Regulation (EC) No 1899/2006 of the European Parliament and of the Council of 12 December 2006 amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Text with EEA relevance)

REGULATION (EC) No 1899/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 December 2006

amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Regulation (EEC) No 3922/91[(3)] provides for common safety standards listed in Annex II to that Regulation with respect, in particular, to the design, manufacture, operation and maintenance of aircraft, as well as persons and organisations involved in those tasks. Those harmonised safety standards apply to all aircraft operated by Community operators, whether such aircraft are registered in a Member State or in a third country.

(2) Article 4(1) of that Regulation requires the adoption of common technical requirements and administrative procedures, on the basis of Article 80(2) of the Treaty, for the fields that are not listed in Annex II to that Regulation.

(3) Article 9 of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers[(4)] provides that the granting and validity at any time of an operating licence shall be dependent upon the possession of a valid air operator's certificate specifying the activities covered by the operating licence and complying with the criteria to be established in a prospective regulation. It is now appropriate to establish such criteria.

(4) The Joint Aviation Authorities (JAA) have adopted a set of harmonised rules for commercial air transportation by aeroplane, called Joint Aviation Requirements for Commercial Air Transportation (Aeroplanes) (JAR-OPS 1), as amended. Those rules (Amendment 8 of 1 January 2005) provide for a minimum level of safety requirements and therefore constitute a good basis for Community legislation covering the operation

Changes to legislation: *Regulation (EC) No 1899/2006 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 15 May 2022. 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*

of aeroplanes. Changes had to be made to JAR-OPS 1 in order to bring it into conformity with Community legislation and policies, account being taken of its numerous implications in the economic and social field. That new text cannot be introduced into Community law by simple reference to JAR-OPS 1 in Regulation (EEC) No 3922/91. A new Annex containing the common rules should therefore be added to that Regulation.

(5) Air operators should be given sufficient flexibility to address unforeseen urgent operational circumstances, or operational needs of a limited duration, or to demonstrate that they can achieve an equivalent level of safety by means other than the application of the common rules set out in the Annex (hereinafter referred to as Annex III). Member States should therefore be empowered to grant exemptions or introduce variations to the common technical requirements and administrative procedures. Because such exemptions and variations could, in certain cases, undermine the common safety standards or create distortions on the market, their scope should be strictly limited and their grant should be subject to appropriate Community control. In that respect, the Commission should be empowered to take safeguard measures.

(6) There exist well-identified cases where Member States should be permitted to adopt or maintain national provisions regarding flight and duty time limitations and rest requirements, provided that commonly established procedures are complied with and until Community rules based on scientific knowledge and best practices are established.

(7) The aim of this Regulation is to provide harmonised safety standards of a high level, including in the field of flight and duty time limitations and rest periods. In some Member States collective labour agreements and/or legislation exists which provides for better conditions as regards flight and duty time limitations and as regards working conditions for cabin crew. Nothing in this Regulation should be interpreted as limiting the possibility of concluding or retaining such agreements. Member States are allowed to maintain legislation which contains provisions more favourable than those laid down in this Regulation.

(8) The provisions of Regulation (EEC) No 3922/91 concerning the committee procedure should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(5)].

(9) The provisions of Regulation (EEC) No 3922/91 relating to its scope should be adapted to take account of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency[(6)], as well as its implementing rules established by Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations[(7)], and Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks[(8)].

***Changes to legislation:** Regulation (EC) No 1899/2006 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 15 May 2022. 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*

(10) This Regulation, in particular the provisions on flight and duty time limitations and rest requirements as set out in Subpart Q of Annex III, takes into account the limits and minimum standards already established in Directive 2000/79/EC[(9)]. The limits set out in that Directive should always be respected for mobile workers in civil aviation. The provisions of Subpart Q of Annex III and other provisions approved pursuant to this Regulation should in no circumstances be broader and thereby provide those workers with less protection.

(11) Member States should be able to continue to apply national provisions on flight and duty time limitations and rest requirements for crew members, provided that the limits established by such national provisions are below the maximum limits and above the minimum limits laid down in Subpart Q of Annex III.

(12) Member States should be able to continue to apply national provisions on flight and duty time limitations and rest requirements for crew members in areas that are at present not covered by Subpart Q of Annex III, e.g. the maximum daily flight duty period for single pilot operations and emergency medical operations, provisions regarding the reduction of flight duty periods, or the augmentation of rest periods when crossing multiple time zones.

(13) A scientific and medical evaluation of the provisions on flight and duty time limitations and rest requirements and, where relevant, of the provisions on cabin crews, should be made within a period of two years following the entry into force of this Regulation.

