



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.02.2004  
COM(2004)73 final

2000/0069 (COD)

Amended proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation 3922/91 on the harmonisation of technical requirements  
and administrative procedures in the field of civil aviation**

(presented by the Commission pursuant to Article 250 (2) of the EC Treaty)

## **EXPLANATORY MEMORANDUM**

1. The objective of this proposal is to amend the Commission proposal for a regulation of the European Parliament and the Council, amending Council Regulation (EEC) n° 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation<sup>1</sup>, as modified by the amended proposal presented by the Commission pursuant to Article 250 (2) of the EC Treaty<sup>2</sup>. The new proposal takes into consideration a first opinion of the European Parliament<sup>3</sup>, the Flight Time Limitation scheme proposed afterwards by the latter<sup>4</sup> as well as work being carried out in the Council on that proposal and on another Commission proposal on the establishment of safety requirements for cabin crew<sup>5</sup>.
2. This document suggests therefore a balanced set of modifications which takes into account a number of problems which surfaced during earlier discussions as well as the expert's opinions. The Commission hopes this should facilitate progress towards a consensus between all Institutions for the adoption of this proposal on common safety requirements for the commercial operation of aircraft that has been at a standstill for a long time.
3. The new proposal also includes necessary changes to the Regulation provisions and to its technical Annex derived from the entering into force of Regulation (EC) of the European Parliament and of the Council of 15 July 2002 n° 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency<sup>6</sup> as well as its implementations rules contained in Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations<sup>7</sup> and Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks<sup>8</sup>.

### **Historical Background**

4. When elaborating the second liberalisation package in 1989, the Council and the Commission agreed that the Community Air Transport Policy had to address also the harmonisation of the regulatory framework applicable to civil aviation in order both to maintain a high level of safety and to ensure fair competition in the internal market. In that context, the Community adopted Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation with the aim of establishing and keeping up

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<sup>1</sup> COM(2000) 121 final of 24.3.2000.

<sup>2</sup> COM(2002) 30 final of 04.02.2002.

<sup>3</sup> Report n° A5-0393/2000 of 18.01.2001.

<sup>4</sup> Report n° A5-0263/2002 of 10.07.2002.

<sup>5</sup> COM(97) 382 final of 22.7.1997: Proposal for a Council Directive on safety requirements and attestation of professional competence for cabin crew in Civil Aviation.

<sup>6</sup> OJ L 240 of 07.09.2002 p. 0001.

<sup>7</sup> OJ L 243 of 27.9.2003 p. 7

<sup>8</sup> OJ L 315 of 28.11.2003 p. 1.

to date harmonised rules for the design, manufacture, operation and maintenance of aircraft, and for personnel and organisations involved in these tasks.

5. To achieve the above objectives in the field of commercial air transportation by aeroplanes, the Commission decided to propose harmonised rules to the Council and the European Parliament based upon the corresponding Joint Aviation Requirement (JAR)<sup>9</sup> which had been elaborated by the Joint Aviation Authorities (JAA)<sup>10</sup>.
6. Two proposals were presented by the Commission.

In 2000, the Commission presented a proposal (see footnote 1) for the addition of the text of JAR-OPS 1, adjusted where necessary to comply with Community law and policies, as a new Annex to Regulation 3922/91 referred to above. In this proposal, however, the content of the section on safety requirements concerning cabin crew was restricted to those requirements that are the exclusive responsibility of the air operators.

In 1997, another proposal had already been presented for a Directive on the safety requirements and attestation of professional competence for cabin crew, dealing with those requirements that are not the exclusive responsibility of the air operators, as well as additional requirements with respect to age, medical condition, approval of the training organisations, and recognition of the attestations of professional competence (see footnote 5).

7. Since their presentation, both proposals have been discussed extensively by the Council and the European Parliament.

Discussion by the European Parliament of the proposal on JAR-OPS 1 has led to the adoption in first reading of an opinion (see footnote 3), inviting the Commission to adopt 13 amendments.

Following the adoption by the Parliament of an opinion on the proposal for safety requirements for cabin crew, the Commission had already presented an amended proposal for this Directive<sup>11</sup>.

