# COMMISSION DECISION

## of 6 February 2014

## authorising Sweden and the United Kingdom to derogate from certain common aviation safety rules pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council

*(notified under document C(2014) 559)*

**(Text with EEA relevance)**

(2014/69/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC [1], and in particular Article 14(6) thereof,

Whereas:

(1) A number of Member States requested to apply derogations to the common aviation safety rules contained in rules implementing Regulation (EC) No 216/2008. Pursuant to Article 14(6) of that Regulation, the Commission services assessed the need for, and the level of protection emerging from, the derogations requested, based on recommendations from EASA. The Commission concluded that the variation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met. The assessment of each derogation, and the conditions attached to their application, are described in separate Annexes to this Decision authorising these derogations.

(2) In accordance with Article 14(7) of Regulation (EC) No 216/2008, a derogation granted to one Member State shall be notified to all Member States, which shall also be entitled to apply that derogation. This Decision should therefore be addressed to all Member States. The description of each derogation, as well as the conditions attached to it, should be such as to enable other Member States to apply that measure when they are in the same situation, without requiring a further approval from the Commission. Nevertheless, Member States should notify the application of derogations, as they may have effects outside that Member State.

(3) The measures provided for in this Decision are in accordance with the opinion of the European Aviation Safety Agency Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The Governments of Sweden and the United Kingdom may grant approvals derogating from certain implementing rules under Regulation (EC) No 216/2008, as specified in the Annexes to this Decision.

*Article 2*

All Member States shall be entitled to apply the measures referred to in Article 1, as specified in the Annexes to this Decision. Member States shall notify the Commission, the Agency and the national aviation authorities thereof.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 6 February 2014.

*For the Commission*

Siim KALLAS

*Vice-President*

[1] OJ L 79, 19.3.2008, p. 1.

*ANNEX I*

**Derogation by the United Kingdom from Commission Regulation (EU) No 1178/2011 [1] with respect to the Synthetic Flight Instructor (SFI) privileges**

1. DESCRIPTION OF THE REQUEST

Provision FCL.905.SFI(a) in Part-FCL stipulates that the privileges of an SFI are to carry out synthetic flight instruction, within the relevant aircraft category, for: '(a) the issue, revalidation and renewal of an IR, provided that he/she holds or has held an IR in the relevant aircraft category and has completed an IRI training course', and (IRI) course.

By a letter received by the Commission on 27 November 2012, the Government of the United Kingdom (UK) notified the Commission and EASA of their intention to derogate from FCL.905.SFI(a) of Regulation (EU) No 1178/2011 (the Aircrew Regulation), on the basis of Article 14(6) of Regulation (EC) No 216/2008 (the Basic Regulation).

The UK proposed to separate the requirement for the IRI course and the privilege to instruct for an initial IR from the other SFI requirements and to allow SFI, who have not completed IRI training, to provide training for the revalidation and renewal of the type-specific IR.

2. ASSESSMENT OF THE REQUEST

2.1. **Need**

Currently there is an insufficient number of flight instructors qualified to provide the training courses and not enough IRI courses are approved that would enable prospective SFIs to become qualified. The competent authority of UK emphasised that the requirement to attend an IRI course creates an unintended burden due to the insufficient number of flight instructors. This may be remedied by allowing SFIs that have not completed the IRI training course to provide training for the revalidation and renewal of the type-specific IR. The Agency considered that the UK has sufficiently demonstrated the need to derogate from the requirements of FCL.905.SFI.

2.2. **Equivalency of the level of protection**

As Part-FCL is written, the completion of the IRI course is a general requirement and applies to all instruction privileges of the SFI in relation to the IR. It therefore applies also to the privileges to instruct for the revalidation and renewal of the type-specific IR, as well as to the additional privileges to provide instruction for the initial grant of an IR.

The UK emphasised that an equivalent level of protection is maintained by the intended derogation because this derogation would restore the JAR-FCL standard.

