Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION REGULATION (EU) No 139/2014

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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)], amended by Regulation (EC) No 1108/2009[(2)], and in particular Article 8a(5) thereof,

Whereas:

(1) Regulation (EC) No 216/2008 aims at establishing and maintaining a high uniform level of civil aviation safety in Europe.

(2) The implementation of Regulation (EC) No 216/2008 requires the establishment of detailed Implementing Rules, in particular concerning the safety regulation of aerodromes, in order to maintain a high uniform level of civil aviation safety in the Union while pursuing the objective of an overall improvement in aerodrome safety.

(3) It requires the Commission to adopt the necessary Implementing Rules for establishing the conditions for the design and safe operation of aerodromes referred to in Article 8a(5) before 31 December 2013.

(4) In order to ensure a smooth transition and a high level of civil aviation safety in the Union, the Implementing Rules should reflect the state of the art and the best practices in the field of aerodromes; take into account the applicable International Civil Aviation Organization (hereinafter referred to as 'ICAO') Standards and Recommended Practices, thereby respecting ICAO's respective classification throughout the system of rules; and worldwide aerodrome operation experience, and scientific and technical progress in the field of aerodromes; be proportionate to the size, traffic, category and complexity of the aerodrome and nature and volume of operations thereon; provide for the necessary flexibility for customised compliance; and cater for the cases of aerodrome infrastructure which has been developed, prior to the entry into force of

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this Regulation, in accordance with the different requirements contained in the national legislations of the Member States.

(5) It is necessary to provide sufficient time for the aerodrome industry and Member States administrations to adapt to the new regulatory framework and to verify the continued validity of certificates issued before the entry into force of this Regulation.

(6) With a view to ensuring uniformity in the application of common requirements, it is essential that common standards be applied by the Competent Authorities and, where applicable, the European Aviation Safety Agency ('the Agency') when assessing compliance with these requirements; the Agency should develop Acceptable Means of Compliance and Guidance Material to facilitate the necessary regulatory uniformity. The common requirements should cater for identical processes within the competent authorities across the different aviation domains. They should not prevent, however, the application of slightly different processes if and where necessary or beneficial, for example in the case of separate overseeing entities for aerodromes and air operations. The safety objective of these requirements should remain unaffected by the different ways of technical compliance.

(7) With regard to obstacle management in the aerodrome surroundings as well as to other activities taking place outside the aerodrome's boundary, each Member State may designate different authorities and other entities in charge of monitoring, assessment and mitigation risks. The aim of this Regulation is not to change current allocation of tasks within the Member State. However, a seamless organisation of the competences regarding the safeguarding of aerodrome surroundings and the monitoring and mitigating of risk caused by human activities should be ensured in each Member State. It should therefore be ensured that authorities which are entrusted with responsibilities of safeguarding the surrounding of aerodromes have the adequate competencies to fulfil their obligations.

(8) Specific services referred to in subpart B of Annex IV (Part ADR.OPS) should be provided at an aerodrome. In some cases these services are not directly provided by the aerodrome operator, but by another organisation or State entity, or combination of both. In such cases the aerodrome operator, being responsible for the operation of the aerodrome, should have arrangements and interfaces with these organisations or entities in place to ensure the provision of services according to the requirements stated in Annex IV. When such arrangements and interfaces are in place the aerodrome operator should be considered as having discharged their responsibility and should not be understood to be directly responsible or liable for any non-compliances by another entity involved in the arrangement, provided that it has complied with all applicable requirements and obligations laid down in this Regulation relevant to its responsibility under the arrangement.

(9) Regulation (EC) No 216/2008 only concerns aerodrome certificates to be issued by Competent Authorities in so far as safety aspects are concerned. Therefore, non-safety related aspects of existing national aerodrome certificates remain unaffected.

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(10) The measures provided for in this Regulation are based on the Opinion issued by the Agency in accordance with Article 17(2)(b) and Article 19(1) of Regulation (EC) No 216/2008.

(11) 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:

Article 1

Subject matter and scope

1 This Regulation lays down detailed rules on:

a the conditions for establishing and notifying to the applicant the certification basis applicable to an aerodrome as set out in Annexes II and III;

b the conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates for aerodromes, and certificates for organisations responsible for the operation of aerodromes, including operating limitations related to the specific design of the aerodrome as set out in Annexes II and III;

c the conditions for operating an aerodrome in compliance with the essential requirements set out in Annex Va and, if applicable, Annex Vb to Regulation (EC) No 216/2008 as set out in Annex IV;

d the responsibilities of the holders of certificates as set out in Annex III;

e the conditions for the acceptance and for the conversion of existing aerodrome certificates issued by Member States;

f the conditions for the decision not to permit exemptions referred to in Article 4(3b) of Regulation (EC) No 216/2008, including criteria for cargo aerodromes, the notification of exempted aerodromes and for the review of granted exemptions;

g the conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety as set out in Annex III;

h certain conditions and procedures for the declaration by and for the oversight of apron management service providers referred to in paragraph 2(e) of Article 8a of Regulation (EC) No 216/2008 as set out in Annexes II and III.