8. The Council, having examined the proposal for JAR-OPS 1 and the amended proposal for safety requirements for cabin crew jointly, considered more consistent with current practice to change the structure and content of both proposals.

As a consequence the content of the proposed Directive on safety requirements for cabin crew should be limited to training requirements which are operator non-specific, and the operator specific training requirements ought to be covered by the proposed Regulation, as is the case in JAR-OPS 1.

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<sup>9</sup> JAR-OPS 1, adopted by the JAA in 1995 covers the commercial operations, i.e. the carriage of passengers or cargo for remuneration or hire, by aeroplane. Commercial operations by rotorcraft are covered by JAR-OPS 3.

<sup>10</sup> The Joint Aviation Authorities is an association of the National Aviation Authorities of 37 European countries, including the 15 EU Member States, created to harmonise the requirements they use to regulate aviation safety.

<sup>11</sup> COM(99) 68 final of 5.3.1999: Amended proposal for a Council Directive on safety requirements and attestation of professional competence for cabin crew in civil aviation.

Also the choice of the procedures for Community control of the granting by the Member States of operational short term flexibility (art. 8 paragraphs 3 and 4), was not adequate and use ought to be made of the safeguard procedure, rather than of the regulatory procedure.

Certain changes to the Technical Annex of the proposed Regulation (i.e. the new Annex III to Regulation (EEC) 3922/91) were also agreed upon.

Finally, a committee procedure was considered necessary to enable updating, before entering into force, of new Annex III with amendments to JAR-OPS 1 presently made or envisaged by the JAA.

9. In those circumstances, the Commission presented its amended proposal of 4 February 2002 for a Regulation of the European Parliament and the Council amending Council Regulation (EEC) 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, which modifies the proposal adopted on 24 March 2000 as COM(2000) 121 final (See footnote 2).

Its aim was to take into account the spirit of those amendments by the European Parliament to which the Commission could agree, as well as the changes to structure and content envisaged by the experts of the Council, including the change of balance between the Regulation and the Directive as far as cabin crew training is concerned.

10. The modified proposal for the complementary Directive on safety requirements of cabin crew was to be presented separately.
11. After a new first reading, the European Parliament adopted, on 4 September 2002, one long and extremely detailed amendment on flight duty and rest times to the Commission's amended proposal of 4 February 2002 (See footnote 4).

The amendment concerned the new subpart Q which the Commission had included in the Technical Annex in response to the European Parliament's previously expressed concern about the absence of provisions on flight and duty time limitations and rest requirements. It covered fully the issue of duty, standby and rest times for both cabin crew and flight crew and restricted the maximum daily flight duty period to 13 hours, or to 11 hours 45 minutes when the duty period is between 22.00hrs and 04.59hrs.

12. Subsequent discussions in the Council have focused on JAR-OPS 1 and cabin crew provisions, without taking up the FTL rules.

Regarding the Amended proposal for a Regulation on the transposition of JAR-OPS, the Council agreed to align the proposal with the latest version of JAR-OPS. Several delegations suggested as well transferring certain other provisions regarding essential requirements and training for cabin crews from the Directive to the draft Regulation.

13. In the light of these developments, the Commission has reconsidered its initial proposals and, to facilitate their adoption, has decided to present an amended proposal which introduces the Flight Time Limitation scheme proposed by the European Parliament as Subpart Q of Annex III, adapted when necessary to comply with Community institutional procedures. A revision clause as well as some small changes to cabin crew rules following the Council suggestions were also added.

14. In addition, Regulation (EEC) N° 3922/91 apply to the design, manufacture, operation and maintenance of aircraft and to persons and organizations involved in these tasks. However, Regulation (EC) of the European Parliament and of the Council of 15 July 2002 n° 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency<sup>12</sup> has introduced new rules covering the design, manufacture and maintenance of aircraft and repealed Annex II to the latter Regulation as from 28 September 2003.

Moreover, its implementation rules, contained in Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, include provisions on maintenance which are equivalent to those contained in Subpart M of JAR-OPS.

As a consequence, in order to avoid unclear and contradictory legal situations, Regulation (EEC) 3922/91 and its technical Annex should be adapted to take account of these recent Community Regulations.

