

## **P6\_TA(2007)0067**

### **European Aviation Safety Agency \*\*\*I**

**European Parliament legislative resolution of 14 March 2007 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM(2005)0579 – C6-0403/2006 – 2005/0228(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0579)<sup>1</sup>,
  - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0403/2006),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Budgets (A6-0023/2007),
1. Approves the Commission proposal as amended;
  2. Considers that the reference amount indicated in the legislative proposal must be compatible with the ceiling of heading 1a of the financial framework and with the provisions of point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management<sup>2</sup>,
  3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  4. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in OJ.

<sup>2</sup> OJ C 139, 14.6.2006, p. 1.

**POSITION OF THE EUROPEAN PARLIAMENT**

**adopted at first reading on 14 March 2007**

**with a view to the adoption of Regulation (EC) No ... /2007 of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the *Commission*,

Having regard to the Opinion of the European Economic and Social Committee<sup>1</sup>,

Having consulted the Committee of the *Regions*,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,

Whereas:

- (1) The *second* recital 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<sup>3</sup> specifies, inter alia, that appropriate essential requirements should be developed to cover operations of aircraft and flight crew licensing, and application of that Regulation to third country aircraft. Article 7 of that Regulation requires the Commission to submit as soon as possible proposals to the European Parliament and to the Council with regard to the basic principles, applicability and essential requirements regarding personnel and organisation involved in the operation of aircraft.

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<sup>1</sup> OJ C 185, 8.8.2006, p. 106.

<sup>2</sup> Position of the European Parliament of 14 March 2007.

<sup>3</sup> 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) The Community should lay down, in line with standards set by the Convention on Civil Aviation, signed in Chicago on 7 December 1944 (“the Chicago Convention”), essential requirements applicable to persons and organisations involved in the operation of aircraft, as well as to persons and product involved for the training and medical examination of pilots. The Commission should be empowered to develop the necessary implementing rules.
- (3) *The Commission should examine the extent to which powers relating to monitoring compliance with the common rules in the field of civil aviation security should also be transferred to the European Aviation Safety Agency (hereinafter referred to as "the Agency") in future.*
- (4) European citizens should enjoy at all times a high and uniform level of protection. Consequently, third country aircraft operated into, within or out of the territory where the Treaty applies, should be subject to an appropriate oversight at Community level within the limits set by the Chicago Convention.
- (5) It would not be appropriate to subject all aircraft to common rules, in particular aircraft that are of simple design or operate mainly on a local basis, and those that are home-built or particularly rare or only exist in a small number; such aircraft should therefore remain under the regulatory control of Member States. However, proportionate measures should be taken to generally increase the level of safety of *light aircraft*.
- (6) Consideration should notably be given to aeroplanes and helicopters with a low maximum take-off mass and whose performance is increasing, can circulate all over the Community and are produced in an industrial manner, which therefore might be better regulated at Community level to provide for the necessary uniform level of safety and environmental protection.
- (7) The scope of Community action should be clearly defined so that persons, organisations and products subject to this Regulation and its implementing rules can be identified without ambiguity. Such scope should be clearly defined by referring to a list of aircraft to which are exempted from the application of this Regulation.

- (8) Aeronautical products, parts and appliances, operators involved in commercial air transport, as well as pilots and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with essential requirements to be laid down by the Community in line with standards set by the Chicago Convention. The Commission should be empowered to develop the necessary implementing rules.
- (9) Appropriately approved assessment bodies should be entitled to issue licenses to pilots involved in *light aircraft* operations.
- (10) *The Agency* should be authorised to issue certificates or licences to persons, organisations and products subject to this Regulation when centralised action is more efficient than certification at Member State level. The Agency should, for the same reason, be allowed to take the necessary measures related to the operation of aircraft, the qualification of crew or the safety of third country aircraft when this is the best means to ensure uniformity and facilitate the functioning of the internal market.
- (11) The effective functioning of a Community civil-aviation safety scheme in the fields covered by this Regulation requires strengthened co-operation between the Commission, the Member States and the Agency to detect unsafe conditions and take remedial measures as appropriate.
- (12) ***Regulation (EC) No• 2111/2005<sup>1</sup> imposes a duty on the Agency to communicate all information that may be relevant for the updating of the Community list of air carriers which, for safety reasons, are subject to an operating ban in the Community. If the Agency refuses to grant certification to an air carrier under the terms of Regulation (EC) No 1592/2002, it must pass on all information on which this refusal was based, so that the name of the air carrier may be entered, if necessary, on that list.***

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<sup>1</sup> ***Regulation (EC) No• 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).***

- (13) The promotion of a safety culture and the proper functioning of a regulatory system in the fields covered by this Regulation require that incidents and occurrences are spontaneously reported by their witnesses. Such reporting would be facilitated by the establishment of a non-punitive environment, and appropriate measures should be taken by Member States to provide for the protection of such information and of its **reporters**.
- (14) ***This*** Regulation establishes an appropriate and comprehensive framework for the definition and implementation of common technical requirements and administrative procedures in the field of civil aviation. Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation<sup>1</sup> and Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation<sup>2</sup>, in its entirety, should therefore be repealed in due course, without prejudice to the certification or licensing of products, persons and organisations already effected in accordance with those legislative acts.
- (15) The measures provided by this Regulation are based on the opinion issued by *the Agency*<sup>3</sup> in accordance with point (b) of Article 12(2) of Regulation (EC) No 1592/2002 and with Article 14(1) thereof.
- (16) ***Member States are called upon to ensure that the budgets of the national authorities and the fees and charges that they levy are reduced in line with the transfer of responsibilities to the Agency.***
- (17) Regulation (EC) No 1592/2002 should therefore be amended accordingly,

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<sup>1</sup> OJ L 373, 31.12.1991, p. 4. *Regulation as last amended by Regulation (EC) No 1900/2006 of the European Parliament and of the Council (OJ L 377, 27.12.2006, p. 176).*

<sup>2</sup> OJ L 373, 31.12.1991, p. 21.

<sup>3</sup> Opinion of the European Aviation Safety Agency No 3/2004.

HAVE ADOPTED THIS REGULATION:

## CHAPTER I AMENDMENTS TO BASIC REGULATION

### Article 1

Regulation (EC) No 1592/2002 *shall be* amended as follows:

(1) In Article 2(2), the following point (f) *shall be* added:

“(f) to provide a level playing field for all actors in the internal aviation market.”.

(2) Article 3 *shall be* amended as follows:

(a) point (f) *shall be replaced by the following*:

“(f) ‘qualified entity’ means **a body** which may conduct certification tasks under the control and the responsibility of the Agency or of a national aviation authority;”;

(b) the following points (h) to (o) *shall be* added:

“(h) ‘operator’ means any legal or natural person, operating or proposing to operate one or more aircraft;

(i) ‘commercial operation’ means a remunerated aeronautical activity covered by a contract between an operator and a customer, where the customer is not, directly or indirectly, an owner of the aircraft used for the purpose of this contract and the operator is not, directly or indirectly, an employee of the customer;

- (j) 'complex-motor-powered aircraft' means:
- (i) an aeroplane:
    - with a maximum certificated take-off mass exceeding 5 700 kg or;
    - with a maximum approved passenger seating configuration of more than **19** or;
    - certificated for operation with a minimum crew of at least 2 pilots **or**;
  - (ii) a helicopter:
    - with a maximum certificated take-off mass exceeding 3 175 kg or;
    - with a maximum approved passenger seating configuration of more than **9** or;
    - certificated for operation with a minimum crew of at least 2 pilots; or
  - (iii) a tilt rotor aircraft;
- (k) ***'light aircraft' means an aircraft:***
- ***with a maximum take-off mass not exceeding 2 000 kg;***
  - ***with a maximum of 5 passenger seats;***
- (l) ***'light aircraft' operation*** means any non commercial operation with a ***light*** aircraft;
- (m) 'assessment body' means an approved body which may assess conformity of legal or natural persons with the rules established to ensure compliance with the essential requirements laid down in this Regulation and issue the related certificate;

- (n) ‘flight synthetic training device’ means any type of device in which flight conditions are simulated on the ground; they include flight simulators, flight training devices, flight navigation and procedures trainers and basic instrument training devices;
- (o) ‘rating’ means a statement entered on a pilot licence, setting forth special conditions, privileges or limitations pertaining to such licence.”.