2 Competent Authorities involved in the certification and oversight of aerodromes, aerodrome operators and apron management service providers shall comply with the requirements laid down in Annex II.

3 Aerodrome operators and providers of apron management services shall comply with the requirements laid down in Annex III.

4 Aerodrome operators shall comply with the requirements laid down in Annex IV.

Article 2

Definitions

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

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(1) 'aerodrome' means a defined area (including any buildings, installations and equipment) on land or water or on a fixed, fixed offshore or floating structure intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

(2) 'aeroplane' means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

(3) 'aircraft' means a machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

(4) 'apron' means a defined area intended to accommodate aircraft for purposes of loading or unloading passengers, mail or cargo, fuelling, parking or maintenance;

(5) 'apron management service' means a service provided to manage the activities and the movement of aircraft and vehicles on an apron;

(6) 'audit' means a systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which requirements are complied with;

(7) 'certification specifications' mean technical standards adopted by the Agency indicating means to show compliance with Regulation (EC) No 216/2008 and its Implementing Rules and which can be used by an organisation for the purpose of certification;

(8) 'Competent Authority' means an authority designated within each Member State with the necessary powers and responsibilities for the certification and oversight of aerodromes, as well as personnel and organisations involved therein;

(9) 'continuing oversight' means the tasks which are conducted for the implementation of the oversight programme at any time by the Competent Authority to verify that the conditions under which a certificate has been granted continue to be fulfilled during its period of validity;

(10) 'Deviation Acceptance and Action Document' (DAAD) means a document established by the Competent Authority to compile evidence provided to justify the acceptance of deviations from the certification specifications issued by the Agency;

(11) 'inspection' means an independent evaluation by observation and judgement accompanied as appropriate by measurement, testing or gauging, in order to verify compliance with applicable requirements;

(12) 'movement' means either a take-off or landing;

(13) 'obstacle' means all fixed (whether temporary or permanent) and mobile objects, or parts thereof, that:

— are located on an area intended for the surface movement of aircraft, or

— extend above a defined surface intended to protect aircraft in flight, or

— stand outside those defined surfaces and that have been assessed as being a hazard to air navigation;

(14) 'obstacle limitation surface' means a surface that defines the limits to which objects may project into the airspace;

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(15) 'obstacle protection surface' means a surface established for visual approach slope indicator system above which objects or extensions of existing objects shall not be permitted except when, in the opinion of the appropriate authority, the new object or extension would be shielded by an existing immovable object.

Article 3

Oversight of aerodromes

1 Member States shall designate one or more entities as the Competent Authority(ies) within that Member State with the necessary powers and responsibilities for the certification and oversight of aerodromes, as well as personnel and organisations involved therein.

2 The Competent Authority shall be independent from aerodrome operators and providers of apron management services. This independence shall be achieved through separation, at functional level at least, between the Competent Authority and these aerodrome operators and providers of apron management services. Member States shall ensure that Competent Authorities exercise their powers impartially and transparently.

3 If a Member State designates more than one entity as Competent Authority the following conditions shall be fulfilled:

a each Competent Authority shall be responsible for specifically defined tasks and a determined geographic area; and

b coordination shall be established between these Authorities in order to ensure effective oversight of all aerodromes and aerodrome operators, as well as providers of apron management services.

4 Member States shall ensure that the Competent Authority(ies) has(ve) the necessary capabilities and resources to fulfil their requirements under this Regulation.

5 Member States shall ensure that Competent Authorities' personnel do not perform oversight activities when there is evidence that this could result directly or indirectly in a conflict of interest, in particular when relating to family or financial interest.

6 Personnel authorised by the Competent Authority to carry out certification and/or oversight tasks shall be empowered to perform at least the following tasks:

a examine the records, data, procedures and any other material relevant to the execution of the certification and/or oversight task;

b take away copies of or extracts from such records, data, procedures and other material;

c ask for an oral explanation on-site;

d enter aerodromes, relevant premises, operating sites or other relevant areas and means of transport;

e perform audits, investigations, tests, exercises, assessments and inspections;

f take or initiate enforcement measures as appropriate.

7 The tasks in paragraph 6 shall be carried out in compliance with the national legislation of the Member States.