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COVER NOTE

From:	European Commission
To:	General Secretariat of the Council
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Subject:	COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EU) No 748/2012 as regards flight testing

Delegations will find attached document D035051/02.

Encl.: D035051/02



Brussels, **XXX**
[...] (2015) **XXX** draft

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

of XXX

amending Regulation (EU) No 748/2012 as regards flight testing

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

of **XXX**

amending Regulation (EU) No 748/2012 as regards flight testing

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/EC¹, and in particular Articles 5(5) and 7(6) thereof,

Whereas:

- (1) Commission Regulation (EU) No 748/2012² should be amended in order to regulate, as part of the flight conditions, the competence and experience for pilots and for lead flight test engineers, depending on the complexity of the flight tests performed and of the aircraft, with a view to increasing safety and enhancing the harmonisation of the competency and experience requirements for flight test crew members within the Union.
- (2) Requirements for production and design organisations conducting flight testing, a requirement to have a flight test operations manual defining the organisation's policies and the necessary procedures in relation to flight test should also be introduced, so as to promote the safe conduct of flight testing. That manual should include policies and procedures for crew composition and competence, presence on board of persons other than crew members, risk and safety management, identification of instruments and equipment required to be carried.
- (3) Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks³ has been recast in the interest of clarity. Since the EASA Form 15a, as laid down in the Appendix II to the Annex I (Part 21) to Regulation (EU) No 748/2012, refers to Regulation (EC) No 2042/2003, it is necessary to update that reference.
- (4) It is necessary to provide sufficient time for the aeronautical industry and the Member States to adapt to those requirements. Therefore, appropriate transitional provisions

¹ OJ L 143, 30.4.2004, p. 76.

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).

³ OJ L 315, 28.11.2003, p. 1.

should be provided for. For certain amendments, however, a specific deferred application date should be provided in light of the nature of those amendments.

- (5) The measures provided for in this Regulation are based on the opinion issued by the Agency in accordance with Article 19(1) of Regulation (EC) No 216/2008.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the European Aviation Safety Agency Committee, established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment

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

Article 2

Transitional provisions

1. Member States that at [...] [*The Publication Office will insert the date of the entry into force*] issued national licences for flight test crew members other than pilots may continue to do so in accordance with their national law until 31 December 2017. The holders of those licences may continue to exercise their privileges until that date.
2. After 31 December 2017, applicants for or holders of a permit to fly may continue to use the services of pilots engaged in Category Three or Four flight tests referred to in Appendix XII to Annex I to Regulation (EU) No 748/2012 and of flight test engineers that were conducting flight test activities in accordance with the applicable rules of national law before that date. Any such use shall remain limited to the scope of functions of the flight test crew members as established before 31 December 2017.

The scope of functions of the flight test crew member shall be established by the applicant for or holder of a permit to fly that uses or plans to use their services, based on the flight test crew members' flight test experience and training, and on the relevant records of the applicant for or the holder of a permit to fly. That scope of functions of a flight test crew member shall be made available to the competent authority.

Any addition or any other amendment to the scope of the functions established for these flight test crew members by the applicant for or holder of a permit to fly that uses or plans to use their services shall comply with the requirements of Appendix XII to Annex I to Regulation (EU) No 748/2012.

3. Until 31 December 2015, the competent authorities may continue to issue the certificates, as laid down in Appendix II to Annex I to Regulation (EU) No 748/2012, in force prior to (...) [*The Publication Office will insert the date of the*

entry into force of this Regulation]. Certificates issued before 1 January 2016 remain valid until they are changed, suspended or revoked.

Article 3

Entry into force and application

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 (...) [*The Publication Office will insert the date of the entry into force*]

However:

- (a) points 2 and 3 of the Annex shall apply from 1 January 2016; to the extent reference is made to Appendix XII to Annex I of Commission Regulation (EU) 748/2012, point (b) of this Article applies.
- (b) point 6 of the Annex as regards point D of Appendix XII shall apply from 1 January 2018, without prejudice to requirements already resulting from the Annex I (Part-FCL) to Regulation (EU) No 1178/2011⁴.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

⁴ Commission Regulation (EU) No 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p.1)