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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XXX  
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Draft

**COMMISSION REGULATION (EU) No .../2011**

**of [...]**

**amending 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)**

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**COMMISSION REGULATION (EU) No .../...**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC <sup>(1)</sup>,

Whereas:

- (1) In order to subject non-complex motor-powered aircraft, recreational aircraft and related products, parts and appliances to measures that are proportionate to their simple design and type of operation, while maintaining a high uniform level of aviation safety in Europe, it is necessary to introduce changes to requirements and procedures for the certification of recreational aircraft and related products, parts and appliances and of design and production organisations.
- (2) Regulation (EC) No 1702/2003 <sup>(2)</sup> should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are based on the Opinion <sup>(3)</sup> issued by the European Aviation Safety Agency (hereinafter ‘the Agency’) in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008.

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<sup>1</sup> OJ L 79, 19.3.2008, p. 1. Regulation as last amended by Regulation (EC) No 1108/2009 of 21 October 2009 (OJ L 309, 24.11.2009, p. 51).

<sup>2</sup> OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Regulation (EC) No 1194/2009 of 30 November 2009 (OJ L 321, 8.12.2009, p. 5).

<sup>3</sup> Opinion 01/2011 on ‘ELA process’ and ‘standard changes and repairs’.

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1702/2003 is amended as follows:

1. New definitions for ELA1 and ELA2 are added to Article 1 as follows:
  - (j) '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 MTOW or less;
    - (iii) a balloon with a maximum design lifting gas or hot air volume of not more than 3 400 m<sup>3</sup> for hot air balloons, 1 050 m<sup>3</sup> for gas balloons, 300 m<sup>3</sup> for tethered gas balloons;
    - (iv) an airship designed for not more than 4 occupants and a maximum design lifting gas or hot air volume of not more than 3 400 m<sup>3</sup> for hot air airships and 1 000 m<sup>3</sup> for gas airships;
  - (k) '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 MTOW or less;
    - (iii) a balloon;
    - (iv) a hot air ship;
    - (v) a gas airship meeting all of the following elements:
      - 3% maximum static heaviness,
      - Non-vectorred thrust (except reverse thrust),
      - Conventional and simple design of:
        - Structure,
        - Control system,
        - Ballonet system,
      - Non-power assisted controls;
    - (vi) A Very Light Rotorcraft.

*Article 2*

The Annex Part 21 to Regulation (EC) No 1702/2003 is amended in accordance with the Annex to this Regulation.

*Article 3*

This Regulation shall enter into force on the 20th 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*

## ANNEX

The Annex Part 21 to Regulation (EC) No 1702/2003 is amended as follows:

1) Paragraph 21A.14(b) is replaced by the following:

### **21A.14 Demonstration of capability**

‘(b) By way of derogation from paragraph (a), as an alternative procedure to demonstrate its capability, an applicant may seek Agency agreement for the use of procedures setting out the specific design practices, resources and sequence of activities necessary to comply with this Part, when the product is one of the following:

1. an ELA2 aircraft;
2. an engine or propeller installed in ELA2 aircraft;
3. a piston engine;
4. a fixed or adjustable pitch propeller.’

2) A new paragraph 21A.14(c) is introduced as follows:

‘(c) By way of derogation from paragraph (a), an applicant may elect for demonstration of capability by providing the Agency with the certification programme required by 21A.20(b)<sup>4</sup> when the product is one of the following:

1. an ELA1 aircraft;
2. an engine or propeller installed in an ELA1 aircraft.

3) Paragraph 21A.35(b) is replaced by the following:

### **21A.35 Flight Tests**

‘(b) The applicant shall make all flight tests that the Agency finds necessary:

1. to determine compliance with the applicable Type Certification basis and environmental protection requirements, and
2. for aircraft to be certificated under this section, except:
  - (i) sailplanes and powered sailplanes, and
  - (ii) balloons and airships defined in ELA1 or ELA2, and
  - (iii) aeroplanes of 2 722 kg or less Maximum Take-Off Mass (MTOM),

to determine whether there is reasonable assurance that the aircraft, its parts and appliances are reliable and function properly.’

4) Paragraph 21A.90 is replaced by the following:

### **‘21A.90A Scope**

This Subpart establishes the procedure for the approval of changes to type designs and type-certificates, and establishes the right and obligations of the applicants for, and holders of, those approvals. This Subpart also defines standard changes that are not subject to an approval process under this Subpart. In this Subpart, references to type-certificates include type-certificate and restricted type-certificate.’

(5) A new paragraph 21A.90B is introduced as follows:

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<sup>4</sup> 21A.20(b) as proposed in Opinion 01/2010.