(3) Article 4 *shall be* amended as follows:

(a) paragraph 1 *shall be* amended as follows:

(i) point (b) *shall be* replaced by:

“(b) registered in a Member State, unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator; or”;

(ii) point (c) *shall be* replaced by:

“(c) registered in a third country and used by an operator for which a Member State ensures oversight of operations or used into, within or out of the Community by an operator established or residing in the Community; or”;

(iii) the following point (d) *shall be* added:

“(d) registered in a third country, or registered in a Member State which has delegated their regulatory safety oversight to a third country, and used by a third country operator into, within or out of the Community.”;



- (iv) *in paragraph 1*, the words “unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator” *shall be deleted*;
  - (b) the following *paragraphs 1a and 1b shall be inserted*:
    - “1a. Personnel involved in the operations of aircraft referred to in paragraph 1(b) or (c) shall comply with this *Regulation*.
    - 1b.* Operations of aircraft referred to in paragraph 1 (b), (c) or (d) shall comply with this Regulation.”;
  - (c) paragraph 2 *shall be replaced by the following*:
    - “2. Paragraphs 1, 1a and 1b shall not apply to aircraft referred to in Annex II.”.
- (4) Article 5 *shall be* amended as follows:
- (a) paragraph 2 *shall be* amended as follows:
    - (i) in the introductory *wording*, the words “registered in a Member State” *shall be* replaced by “referred to in point (b) of Article 4(1)”;
    - (ii) *in point (d)*, the words “the design, manufacture and maintenance of products” *shall be* replaced by the words “the maintenance of products”;

(iii) the following point (*da*) *shall be* inserted:

“(da) Organisations responsible for the design and manufacture of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.”;

(b) the following paragraph 2a *shall be* added:

“2a. Aircraft referred to in point (a) of Article 4(1) and products, parts and appliances mounted thereon shall comply with points (a), (b) and (*da*) of paragraph 2 of this Article.”;

(c) paragraph 4 *shall be* amended as follows:

(i) *in* point (e) the following points (iv), (v) and (vi) *shall be* added:

“(iv) the minimum syllabus of maintenance certifying staff type rating training to ensure compliance with paragraph (2)(e);

(v) the minimum syllabus of pilot type rating to ensure compliance with Article 6a;

(vi) the master minimum equipment list as appropriate and additional airworthiness specifications for a given type of operation to ensure compliance with Article 6b.”;

- (ii) point (f) *shall be* replaced by the following:
  - “(f) conditions to issue, maintain, amend, suspend or revoke organisation approvals required in accordance with points (d), (da) and (f) of paragraph 2 and conditions under which such approvals need not be requested;”;
- (iii) the following point (j) *shall be* added:
  - “(j) how aircraft referred to in points (c) and (d) of Article 4(1) are to show compliance with the essential requirements.”;
- (d) in paragraph 5, the following point (d) *shall be* added:
  - “(d) do not impose on aircraft referred to in Article 4(1)(c) and (d) requirements which would be incompatible with the ICAO obligations of Member States.”.
- (5) The following Articles 6a and 6b *shall be* inserted after Article 6:

“Article 6a  
Pilot licensing

1. Pilots involved in the operation of aircraft referred to in Article 4(1)(b) and (c) and organisations, flight synthetic training devices and persons involved in the training, testing, checking and medical assessment of pilots shall comply with the essential requirements laid down in Annex III.

2. A pilot may only operate an aircraft if he or she holds a licence and a medical certificate appropriate to the operation performed.

A pilot shall be issued a licence when it is shown that he or she complies with the rules established to ensure compliance with the essential requirements related to theoretical knowledge, practical skill and language proficiency. This licence may be issued by an assessment body when the privileges it confers are limited to *light aircraft* flying.

A pilot shall be issued a medical certificate when it is shown that he or she complies with the rules established to ensure compliance with the essential requirements governing medical fitness. This medical certificate shall be issued by aero medical examiners or aero medical centres; however, in the case of pilots involved in *light aircraft* operations, the certificate may be issued by a general medical practitioner.

The privileges granted to the pilot and the scope of the licence and the medical certificate shall be specified therein.

The requirements of the second and third subparagraphs may be satisfied by the acceptance of licences and medical certificates issued by or on behalf of a third country as far as pilots involved in the operation of aircraft referred to in *Article 4(1)(c)* are concerned.

3. The capability of assessment bodies, pilot training organisations and of organisations responsible for assessing the medical fitness of pilots to discharge the responsibilities associated with their privileges in relation to the issuance of licenses and medical certificates shall be recognised by the issuance of an approval.

Organisation approvals shall be issued when it is shown that the organisation complies with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.

The privileges granted by the approvals shall be specified thereon.

4. A flight synthetic training device used for the training of pilots shall be the subject of a certificate. This certificate shall be issued when it is shown that the device complies with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.

5. A person responsible for providing training for pilots, or for assessing their competence or medical fitness shall hold an appropriate certificate.

That certificate shall be issued when it is shown that the applicant complies with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.

The privileges granted by the certificate shall be specified therein.

6. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article. In doing so, it shall specify in particular:

- (a) the different ratings for pilot's licences and the medical certificates adequate for the different types of activities performed;
- (b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking licences, ratings for licenses, medical certificates, approvals for organisations, assessment bodies and personnel certificates;
- (c) the privileges and responsibilities of the holders of licenses, ratings for licenses, medical certificates, organisation approvals and personnel certificates.

7. When establishing the implementing rules referred to in paragraph 6, the Commission will take specific care that they reflect the state of the art *and best practices, and scientific and technical progress* in the field of pilots training, and that they allow for immediate reaction to established causes of accidents and serious incidents.

Article 6b  
Air operations

1. The operation of aircraft referred to in Article 4(1) (b) (c) and (d) shall comply with the essential requirements laid down in Annex IV.

2. Operators engaged in commercial operations shall demonstrate their capability and means to discharge the responsibilities associated with their privileges.

These capabilities and means shall be recognised through the issuance of a certificate.

The privileges granted to the operator and the scope of the operations shall be specified in the certificate.

The requirement of this paragraph may be satisfied by *the* acceptance of certificates issued by or on behalf of a third country as far as operators involved in the operation of aircraft referred to in Article 4(1)(d) are concerned.

3. Operators engaged in the non-commercial operation of complex motor-powered aircraft shall ***produce a declaration demonstrating*** their capability and means to discharge the responsibilities associated with the operation of the aircraft.

4. Cabin crew involved in the operation of aircraft referred to in Article 4(1)(b) and (c) shall comply with the essential requirements laid down in Annex IV. ***Those involved in commercial operations shall hold an attestation as initially described in point (d) of OPS 1.1005 as set out in the Annex to Regulation (EC) No 1899/2006 of the European Parliament and of the Council\* on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (EU OPS); at the discretion of the Member State, such attestation may be issued by approved operators or training organisations.***

5. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article. In doing so, it shall specify in particular:

- (a) the conditions to operate an aircraft in compliance with the essential requirements laid down in Annex IV;
- (b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the operator's certificate referred to in paragraph 2;
- (c) the privileges and responsibilities of the holders of certificates;
- (d) ***the contents and means of issuing the declarations to be made by operators referred to in paragraph 3 and the conditions and procedures for oversight and inspection in relation to the specific operations described in the declaration;***
- (e) the conditions for issuing, ***mutual recognition of***, maintaining, amending, limiting, suspending or revoking the cabin crew attestation referred to in paragraph 4;
- (f) the conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety in accordance with Article 15b(2).