Furthermore, the UK proposed to require the IRI course only for the privilege to instruct for an initial IR and to limit the privileges of SFIs who did not undergo this course to the training for revalidation or renewal of a type rating including the type specific IR. In order to be allowed to provide this training without having attended the full IRI course the UK proposed that the SFI has passed a proficiency check for the aircraft type including the instrument rating within the last 12 months. An SFI with this qualification who has not attended the full IRI course shall not instruct for the initial issue of any instrument rating, or for the revalidation or renewal of an instrument rating that is not associated with the revalidation or renewal of a type rating.

The Agency, having reviewed the amended derogation request, concluded that the UK is correct in stating that the privileges of the SFI have been changed in Part-FCL compared to JAR-FCL. The new requirement asking the SFI to attend an IRI course if flight instruction for the IR will be carried out has been added as an additional condition because it was seen as necessary for the extension of privileges.

[1] Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

The Agency agreed with the assessment of the UK that the proposed derogation provides for an equivalent level of protection to that attained by the application of Part-FCL, since it will not allow this specific group of SFIs to conduct training for the renewal and revalidation of a general IR without having participated in an IRI course but will only allow them to provide training for the revalidation and renewal of the type-specific IR.

3. DESCRIPTION OF THE DEROGATION

The United Kingdom may, by derogation from FCL.905.SFI(a) of Regulation (EU) No 1178/2011, allow SFIs to provide training for the revalidation and renewal of the type-specific IR without having completed the IRI training.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

An SFI with this qualification shall not conduct training for the renewal and revalidation of a general IR without having participated in an IRI course.

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions described in point 4 are met.

*ANNEX II*

**Derogation by the United Kingdom from Regulation (EU) No 1178/2011 with respect to the Synthetic Flight Examiner (SFE) privileges**

1. DESCRIPTION OF THE REQUEST

Provision FCL.1005.SFE(a)(2) stipulates that the privileges of an SFE on aeroplanes or powered-lift aircraft are to conduct in an FFS: '(…) proficiency checks for revalidation or renewal of IRs, provided that the SFE complies with the requirements in FCL.1010.IRE for the applicable aircraft category'.

By a letter received by the Commission on 27 November 2012, the Government of the United Kingdom (UK) notified the Commission and EASA of their intention to derogate from FCL.1005.SFE(a)(2) of Regulation (EU) No 1178/2011 (the Aircrew Regulation), on the basis of Article 14(6) of Regulation (EC) No 216/2008 (the Basic Regulation).

The UK proposed to create a new category of SFEs with privileges to examine for the revalidation and renewal of an IR when connected to a type rating by separating the requirement for the IRI/IRE from the other SFE requirements and limiting the privileges to the revalidation or renewal of a type rating including the type specific IR.

2. ASSESSMENT OF THE REQUEST

2.1. **Need**

Currently there is not enough courses approved that would enable prospective SFEs to become qualified. The UK emphasised that this requirement will create an unintended burden by stating that currently there is no adequately trained resources. This may be remedied by allowing SFEs that have not complied with the requirements for the IRE to conduct proficiency checks for revalidation and renewal of the type-specific IR. The Agency considered that the UK has sufficiently demonstrated the need to derogate from the requirements of FCL.1005.SFE.

2.2. **Equivalency of the level of protection**

The UK justified the intended derogation by referring to the equivalent JAR-FCL requirement and identifying a change regarding the privileges of this examiner category as well as the conditions to be fulfilled by the applicant. The UK emphasised that under the JAR system many national authorities allowed the Synthetic Flight Examiner (SFE) to examine for the revalidation or renewal of the instrument flying privileges that are associated with the type rating; i.e. the revalidation or renewal of a type rating combined with the type-specific instrument rating (IR). SFEs were not permitted to examine for the general non-type-specific IR or for the initial grant of the type-specific IR privileges.

The UK further pointed out, that based on the increased privileges of the SFE, Part-FCL requires that an SFE must have complied with the requirements applicable to an Instrument Rating Examiner (IRE), which includes the requirement to hold an Instrument Rating Instructor (IRI) certificate. As Part-FCL is written, this requirement is a general prerequisite and applies therefore to all of the IR examining privileges of the SFE. It applies to the privileges for the revalidation and renewal of type-specific IRs as well as for the new privileges to examine for the initial grant of any IR.