### **Discussion of the main modifications of the Regulation itself**

*New Recital relating to Directive on the organisation of working time of mobile workers in civil aviation*

15. The present proposal introduces in Annex III a new Subpart Q dealing with Flight and duty time limitations and rest requirement. This issue is already partially covered by Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation<sup>13</sup>.
16. A reference to this last instrument, in the form of a new recital, is necessary in order to clarify that the more detailed and technical requirements contained in Subpart Q are consistent with the minimum standards set out by Directive 2000/79/EC .

*Definition of “Authority” (Article 2 of Regulation (EEC) 3922/91)*

17. JAR-OPS provisions refer certain tasks and responsibilities relating to the implementation of JAR-OPS provisions to “the Authority”. However, this Authority does not appear to be defined or identified in the Regulation.
18. For the sake of the clarity and uniformity in the application of Community rules, it is necessary to introduce a new definition in Article 2 of Regulation (EEC) 3922/91. The competent authority of the Member State which granted the air operator's certificate (AOC) to a particular operator, referred to in OPS C 1.175 and responsible in practice of verifying that the operator comply with JAR-OPS provisions, is the most suitable authority for ensuring the implementation of EU OPS provisions.

*Amendments derived from the entering into force of Regulation (EC) n° 1592/2002*

19. Two Commission Regulations have been adopted covering certification and maintenance of aircraft and related products, parts and appliances, as well as for the

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<sup>12</sup> OJ L 240, 07/09/2002, p. 1.

<sup>13</sup> OJ L 302, 1/12/2000, p. 57–60.

certification of design and production organisations. The scope of application described in article 1(1) of Regulation (EEC) N° 3922/91 shall therefore be limited to the operation and maintenance of aircraft and persons and organizations involved in these tasks.

20. However, Subpart M-Aeroplane Maintenance of Annex III to Regulation (EEC) 3922/91 should only be applicable until the entry into force of provisions applicable to maintenance contained in Commission Regulation (EC) 2042/2003, that is on 28 September 2005 according to Article 7 of the last Regulation.

This limitation also implies the deletion of references to the design and manufacture and of provisions exclusively linked to these tasks (i.e. Article 6(2)) all over the text of Regulation (EEC) N° 3922/91.

21. Article 57 of Regulation (EC) n° 1592/2002 repeals Annex II to Regulation (EEC) N° 3922/91 as from 28 September 2003. As a consequence, references made to this Annex shall be deleted from the Regulation provisions.

*Community control of Flight Time Limitations variations (New Article 8a)*

22. The amended proposal includes a new Article 8a in order to allow additional flexibility for establishing national variations on the Flight Time Limitation provisions. It is also specified that the operator requesting a variation has to demonstrate its level of safety.

*Scientific evaluation of the provisions of Annex III, Subpart Q by the European Aviation Safety Agency (New Article 8b)*

23. A new Article 8b is also added to introduce a revision clause relating to Annex III, Subpart Q after three years.

### **Amendments to the new Annex III**

*General Exemption clause (Subpart B)*

24. OPS 1.010 and 1.015 provide for a general clause relating to exemptions from the provisions of OPS Part 1. This issue is already covered by Article 8 of Regulation (EEC) 3922/91, which contains a complete regime applicable to exemptions and derogations to the rules contained in Annex III. As a consequence, OPS 1.010 and 1.015 should be deleted.

*Cabin crew requirements (Subpart O)*

25. Following discussions in the Council, the new proposal aims at transferring some provisions contained in articles 4, 5 and Annex I to the above mentioned directive into the existing Subpart O of Annex III to Regulation 3922/91. More precisely, these provisions can be found under the titles OPS 1.995, 1.1005 and Appendix 1 to OPS 1.1005.
26. In addition to this straight transfer, some small changes have been introduced to parts OPS 1.988, 1.995, 1.1005, 1.1010 and 1.1025.

Changes to OPS 1.995 aim at giving more clarity to the links between the basic requirements and the various trainings detailed further in the text.

The changes to OPS 1.1005, 1.1010 and 1.1025 contain a reference to the approval by Member State authorities of the training organisations and programmes. This does not imply the issuance of a certificate by the national authorities.