6. The implementing rules referred to in paragraph 5 shall reflect the state of the art and the best practices in the field of air operations.

The implementing rules shall also take into account worldwide aircraft experience in service, and scientific and technical progress.

They shall allow for immediate reaction to established causes of accidents and serious incidents.

They shall not impose on aircraft referred to in Article 4(1)(c) and (d) requirements which would be incompatible with the ICAO obligations of Member States.

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\* *OJ L 377, 27.12.2006, p. 1.*”.

(6) Article 7 *shall be* replaced by the following:

“Article 7  
Collective oversight

1. Member States and the Agency shall co-operate in ensuring through appropriate collection, including ramp inspection, and sharing of information that the provisions of this Regulation and its implementing rules are actually implemented.

***2. If a Member State or the Agency obtains information proving that a certificate issued by another Member State does not comply with this Regulation or its implementing provisions in a way which could seriously threaten safety, they shall immediately communicate their findings to the other Member States and to the Commission.***

3. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of paragraph 1, specifying in particular the following conditions:

- (a) conditions for the collection, exchange and dissemination of information;
- (b) conditions for conducting ramp inspections, including systematic ones;
- (c) conditions for the grounding of aircraft that do not comply with the requirements of this Regulation or its implementing rules.”.

(7) In Article 8, paragraph 2 *shall be* replaced by the following:

***“2. The Commission, on its own initiative or at the request of a Member State or of a national aviation authority, may initiate the procedure referred to in Article 54(4) to decide whether a certificate issued in accordance with this Regulation effectively complies with it and its implementing rules.***



*In case of non-compliance or ineffective compliance, the Commission shall require the issuer of the certificate to take appropriate corrective action and safeguard measures, such as limitation or suspension of the certificate. Moreover, the provisions of paragraph 1 shall cease to apply to the certificate as from the date of the notification of the Commission's decision to the Member States.*

*3. When the Commission has sufficient evidence that appropriate corrective action has been taken by the issuer referred to in paragraph 2 to address the case of non compliance or ineffective compliance and that the safeguard measures are no longer necessary, it shall decide that the provisions of paragraph 1 apply to this certificate. These provisions shall apply as from the date of notification of this decision to the Member States.*

*4. Pending adoption of the implementing rules referred to in Articles 5(4) and 6a(6), and without prejudice to Article 57(2), certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations.*

*5. Pending adoption of the implementing rules referred to in Article 6b(5), and without prejudice to Article 57(2), certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations or, when applicable, on the basis of the relevant requirements of Regulation (EEC) No 3922/91.*

*6. The provisions of this Article shall be without prejudice to Regulation (EC) No 2111/2005 and its implementing rules."*

- (8) *In Article 9, paragraph 1 shall be replaced by the following:*

“1. By way of derogation from the provisions of this Regulation and the rules adopted for its implementation, the Agency, within its fields of competence, shall issue certificates on the basis of certificates issued by aeronautical authorities of a third country, as provided for in recognition agreements between the Community and that third country.”.

- (9) The following Article 9a *shall be* inserted after Article 9:

“Article 9a  
Qualified entities

***When allocating a specific certification task to a qualified entity, the Agency or the national aviation authority concerned shall ensure that such entity*** comply with the criteria laid down in *Annex V*.”.

- (10) Article 10 *shall be* replaced by the following:

“Article 10  
Flexibility provisions

1. The provisions of this Regulation and of rules adopted for its implementation shall not prevent a Member State from reacting immediately to an unforeseen safety problem which involves a product, person or organisation subject to the provisions of this Regulation.

The Member State shall immediately notify to the Agency, the Commission and the other Member States the measures taken and the reasons therefor.

2. Pursuant to Article 16(3), the Agency may determine, within one month of being notified in accordance with *paragraph 1*, whether the safety problem can be addressed within the framework of this Regulation and its implementing rules, provided the Commission has not raised objections within the same period. The Agency shall then take the appropriate decision, with copy to the Commission and the other Member States.

If, on the other hand, the Agency determines that the safety problem is the result of a shortcoming in, or an inadequate level of safety resulting from the application of, this Regulation or its implementing rules, it shall then develop and issue an opinion on whether this Regulation or its implementing rules shall be amended and whether the measures shall be revoked or maintained. In accordance with the procedure referred to in Article 54(3), the Commission may make a decision on the basis of this opinion. If the measures are to be continued, they shall be implemented by all Member States and the provisions of Article 8 shall apply to them.

3. Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided that the level of safety is not adversely affected thereby. The Agency, the Commission and the other Member States shall be notified of any such exemptions as soon as they become repetitive or where they are granted for periods of more than two months.

4. Pursuant to Article 16(3), the Agency shall determine within one month of being notified in accordance with paragraph 3 of this Article, whether the exemptions comply with the general safety objectives of this Regulation or any other rule of Community law. The Agency shall issue an opinion to the Commission.

On the basis of this opinion and in accordance with the procedure referred to in Article 54(4), the Commission may make a decision on the revocation of these exemptions.

5. Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means, a Member State may, without discrimination on grounds of nationality, grant approval derogating from those implementing rules.

In such cases, the Member State shall notify the Agency and the Commission that it intends to grant such approval and shall give reasons demonstrating the need to derogate from the rule concerned, as well as the conditions laid down to ensure that an equivalent level of protection is achieved.

6. Pursuant to Article 16(3), within two months of being notified in accordance with paragraph 5 of this Article, the Agency shall issue an opinion on whether the proposed approval fulfils the conditions laid down in that paragraph.

Within one month of receiving the Agency's opinion, the Commission may initiate the procedure referred to in Article 54(3), in order to decide whether the proposed approval can be granted or must be rejected. If the approval can be granted, the Commission shall notify its decision to all Member States, which shall also be entitled to apply that measure. The provisions of Article 8 shall apply to the measure in question.”.

(11) In Article 11, paragraph 4 shall be replaced by the following:

“4. In order to inform the public of the general safety level, a safety review shall be published annually by the Agency. From the entry into force of the implementing rules referred to in Article 7(3), this safety review shall contain an analysis of all information received in accordance with Article 7. This analysis shall be simple and easy to understand and shall indicate whether there is an increased safety risk to air passengers. In this analysis, the sources of information shall be concealed.”.

- (12) The following Article 11a *shall be* inserted after Article 11:

“Article 11a

Protection of the source of information

1. When information referred to in *Article 11(1)* has been provided by a natural person on a voluntary basis *to the Commission or the Agency*, the reports shall not reveal the source of such information ***shall not be revealed. When the information has been provided to a national authority, the source of such information shall be protected in accordance with national legislation.***

2. Without prejudice to the applicable rules of *criminal* law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in pursuance of this Regulation and its implementing rules.

This rule shall not apply in cases of gross negligence.

3. ***Without prejudice to the applicable rules of criminal law, and in*** accordance with the procedures defined in their national laws and practices, Member States shall ensure that employees who provide information in application of this Regulation and its implementing rules are not subjected to any prejudice by their employer. ***This rule shall not apply*** in cases of gross negligence.

4. This Article shall apply without prejudice to national rules relating to access to information by judicial authorities.”.

