Commission Regulation (EU) 2015/340 of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011 (Text with EEA relevance)

COMMISSION REGULATION (EU) 2015/340

of 20 February 2015

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(Text with EEA relevance)

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 Articles 8c(10) and 10(5) thereof,

Whereas:

(1) Air traffic controllers and persons and organisations involved in their training, testing, checking and medical examination and assessment must comply with the relevant essential requirements set out in Annex Vb to Regulation (EC) No 216/2008. In particular, they are to be certified or licensed once they have demonstrated compliance with the essential requirements.

(2) The European licence has proved to be an effective way of recognising and certifying the competence of air traffic controllers, who as a profession play a unique role in the operation of safe air traffic control. The Union-wide competence standard has reduced fragmentation in this field and thus contributed to more efficient organisation of work in the current context of increased regional collaboration between air navigation service providers. Maintaining and improving the common licensing scheme for air traffic controllers working in the Union is an important part of the European air traffic control system. To this aim, technical requirements and administrative procedures related to air traffic controllers' licences and certificates, reflecting the state of the art in this domain, should now be laid down.

(3) The provision of air navigation services requires highly skilled personnel and in particular air traffic controllers, whose competence is demonstrated by a licence, issued

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on the basis of the detailed requirements set out in this Regulation. The rating on a licence should indicate the type of air traffic service an air traffic controller is competent to provide. The endorsements on the licence should reflect both the specific skills of the controller and the authorisation given by the competent authorities to provide services for a particular sector, group of sectors and/or working positions.

(4) The authorities performing supervision and verification of compliance under this Regulation should be sufficiently independent from air traffic controllers when issuing licences or extending the validity of the endorsements, when suspending or revoking licences, ratings, endorsements or certificates in cases where the conditions for their issue are no longer met. Those authorities should also be sufficiently independent from air navigation service providers and training organisations. They should remain capable of performing their tasks effectively. The competent authority or authorities charged with the responsibility set out in this Regulation may be the body or bodies designated or established in accordance with Article 4 of Regulation (EC) No 549/2004 of the European Parliament and of the Council[(2)]. The European Aviation Safety Agency (hereinafter the 'Agency') should act as the competent authority for issuing and renewing certificates held by air traffic controller training organisations located outside the territory of the Member States and, where relevant, their personnel. As such, it should meet the same requirements.

(5) In light of the particular characteristics of air traffic in the Union, common competence standards for air traffic controllers employed by air navigation service providers should be introduced and effectively applied, ensuring air traffic management and air navigation services (ATM/ANS) to the public.

(6) Member States should have the possibility to apply this Regulation to their military personnel providing services to the public, as referred to in Article 1(2)(c) of Regulation (EC) No 216/2008.

(7) Poor communication is often a significant contributing factor in incidents and accidents. Therefore, detailed language proficiency requirements for air traffic controllers should be laid down. Those requirements are based on the requirements adopted by the International Civil Aviation Organization (ICAO) and provide a means of enforcing these internationally accepted standards. The principles of non-discrimination, transparency and proportionality are upheld with regard to language proficiency requirements in order to encourage free movement of workers, while ensuring safety. The validity of language proficiency endorsement should be proportionate to the proficiency level as determined in this Regulation.

(8) Common rules for issuing and maintaining licences for air traffic controllers are essential to increase Member States' confidence in each other's systems. To ensure the highest level of safety, uniform requirements for the training, qualifications and competence of air traffic controllers should therefore be introduced. This also serves to ensure the provision of safe, high-quality air traffic control services and it contributes to the recognition of licences throughout the Union, thereby increasing freedom of movement and improving the availability of air traffic controllers.

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(9) The European Organisation for the Safety of Air Navigation (Eurocontrol) has set appropriate standards for initial training, set out in the Specification for the ATCO Common Core Content Initial Training. In order to reflect the scientific and technical progress and to facilitate a uniform approach to initial training, which is the key element for ensuring mobility among air traffic controllers, these standards should now be set out in Union law. Requirements should also be established for unit and continuation training, taking into account the applicable essential requirements as specified in Article 8c of Regulation (EC) No 216/2008. In the absence of European training requirements, Member States may continue to rely on training standards developed by ICAO.

(10) In consultation with a group of experts, Eurocontrol has developed requirements for medical assessment of air traffic controllers, which have already been used by Member States together with ICAO Annex 1. Those requirements should now be transposed into Union law in order to ensure their uniform application in all Member States.

(11) In order to ensure that Member States fulfil their safety responsibilities and obligations in a correct and structured manner by means of an administration and management system operated by competent authorities and organisations acting on their behalf, in line with ICAO State Safety Programme, this Regulation should stipulate the requirement to be applied by the competent authorities.

(12) The certification of training organisations is one of the essential factors contributing to the quality of air traffic controller training and thus to the safe provision of air traffic control. The requirements for training organisations should therefore be strengthened. It should be possible to certify training according to the type of training, as a package of training services or as a package of training and air navigation services, without losing sight of the particular characteristics of the training offered by each organisation.

