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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, ...  
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Draft

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

**of [...]**

**amending Commission Regulation (EU) No xxxx/2012 laying down technical requirements and administrative procedures related to Air Operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council**

**(Text with EEA relevance)**

Draft

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

**of [...]**

**amending Commission Regulation (EU) No xxxx/2012 laying down technical requirements and administrative procedures related to Air Operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council**

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>, and in particular Articles 8(5) and 10(5) thereof,

Whereas:

- (1) Regulation (EC) No 216/2008 aims at establishing and maintaining a high uniform level of civil aviation safety in Europe. That Regulation provides for the means of achieving that objective and other objectives in the field of civil aviation safety.
- (2) With the replacement of Regulation (EC) No 1592/2002 by Regulation (EC) No 216/2008, Article 5 dealing with airworthiness was extended to include the elements of operational suitability evaluation into the implementing rules for type certification.
- (3) The European Aviation Safety Agency (hereafter referred to as the ‘Agency’) has found it necessary to propose amendments to Regulation (EC) No 1702/2003 in order to allow the Agency to approve operational suitability data as part of the type certification process.
- (4) The operational suitability data will include mandatory elements for Master Minimum Equipment List (MMEL), Flight Crew training and Cabin Crew training which shall be the basis for developing the Minimum Equipment List (MEL) and crew training courses by operators.
- (5) The requirements related to the establishment of MEL, flight crew training and cabin crew training refer to the operational suitability data, but a general provision for the cases where the operational suitability data is not available as well as the necessary transition measures need to be added.
- (6) It is necessary to provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework and to recognise under certain conditions the validity of certificates issued before this Regulation applies.

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<sup>1</sup> OJ L 79, 19.03.2008, p.1.

- (7) The measures provided for in this Regulation are based on the Opinion issued by the Agency<sup>2</sup> in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (8) The measures provided for in this Regulation are in accordance with the Opinion<sup>3</sup> of the European Aviation Safety Agency Committee established by Article 65(3) of Regulation (EC) No 216/2008.
- (9) Commission Regulation (EC) No xxxx/2012<sup>4</sup> should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

*Article 1*

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

1. Article 8 is replaced by the following:

*Article 8*

**MEL**

Minimum equipment lists (MEL) approved before this Regulation applies by the State of Operator or Registry, as applicable, are deemed to be approved in accordance with this Regulation and may continue to be used by the operator having received the approval. After entry into force of this Regulation, any change to such an MEL for which an MMEL is established as part of the operational suitability data in accordance with Regulation (EC) No 1702/2003 shall be carried out in compliance with ORO.MLR.105 at the earliest opportunity but no later than four years after entry into force of this Regulation or two years after the operational suitability data was approved, whichever is the latest. Any change to such an MEL, for which an MMEL has not been established as part of the operational suitability data, shall continue to be based on the relevant MMEL accepted by the State of Operator or Registry as applicable.

2. The following Article 8bis is added:

*'Article 8bis*

**Flight and cabin crew training**

Already operating flight crew and cabin crew members who have completed training in accordance with ORO.FC and ORO.CC that did not include the mandatory elements established in the relevant operational suitability data shall undertake training covering any such mandatory elements. This training shall be undertaken not later than four years after entry into force of this Regulation or two years after the operational suitability data was approved, whichever is the latest.

3. The Annexes III and IV to Commission Regulation (EU) xxxx/2012 are amended as set out in the Annex to this Regulation.

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<sup>2</sup> Opinion 07/2011.

<sup>3</sup> (To be issued).

<sup>4</sup> Upcoming Commission Regulation laying down technical requirements and administrative procedures related to Air Operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, currently in the process of being adopted.

*Article 2*

*Entry into force*

1. This Regulation shall enter into force the 20th day following 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, XXXX.