- (13) Article 13 *shall be* amended as follows:

(a) point (c) *shall be* replaced by the following:

“(c) take the appropriate decisions for the application of Articles 9a, 15, 15a, 15b and 46;”;

- (b) the following point (d) *shall be* added:
- “(d) issue the reports following standardisation inspections carried out pursuant to Articles 16(1) and 45.”.
- (14) *Article 14(2)(a) shall be replaced by the following:*
- “(a) *certification specifications and acceptable means of compliance; and*”
- (15) *Article 15 shall be* amended as follows:
- (a) paragraph 1 *shall be* amended as follows:
- (i) the *introductory wording shall be* replaced by the following:
- “With regard to products, parts and appliances referred to in *Article 4(1)(a)* and (b), the Agency shall, where applicable and as specified in the Chicago Convention or its Annexes, carry out on behalf of Member States the functions and tasks of the State of design, manufacture or registry when related to design approval. *To that end, it shall in particular:*”;
- (ii) point (e) *shall be* replaced by the following:
- “(e) conduct, itself or through national aviation authorities or qualified entities, technical investigations associated with products, parts and appliances certification;”;
- (iii) point (i) *shall be* replaced by the following:
- “(i) amend, suspend or revoke the relevant certificate when the conditions according to which it was issued by the Agency are no longer fulfilled or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules;”;

- (iv) the following points (k) *and* (l) *shall be* added:
  - “(k) for each aircraft for which a permit to fly is requested for a single flight, establish the appropriate limitations;
  - (l) issue permits to fly to aircraft when such permits are required for the execution of a series of flights.”;
- (b) paragraph 2 *shall be* amended as follows:
  - (i) in point (b), *point* (ii) *shall be* replaced by the following:
    - “(ii) production and maintenance organisations located within the territory of the Member States, if requested by the Member State concerned; or”;
  - (ii) point (c) *shall be* replaced by the following:
    - “(c) amend, suspend or revoke the relevant organisation certificate when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.”.
- (16) The following Articles 15a and 15b *shall be* inserted after Article 15:
  - “Article 15a  
Personnel certification
  - 1. With regard to personnel and organisations referred to in Article 6a(1), the Agency shall:

- (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the organisations and assessment bodies it certifies;
- (b) issue and renew the certificates of:
  - (i) personnel training organisations and aero-medical centres located within the territory of the Member States, if requested by the Member State concerned; or
  - (ii) personnel training organisations and aero-medical centres located outside the territory of the Member States; or
  - (iii) assessment bodies if requested by such bodies;
- (c) amend, limit, suspend or revoke the relevant organisation certificate when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

2. With regard to flight synthetic training devices referred to in Article 6a(1), the Agency shall:

- (a) conduct, itself or through national aviation authorities or qualified entities, technical inspections of the devices it certifies;
- (b) issue and renew the certificates of:
  - (i) flight synthetic training devices used by training organisations certified by the Agency; or



- (ii) flight synthetic training devices located within the territory of the Member States, if requested by the Member State concerned; or
  - (iii) flight synthetic training devices located outside the territory of the Member States;
- (c) amend, limit, suspend or revoke the relevant certificate when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

#### Article 15b

##### Air Operator certification

1. With regard to operators engaged in commercial operations, the Agency shall:
  - (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the operators it certifies;
  - (b) issue and renew the certificates of:
    - (i) operators located within the territory of the Member States, if requested by the Member State concerned; or
    - (ii) operators located outside the territory of the Member States, unless a Member State carries out the functions and tasks of the State of operator for these operators;

- (c) amend, limit, suspend or revoke the relevant operator's certificate when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.
- 2. The Agency may mandate by means of an operational directive that an operation shall be prohibited, limited or subject to certain conditions in the interest of safe operations.
- 3. With regard to flight time limitation the Agency shall:
  - (a) issue the applicable certification specifications to ensure compliance with the essential requirements and, as appropriate, the related implementing rules. In particular, with regard to commercial transportation by aeroplane, pending adoption of the related implementing rules referred to in Article 6b(5), the Agency shall issue the applicable certification specifications to ensure compliance with Subpart Q of Annex III to *Regulation (EEC) No 3922/91*.
  - (b) approve individual flight time specification schemes of operators when such schemes cannot be approved under an applicable certification specification.”.
- (17) In Article 16, paragraphs 1 and 2 *shall be* replaced by the following:
  - “1. The Agency shall conduct standardisation inspections in the fields covered by Article 1(1), in order to monitor the application by national competent authorities of this Regulation and of its implementing rules, and shall report to the Commission.
  - 2. The Agency shall conduct technical investigations of undertakings to monitor the application of this Regulation and its implementing rules, having regard to the objectives set out in Article 2.”.

(18) *The following Article 16a shall be inserted:*

*"Article 16a*

*Fines*

1. *When taking the decisions referred to in Article 13(c), the Agency may:*
  - (a) *impose, on the persons and undertakings to which it has itself issued a certificate, fines, where, intentionally or negligently, the provisions of this Regulation and its implementing rules have been breached;*
  - (b) *impose, on the persons and undertakings to which it has itself issued a certificate, periodic penalty payments, calculated from the date set in the decision, in order to compel them to comply with the provisions of this Regulation or its implementing rules.*
2. *The fines and periodic penalty payments referred to in paragraph 1 shall be dissuasive and proportionate to both the gravity of the case and the economic capacity of the certificate holder concerned, taking into particular account the extent to which safety has been compromised.*
3. *Decisions taken pursuant to paragraph 1 shall not be of a criminal law nature.*
4. *The amount of the fines and periodic penalty payments collected by the Agency shall be deducted from the contribution referred to in Article 48(1)a.*
5. *The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article, specifying in particular:*
  - (a) *the provisions of the implementing rules breach of which shall be subject to the application of a fine and a periodic penalty payment;*

- (b) *the maximum amount of fines and periodic penalty payments;*
- (c) *the conditions for the application of fines and periodic penalty payments, including the criteria for the fixation of the amount.*

**6. When establishing the criteria for the fixation of the amount of the fines and periodic penalty payments, the Commission shall take into account the revenues of persons and undertakings on whom they are imposed."**

- (19) In Article 18(2), the following subparagraph *shall be* added:

“Working arrangements shall comply with Community law and shall duly take into account Community foreign policy vis-à-vis third countries. They shall have received the Commission’s prior approval.”.

- (20) ***In Article 20, the following paragraph 1a shall be inserted:***

***"1a. Article 12(2)(e) and Article 82(3)(e) of the Conditions of employment of other servants of the European Communities shall not apply until 36 months after the date of recruitment of temporary staff and contract staff."***

- (21) In Article 24, paragraph 2 *shall be* amended as follows:

- (a) point (b) *shall be* replaced by the following:

“(b) adopt the annual general report on the Agency’s activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures ***and in particular information in connection with the effects or consequences of changes in the tasks attributed to the Agency;***”;

(b) *point (c) shall be replaced by the following:*

“(c) *before 30 September each year, and after receiving the opinion of the Commission, adopt the Agency's programme of work for the coming year and forward it to the European Parliament, the Council, the Commission and the Member States; this programme of work shall be adopted without prejudice to the annual Community budgetary procedure and the Community legislative programme in relevant areas of aviation security; the opinion of the Commission shall be attached to the Agency's adopted programme of work;*”;

(c) *point (d) shall be replaced by the following:*

“(d) *adopt guidelines for the allocation of certification tasks to national aviation authorities and qualified entities in agreement with the Commission;*”.