*Flight time and rest of crew (Subpart Q)*

27. The Commission shares the European Parliament's concern about the absence of detailed provisions on flight, duty and rest times for the crew, and specially its clear relation with air safety and aircraft accidents. The applicable requirements are presently still national, unharmonized and even inadequate. The new Subpart Q aims at establishing minimum standards consistent with the provisions of Directive 2000/79/EC and current good practices.
28. Accordingly, the whole amendment proposed by the European Parliament, containing a complete scheme of rules on Flight Time Limitation, is integrated under the title "Subpart Q - Flight and duty time limitations and rest requirement".
29. A limited number of changes have been introduced in the amendment in order to ensure that the procedure giving to each Member State the opportunity to introduce variations is compliant with Community legislation and in particular with the additional Article 8a of Regulation (EEC) 3922/91, which details the necessary procedure.
30. In addition to the reference to Article 8a, it is also specified that the operator requesting a variation has to demonstrate its level of safety.
31. Furthermore, other minor changes obey to the fact that the minimum standards contained in Subpart Q should take into account the limits already established in Directive 2000/79/EC concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation.

*Minor amendments*

32. The text of the new Annex III has been updated and a number of typing errors and other amendments of an editorial nature have been corrected.

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requirements and administrative procedures in the field of civil aviation**

(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<sup>14</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>15</sup>,

~~Having regard to the opinion of~~ **After consulting** the Committee of the Regions<sup>16</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>17</sup>,

Whereas:

- (1) ~~Council~~ Regulation (EEC) No 3922/91<sup>18</sup> provides for common safety standards listed in Annex II to that Regulation with respect to the design, manufacturing, operation and maintenance of aircraft, as well as persons and organisations involved in those tasks. Those harmonised safety standards apply to all aircraft operated by Community operators whether registered in a Member State or in a third country.

Article 4(1) of that Regulation requires the ~~Council to adopt~~ **adoption of** common technical requirements and administrative procedures on the basis of Article 80(2) of the Treaty for the fields not listed in Annex II to the Regulation.

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<sup>14</sup> **OJ C 311 E, 31.10.2000, p. 13.**

<sup>15</sup> **OJ C 14, 16.1.01, p. 33.**

<sup>16</sup> ~~OJ C~~

<sup>17</sup> OJ C

<sup>18</sup> OJ L 373, 31.12.1991, p. 4, as last amended by Commission Regulation (EC) No 2871/2000 (OJ L 333, 29.12.2000, p. 47).



- (2) Article 9 of ~~Council~~ Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers<sup>19</sup> provides that the granting and validity at any time of an operating licence is to be dependent upon the possession of a valid Air Operator Certificate specifying the activities covered by the operating licence and complying with the criteria established in the relevant Council Regulation. It is now appropriate to establish such criteria.
- (3) The Joint Aviation Authorities (JAA) have adopted a set of harmonised rules for commercial air transportation by aeroplane, called JAR-OPS 1. JAR-OPS1 (Amendment 2 of 1 July 2000) provides for the level of safety required for this type of operation and therefore constitutes a good basis for Community law, covering the operation of aeroplanes. Changes had to be made to this text in order to bring it into conformity with Community legislation and policies, account being taken of its numerous implications in the economic and social field. The revised text differs from JAR-OPS 1 and cannot therefore be introduced into Community law by a simple reference to its title in Annex II to Regulation (EEC) No 3922/91. A new Annex III containing the necessary requirements should therefore be added to that Regulation.
- (4) Air operators should be given sufficient flexibility to address unforeseen urgent operational circumstances, or operational needs of a limited duration, or to demonstrate that they can achieve an equivalent level of safety by means other than the application of the common rules in Annex III. ~~The same kind of flexibility is also necessary in the application of other JARs listed in Annex II to Regulation (EEC) No 3922/91.~~ Member States should therefore be empowered to grant exemptions **or introduce variations** to the common technical requirements and administrative procedures. Such exemptions **and variations** could, in certain cases, undermine the common safety requirements or create distortions in the market, and their scope should therefore be strictly limited and their granting subject to the appropriate Community control. In that respect, the Commission should be empowered to take safeguard measures.
- (5) The provisions of Regulation (EEC) No 3922/91 concerning the committee procedure should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>20</sup>.
- (6) The provisions of Regulation (EEC) No 3922/91 relating to the scope of application and references to its Annex II should be adapted to take account of Regulation (EC) n° 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency<sup>21</sup> as well as its implementation rules established by Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the**

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<sup>19</sup> OJ L 240, 24.8.1992, p. 1.

