice to Community law, be ensured on the basis of the national regulations of the State of registry.

Article 4

Maintenance organisation approvals

1. Organisations involved in the maintenance of large aircraft or of aircraft used for commercial air transport, and components intended for fitment thereto, shall be approved in accordance with the provisions of Annex II.

2. Maintenance approvals issued or recognised by a Member State in accordance with the JAA requirements and procedures and valid before the entry into force of this Regulation shall be deemed to have been issued in accordance with this Regulation. For this purpose, by derogation from the provisions of 145.B.50(2) under Annex II, level 2 findings associated with the differences between JAR 145 and Annex II may be closed within one year. Certificates of release to service and authorised release certificates issued by an organisation approved under JAA requirements during that one-year period shall be deemed to have been issued under this Regulation.

3. Personnel qualified to carry out and/or control a continued airworthiness non-destructive test of aircraft structures and/or components, on the basis of any standard recognised by a Member State prior to the entry into force of this Regulation as providing an equivalent level of qualification, may continue to carry out and/or control such tests.

Article 5

Certifying staff

1. Certifying staff shall be qualified in accordance with the provisions of Annex III, except as provided for in M.A.607(b) and M.A.803 of Annex I and in 145.A.30(j) of and Appendix IV to Annex II.

2. Any aircraft maintenance licence and if any, the technical limitations associated with that licence, issued or recognised by a Member State in accordance with the JAA requirements and procedures and valid at the time of entry into force of this Regulation, shall be deemed to have been issued in accordance with this Regulation.