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31991R3922**Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation***Official Journal L 373 , 31/12/1991 P. 0004 - 0008**Finnish special edition: Chapter 7 Volume 4 P. 0052**Swedish special edition: Chapter 7 Volume 4 P. 0052*

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COUNCIL REGULATION (EEC) N° 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, as provided for in Article 8a of the Treaty, measures should be adopted with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market will comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas a high general level of safety in civil aviation in Europe should be maintained and current technical requirements and administrative procedures in the Member States should be raised to the highest standard currently attained in the Community;

Whereas safety is a key factor in Community air transport; whereas account should be taken of the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, which provides for implementation of the measures necessary to ensure the safe operation of aircraft;

Whereas the current restrictions on the transfer of aircraft and aviation products and of certain services in the field of aviation between Member States would cause distortions in the internal market;

Whereas the Joint Aviation Authorities (JAA), an associated body of the European Civil Aviation Conference (ECAC), have worked out arrangements to cooperate in the development and implementation of joint aviation requirements (JARs) in all fields relating to the safety of aircraft and their operation;

Whereas, under the common transport policy, technical requirements and administrative procedures relating to the safety of aircraft and their operation should be harmonized on the basis of the JAR codes of the JAA;

Whereas the accession of all Member States to the JAA and the participation of the Commission in its proceedings would facilitate such harmonization;

Whereas, in order to achieve the Community objectives as regards freedom of movement of persons and

products and also as regards the common transport policy, Member States should accept the certification of products and of bodies and persons concerned with the design, manufacture, maintenance and operation of products, without further technical work or evaluation, when the product, organization or person has been certificated in accordance with the common technical requirements and administrative procedures;

Whereas safety problems may arise and, in such case, Member States must take all appropriate measures as a matter of urgency; whereas such measures must be duly justified and, where the common technical requirements and administrative procedures present shortcomings, it is for the Commission, exercising its implementing powers, to adopt the necessary amendments;

Whereas it is desirable that funding by the Member States of research to improve aviation safety be coordinated to ensure optimum use of resources and to enable the maximum benefit to be achieved;

Whereas it is appropriate to empower the Commission, assisted by a committee of experts nominated by the Member States, to make the amendments developed by the JAA to the common technical requirements and administrative procedures adopted by the Council,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to the harmonization of technical requirements and administrative procedures in the field of civil aviation safety as listed in Annex II, and in particular with respect to:

- the design, manufacture, operation and maintenance of aircraft,
- persons and organizations involved in these tasks.

2. The harmonized technical requirements and administrative procedures referred to in paragraph 1 shall apply to all aircraft operated by operators as defined in Article 2 (a), whether registered in a Member State or in a third country.

Article 2

1. For the purpose of this Regulation:

(a) 'operator' means a natural person residing in a Member State or a legal person established in a Member State using one or more aircraft in accordance with the regulations applicable in that Member State, or a Community air carrier as defined in Community legislation;

(b) 'product' means a civil aircraft, engine, propeller or appliance;

(c) 'appliance' means any instrument, equipment, mechanism, apparatus or accessory used or intended to be used in operating an aircraft in flight, whether installed in, intended to be installed in, or attached to, a civil aircraft, but not forming part of an airframe, engine or propeller;

(d) 'component' means a material, part or sub-assembly not covered by the definitions in (b) or (c) for use on civil aircraft, engines, propellers or appliances;

(e) 'certification' (of a product, service, organization or person) means any form of legal recognition that such a product, service, body or person complies with the applicable requirements. Such certification comprises two acts:

(i) the act of checking that technically the product, service, organization or person complies with the applicable requirements; this act is referred to as 'making the technical findings' ;

(ii) the act of formal recognition of such compliance with the applicable requirements by the issue of a certificate, licence, approval or other document in the manner required by national laws and procedures; this act is referred to as 'making the legal findings' ;

(f) 'maintenance' means all inspections, servicing, modification and repair throughout the life of an aircraft needed to ensure that the aircraft remains in compliance with the type certification and offers a high level of safety in all circumstances; this shall include in particular modifications imposed by the authorities party to the arrangements referred to in (h) in accordance with airworthiness checking concepts;

(g) 'national variant' means a national requirement or regulation imposed by a country in addition to or instead of a JAR;

(h) 'arrangements' means arrangements developed under the auspices of the European Civil Aviation

Conference (ECAC) for cooperation in the development and implementation of joint requirements in all fields relating to the safety and safe operation of aircraft. These arrangements are specified in Annex I.