**20** OJ L 184, 17.7.1999, p. 23.

**21** OJ L 240, 07.09.2002 p. 1.

certification of design and production organisations<sup>22</sup> and Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks<sup>23</sup>.

(7) The present regulation, in particular Subpart Q of Annex III, takes into account the limits and minimum standards already established in Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation<sup>24</sup>. The limits set out in this Directive should always be respected for mobile workers in civil aviation. In no way can the provisions of Subpart Q of Annex III and other provisions approved according to the present Regulation be broader and thereby provide less protection to these workers.

(68) Regulation (EEC) No 3922/91 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 3922/91 is amended as follows:

(1) Article 1(1) is replaced by the following:

“1. This Regulation shall apply to the harmonisation of technical requirements and administrative procedures in the field of civil aviation safety as listed in Annex II and Annex III, and in particular with respect to: **related to** (a) the design, manufacture, operation and maintenance of aircraft, **and** (b) —persons and organisations involved in these tasks**such operations.**”

(2) **The following definition is inserted in Article 2:**

**“(i) ‘The Authority’ in Annex III means the competent authority which has granted the air operator's certificate (AOC).”**

(23) Article 3 is replaced by the following:

*Article 3*

1. — ~~Without prejudice to Article 11, the common technical requirements and administrative procedures applicable in the Community with regard to the fields listed in Annex II shall be the relevant codes referred to in that Annex and in force on 1 January 1992.~~

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22 OJ L 243, 27.9.2003, p. 7.

23 OJ L 315, 28.11.2003, p. 1.

24 OJ L 302, 1.12.2000, p. 57–60.

1. Without prejudice to Article 11, the common technical requirements and administrative procedures applicable in the Community with regard to commercial transportation by aeroplane shall be those specified in Annex III.

**2. As for provisions of Annex III Subpart M, they shall apply until 28 September 2005. From this date, references made to this Subpart or any of its provisions shall refer to Part-M of Commission Regulation (EC) n° 2042/2003 or its relevant provisions.”**

(34) Article 4(1) is replaced by the following:

“1. With regard to the fields not covered by Annexes ~~II and III~~, the Council shall adopt common technical requirements and administrative procedures **shall be adopted** on the basis of Article 80(2) of the Treaty. The Commission shall, where appropriate and as soon as possible, submit suitable proposals in these fields.”

**(5) Article 6 is replaced by the following:**

**“Article 6**

**Member States shall, without further technical requirements or evaluation, authorise the aircraft operated in compliance with the common technical requirements and administrative procedures. When the original authorisation is for a particular purpose, or purposes, any subsequent authorisation shall cover the same purpose(s).”**

**(6) Article 7 is replaced by the following:**

**“Article 7**

**Member States shall recognize the certification granted pursuant to this Regulation by another Member State or by a body acting on its behalf, to bodies or persons placed under its jurisdiction and under its authority, who are concerned with the maintenance of products and the operation of aircraft.”**

(47) Article 8 is replaced by the following:

*“Article 8*

“1. The provisions in Articles 3 to 7 shall not prevent a Member State from reacting immediately to a safety problem which involves a product, a person or a **body-organisation** subject to the provisions of this Regulation.

If the safety problem results from an inadequate level of safety provided by the common technical requirements and administrative procedures, or shortcomings in the common technical requirements and administrative procedures, the Member State shall immediately inform the Commission and the other Member States of the measures taken and the reasons therefore.

2. The Commission shall decide, in accordance with the procedure referred to in Article 12(2), whether an inadequate level of safety or a shortcoming in the common technical requirements and administrative procedures justifies the continuing application of the measures adopted pursuant to paragraph 1 of this Article. In such case, it shall also take the necessary steps to amend the common technical requirements and administrative procedures concerned in accordance with Article 4 or Article 11. If the Member State's measures are found not to be justified, the Member State shall revoke the measures in question.