(22) **Article 25** *shall be amended as follows:*

(a) *paragraph 1 shall be replaced by the following:*

“1. The Management Board shall be composed of one representative of each Member State and one representative of the Commission ***who shall be selected on the basis of their recognized experience in the field of civil aviation and their managerial capabilities.*** To this effect, the Council ***having consulted the European Parliament,*** shall designate a representative from each Member State as well as an alternate who will represent the member in his/her absence ***and who shall not be involved in the application of this Regulation and of rules adopted for its implementation.*** The Commission shall also designate its representative and alternate. The duration of the terms of office shall be five years. This term of office shall be ***renewable.***”;

(b) the following paragraph 3 *shall be* added:

“3. In the interests of transparency, four representatives of interested parties shall sit on the Management Board, as observers. They shall be designated by the Commission among a list laid down by the advisory body referred to in Article 24(4), and represent, as broadly as possible, the different parties represented in this advisory body. The duration of their term of office shall be thirty months, renewable once.”.

(23) *Article 26(2) shall be* replaced by the following:

“2. *The term of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of the terms of office of the Chairperson or Deputy Chairperson shall be three years.* These terms of office shall be renewable once.”.

(24) *Article 28(2) shall be* replaced by the following:

“2. Each member designated *pursuant to Article 25(1)* shall have one vote. The representative from the Commission shall have an equal number of votes in total to **25% of** the number of members designated by the Council. Neither the representatives of interested parties nor the Executive Director of the Agency shall vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to **vote**.”.

(25) *Article 29(3) shall be* amended as follows:

(a) point (a) *shall be* replaced by the following:

“(a) to approve the measures of the Agency as defined in Article 13 within the limits specified by this Regulation, its implementing rules and any applicable law;”;

(b) point (b) *shall be* replaced by the following:

“(b) to organize inspections and investigations as provided for in Articles 45 and 46;”;

(c) the following points (k) and (l) *shall be* added:

“(k) to prepare and to implement the annual programme of work;

(l) to respond to requests for assistance from the Commission.”.

(26) Article 30 *shall be* amended as follows:

(a) *paragraph 1 shall be replaced by the following:*

“1. The Executive Director of the Agency shall be appointed on grounds of merit and documented competence and experience relevant for civil aviation, or dismissed by the Management Board on the proposal of the Commission. The Management Board shall take its decision by a three-quarters majority of its members. Before being appointed, the candidate selected by the Management Board may be asked to make a declaration before the competent committee or committees of the European Parliament and answer questions from its, or their, members.”;

(b) Paragraph 4 *shall be* replaced by the following:

“4. The term of office of the Executive Director and of the Directors shall be five years. On a proposal from the Commission and after an evaluation, their term of office may be extended once, for a period of not more than five years. In the evaluation the Commission shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Agency’s duties and requirements in the coming years.”.

- (27) In Article 35, paragraph 1 *shall be* replaced by the following:
- “1. An appeal may be brought against decisions of the Agency which have been taken pursuant to Articles 9a, 15, 15a, 15b, 46 or 53.”.
- (28) Article 41 *shall be* amended as follows:
- (a) *Paragraph 1 shall be* replaced by the following:
- “1. Actions may be brought before the Court of Justice for the annulment of acts carried out by the Agency which are legally binding on third parties, for failure to act and for damages caused by the Agency in the course of its activities.”;
- (b) *Paragraph 2 shall be* replaced by the following:
- “2. Actions for the annulment of decisions of the Agency which have been taken pursuant to Articles 9a, 15, 15a, 15b, 46 or 53 may be brought before the Court of Justice only after all the appeal procedures within the Agency have been exhausted.”.
- (29) In Article 45, the introductory part of paragraph 1 *shall be* replaced by the following:
- “1. Without prejudice to the enforcement powers conferred by the Treaty on the Commission, the Agency shall assist the Commission in monitoring the application of this Regulation and its implementing rules, by conducting standardisation inspections of Member States competent authorities as specified in Article 16(1). The officials authorised under this Regulation, in co-ordination with the national authorities, are thus empowered, in compliance with the legal provisions of the Member State concerned:”.



(30) Article 46 *shall be* amended as follows:

(a) the *introductory wording* of paragraph 1 *shall be* replaced by the following:

“1. For the application of Articles 15, 15a and 15b, the Agency may itself conduct or allocate to national aviation authorities or qualified entities all necessary investigation of undertakings as specified in Article 16(2). *Investigations shall be carried out in compliance with the legal provisions of the Member States in which they are to be undertaken. To that end, the persons authorised under this Regulation are empowered:*”;

(b) the following paragraph 1a *shall be* inserted:

“1a. For the application of Article 9a, the Agency may itself conduct or allocate to national aviation authorities all necessary investigation of qualified entities as specified in Article 16(2).”.

(31) The following Articles 46a and 46b *shall be* inserted after Article 46:

“Article 46a

Annual programme of work

The annual programme of work shall comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation. ***It shall clearly indicate which mandates and tasks of the Agency have been added, changed or removed in comparison with the previous year.***

The presentation of the annual programme of work shall be based on the methodology developed by the Commission as part of Activity-Based Management.

Article 46b

Annual general report

The annual general report shall describe the way in which the Agency has implemented its annual programme of work. ***It shall clearly describe any effects or consequences of changes in the tasks attributed to the Agency.***

The report shall outline the activities conducted by the Agency and evaluate the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operations of the Agency.”.

(32) In Article 47, the following *paragraph 6 shall be added*:

“6. The information gathered by the Agency in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data\*.

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\*OJ L 8, 12.1.2001, p.1.”.

(33) Article 48 *shall be* amended as follows:

(a) Paragraph 1 *shall be* replaced by the following:

“1. The revenues of the Agency shall consist of:

- (a) a contribution from the Community;
- (b) a contribution from any European third country with which the Community has concluded agreements referred to in Article 55;
- (c) the fees paid by applicants for, and holders of, certificates and approvals issued by the Agency;
- (d) charges for publications, training and any other services provided by the Agency.

The Agency may ***not*** receive ***any*** financial contribution from Member States, third countries or other entities.”;

(b) *The following paragraph 5a shall be inserted:*

***"5a. The budget for regulatory activities and the fees set and collected for certification activities must be decided separately and dealt with separately in the Agency's budget."***

(34) In Article 53, *paragraphs 2 to 4 shall be replaced by the following:*

***"2. The fees and charges regulation shall determine in particular the matters for which fees and charges pursuant to Article 48(1)(c) and (d) are due, the amount of the fees and charges and the way in which they are to be paid."***

**3. Fees and charges shall be levied for:**

- (a) the issuing and renewal of certificates, as well as the related continuing oversight functions of organisations, except for the continuing airworthiness of products;**
- (b) the provision of services; they shall reflect the actual cost of each individual provision;**
- (c) the processing of appeals.**

**All fees and charges shall be expressed, and payable, in euro.**

**4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient to cover the full cost of the services delivered."**

- (35) Article 56(3) shall be replaced by the following:**

**"3. Fees for type certification and other fees must not be disproportionately higher than before the establishment of the Agency."**

- (36) Annex II shall be replaced by the text set out in point (1) of the Annex to this Regulation.**

- (37) Annexes III, IV and V, as shown in point (2) of the Annex to this Regulation, shall be added.**

## CHAPTER II FINAL PROVISIONS

### Article 2 Repeal

1. *Directive 91/670/EEC shall be repealed as from the entry into force of the implementing rules referred to in Article 6a(6) of Regulation (EC) No 1592/2002.*
2. *Annex III to Regulation (EEC) No 3922/91 shall be deleted as from the entry into force of the implementing rules referred to in Article 6b(5) of Regulation (EC) No 1592/2002.*
3. The provisions of Article 8 *of Regulation (EC) No 1592/2002* shall apply to products, parts and appliances, organisations and persons whose certification has been performed, or recognised, in accordance with the provisions *of Directive 91/670/EEC and Annex III to Regulation (EEC) No 3922/91.*