Article 3

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.

Article 4

1. With regard to fields not listed in Annex II, the Council shall adopt common technical requirements and administrative procedures on the basis of Article 84 (2) of the Treaty. The Commission shall, where appropriate and as soon as possible, submit suitable proposals in these fields.

2. Pending adoption of the proposals referred to in paragraph 1 member States may apply the relevant provisions of their existing national regulations.

Article 5

Member States shall ensure that their responsible civil aviation authorities meet the conditions for membership of the JAA specified in the arrangements and shall sign such arrangements without reservation before 1 January 1992.

Article 6

1. Member States shall, without further technical requirements or evaluation, recognize products designed, manufactured, operated and maintained in compliance with the common technical requirements and administrative procedures where such products have been certificated by another Member State. When the original recognition is for a particular purpose, or purposes, any subsequent recognition shall cover the same purpose(s).

2. Existing products and their derivatives which are not certificated in accordance with the common technical requirements and administrative procedure may be accepted by a Member State under their current national regulations pending the adoption of the common technical requirements and administrative procedures applicable to these products pursuant to this Regulation.

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 design, manufacture and maintenance of products, and the operation of aircraft.

Article 8

1. None of the above provisions shall prevent a Member State from reacting immediately to a safety problem which becomes apparent from an accident, incident or service experience and involves either a product designed, manufactured, operated or maintained in accordance with this Regulation, or a person, procedure or body involved in such tasks. If the safety problem results from:

- an inadequate safety level corresponding to the application of the common technical requirements and administrative procedures, or - shortcomings in the common technical requirements and administrative procedures,

the Member State shall forthwith inform the Commission and the other Member States of the measures taken and the reasons therefor.

2. In the cases referred to in paragraph 1, the Commission shall consult the Member States at the earliest opportunity. If an inadequate level of safety or a shortcoming in the common technical requirements and administrative procedures is confirmed, the Commission shall make appropriate proposals in accordance with the procedures provided for in Article 4 and/or Article 11.

Article 9

Member States shall take the necessary steps to coordinate their research programmes to improve the safety of civil aircraft and their operation and to inform the Commission thereof. After consulting the Member States, the Commission may take any relevant initiative to promote such national research programmes.

Article 10

Member States shall notify the Commission of:

(a) any new or amended requirement or procedure developed or adopted in accordance with procedures laid down in the Arrangements; and (b) any modification of the Arrangements; and (c) the results of consultations with industry and other interested bodies.

Article 11

1. The Commission, following the procedure laid down in Article 12, shall make the amendments necessitated by scientific and technical progress to the common technical requirements and administrative procedures listed in Annex II or adopted by the Council in accordance with Article 4.

2. Where the amendments referred to in paragraph 1 contain a national variant for a Member State the Commission, following the procedure laid down in Article 12, shall decide whether or not to include that variant in the common technical requirements and administrative procedures.

Article 12

1. For the application of Articles 8, 9 and 11, the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the Commission representative.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representative of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

(c) If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.

Article 13

1. Member States shall assist one another in implementing this Regulation and in monitoring its implementation.

2. As part of the mutual assistance referred to in paragraph 1 the Member States' competent authorities shall regularly exchange all available information on:

- infringements of this Regulation by non-residents and penalties imposed in respect thereof,
- penalties imposed on its residents by a Member State in respect of such infringements committed in other Member States.

Article 14

This Regulation shall enter into force on 1 January 1992.

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

Done at Brussels, 16 December 1991.

For the Council The President H. MAIJ-WEGGEN

(1) OJ N° C 270, 26. 10. 1990, p. 3.

(2) OJ N° C 267, 14. 10. 1991, p. 154.

(3) OJ N° C 159, 17. 6. 1991, p. 28.

ANNEX I

Arrangements referred to in Article 2 (1) (h)

'Arrangements concerning the Development, the Acceptance and the Implementation of Joint Aviation Requirements (JAR)', concluded in Cyprus on 11 September 1990.

ANNEX II

Lists of codes in force containing the common technical requirements and administrative procedures referred to in Article 3

1. General and procedures

JAR 1 Definitions and abbreviations

2. Type certification of products and parts

JAR 22 Sailplanes and powered sailplanes JAR 25 Large aeroplanes JAR AWO All weather operations JAR E Engines
JAR P Propellers JAR APU Auxiliary power units JAR TSO Technical standards orders JAR VLA Very light aeroplanes
JAR 145 Approved maintenance organizations

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