Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 923/2012

of 26 September 2012

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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 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky[(1)] (the airspace Regulation), and in particular Article 4(a) and (b) thereof,

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[(2)] (the EASA Basic Regulation), and in particular Articles 8 and 8b and Annex Vb thereto,

Whereas:

(1) Pursuant to Regulation (EC) No 551/2004 and Regulation (EC) No 216/2008, the Commission is required to adopt implementing rules in order to adopt appropriate provisions on rules of the air based upon Standards and recommended practices of the International Civil Aviation Organisation (ICAO), and to harmonise the application of the ICAO airspace classification, with the aim to ensure the seamless provision of safe and efficient air traffic services within the single European sky.

(2) Eurocontrol has been mandated in accordance with Article 8(1) of Regulation (EC) No 549/2004 of the European Parliament and the Council of 10 March 2004 laying down the framework for the creation of the single European sky[(3)] to assist the Commission in the development of implementing rules which lay down appropriate provisions on rules of the air based upon ICAO Standards and recommended practices, and harmonise the application of the ICAO airspace classification.

(3) In accordance with Articles 1(3) and 13 of Regulation (EC) No 549/2004 and Article 2 of Regulation (EC) No 216/2008, the single European sky initiative should assist the Member States in fulfilling their obligations under the 1944 Chicago Convention

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 923/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

on International Civil Aviation (hereafter the Chicago Convention) by providing for common interpretation and implementation.

(4) The objective of Regulation (EC) No 551/2004 is to support the concept of a more integrated operating airspace within the context of the common transport policy, and to establish common procedures for design, planning and management while ensuring the efficient and safe performance of air traffic management. This objective is particularly relevant for the rapid implementation of functional airspace blocks in the single European sky.

(5) The outcome of the work undertaken by the joint group created by the Commission, Eurocontrol and ICAO, which charted the national differences filed by Member States relating to ICAO Standards dealing with rules of the air and related provisions for air navigation services, supports the need for standardisation of common rules and differences with respect to the single European sky.

(6) In order to ensure safe, efficient and expeditious international air traffic and to support the establishment of functional airspace blocks, all participants in the single European sky should adhere to a common set of rules. Furthermore, a key enabler of safe cross-border operations is the creation of a transparent regulatory system, where the actors can be provided a legal certainty and predictability. To this end, standardised rules of the air and related operational provisions regarding services and procedures in air navigation should be established, and be supplemented, where appropriate, with guidance material and/or acceptable means of compliance.

(7) To achieve those objectives, only commonly agreed European differences should be notified to ICAO by the Member States on areas which are covered by Union law. Those differences should be established and monitored through a permanent process.

(8) Member States that have adopted additional provisions complementing an ICAO standard, should, if they are still considered necessary and provided such additional provisions do not constitute a difference under the Chicago Convention or against existing Union law, continue to apply such provisions until they are addressed by appropriate Union provisions.

(9) The application of this Regulation should be without prejudice to the Member States' obligations and rights over the high seas, in accordance with Article 12 of the Chicago Convention, and in particular with Annex 2 to the Chicago Convention, as well as the obligations of Member States and the Union under the United Nations Convention on the Law of the Sea and the obligations of Member States under the Convention on the International Regulations for Preventing Collisions at Sea, 1972.

(10) In accordance with Article 1(2) of the framework Regulation (EC) No 549/2004, the regulatory framework for the creation of the single European sky does not cover military operations and training.

(11) The existing process for amending ICAO Standards and recommended practices within the framework of the Chicago Convention is not addressed by this Regulation.

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(12) The extension of the competence of EASA to include air traffic management safety requires consistency between the development of implementing rules under Regulations (EC) No 551/2004 and (EC) No 216/2008.

(13) In order to ensure consistency between the transposition of provisions of Annex 2 to the Chicago Convention set out in this Regulation and the future provisions stemming from other annexes to the Chicago Convention, which will be included in the next stages of work as well as the implementation of future Union rules, the initial provisions should be revisited where necessary.

(14) Where necessary, other Union legislation should be updated to refer to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 The objective of this Regulation is to establish the common rules of the air and operational provisions regarding services and procedures in air navigation that shall be applicable to general air traffic within the scope of Regulation (EC) No 551/2004.

2 This Regulation shall apply in particular to airspace users and aircraft engaged in general air traffic:

a operating into, within or out of the Union;

b bearing the nationality and registration marks of a Member State of the Union, and operating in any airspace to the extent that they do not conflict with the rules published by the country having jurisdiction over the territory overflown.