### Article 3 Entry into force

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

For the European Parliament  
The President

For the Council  
The President

## ANNEX

- (1) *Annex II to Regulation (EC) No 1592/2002 shall be replaced by the following:*

### “ANNEX II

Aircraft referred to in Article 4(2)

Aircraft to which Article 4(1), (1a) and (1b) do not apply are aircraft that are within one or more of the categories of this annex set out below:

- (a) historic aircraft meeting the criteria below:
  - (i) non complex aircraft whose:
    - initial design was established before 1.1.1955 and
    - production has been stopped before 1.1.1975.
  - or
  - (ii) aircraft having a clear historical relevance, related to:
    - a participation in a noteworthy historical event; or
    - a major step in the development of aviation; or
    - a major role played into the armed forces of a Member State.
- (b) aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers;

- (c) aircraft of which at least 51 % is built by an amateur, or a non-profit making association of amateurs, for their own purposes and without any commercial objective;
- (d) aircraft that have been in the service of military forces, unless the aircraft is of a type for which a design standard has been adopted by the Agency;
- (e) aeroplanes, helicopters and powered parachutes having no more than two seats, a maximum take-off mass (MTOM), as recorded by the Member States, of no more than:
  - (i) 300 kg for a land plane/helicopter, single-seater; or
  - (ii) 450 kg for a land plane/helicopter, two-seater; or
  - (iii) 330 kg for an amphibian or floatplane/helicopter single-seater; or
  - (iv) 495 kg for an amphibian or floatplane/helicopter two-seater, provided that, where operating both as a floatplane/helicopter and as a land plane/helicopter, it falls below both MTOM limits, as appropriate;
  - (v) 472,5 kg for a land plane, two-seater equipped with an airframe mounted total recovery parachute system;
  - (vi) 315 kg for a land plane single-seater equipped with an airframe mounted total recovery parachute system;
  - (vii) 600 kg for ultra light aircraft for non-commercial operation;**

and, for aeroplanes, having the stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS);

- (f) single and two-seater gyroplanes with a maximum take off mass not exceeding 560 kg;
  - (g) gliders with a maximum empty mass, of less than 80kg when single-seater or 100 kg when two-seater, including those which are foot launched;
  - (h) replicas of aircraft meeting the criteria of (a) or (d) above, for which the structural design is similar to the original aircraft;
  - (i) unmanned aircraft with an operating mass of less than 150 kg;
  - (j) any other aircraft which has a maximum empty mass, including fuel, of less than 70 kg.”.
- (2) The following Annexes III, IV and V *shall be added to Regulation (EC) No 1592/2002*:

“ANNEX III

Essential requirements for pilot licensing referred to in Article 6a

- 1. Training
  - 1.a. General
    - 1.a.1. A person undertaking training to fly an aircraft must be sufficiently mature educationally, physically and mentally to acquire, retain and demonstrate the relevant theoretical knowledge and practical skill.
  - 1.b. Theoretical Knowledge



1.b.1. A pilot must acquire and maintain a level of knowledge appropriate to the functions exercised on the aircraft and proportionate to the risks associated to the type of activity. Such knowledge must include at least the following:

- (i) air law;
- (ii) aircraft general knowledge;
- (iii) technical matters related to the category of the aircraft;
- (iv) flight performance and planning;
- (v) human performance and limitations;
- (vi) meteorology;
- (vii) navigation;
- (viii) operational procedures, including resource management;
- (ix) principles of flight; and
- (x) communications.

1.c. Demonstration and maintenance of theoretical knowledge

1.c.1. The acquisition and retention of theoretical knowledge must be demonstrated by continuous assessment during training, and where appropriate, by examinations.

1.c.2. An appropriate level of competence in theoretical knowledge must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

1.d. Practical skill

1.d.1. A pilot must acquire and maintain the practical skills as appropriate to exercise his/her functions on the aircraft. Such skills must be proportionate to the risks associated to the type of activity and must cover, if appropriate to the functions exercised on the aircraft, the following:

- (i) pre-flight and in-flight activities, including aircraft performance, mass and balance determination, aircraft inspection and servicing, fuel planning, weather appreciation, route planning, airspace restrictions and runway availability;
- (ii) aerodrome and traffic pattern operations;
- (iii) collision avoidance precautions and procedures;
- (iv) control of the aircraft by external visual reference;
- (v) flight manoeuvres, including in critical situations, and associated “upset” manoeuvres, as technically achievable;
- (vi) normal and cross-wind take-offs and landings;
- (vii) flight by reference solely to instruments, as appropriate to the type of activity;
- (viii) operational procedures, including team skills and resource management, as appropriate to the type of operation, whether single or multi-crew;
- (ix) navigation and implementation of rules of the air and related procedures, using as appropriate, visual reference or navigation aids;

- (x) abnormal and emergency operations, including simulated aircraft equipment malfunctions;
  - (xi) compliance with air traffic services and communications procedures;
  - (xii) aircraft type or class specific aspects; and
  - (xiii) additional practical skill training that may be required to mitigate risks associated with specific activities.
- 1.e. Demonstration and maintenance of practical skill
- 1.e.1. A pilot must demonstrate the ability to perform the procedures and manoeuvres with a degree of competence appropriate to the functions exercised on the aircraft, by:
- (i) operating the aircraft within its limitations;
  - (ii) completing all manoeuvres with smoothness and accuracy;
  - (iii) exercising good judgement and airmanship;
  - (iv) applying aeronautical knowledge; and
  - (v) maintaining control of the aircraft at all times in a manner such that the successful outcome of a procedure or manoeuvre is assured.
- 1.e.2. An appropriate level of competence in practical skill must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

1.f. Language Proficiency

Except where the related safety risk can be mitigated by other means, a pilot must have demonstrated proficiency in English, which must include:

- (i) the ability to understand weather information documents;
- (ii) the use of aeronautical en-route, departure and approach charts and associated aeronautical information documents; and
- (iii) the ability to communicate with other flight crew and air navigation services in English during all phases of flight, including flight preparation.

1.g. Flight synthetic training devices

When a flight synthetic training device (FSTD) is used for training, or for demonstration that practical skill is acquired or maintained, this FSTD must be qualified to a given level of performance in those areas, which are relevant to completing the related task. In particular, the replication of configuration, handling qualities, aircraft performance, and systems behaviour must adequately represent the aircraft.

1.h. Training Course

1.h.1. Training must be executed through a training course.

1.h.2. A training course must meet the following conditions:

- (i) a syllabus must be developed for each type of course; and
- (ii) the training course must comprise a breakdown of theoretical knowledge and practical flight instruction (including synthetic training ), if applicable.

1.i. Instructors

1.i.1. Theoretical instruction.

Theoretical instruction must be given by appropriately qualified instructors. They must:

- (i) have appropriate knowledge in the field where instruction is to be given; and
- (ii) be capable of using appropriate instructional techniques.

1.i.2. Flight and synthetic flight instruction.

Flight and synthetic flight instruction must be given by appropriately qualified instructors, who have the following qualifications:

- (i) meet the theoretical knowledge and the experience requirements appropriate for the instruction being given;
- (ii) be capable of using appropriate instructional techniques;
- (iii) have practised instructional techniques in those flight manoeuvres and procedures in which it is intended to provide flight instruction;
- (iv) have demonstrated the ability to instruct in those areas in which flight instruction is to be given, including pre-flight, post-flight and ground instruction; and
- (v) receive regular refresher training to ensure that the instructional standards are maintained up to date.

Flight instructors must also be entitled to act as pilot in command on the aircraft for which instruction is being given, except for training on new aircraft types.