The UK highlighted that an equivalent level of protection is maintained by the intended derogation because this derogation would restore the JAR-FCL standard.

The Agency, having reviewed the derogation request, concluded that the UK is correct in stating that the requirement FCL.1005.SFE does in fact not contain any privilege for the SFE to carry out a skill-test for the initial issue of an IR in an FFS, but is limited to the revalidation and renewal of the IR (see paragraph (a)(2)). Furthermore, the UK stated correctly that under JAR-FCL the SFE privilege allowed to conduct proficiency checks for the revalidation or renewal of the IR. The UK was also right when stating that the SFE under JAR-FCL was not required to also fulfil the IRE/IRI requirements. It is correct that the privileges of the SFE have been changed compared to JAR-FCL.

In order to include the privilege to examine for the revalidation or renewal of a combined type rating and IR without having complied with the requirements for the IRE the UK proposed that the SFE has passed a proficiency check for the aircraft type including the instrument rating within the last 12 months. An SFE with this qualification shall not examine for the initial issue of any instrument rating, or for the revalidation or renewal of an instrument rating that is not associated with a revalidation or renewal of a type rating.

Based on the review performed, the Agency agreed with the assessment of the UK that the proposed derogation provides for an equivalent level of protection to that attained by the application of Part-FCL, since it will not allow this specific group of SFEs to examine for the renewal and revalidation of an IR without having participated in an IRI course but will give them the privilege to examine for the revalidation and renewal of the type-specific IR.

3. DESCRIPTION OF THE DEROGATION

The United Kingdom may, by derogation from FCL.1005.SFE(a)(2) of Regulation (EU) No 1178/2011, allow SFEs to conduct proficiency checks for revalidation and renewal of the type-specific IR without having complied with the requirements applicable to an Instrument Rating Examiner (IRE), which includes the requirement to hold an Instrument Rating Instructor (IRI) certificate.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

A SFE with this qualification shall not examine for the initial issue of any instrument rating, or for the revalidation or renewal of an instrument rating that is not associated with a revalidation or renewal of a type rating.

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions described in point 4 are met.

*ANNEX III*

**Derogation by the United Kingdom from Regulation (EU) No 1178/2011 with respect to the restricted privileges of a Synthetic Flight Instructor (SFI) and the means by which those restrictions may be removed**

1. DESCRIPTION OF THE REQUEST

Provision FCL.910.SFI(b) stipulates that for the extension of the SFI privileges to simulators representing additional aircraft types the SFI must be examined by a Type Rating Examiner (TRE). Part-FCL does not allow an SFE who is qualified on the type to conduct the test to add an additional type to the SFI privileges.

By a letter received on 27 November 2012, the Government of the United Kingdom (UK) notified the Commission and EASA of their intention to derogate from FCL.910.SFI(b) of Regulation (EU) No 1178/2011 (the Aircrew Regulation), on the basis of Article 14(6) of Regulation (EC) No 216/2008 (the Basic Regulation).

The UK asked for this derogation in order to allow the SFE not only to conduct tests in the case of the initial issue of the SFI certificate but to extend the privileges to allowing the SFE to test the SFI for any additional type.

2. ASSESSMENT OF THE REQUEST

2.1. **Need**

It is necessary to allow SFE not only to conduct tests in the case of the initial issue of the SFI certificate but to extend the privileges to allowing the SFE to test the SFI for any additional type as otherwise it will impose an unnecessary burden on the industry due to the lack of qualified staff. The Agency agreed with the justification provided by the UK on the need to grant this derogation.

2.2. **Equivalency of the level of protection**

The UK justified the intended derogation by stating that there would be no detrimental effect on the level of protection caused by this extension of privileges.

Based on the review performed, the Agency agreed with the assessment of the UK that an equivalent level of protection is maintained by the intended derogation as Part-FCL already allows the SFE to test the SFI for the aircraft type included in the initial issue of the SFI certificate.