[[F1]3 This Regulation shall also apply to the competent authorities of the Member States, air navigation service providers, aerodrome operators and ground personnel engaged in aircraft operations.**]**

[[F2]4 This Regulation shall not apply to model aircraft and toy aircraft. However, Member States shall ensure that national rules are established to ensure that model aircraft and toy aircraft are operated in such a manner as to minimise hazards related to civil aviation safety, to persons, property or other aircraft.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2016/1185 of 20 July 2016 amending Implementing Regulation (EU) No 923/2012 as regards the update and completion of the common rules of the air and operational provisions regarding services and procedures in air navigation (SERA Part C) and repealing Regulation (EC) No 730/2006 (Text with EEA relevance).

F2 Inserted by Commission Implementing Regulation (EU) 2016/1185 of 20 July 2016 amending Implementing Regulation (EU) No 923/2012 as regards the update and completion of the common rules of the air and operational provisions regarding services and procedures in air navigation (SERA Part C) and repealing Regulation (EC) No 730/2006 (Text with EEA relevance).

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Article 2

Definitions

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

1. ‘accuracy’ means a degree of conformance between the estimated or measured value and the true value;

2. **[**[F3]. . . . .**]**

3. ‘advisory airspace’ means an airspace of defined dimensions, or designated route, within which air traffic advisory service is available;

4. ‘advisory route’ means a designated route along which air traffic advisory service is available;

5. ‘aerobatic flight’ means manoeuvres intentionally performed by an aircraft involving an abrupt change in its attitude, an abnormal attitude, or an abnormal variation in speed, not necessary for normal flight or for instruction for licenses or ratings other than aerobatic rating;

6. ‘aerodrome’ means a defined area (including any buildings, installations and equipment) on land or water or on a fixed, fixed off-shore or floating structure intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

7. ‘aerodrome control service’ means air traffic control service for aerodrome traffic;

8. ‘aerodrome control tower’ means a unit established to provide air traffic control service to aerodrome traffic;

9. ‘aerodrome traffic’ means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome. An aircraft operating in the vicinity of an aerodrome includes but is not limited to aircraft entering or leaving an aerodrome traffic circuit;

10. ‘aerodrome traffic circuit’ means the specified path to be flown by aircraft operating in the vicinity of an aerodrome;

11. ‘aerodrome traffic zone’ means an airspace of defined dimensions established around an aerodrome for the protection of aerodrome traffic;

12. ‘aerial work’ means an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.;

13. ‘Aeronautical Information Publication (AIP)’ means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

14. ‘aeronautical mobile service’ means a mobile service between aeronautical stations and aircraft stations, or between aircraft stations, in which survival craft stations may participate; emergency position-indicating radio beacon stations may also participate in this service on designated distress and emergency frequencies;

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15. 'aeronautical station' means a land station in the aeronautical mobile service. In certain instances, an aeronautical station may be located, for example, on board ship or on a platform at sea;

16. '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;

17. 'airborne collision avoidance system (ACAS)' means an aircraft system based on secondary surveillance radar (SSR) transponder signals which operates independently of ground-based equipment to provide advice to the pilot on potential conflicting aircraft that are equipped with SSR transponders;

18. 'aircraft' means any 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;

19. 'aircraft address' means a unique combination of 24 bits available for assignment to an aircraft for the purpose of air-ground communications, navigation and surveillance;

20. 'aircraft observation' means the evaluation of one or more meteorological elements made from an aircraft in flight;

21. 'AIRMET information' means information issued by a meteorological watch office concerning the occurrence or expected occurrence of specified en-route weather phenomena which may affect the safety of low-level aircraft operations and which was not already included in the forecast issued for low-level flights in the flight information region concerned or sub-area thereof;

22. 'air-ground communication' means two-way communication between aircraft and stations or locations on the surface of the earth;

23. 'air-ground control radio station' means an aeronautical telecommunication station having primary responsibility for handling communications pertaining to the operation and control of aircraft in a given area;

24. 'air-report' means a report from an aircraft in flight prepared in conformity with requirements for position, and operational and/or meteorological reporting;

25. **[**[F1]'air-taxiing' means movement of a helicopter/vertical take-off and landing (VTOL) above the surface of an aerodrome, normally in ground effect and at a ground speed normally less than 37 km/h (20 kts);**]**

26. 'air traffic' means all aircraft in flight or operating on the manoeuvring area of an aerodrome;

27. **[**[F1]'air traffic advisory service' means a service provided within advisory airspace to ensure separation, in so far as practical, between aircraft which are operating on instrument flight rules (IFR) flight plans;

28. 'air traffic control (ATC) clearance' means authorisation for an aircraft to proceed under conditions specified by an air traffic control unit;**]**

29. 'air traffic control instruction' means directives issued by air traffic control for the purpose of requiring a pilot to take a specific action;

30. 'air traffic control service' means a service provided for the purpose of:

    (a) preventing collisions: