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Annex Ia to EASA Opinion No 03/2023

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

of XXX

**amending Regulation (EU) No 748/2012 as regards the initial airworthiness of
unmanned aircraft systems subject to certification and Implementing Regulation (EU)
2019/947 as regards the rules and procedures for the operation of unmanned aircraft**

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amending Regulation (EU) No 748/2012 as regards the initial airworthiness of unmanned aircraft systems subject to certification and Implementing Regulation (EU) 2019/947 as regards the rules and procedures for the operation of unmanned aircraft

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular Articles 45, 46, 47 and 51 thereof,

Whereas:

- (1) When the risk of the operation of an unmanned aircraft system (UAS) in the ‘specific’ category can only be mitigated by using a UAS that has been issued with a type certificate or restricted type certificate for the design, then a certificate of airworthiness or restricted certificate of airworthiness for the unmanned aircraft (UA) should be required. In addition, a noise certificate may be required provided environmental protection requirements have been established by the Agency.
- (2) When a UA whose design is certified, does not meet, or has not been shown to meet, the applicable airworthiness requirements, its operation shall be authorised according to the terms and conditions laid down in the flight conditions established and approved in accordance with Commission Regulation (EU) No 748/2012 ⁽²⁾.
- (3) The UAS operator of a UA whose design is certified shall report to the design approval holder of the UAS or of the component any safety-related event or condition of the UAS or of the component identified by the organisation in accordance with Regulation (EU) No 376/2014 ⁽³⁾.
- (4) The UAS operator of a UA whose design is certified or that uses a certified UAS component shall implement any safety measures mandated by the competent authority

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

⁽³⁾ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18).

or relevant mandatory safety information issued by the Agency, including airworthiness directives.

- (5) In order to provide stakeholders with sufficient time to ensure compliance with the new framework for the initial airworthiness of certified UAS, this Regulation shall apply 6 months after the date of entry into force,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Commission Regulation (EU) No 748/2012

1. The title of Commission Regulation (EU) No 748/2012 is amended as follows:

‘COMMISSION REGULATION (EU) No 748/2012

of 3 August 2012

laying down implementing rules for the airworthiness and environmental certification or declaration of compliance of aircraft and related products, parts, appliances, control and monitoring units and control and monitoring unit components, as well as for the capability requirements of design and production organisations

(recast)’;

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

Article 2

Amendments to Commission Implementing Regulation (EU) 2019/947

1. The title of Commission Implementing Regulation (EU) 2019/947 is amended as follows:

‘Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft systems’;

2. Commission Implementing Regulation (EU) 2019/947 is amended as follows:

- (a) in Article 2, the first paragraph is replaced by the following:

‘For the purposes of this Regulation, the following definitions shall apply.’;

- (b) in Article 2, points (1), (26) and (27) are replaced by the following, and the following point (34) is added:

‘(1) “unmanned aircraft system (UAS)” means an unmanned aircraft, as defined in Article 3(30) of Regulation (EU) 2018/1139, and its control and monitoring unit.’;

‘(26) “control and monitoring unit (CMU)” means the equipment to control and monitor unmanned aircraft remotely as defined in point (32) of Article 3 of Regulation (EU) 2018/1139;

- (27) “C2 link” means the data link between the UA and the CMU for the purpose of managing the flight;”;
- “(34) “UAS component” means any engine, propeller or part of the UA, or any element of the control and monitoring unit (CMU);”;
- (c) in Article 7, after point 2, the following paragraph with points (i) and (ii) is added:
- ‘2. [...]’
- The operator of a UAS that meets the conditions specified in point 1(d) of Article 40 of Delegated Regulation (EU) 2019/945 shall obtain:
- (i) a certificate of airworthiness or a restricted certificate of airworthiness issued in accordance with Subpart H of Annex I (Part 21) to Commission Regulation (EU) No 748/2012;
 - (ii) a noise certificate issued in accordance with Subpart I of Annex I (Part 21) to Commission Regulation (EU) No 748/2012 when the UA is subject to the environmental protection requirements laid down in point 21.B.85 of Commission Regulation (EU) No 748/2012.’;
- (d) in Article 12, point 2 is replaced by the following:
- ‘2. The competent authority shall grant an operational authorisation when:
- (a) the evaluation performed under point 1 concludes that:
 - i. the operational safety objectives take account of the risks of the operation;
 - ii. the combination of mitigation measures concerning the operational conditions to perform the operation, the competence of the personnel involved and the technical features of the unmanned aircraft, are adequate and sufficiently robust to keep the operation safe in view of the identified ground and air risks;
 - (b) for UAS that are or will be certified pursuant to point 1(d) of Article 40 of Commission Delegated Regulation (EU) 2019/945, the UAS have:
 - i. a valid certificate of airworthiness or a restricted certificate of airworthiness and, if the UA is subject to the environmental protection requirements laid down in point 21.B.85 of Commission Regulation (EU) No 748/2012, a valid noise certificate; or
 - ii. if the UA does not meet, or has not been shown to meet, the applicable airworthiness requirements, flight conditions approved according to Subpart P of Annex I (Part 21) to Commission Regulation (EU) No 748/2012;
 - (c) the UAS operator has provided to the competent authority a statement confirming that the intended operation complies with any applicable

Union and national rules relating to it, in particular with regard to privacy, data protection, liability, insurance, security and environmental protection.’;

- (e) in Article 12, in point 4(c), the following points (vii) and (viii) are added:
- ‘vii. the certificate of airworthiness or restricted certificate of airworthiness and noise certificate, if such certificates have been issued;
 - viii. the flight conditions approved in accordance with Commission Regulation (EU) No 748/2012 when the UAS meets the conditions defined in point 1(d) of Article 40 of Commission Delegated Regulation (EU) 2019/945 and the UA does not meet, or has not been shown to meet, the applicable airworthiness requirements.’;
- (f) in Article 19, the following point (6) is added:
- ‘6. Notwithstanding Regulation (EU) No 376/2014, the UAS operator of an unmanned aircraft whose design is certified shall report to the design approval holder of the UAS or of the UAS component any safety-related event or condition of the UAS or the UAS component identified by the organisation. In particular, the UAS operator shall report any accident or serious incident involving the UAS or the UAS component, which endangers or, if not duly corrected or addressed, could endanger the safety of the UAS or of any natural or legal person.’;
3. The Annex to Commission Implementing Regulation (EU) No 2019/947 is amended in accordance with Annex II to this Regulation.

Article 3

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

It shall apply from [6 months after the date of entry into force].

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

Done at Brussels,

For the Commission

The President

Ursula VON DER LEYEN