3. DESCRIPTION OF THE DEROGATION

The United Kingdom may derogate from FCL.910.SFI(b) of Regulation (EU) No 1178/2011, allow the SFE not only to conduct tests in the case of the initial issue of the SFI certificate but to extend the privileges to allowing the SFE to test the SFI for additional types.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

The privileges of the SFI may be extended to other FSTDs representing further types of the same of the same category of aircraft when the holder has:

— satisfactorily completed the simulator content of the relevant type rating course, and

— conducted on a complete type rating course at least 3 hours of flight instruction related to the duties of an SFI on the applicable type under the supervision and to the satisfaction of a TRE or SFE qualified for this purpose.

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions described in point 4 are met.

*ANNEX IV*

**Derogation by the United Kingdom from Regulation (EU) No 1178/2011 with respect to the privileges and conditions for the Synthetic Flight Instructor (SFI)**

1. DESCRIPTION OF THE REQUEST

Provision FCL.905.SFI Annex I to Regulation (EU) No 1178/2011 establishes the privileges of the Synthetic Flight Instructor (SFI) and does not allow the SFI to provide instruction to applicants for the SFI certificate. Part-FCL gives the privilege to provide this instruction only to holders of a Type Rating Instructor (TRI) certificate, provided that they have at least 3 years of experience as TRI (FCL905.TRI(b)).

By letter of 27 November 2012, the Government of the United Kingdom (UK) notified the Commission and EASA of their intention to derogate from this provision of Regulation (EU) No 1178/2011 (the Aircrew Regulation), on the basis of Article 14(6) of Regulation (EC) No 216/2008.

The UK proposed to grant holders of an SFI certificate the privilege to provide instruction for applicants for an SFI certificate without meeting the requirement to have at least 3 years of experience as TRI.

2. EVALUATION OF THE REQUEST

2.1. **Need**

The UK informed that they interpreted JAR-FCL in the past as allowing SFIs to act as tutors on SFI courses after having conducted a specific tutor course followed by an assessment of competence. The UK further described that with the implementation of Part-FCL and the introduction of a more specific wording the privilege to teach applicants for an SFI certificate is granted only to Type Rating Instructors (TRIs) with 3 years of experience as TRIs. In the UK many SFI certified by the UK and working in the role of teaching applicants for an SFI certificate cannot comply with the requirement to become a TRI with 3 years of experience. They will therefore be unable to continue to act as tutors in SFI courses. The UK further specified that many of the current SFIs would be unable to fulfil the TRI requirements for medical reasons.

The UK concluded, based on an assessment of the actual situation, that there is an insufficient number of TRIs to teach a sufficient number of applicants for an SFI certificate and to meet the industry's training needs. As a result, there will be a shortage of qualified instructors to provide this training which would cause a serious disruption to the training of pilots, particular in the business/corporate aircraft domain. It is therefore necessary to grant the privilege to the SFI that do not fulfil the requirement of having at least 3 years of experience as TRI, to provide instruction for the SFI applicants. The Agency agreed with the justification provided by the UK on the need for this derogation.

2.2. **Equivalency of the level of protection**

In addition, the UK identified an inconsistency in Part-FCL as the Synthetic Flight Examiner (SFE), who must hold an SFI certificate, will have the privilege to conduct assessments of competence for the issue, revalidation or renewal of an SFI certificate but, at the same time, will not be allowed to instruct these SFIs. The fact that an SFE, being also an SFI, cannot teach a pilot to become an SFI but may examine the SFI is identified as an inconsistency in Part-FCL, because all examiners under the Part-FCL system have the privilege to instruct for the certificates, ratings and licences for which he/she is authorised to conduct examinations.

Part-FCL reflects the JAR-FCL system where the instruction of applicants for an SFI certificate was supposed to be only undertaken by a TRI. Having reviewed the proposals on how the UK intends to further qualify the SFI for such task, the Agency agreed with the assessment of the UK that an equivalent level of protection to that attained by the application of Part-FCL is achieved by the intended derogation, specifically with the additional training and checking requirements suggested by the UK.