1.j. Examiners

1.j.1. Persons responsible for assessing the competence of pilots must:

- (i) meet or have met the requirements for flight instructors;
- (ii) be capable of assessing pilot performance and conducting flight tests and checks.

2. Training Organisations

2.a. Training Organisation requirements

2.a.1. A training organisation providing pilot training must meet the following requirements:

- (i) have all the means necessary for the scope of responsibilities associated with their activity. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
- (ii) implement and maintain a management system relating to safety and the standard of training, and aim for continuous improvement of this system; and
- (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the above requirements.

3. Medical fitness

3.a. Medical criteria

- 3.a.1. All pilots must periodically demonstrate medical fitness to satisfactorily execute their functions, taking into account the type of activity. Compliance must be shown by appropriate assessment based on aero-medical best practice, taking into account the type of activity and the possible mental and physical degradation due to age.

Medical fitness, comprising physical and mental fitness, means not suffering from any disease or disability, which makes the pilot unable:

- (i) to execute the tasks necessary to operate an aircraft; or
- (ii) to perform assigned duties at any time; or
- (iii) to perceive correctly his/her environment.

- 3.a.2. Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent flight safety may be implemented.

3.b. Aero-medical examiners

3.b.1 An aero-medical examiner must:

- (i) be qualified and licensed in the practice of medicine;
- (ii) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained;
- (iii) have acquired practical knowledge and experience of the conditions in which pilots carry out their duties.

3.c Aero-medical Centres

3.c.1 Aero-medical centres must meet the following conditions:

- (i) have all the means necessary for the scope of responsibilities associated with their privileges. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
- (ii) implement and maintain a management system relating to safety and the standard of medical assessment, and aim for continuous improvement of this system;
- (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with these requirements.

## ANNEX IV

### Essential requirements for air operations referred to in Article 6b

1. General

- 1.a. A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto.



- 1.b. A flight must be performed in such a way that the operating procedures specified in the Flight Manual or, where required the Operations Manual, for the preparation and execution of the flight are followed. To facilitate this, a checklist system must be available for use, as applicable, by crew members in all phases of operation of the aircraft under normal, abnormal and emergency conditions and situations. Procedures must be established for any reasonably foreseeable emergency situation.
- 1.c. Before every flight, the roles and duties of each crew member must be defined. The pilot in command must be responsible for the operation and safety of the aircraft and for the safety of all crew members, passengers and cargo on board.
- 1.d. Articles or substances, which are capable of posing a significant risk to health, safety, property or the environment, such as dangerous goods, weapons and ammunition, must not be carried on any aircraft, unless specific safety procedures and instructions are applied to mitigate the related risks.
- 1.e. All necessary data, documents, records and information to record the respect of the conditions specified in point 5.c must be retained for each flight and kept available for a minimum period of time compatible with the type of operation.
- 2. Flight preparation
  - 2.a. A flight must not be commenced unless it has been ascertained by every reasonable means available that all the following conditions are complied with:
    - 2.a.1. Adequate facilities directly required for the flight and for the safe operation of the aircraft, including communication facilities and navigation aids, are available for the execution of the flight, taking into account available AIS documentation.

- 2.a.2. The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient related information regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers using specified information.
- 2.a.3. The pilot in command must be satisfied that:
- (i) the aircraft is airworthy as specified in point 6;
  - (ii) if required, the aircraft is duly registered and that appropriate certificates with respect thereto are aboard the aircraft;
  - (iii) instruments and equipment as specified in point 5 required for the execution of that flight are installed in the aircraft and are operative, unless waived by the applicable MEL or equivalent document;
  - (iv) the mass of the aircraft and centre of gravity location are such that the flight can be conducted within limits prescribed in the airworthiness documentation;
  - (v) all cabin baggage, hold luggage and cargo is properly loaded and secured; and
  - (vi) the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight.
- 2.a.4. Information regarding meteorological conditions for departure, destination and, where applicable, alternate aerodromes, as well as en-route conditions, must be available to the flight crew. Special attention must be given to potentially hazardous atmospheric conditions.
- 2.a.5. In case of flight into known or expected icing conditions, the aircraft must be certified, equipped and/or treated to operate safely in such conditions.

- 2.a.6. For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with these flight rules possible. For a flight based on instrument flight rules a destination and where applicable alternate aerodrome(s) where the aircraft can land must be selected, taking into account in particular the forecasted meteorological conditions, the availability of air navigation equipment, the availability of ground facilities and the instrument flight procedures approved by the State in which the destination and/or alternate aerodrome is located.
- 2.a.7 The amount of fuel and oil on board must be sufficient to ensure that the intended flight can be completed safely, taking into account the meteorological conditions, any element affecting the performance of the aircraft and any delays that are expected in flight. In addition, a fuel reserve must be carried to provide for contingencies. Procedures for in-flight fuel management must be established when relevant.
- 3. Flight operations
- 3.a. With regard to flight operations, all the following conditions must be complied with:
  - 3.a.1. Taking into account the type of aircraft, during take-off and landing, and whenever deemed necessary by the pilot in command in the interest of safety, each crew member must be seated at their crew station and must use the provided restraint systems, taking into account the type of aircraft.
  - 3.a.2. All flight crew members required to be on flight deck duty must be and remain at their station, with their seatbelts fastened except en-route for physiological or operational needs.
  - 3.a.3. Taking into account the type of aircraft, before take-off and landing, during taxiing and whenever deemed necessary in the interest of safety, the pilot in command must ensure that each passenger occupies a seat or berth with the safety belt properly secured.

- 3.a.4. A flight must be performed in such a way that appropriate separation from other aircraft is maintained and that adequate obstacle clearance is ensured, during all phases of the flight. Such separation must at least be those required by the applicable rules of the air.
- 3.a.5. A flight must not be continued unless known conditions continue to be at least equivalent to those in point 2. Furthermore, for a flight based on instrument flight rules, an approach toward an aerodrome must not be continued below certain specified heights or beyond a certain position, if prescribed visibility criteria are not met.
- 3.a.6. In an emergency, the pilot in command must ensure that all passengers are instructed in such emergency action as may be appropriate to the circumstances.
- 3.a.7. A pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour.
- 3.a.8. An aircraft must not be taxied on the movement area of an aerodrome, or its rotor must not be turned under power, unless the person at the controls is appropriately qualified.
- 3.a.9. The applicable in-flight fuel management procedures must be used, when relevant.
- 4. Aircraft performance and operating limitations
  - 4.a. An aircraft must be operated in accordance with its airworthiness documentation and all related operating procedures and limitations as expressed in its approved flight manual or equivalent documentation, as the case may be. The flight manual or equivalent documentation must be available to the crew and kept up to date for each aircraft.
  - 4.b. The aircraft must be operated in accordance with the applicable environmental documentation.

- 4.c. A flight must not be commenced or continued unless the aircraft's scheduled performance, considering all factors which significantly affect its performance level, allows all phases of flight to be executed within the applicable distances/areas and obstacle clearances at the planned operating mass. Performance factors which significantly affect take-off, en-route and approach/landing are, particularly:
- (i) operating procedures;
  - (ii) pressure altitude of the aerodrome;
  - (iii) temperature;
  - (iv) wind;
  - (v) size, slope and condition of the take-off/landing area; and
  - (vi) the condition of the airframe, the power plant or the systems, taking into account possible deterioration.
- 4.c.1. Such factors must be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data, as appropriate to the type of operation.
5. Instruments, data and equipment
- 5.a. An aircraft must be equipped with all navigation, communication and other equipment necessary for the intended flight, taking account of air traffic regulations and rules of the air applicable during any phase of the flight.

