Commission Regulation (EU) No 176/2011 of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block (Text with EEA relevance)

COMMISSION REGULATION (EU) No 176/2011

of 24 February 2011

on the information to be provided before the establishment and modification of a functional airspace block

(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 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)[(1)] and in particular Article 9a(9) thereof,

Whereas:

(1) The functional airspace blocks are key enablers for enhancing cooperation between Member States in order to improve performance and create synergies. For that purpose and in order to optimise the interface of functional airspace blocks in the single European sky, the Member States concerned should cooperate with each other and where appropriate they may also cooperate with third countries.

(2) Member States have to comply with the requirements of Article 9a of Regulation (EC) No 550/2004 when establishing a functional airspace block.

(3) Member States that establish a functional airspace block have to provide information to the Commission, the European Aviation Safety Agency, other Member States and other interested parties, giving them an opportunity to submit their observations with the aim of facilitating an exchange of views. However, the Member States should not provide classified information, business secrets or otherwise confidential information.

(4) The information to be provided under this Regulation should reflect compliance with the objectives for the functional airspace blocks and assist Member States in ensuring consistency with other measures of the single European sky.

(5) In order to facilitate such exchange of information and submission of observations, the information which is considered as ‘adequate’ to be provided to Member States, the Commission, the European Aviation Safety Agency (EASA) and other interested parties should be clearly laid out as well as the procedures for this exchange of information.

(6) In particular, the Member States concerned should jointly provide the information and accordingly provide one set of information and documentary evidence per functional airspace block.

Changes to legislation: *Commission Regulation (EU) No 176/2011 is up to date with all changes known to be in force on or before 27 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) The establishment of a functional airspace block should be considered as the legal process through which Member States must enhance cooperation between their respective airspace blocks. Member States should take the necessary measures to comply with this requirement at the latest by 4 December 2012, in accordance with Regulation (EC) No 550/2004.

(8) The determination whether a functional airspace block has been modified should be made on the basis of the same criteria for all Member States and should be limited to those changes which have a considerable impact on the functional airspace block and/or the neighbouring functional airspace blocks or Member States.

(9) According to Article 13a of Regulation (EC) No 549/2004 of the European Parliament and of the Council[(2)], Member States and the Commission should coordinate with the EASA to ensure that all safety aspects are properly addressed when implementing the single European sky.

(10) This Regulation does not affect the security or defence policy interests of Member States and related confidentiality needs according to Article 13 of Regulation (EC) No 549/2004.

(11) Pursuant to Article 83 of the Chicago Convention, Member States that establish a functional airspace block will have to register agreements or arrangements for functional airspace blocks and any subsequent amendment thereto with the International Civil Aviation Organisation (ICAO).

(12) The establishment of functional airspace blocks which would result in changes to the ICAO flight information region (FIR) boundaries or to the facilities and services provided within those boundaries should continue to be the subject of the ICAO air navigation planning process and the procedure for amendment of the ICAO air navigation plans.

(13) Member States should ensure that they fulfil their safety responsibilities effectively when establishing a functional airspace block. They should demonstrate and provide the necessary assurance that the functional airspace block will be established and managed safely and address the Member States and the air navigation service providers safety management elements associated with the functional airspace block establishment, with a focus on their respective safety roles and responsibilities.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down the requirements for:

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(1) the information to be provided by the Member States concerned to the Commission, the European Aviation Safety Agency (EASA), other Member States and interested parties before the establishment and modification of a functional airspace block;

(2) the procedures for the provision of the information to and submission of observations from the parties referred to in point (1), before notification of the functional airspace block is made to the Commission.

Article 2

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 shall apply.

In addition the following definitions shall apply:

(1) ‘Member States concerned’ means the Member States having mutually agreed to establish a functional airspace block under Regulation (EC) No 550/2004.

(2) ‘Interested parties’ means the neighbouring third countries to a functional airspace block, relevant airspace users or groups of airspace users and staff representative bodies as well as adjacent air navigation service providers to those in a functional airspace block.

Article 3

Demonstration of compliance

The Member States concerned shall jointly provide the information set out in the Annex to this Regulation to demonstrate fulfilment of the requirements of Article 9a of Regulation (EC) No 550/2004.

Article 4

Procedure for exchange of information for new functional airspace blocks

1 The Member States concerned shall provide the information set out in the Annex to the Commission at the latest by 24 June 2012. The Commission shall make it available for observations to the EASA, other Member States and interested parties at the latest one week after receipt of the information.

2 The observations of the EASA, other Member States and interested parties shall be submitted to the Commission at the latest two months after receipt of the information. The Commission shall without delay communicate the observations received and its own observations to the Member States concerned.

3 The Member States concerned shall duly consider the observations received before establishing their functional airspace block.

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Article 5

Modification of an established functional airspace block

1 For the purpose of this Regulation, an established functional airspace block shall be considered as modified when a proposed modification shall result in changes to the defined dimensions of the functional airspace block.

2 At least six months before a modification is implemented, the Member States concerned shall jointly notify the Commission of the proposed changes and provide information supporting the changes, updating as appropriate the information provided for the establishment of the functional airspace block. The Commission shall make it available for observations to the EASA, other Member States and interested parties at the latest one week after receipt of the information.

3 The observations of the EASA, other Member States and interested parties shall be submitted to the Commission at the latest two months after receipt of the information. The Commission shall without delay communicate the observations received and its own observations to the Member States concerned.

4 The Member States concerned shall duly consider the observations received before modifying their functional airspace block.

Article 6

Functional airspace blocks already established

Member States concerned which have already established a functional airspace block prior to the entry into force of this Regulation shall ensure that the required information laid out in the Annex, which has not been already submitted as part of their notification, is provided to the Commission at the latest by 24 June 2012.

Article 7

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 February 2011.

For the Commission

The President

José Manuel BARROSO

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