It should be highlighted however, that the UK foresees this specific tutor course also for TRIs wishing to provide such training. As Part-FCL already provides this privilege for the TRI wishing to instruct for an SFI certificate if he/she fulfils the 3-year experience requirement such a specific tutor course for the TRI is not required. These courses should therefore only be provided to SFIs.

3. DESCRIPTION OF THE DEROGATION

The United Kingdom may, by derogation from FCL.905.SFI grant the privilege to the SFIs that do not fulfil the requirement of having at least 3 years of experience as TRI, to provide instruction for the SFI applicants.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

Such SFIs shall have at least 3 years of experience of instruction as an SFI, shall complete a specific 2-day SFI tutor course provided by an SFI tutor and shall pass an assessment of competence.

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions attached are met.

*ANNEX V*

**Derogation by the United Kingdom from Regulation (EU) No 1178/2011 with respect to revalidation and renewal of an Instrument Rating (IR)**

1. DESCRIPTION OF THE REQUEST

Provision FCL.625(c) and (d) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 reads:

'(c) Renewal. If an IR has expired, in order to renew their privileges applicants shall:

(1) go through refresher training at an ATO to reach the level of proficiency needed to pass the instrument element of the skill test in accordance with Appendix 9 to this Part; and

(2) complete a proficiency check in accordance with Appendix 9 to this Part, in the relevant aircraft category.

(d) If the IR has not been revalidated or renewed within the preceding 7 years, the holder will be required to pass again the IR theoretical knowledge examination and skill test.'

By letter of 18 March 2013, the Government of the United Kingdom (UK) notified the Commission and EASA of their intention to derogate from this provision of Regulation (EU) No 1178/2011 on the basis of Article 14(6) of Regulation (EC) No 216/2008.

2. ASSESSMENT OF THE REQUEST

2.1. **Need**

It is necessary to allow the holders of licences issued in accordance with Part-FCL with the ICAO compliant IR held on a 3rd country licence to maintain their privileges without the need of re-taking the theoretical knowledge examinations. The Aircrew Regulation does not address this situation, which creates an unnecessary burden on licence holders.

2.2. **Equivalency of the level of protection**

The UK believes that the requirements of FCL.625(d) were created for the case where a licence holder ceases to fly under Instrument Flight Rules (IFR) for 7 years. The rule does not take into account the possibility that the licence holder may have been flying under IFR using an IR held on a 3rd country licence during the 7 year period which has been renewed during that period and which is therefore valid.

The Agency, having reviewed the derogation request, agreed with the UK that it is disproportionate to require a pilot who has a current, or recently lapsed, ICAO Annex 1 compliant IR issued by a third country, to re-take the theoretical knowledge examinations needed to renew a European IR that has lapsed by more than 7 years; i.e. it is not appropriate to apply the same requirements to a pilot with recent IFR experience as it would be applied to a pilot who has not flown under IFR for more than 7 years.

The Agency agrees with the reasoning provided by the UK. The rule does not take into account the possibility that the licence holder may have been flying under IFR using an IR held on a 3rd country licence during the 7-year period which has been renewed during that period and which is therefore valid. The intended derogation would concern holders of licences in accordance with Part-FCL that include the ICAO compliant IR. If such pilots after a certain time stop to fly on that licence but continue to fly on an ICAO based third country licence that includes an IR and would request then to renew their IR on the European licence they would only have to fulfil the revalidation criteria contained in FCL.625(b) based on the current and valid third country IR. This means that the rating holder must pass the proficiency check, but will not be required to undergo training or to re-take the theoretical knowledge examinations. In the case of a pilot who held a third country IR that is not any longer valid but has been revalidated or renewed within the preceding 7 years the rating holder shall comply with the renewal requirements in FCL.625(c), but will also not be required to re-take the theoretical knowledge examinations. The Agency considers that this provides a level of safety equivalent to that provided by Part-FCL.

