

Notice No.

AWN-01-2022

Date:

22 March 2022

THE PROVISIONAL SUSPENSION OF CERTIFICATES OF AIRWORTHINESS, OF THOSE BERMUDA REGISTERED AIRCRAFT OPERATED UNDER ARTICLE 83bis, IN THE RUSSIAN FEDERATION



1 INTRODUCTION

- 1.1 In March 2022, the EU, US and UK published laws introducing wide ranging sanctions affecting Russian individuals, legal persons and entities. These sanctions included the imposition of restrictions on aircraft leasing, the provision of aircraft parts, technology, information and technical support to the Russian Civil Aviation Industry. In consequence, the civil aircraft airworthiness system, supporting aircraft of the Bermuda register operating within Russia, was degrading due to the absence of current airworthiness data, the suspension of maintenance approvals by other ICAO member States, reduced availability of aircraft parts and the cessation of manufacturer technical support. The BCAA's capability as the regulator of airworthiness was also severely limited by these sanctions.
- 1.2 In view of the impact of the sanctions, BCAA was obliged to make a decision regarding the continuing efficacy of airworthiness certificates on Bermuda registered aircraft, operating under its system of airworthiness, in the Russian Federation.
- 1.3 The Bermuda CAA initially notified affected operators, lessors and regulators of the potential for imminent regulatory action on 07th March 2022.
- 1.4 The Bermuda CAA made the below decision on 11th March 2022, to take effect 23:59 UTC on 12th March 2022.

2 DECISION TO PROVISIONALLY SUSPEND AIRWORTHINESS CERTIFICATES

- 2.1 The Bermuda Civil Aviation Authority (BCAA), pursuant to the provisions of Article 6 to the Air Navigation (Overseas Territories) Order 2013 (as amended) (The Order) can no longer be satisfied, under the provisions of Article 25(1) to The Order, that the requirements with regard to the airworthiness of the aircraft listed in Schedule 1 to the Article 83bis arrangement between Bermuda and the Russian Federation, have been and are being complied with, in accordance with the provisions of Article 26 to the Order and the Overseas Territories Aviation Requirements (OTAR) Parts 21, 39, 43, and 145.
- 2.2 The BCAA can no longer be satisfied, as above, due to the combination of impacts arising from the recently implemented international sanctions on individuals, legal persons and entities of the Russian Federation, which give rise to serious doubt of continuing air safety, as described here below.



- 2.3 As a consequence of EU Sanctions, European Council Regulation (EU) 2022/328 of 25th February 2022, amending Regulation (EU) 833/2014, introducing Article 3c, BCAA is currently restricted in its ability to meet its oversight obligations under the ICAO Convention on International Civil Aviation, Article 37 and ICAO Annex 8 to the Convention on International Civil Aviation, Airworthiness of Aircraft, Part II, Chapter 4, paragraph 4.2.3 sub-paragraph b) and c) ii) and AN(OT)O Articles 9(1) and 26. The restrictions imposed result in the BCAA being unable to continue to conduct those evaluations, inspections and audits of documents, aircraft and approved organisations, subject to the requirements of OTAR Parts 21, 39, 43, 145 and the BCAA's procedures. In addition, were visa access available, it is the UK government's advice (www.gov.uk/foreign-travel-advice/russia) that it would not be safe for the directly employed inspecting staff of BCAA to enter Russia, to conduct evaluations, inspections and audits in support of the continuation of approved activities, in respect of Russian Civil Aviation.
- 2.4 Due to US sanctions, Export Administration Regulations (15 CFR parts 730–774) including Part 746.8, as introduced by Federal Register Vol. 87, No. 42, dated 3rd March 2022, Implementation of Sanctions Against Russia Under the Export Administration Regulations, the EU sanctions, European Council Regulation (EU) 2022/328 of 25th February 2022, amending Regulation (EU) 833/2014 and UK sanctions, The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2022 Regulation 3 and (The Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022 regulation 5, the major manufacturers and type certificate holders, including Airbus and The Boeing Company, have been prohibited from fulfilling their ICAO Annex 8, Part IIIA, Chapter 10 and Part IIIB Chapter 7, paragraph 7.7 responsibilities, for provision of continuing airworthiness data to air operators of the Russian Federation. Further to their suspension of these services, the air operators of the Russian Federation are also therefore unable to fulfil their obligations under ICAO Annex 6, Chapter 8.5 and subordinate regulations and requirements, as they are unable to access the full and current suite of airworthiness data, required to support their Boeing, Airbus and other aircraft; as required by The Order Article 24(1)(b), OTAR Part 145.111 and OTAR Part 39.55. The inability of an approval holder to demonstrate access to the required airworthiness data to support the aircraft under their management results in non-compliance with OTAR Parts 39 and 145.
- 2.5 Additionally, the EU sanctions European Council Regulation (EU) 2022/328 of 25th February 2022, amending Regulation (EU) 833/2014, introducing Article 3c, impact Bermuda Aircraft Maintenance Organisation approval holders, registered in the EU member states and operating there and elsewhere. These approval holders are now limited in their ability to provide maintenance services to Bermuda registered aircraft operated by Russian operators, or any aircraft owned by sanctioned individuals, legal person or entities, or aircraft intended for use by Russian operators. The restrictions on maintenance support affects capacity and capability of maintenance provision within and outside of the Russian Federation, in support of that fleet.