### **‘21A.90B Standard changes**

- (a) Standard changes are changes to a type design:
  - 1. in relation to:
    - (i) aeroplanes of 5 700 kg Maximum Take-Off Mass (MTOM) or less;
    - (ii) rotorcraft of 3 175 kg MTOM or less;
    - (iii) sailplanes, powered sailplanes, balloons and airships, as defined in ELA1 or ELA2,
  - 2. that follow design data included in a Certification Specification issued by the Agency, containing acceptable methods, techniques and practices for carrying out and identifying standard changes, including the associated instructions for continuing airworthiness; and
  - 3. that are not in conflict with TC holders data.
- (b) Paragraphs 21A.91 through 21A.109 are not applicable to standard changes.’
- 6) In paragraph 21A.112B point (c) is inserted as follows:
  - ‘(c) By way of derogation from paragraph (a) and (b), an applicant may elect for demonstration of capability through Agency approval of a certification programme detailing the means for compliance demonstration for an STC on an aircraft, engine and propeller defined in paragraph 21A.14(c).’
- 7) Paragraph 21A.116 is replaced by the following:

### **‘21A.116 Transferability**

A supplemental type-certificate shall only be transferred to a natural or legal person that is able to undertake the obligations of 21A.118A and for this purpose has demonstrated its ability to qualify under the criteria of 21A.112B except for ELA1 aircraft for which the natural or legal person has sought the Agency agreement for the use of procedures setting out its activities to undertake these obligations.’

- 8) Paragraph 21A.307 is replaced by the following:

### **‘21A.307 Release of parts and appliances for installation**

A part or appliance shall be eligible for installation in a type-certificated product when it is in a condition for safe operation, and it is:

- (a) accompanied by an authorised release certificate (EASA Form 1), certifying that the item was manufactured in conformity to approved design data and is marked in accordance with Subpart Q; or
- (b) a standard part; or
- (c) a part or appliance of an ELA1 or ELA2 aircraft that is:
  - 1. not life-limited, nor part of the primary structure, nor part of the flight controls; and
  - 2. considered eligible for installation in its own aircraft by the aircraft owner; and
  - 3. marked in accordance with Subpart Q; and
  - 4. identified for installation in the specific aircraft.’
- 9) Paragraph 21A.431 is replaced by the following:

### **‘21A.431A Scope**

- (a) This Subpart establishes the procedure for the approval of repair design, and establishes the rights and obligations of the applicants for, and holders of, those approvals.
  - (b) This Subpart defines standard repairs that are not subject to an approval process under this Subpart.
  - (c) A ‘repair’ means elimination of damage and/or restoration to an airworthy condition following initial release to service by the manufacturer of any product, part or appliance.
  - (d) Elimination of damage by replacing parts or appliances without the necessity for design activity shall be considered as a maintenance task and shall therefore require no approval under this Part.
  - (e) A repair to an ETSO article shall be treated as a change to the ETSO design and shall be processed in accordance with 21A.611.’
- 10) A new paragraph 21A.431B is introduced as follows:

### **‘21A.431B Standard repairs**

- (a) Standard repairs are repairs:
    - (1) in relation to:
      - (i) aeroplanes of 5 700 kg Maximum Take-Off Mass (MTOM) or less;
      - (ii) rotorcraft of 3 175 kg MTOM or less;
      - (iii) sailplanes and powered sailplanes, balloons and airships as defined in ELA1 or ELA2.
    - (2) that follow design data included in a Certification Specification issued by the Agency, containing acceptable methods, techniques and practices for carrying out and identifying standard repairs , including the associated instructions for continuing airworthiness; and
    - (3) that are not in conflict with TC holders data.
  - (b) Paragraphs 21A.432A through 21A.451 are not applicable to standard repairs.’
- 11) Paragraph 21A.432B is replaced by the following:

### **‘21A.432B Demonstration of capability**

- (a) An applicant for a major repair design approval shall demonstrate its capability by holding a design organisation approval, issued by the Agency in accordance with Subpart J.
- (b) By way of derogation from paragraph (a), as an alternative procedure to demonstrate its capability, an applicant may seek Agency agreement for the use of procedures setting out the specific design practices, resources and sequence of activities necessary to comply with this Subpart.
- (c) By way of derogation from paragraph (a) and (b), an applicant may seek Agency agreement for the approval of a certification programme setting out the specific design practices, resources and sequence of activities necessary to comply with this part for a repair on product defined in paragraph 21A.14(c).’

12) Paragraph 21A.441 is replaced by the following:

**‘21A.441 Repair embodiment**

- (a) The embodiment of a repair shall be made in accordance with Part-M or Part-145 as appropriate, or by a production organisation appropriately approved in accordance with Subpart G, under the 21A.163(d) privilege.
- (b) The design organisation shall transmit to the organisation performing the repair all the necessary installation instructions.’