- 5.b. When relevant, an aircraft must be equipped with all necessary safety, medical, evacuation and survival equipment, taking account of the risks associated to the areas of operation, the routes to be flown, the flight altitude and the duration of the flight.
- 5.c. All data necessary for the execution of the flight by the crew must be updated and available on board the aircraft taking account of applicable air traffic regulations, rules of the air, flight altitudes and areas of operation.
- 6. Continuing Airworthiness
  - 6.a. The aircraft must not be operated unless:
    - (i) the aircraft is in an airworthy condition;
    - (ii) the operational and emergency equipment necessary for the intended flight is serviceable;
    - (iii) the airworthiness document of the aircraft is valid; and
    - (iv) the maintenance of the aircraft is performed in accordance with its maintenance programme.
  - 6.b. Before each flight, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.
  - 6.c. The maintenance programme must contain in particular, maintenance tasks and intervals, especially those that have been specified as mandatory in the instructions for continuing airworthiness.
  - 6.d. The aircraft must not be operated unless it is maintained and released to service by persons or organisations qualified for these tasks. The signed release to service must contain in particular, the basic details of the maintenance carried out.

- 6.e. All records demonstrating the airworthiness of the aircraft must be kept until the information contained has been superseded by new information equivalent in scope and detail but not less than one year in the case of detailed maintenance records. When an aircraft is permanently withdrawn from service, a minimum period of 90 days applies. When the aircraft is leased, all records demonstrating the airworthiness of the aircraft must be kept at least for the length of the lease.
- 6.f. All modifications and repairs must comply with the essential requirements for airworthiness. The substantiating data supporting compliance with the airworthiness requirements must be retained.
- 7. Crew members
  - 7.a. The number and composition of the crew must be determined taking into account:
    - (i) the certification limitations of the aircraft, including if applicable, the relevant emergency evacuation demonstration;
    - (ii) the aircraft configuration; and
    - (iii) the type and duration of operations.
  - 7.b. Cabin crew members must:
    - (i) be trained and checked on a regular basis to attain and maintain an adequate level of competency in order to perform their assigned safety duties; and
    - (ii) be periodically assessed for medical fitness to safely exercise their assigned safety duties. Compliance must be shown by appropriate assessment based on aero medical best practice.

- 7.c. The pilot in command must have the authority to give all commands and take any appropriate actions for the purpose of securing the operation and the safety of the aircraft and of persons and/or property carried therein.
- 7.d. In an emergency situation, which endangers the operation or the safety of the aircraft and/or persons on board, the pilot in command must take any action he/she considers necessary in the interest of safety. When such action involves a violation of local regulations or procedures, the pilot in command must be responsible for notifying the appropriate local authority without delay.
- 7.e. Emergency abnormal situations must not be simulated when passengers or cargo are being carried.
- 7.f. No crew member must allow their task achievement/decision making to deteriorate to the extent that flight safety is endangered because of the effects of fatigue, fatigue accumulation, sleep deprivation, number of sectors flown, night hours, etc. Rest periods must provide sufficient time to enable crew members to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.
- 7.g. A crew member must not perform allocated duties on board an aircraft when under the influence of psychoactive substances or alcohol or when unfit due to injury, fatigue, medication, sickness or other similar causes.
- 8. Additional requirements for operation for commercial purposes and operation of complex motor-powered aircraft.
- 8.a. The operation for commercial purposes and the operation of complex motor-powered aircraft must not be undertaken unless the following conditions are met:



- 8.a.1. the operator must have directly or indirectly through contracts the means necessary for the scale and scope of the operations. These means comprise but are not limited to the following: aircraft, facilities, personnel, equipment, documentation of tasks, responsibilities and procedures, access to relevant data and record keeping.
- 8.a.2. the operator must use only properly qualified and trained personnel and implement and maintain training and checking programmes for the crew members and other relevant personnel.
- 8.a.3. the operator must establish a Minimum Equipment List (MEL) or equivalent document, taking account of the following:
  - (i) the document must provide for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight;
  - (ii) the document must be prepared for each individual aircraft, taking account of the operator's relevant operational and maintenance conditions; and
  - (iii) the MEL must be based on the Master Minimum Equipment List (MMEL), if available, and must not be less restrictive than the MMEL;
- 8.a.4. the operator must implement and maintain a management system to ensure compliance with these essential requirements for operations and aim for continuous improvement of this system; and
- 8.a.5. the operator must establish and maintain an accident prevention and safety programme, including an occurrence reporting programme, which must be used by the management system in order to contribute to the aim of continuous improvement of the safety of operations.

- 8.b. The operation for commercial purposes and the operation of complex motor-powered aircraft must only be undertaken in accordance with an operator's Operations Manual. Such manual must contain all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. Limitations applicable to flight time, flight duty periods and rest periods for crew members must be specified. The Operations manual and its revisions must be compliant with the approved Flight manual and be amended as necessary.
- 8.c. The operator must establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.
- 8.d. The operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:
- (i) security of the flight crew compartment;
  - (ii) aircraft search procedure checklist;
  - (iii) training programmes;
  - (iv) protection of electronic and computer systems to prevent intentional system interference and corruption; and
  - (v) reporting acts of unlawful interference.

When security measures may adversely affect the safety of operations, the risks must be assessed and appropriate procedures developed to mitigate safety risks, this may necessitate the use of specialist equipment.

- 8.e. The operator must designate one pilot amongst the flight crew as the pilot in command.

- 8.f. The prevention of fatigue must be managed through a rostering system. For a flight, or series of flights, such a rostering system needs to address flight time, flight duty periods, duty and adapted rest periods. Limitations established within the rostering system must take into account all relevant factors contributing to fatigue such as, in particular, number of sectors flown, time zone crossing, sleep deprivation, disruption of circadian cycles, night hours, positioning, cumulative duty time for given periods of time, sharing of allocated tasks between crew members, and also the provision of augmented crews.
- 8.g. The tasks specified in point 6.a and those described in points 6.d. and 6.e. must be controlled by an organisation responsible for the continuing airworthiness management that must meet, in addition to those requirements of Annex I point 3.a, the following conditions:
- (i) the organisation must be qualified for the maintenance of products parts and appliances under its responsibility or have established a contract with such a qualified organisation for these products, parts and appliances; and
  - (ii) the organisation must establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation including when applicable a description of administrative arrangements between the organisation and the approved maintenance organisation.
- 8.h. ***Implementing rules for the requirements specified under points 8.a to 8.f must be based on a risk assessment and must be proportional to the scale and scope of the operation.***

## ANNEX V

### Criteria for qualified entities referred to in Article 9a

1. The entity, its Director and the staff responsible for carrying out the checks, may not become involved, either directly or as authorised representatives, in the design, manufacture, marketing or maintenance of the products, parts, appliances, constituents or systems or in their operations, service provision or use. This does not exclude the possibility of an exchange of technical information between the involved organisations and the qualified entity.
2. The entity and the staff responsible for the certification tasks must carry out their duties with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgment or the results of their investigations, in particular from persons or groups of persons affected by the results of the certification tasks.
3. The entity must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the certification process; it should also have access to the equipment needed for exceptional checks.
4. The staff responsible for investigation must have:
  - sound technical and vocational training;
  - satisfactory knowledge of the requirements of the certification tasks they carry out and adequate experience of such processes;
  - the ability required to draw up the declarations, records and reports to demonstrate that the investigations have been carried out.

5. The impartiality of the investigation staff must be guaranteed. Their remuneration must not depend on the number of investigations carried out or on the results of such investigations.
6. The entity must take out liability insurance unless its liability is assumed by one Member State in accordance with its national law.
7. The staff of the entity must observe professional secrecy with regard to all information acquired in carrying out their tasks under this Regulation.”.