- 2.6 Due to EU sanctions European Council Regulation (EU) 2022/328 of 25th February 2022, amending Regulation (EU) 833/2014 introducing Article 3c and US sanctions Export Administration Regulations (15 CFR parts 730–774) Part 746.8, as introduced by Federal Register Vol. 87, No. 42, dated 3rd March 3, 2022, Implementation of Sanctions Against Russia Under the Export Administration Regulations, on the US and EU based holders of lease arrangements with Russian organisations, these organisations are obligated to end existing leasing arrangements. In the case of the EU sanctions, this action is required to be completed by 28th March 2022. A large number of such lease terminations have occurred since the referenced sanctions were published and although BCAA is aware of ongoing aircraft repossessions and the grounding of aircraft, we are also aware of the continuation of flight operations of aircraft, beyond the effective date of termination of their lease arrangements, wherein the Certificate of Airworthiness had ceased to be in force, due to the cessation of the approved arrangements for continuing airworthiness required by Article 26 to The Order and OTAR 39 Subpart F.
- 2.7 The US sanctions Export Administration Regulations (15 CFR parts 730–774) Part 746.8, as introduced by Federal Register Vol. 87, No. 42, dated 3rd March 2022, Implementation of Sanctions Against Russia Under the Export Administration Regulations, EU sanctions (European Council Regulation (EU) 2022/328 of 25th February 2022, amending Regulation (EU) 833/2014, and UK sanctions (The Russia (Sanctions) (EU Exit) (Amendment) (No. 6) Regulations 2022 regulation 5, impact the US, EU and UK based suppliers of aircraft parts, restricting them from selling those parts to Russian legal persons, or to anyone, knowingly for use in Russia. These sanctions are in effect and significantly restrict the volume of replacement aircraft components available to support the fleet of in excess of 700 commercial aircraft.
- 2.8 Accordingly, BCAA in exercise of its powers under Article 11.(1) of the said Order hereby provisionally suspends, from 23:59 UTC on 12th March 2022 the Certificates of Airworthiness of all aircraft listed in Schedule 1 to the Article 83bis arrangement between Bermuda and the Russian Federation and any aircraft recently requested to be removed from the Schedule 1 by one party that have not yet been acknowledged by the other party. For aircraft that were airborne at 23:59 UTC on 12th March 2022, the provisional suspension was effective immediately upon landing.

3 ENQUIRIES

- 3.1 Enquiries regarding the content of this Notice should be addressed to the Bermuda Civil Aviation Authority. Enquiries can be sent by email to info@bcaa.bm.

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Thomas Dunstan, Director General