3. Member States may grant exemptions from the technical requirements and administrative procedures specified by this Regulation in the case of unforeseen urgent operational circumstances or operational needs of a limited duration.

The Commission and the other Member States shall be informed of the exemptions granted as soon as these are of a repetitive nature, or if they have been granted for a period of time greater than two months.

4. When the Commission and the other Member States are informed of exemptions granted by a Member State in accordance with paragraph 3 of this Article, the Commission shall examine whether the exemptions comply with the safety objectives of this Regulation or any other rule of Community law.

If it finds that the exemptions granted do not comply with the safety objectives of this Regulation or any other rule of Community law the Commission shall decide on safeguard measures in accordance with the procedure referred to in Article 12a.

In such a case the Member State shall revoke the exemption.

5. In cases where a safety level equivalent to that attained by the application of the common technical requirements and administrative procedures included in Annexes ~~II and III~~ to this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality of the applicants and having regard to the need not to distort competition, grant approval derogating from these provisions.

In such cases the Member State concerned shall notify the Commission of its intention to grant such approval and the conditions foreseen to ensure an equivalent level of safety is achieved.

6. The Commission shall, within a period of 3 months following the notification by a Member State in accordance with the provisions of paragraph 5, initiate the procedure referred to in Article 12(2) in order to decide whether the approval proposed meets the conditions laid down in paragraph 5 and can be granted.

In such a case it shall notify its decision to all Member States which shall then also be entitled to apply that measure. The relevant provisions of Annexes ~~H~~ and III may also be amended to reflect such a measure.

The provisions of Articles ~~6~~(4) and 7 shall apply to the measure in question.”

**(8) The following Articles 8a and 8b are inserted:**

**Article 8a**

**1. In order to allow additional flexibility for establishing a flight and duty time limitations and rest scheme (FTL) for crew members, Member States may adopt provisions relating to Subpart Q in accordance with paragraphs A.5.2.1, D.5.4.1, E.1.3.1, F.1, H.1.4 and H.2.1.**

**2. The Member State shall immediately inform the Commission of the additional provisions it intends to introduce and the reasons therefore.**

**3. The Commission shall decide, in accordance with the procedure referred to in Article 12(2), whether the additional provisions comply with the safety objectives of this Regulation or any other rule of Community law, and if the additional provisions may be granted.**

**In such case, the Member State shall be entitled to apply these additional provisions.**

**Article 8b**

**1. Within a period of three years following the entry into force of the present regulation, the European Aviation Safety Agency will proceed to a scientific and medical evaluation of the provisions of Annex III, Subpart Q.**

**2. Without prejudice to Article 7 of Regulation 1592/2002/EC, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Annex III, Subpart Q.”**

**(59)** Article 11(1) is replaced by the following:

“1. The Commission, following the procedure referred to in Article 12(2), shall make the amendments necessitated by scientific and technical progress to the common technical requirements and administrative procedures listed in the Annexes III.”

**(610)** In Article 12, paragraphs 2 and 3 are replaced by the following:

“2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Council Decision 1999/468/EC\* shall apply, in compliance with Articles 7 and 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.”

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\* OJ L 184, 17.7.1999, p. 23.”

(~~7~~11) The following Article 12a is inserted:

*“Article 12a*

Where reference is made to this Article, the safeguard procedure laid down in Article 6 of Decision 1999/468/EC shall apply.

Before adopting its decision, the Commission shall consult the committee established by Article 12(1).

The period provided for in Article 6(b) of Decision 1999/468/EC shall be three months.

When a Commission decision is referred to the Council by a Member State, the Council, acting by a qualified majority, may take a different decision within a period of three months.”

(~~8~~12) The text in the Annex to this Regulation is added as Annex III.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European ~~Communities~~Union*.

Without prejudice to the provisions of Article 11 of Regulation (EEC) No 3922/91 as amended by this Regulation, Annex III shall apply with effect from [six months after entry into force of this Regulation].

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*