3. DESCRIPTION OF THE DEROGATION

The United Kingdom may, by derogation from Provision FCL.625(c) and (d) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 allow the holders of licences issued in accordance with Part-FCL to maintain their privileges in relation to an IR held on 3rd country licence without the need of re-taking the theoretical knowledge examinations.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

This derogation applies to holders of licences issued in accordance with Part-FCL provided that an IR held on 3rd country licence is ICAO compliant.

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions described in point 4 are met.

*ANNEX VI*

**Derogation by Sweden from the Regulation (EU) No 748/2012 [1] with respect to the existing provisions regarding the issuance of certificates of airworthiness for imported aircraft**

1. DESCRIPTION OF THE REQUEST

In accordance with point 21.A.174(b)3(ii) of Annex I (Part-21) to Regulation (EU) No 748/2012, each application for a certificate of airworthiness, for an aircraft imported from a third country, shall include a statement by the competent authority of the State where the aircraft is or was registered, reflecting the airworthiness status of the aircraft on its register at the time of transfer.

By letter of 24 January 2011, the Swedish Transport Agency notified the Commission and EASA of their intention to derogate from the provisions of Commission Regulation (EC) No 1702/2003 [2] (repealed by Regulation (EU) No 748/2012) and to waive the requirement to include such a statement.

2. ASSESSMENT OF THE REQUEST

2.1. **Need**

Sweden has identified a need to derogate from this rule, because in some cases such a statement is not available and cannot be obtained.

2.2. **Equivalency of the level of protection**

The intent of requiring the statement by the competent authority of the State where the aircraft is, or was, registered, reflecting the airworthiness status of the aircraft on its register at time of transfer when an aircraft is imported into an EASA state is to enable the importing State to verify that the aircraft conforms to a type design approved under an EASA type-certificate, that any supplemental type-certificate, change or repair had been approved in accordance with Annex I (Part-21) to Regulation (EU) No 748/2012, and that the applicable airworthiness directives had been implemented.

The measure proposed by the Swedish Government to waive the requirement to include such as statement can provide for a level of protection equivalent to that prescribed by the applicable implementing rules in Annex I (Part-21) to Regulation (EU) No 748/2012 related to the necessary documents for the issuance of a certificate of airworthiness for a used aircraft imported from a non-EU state provided other means are used to achieve the required assurance. Those means are described under point 4.

3. DESCRIPTION OF THE DEROGATION

Sweden may accept applications for a certificate of airworthiness, for an aircraft imported from a third country, without a statement by the competent authority of the State where the aircraft is or was registered, reflecting the airworthiness status of the aircraft on its register at the time of transfer.

This derogation shall apply until amendment so resolve this issue, as part of the rulemaking task RMT.0020, of Subpart H (Certificate of Airworthiness and Restricted Certificates of Airworthiness) of Annex I (Part-21) to Regulation (EU) No 748/2012, is adopted and becomes applicable.

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

The competent authority shall examine the aircraft documentation and inspect the aircraft to verify that:

— the historical records of the aircraft are complete and sufficient to establish the production and modification standard,

[1] 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).

[2] 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 (OJ L 243, 27.9.2003, p. 6).

— the aircraft was produced in accordance with the type design that was the basis for the EASA type certificate. For that purpose the historical records shall include a copy of the first certificate of airworthiness or export certificate issued for the new aircraft. Alternatively the applicant for the certificate of airworthiness can obtain a statement from the type certificate holder endorsed by the State of Design regarding the production status,

— the aircraft conforms to a type design approved under a type certificate,

— any supplemental type certificate, change or repairs are approved in accordance with Annex I (Part-21) to Regulation (EU) No 748/2012,

— the applicable airworthiness directives have been implemented.

Finally the competent authority shall establish that the results of its investigation are consistent with the results of the investigation by the organisation performing the airworthiness review in accordance with Annex I (Part M) to Commission Regulation (EC) No 2042/2003 [1].

5. GENERAL APPLICABILITY OF THE DEROGATION

All Member States may apply this derogation provided that the conditions described in point 4 are met.

[1] 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 (OJ L 315, 28.11.2003, p. 1).