*For the Commission*

*[...]*

*The President*

## ANNEX

1. Annex III (Part-ORO) to Regulation (EU) xxxx/2012 is amended as follows:
  - a. In point ORO.GEN.160, point (b) is replaced by the following:
    - ‘(b) Without prejudice to paragraph (a), the operator shall report to the competent authority and to the organisation responsible for the design of the aircraft any incident, malfunction, technical defect, exceeding of technical limitations or occurrence that would highlight inaccurate, incomplete or ambiguous information contained in the mandatory part of the operational suitability data established in accordance with Regulation 1702/2003 or other irregular circumstance that has or may have endangered the safe operation of the aircraft and that has not resulted in an accident or serious incident.’
  - b. In point ORO.MLR.105, point (a) is replaced by the following:
    - ‘(a) A minimum equipment list (MEL) shall be established as specified under 8.a.3. of Annex IV to Regulation (EC) No 216/2008, based on the relevant master minimum equipment list (MMEL) as defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003. If an MMEL has not been established as part of the operational suitability data, the MEL may be based on the relevant MMEL accepted by the State of Operator or Registry as applicable.’
  - c. In point ORO.MLR.105(j), point (1) is replaced by the following:
    - ‘(1) the concerned instruments, items of equipment or functions are within the scope of the MMEL as defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003;’
  - d. In point ORO.FC.140, point (a) is replaced by the following:
    - ‘(a) Flight crew members operating more than one type or variant of aircraft shall comply with the requirements prescribed in this Subpart for each type or variant, unless credits related to the training, checking, and recent experience requirements are defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003 for the relevant types or variants.’
  - e. In point ORO.FC.145, point (b) is replaced by the following:
    - ‘(b) When establishing the training programmes and syllabi, the operator shall include the mandatory elements for the relevant type as defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003.’
  - f. In point ORO.FC.220(e), points (2) and (3) are replaced by the following:
    - ‘(2) complete six take-offs and landings in a FSTD not later than 21 days after the completion of the skill test under the supervision of a type rating instructor for aeroplanes (TRI(A)) occupying the other pilot seat. The number of take-offs and landings may be reduced when credits are defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) 1702/2003. If these take-offs and landings have not been performed within 21 days, the operator shall provide refresher training. The content of such training shall be described in the operations manual.

(3) conduct the first four take-offs and landings of the LIFUS in the aeroplane under the supervision of a TRI(A) occupying the other pilot seat. The number of take-offs and landings may be reduced when credits are defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) 1702/2003.'

g. In point ORO.CC.125, point (b) is replaced by the following:

'(b) When establishing the aircraft type specific and the operator conversion training programmes and syllabi, the operator shall include, where available, the mandatory elements for the relevant type as defined in the mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003.'

h. In point ORO.CC.130, point (c) is replaced by the following:

'(c) When establishing a differences training programme and syllabus for a variant of an aircraft type currently operated, the operator shall include, where available, the mandatory elements for the relevant aircraft type and its variants as defined in the operational suitability data established in accordance with Regulation (EC) No 1702/2003.'

i. In point ORO.CC.250(b), point (1) is replaced by the following:

'(1) each aircraft as a type or a variant taking into account, where available, the relevant mandatory part of the operational suitability data established in accordance with Regulation (EC) No 1702/2003 for the relevant aircraft type or variant; and'

2. Annex V (Part-SPA) to Regulation (EU) xxxx/2012 is amended as follows:

a. In point SPA.GEN.105(b), point (2) is replaced by the following:

'(2) that the relevant elements defined in the mandatory part of the operational suitability data (OSD) established in accordance with Regulation (EC) 1702/2003 are taken into account.'

b. Point SPA.GEN.120 is replaced by the following:

**'SPA.GEN.120 Continued validity of a specific approval**

Specific approvals shall be issued for an unlimited duration and shall remain valid subject to the operator remaining in compliance with the requirements associated with the specific approval and taking into account the relevant elements defined in the mandatory part of the operational suitability data (OSD) established in accordance with Regulation (EC) No 1702/2003.'