(14) This Regulation should not affect the application of provisions on inspections as laid down in the 1944 Chicago Convention on International Civil Aviation and in Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports[(10)].

(15) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.

(16) Regulation (EEC) No 3922/91 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3922/91 is hereby amended as follows:

1) the following recital shall be inserted immediately after the ninth recital:

> The application of provisions regarding flight and duty time limitations can result in significant disruption of rosters for undertakings the operating models of which are exclusively based on night-time operation. The Commission should, on the basis of evidence to be provided by the parties concerned, carry out an assessment and propose an adjustment of the provisions regarding flight and duty time limitations to take account of these special operating models.;

2) the following recitals shall be inserted immediately after the tenth recital:

Changes to legislation: *Regulation (EC) No 1899/2006 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 15 May 2022. 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*

By 16 January 2009, the European Aviation Safety Agency should complete a scientific and medical evaluation of Subpart Q and, where relevant, of Subpart O of Annex III. On the basis of the results of this evaluation, and in accordance with the procedure referred to in Article 12(2), the Commission should, if necessary, draw up and submit proposals without delay to amend the relevant technical provisions.

In the review of certain provisions referred to in Article 8a, the course towards further harmonisation of cabin crew training requirements hitherto adopted should be maintained, in order to facilitate the free movement of cabin crew personnel within the Community. In this context, the possibility of further harmonisation of cabin crew qualifications should be re-examined.;

3) the last recital shall be replaced by the following recital:

The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[11];

4) Article 1 is hereby amended as follows:

(a) paragraph 1 shall be replaced by the following:

1. This Regulation shall apply to the harmonisation of technical requirements and administrative procedures in the field of civil aviation safety related to the operation and maintenance of aircraft and persons and organisations involved in such tasks.;

(b) the following paragraphs shall be added:

3. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

4 Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom shall inform the Council of such date of entry into operation.;

5) the following definition shall be added in Article 2:

(i) “the Authority” in Annex III means the competent authority that has granted the air operator's certificate (AOC).;

6) Article 3 shall be replaced by the following:

Article 3

1 Without prejudice to Article 11, the common technical requirements and administrative procedures applicable in the Community with regard to commercial transportation by aeroplane shall be those specified in Annex III.

2 References made to Subpart M of Annex III or any of its provisions shall refer to Part-M of Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and

***Changes to legislation:** Regulation (EC) No 1899/2006 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 15 May 2022. 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*

appliances, and on the approval of organisations and personnel involved in these tasks[(12)] or its relevant provisions.;

7) Article 4(1) shall be replaced by the following:

1. With regard to the fields not covered by Annex III, common technical requirements and administrative procedures shall be adopted on the basis of Article 80(2) of the Treaty. The Commission shall, where appropriate and as soon as possible, submit suitable proposals in these fields.;

8) Article 6 shall be replaced by the following:

Article 6

Aircraft operated under an authorisation granted by a Member State in compliance with the common technical requirements and administrative procedures may be operated under the same conditions in other Member States, without further technical requirements or evaluation by those other Member States.;

9) Article 7 shall be replaced by the following:

Article 7

Member States shall recognise the certification granted pursuant to this Regulation by another Member State or by a body acting on its behalf, to bodies or persons placed under its jurisdiction and under its authority, who are concerned with the maintenance of products and the operation of aircraft.;

10) Article 8 shall be replaced by the following:

Article 8

1 The provisions of Articles 3 to 7 shall not prevent a Member State from reacting immediately to a safety problem which involves a product, person or organisation subject to this Regulation.

If the safety problem results from an inadequate level of safety provided for by the common technical requirements and administrative procedures, or shortcomings in these requirements and procedures, the Member State shall immediately inform the Commission and the other Member States of the measures taken and the reasons therefor.

The Commission shall decide, in accordance with the procedure referred to in Article 12(2), whether an inadequate level of safety or a shortcoming in the common technical requirements and administrative procedures justifies the continued application of the measures adopted pursuant to the first subparagraph of this paragraph. In such a case, the Commission shall also take the necessary steps to amend the common technical requirements and administrative procedures concerned in accordance with Article 4 or Article 11. If the Member State's measures are found not to be justified, it shall revoke the measures in question.

2 A Member State may grant exemptions from the technical requirements and administrative procedures specified by this Regulation in the case of unforeseen urgent operational circumstances or operational needs of a limited duration.

The Commission and the other Member States shall be informed of any exemptions granted repeatedly or for a period of more than two months.

When the Commission and other Member States are informed of exemptions granted by a Member State in accordance with the second subparagraph, the Commission shall