(13) The general conditions for obtaining a licence, insofar as they relate to age and medical requirements, should not affect the holders of existing licences. In order to preserve existing licence privileges and provide smooth transition for all licence holders and for the competent authorities, licences and medical certificates issued by Member States in accordance with Directive 2006/23/EC of the European Parliament and of the Council[(3)] and with Commission Regulation (EU) No 805/2011[(4)] should be considered as having been issued in accordance with this Regulation.

(14) For the sake of consistency, the definition of psychoactive substance in Commission Implementing Regulation (EU) No 923/2012[(5)] should be amended.

(15) While this Regulation builds on previous achievements and EU regulatory requirements, for the sake of clarity, Regulation (EU) No 805/2011 should be repealed.

(16) In accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008, the Commission has been assisted by the Agency when preparing the measures provided for in this Regulation.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

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Article 1

Subject matter and scope

1 This Regulation lays down detailed rules for:

a the conditions for issuing, suspending and revoking air traffic controllers and student air traffic controllers' licences, associated ratings and endorsements, and the privileges and responsibilities of those holding them;

b the conditions for issuing, limiting, suspending and revoking air traffic controllers and student air traffic controllers' medical certificates, and the privileges and responsibilities of those holding them;

c the certification of aero-medical examiners and aero-medical centres for air traffic controllers and student air traffic controllers;

d the certification of air traffic controller training organisations;

e the conditions for validating revalidating, renewing and using such licences, ratings, endorsements and certificates.

2 This Regulation shall apply to:

a student air traffic controllers and air traffic controllers exercising their functions within the scope of Regulation (EC) No 216/2008;

b persons and organisations involved in the licensing, training, testing, checking and medical examination and assessment of applicants in accordance with this Regulation.

Article 2

Compliance with requirements and procedures

1 The student air traffic controllers, the air traffic controllers and the persons involved in the licensing, training, testing, checking and medical examination and assessment of applicants referred to in Article 1(2)(a) and (b) shall be qualified and licensed in accordance with the provisions of Annexes I, III and IV by the competent authority referred to in Article 6.

2 The organisations referred to in Article 1(2)(b) shall be qualified in accordance with the technical requirements and administrative procedures laid down in Annexes I, III and IV and shall be certified by the competent authority referred to in Article 6.

3 The medical certification of the persons referred to in Article 1(2)(a) and (b) shall be compliant with the technical requirements and administrative procedures laid down in Annexes III and IV.

4 Air traffic controllers employed by air navigation service providers providing air traffic services in the airspace of the territory to which the Treaty applies and having their principal place of operations and their registered office, if any, located outside the territory subject to the provisions of the Treaty, shall be deemed to have been licenced in accordance with paragraph 1, where they meet both of the following conditions:

a they hold an air traffic controller licence issued by a third country in accordance with Annex 1 to the Chicago Convention;

b they have demonstrated to the competent authority referred to in Article 6 that they have received training and successfully passed examinations and assessments equivalent to those required by Part ATCO, Subpart D, Sections 1-4, set out in Annex I.

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The tasks and functions assigned to the air traffic controllers referred to in the first subparagraph shall not exceed the privileges of the licence issued by the third country.

5 Practical instructors and assessors employed by a training organisation located outside the territory of the Member States shall be deemed to have been qualified in accordance with paragraph 1, where they meet both of the following conditions:

a they hold an air traffic controller licence issued by a third country in accordance with Annex I of the Chicago Convention with a rating and, if applicable, rating endorsement corresponding to the one for which they are authorised to instruct or assess;

b they have demonstrated to the competent authority referred to in Article 6 that they have received training and successfully passed examinations and assessments equivalent to those required by Part ATCO, Subpart D, Section 5, set out in Annex I.

The privileges referred to in the first subparagraph shall be specified in a certificate issued by a third country and shall be limited to provide instruction and assessment for training organisations located outside the territory of the Member States.

Article 3

Provision of air traffic control services

1 Air traffic control services shall only be provided by air traffic controllers qualified and licensed in accordance with this Regulation.

2 Subject to Article 1(3) of Regulation (EC) No 216/2008, Member States shall, as far as practicable, ensure that services provided or made available by military personnel to the public referred to in Article 1(2)(c) of that Regulation offer a level of safety that is at least equivalent to the level required by the essential requirements as defined in Annex Vb to that Regulation.

3 Member States may apply this Regulation to their military personnel providing services to the public.

Article 4

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘abnormal situation’ means circumstances, including degraded situations, which are neither routinely nor commonly experienced and for which an air traffic controller has not developed automatic skills;

(2) ‘acceptable means of compliance (AMC)’ means non-binding standards adopted by the Agency to illustrate means by which to establish compliance with Regulation (EC) No 216/2008 and its implementing rules;

(3) ‘air traffic control (ATC) service’ means a service provided for the purpose of:

(a) preventing collisions:

— between aircraft, and

— in the manoeuvring area between aircraft and obstructions; and

(b) expediting and maintaining an orderly flow of air traffic;