Regulation (EU) 2018/1139 of the European Parliament and of the Council

of 4 July 2018

on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) A high and uniform level of civil aviation safety should be ensured at all times by the adoption of common safety rules and by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with such rules.

(2) In addition, a high and uniform level of environmental protection should be ensured at all times by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with relevant Union law, and with international standards and recommended practices.

(3) In addition, third-country aircraft that are operated into, within or out of the territory where the relevant provisions of the Treaty on European Union ('TEU') and the Treaty on the Functioning of the European Union ('TFEU') (the 'Treaties') apply should be subject to appropriate oversight at Union level within the limits set by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention'), to which all Member States are parties.

(4) It would not be appropriate to subject all aircraft to common rules. In particular, in light of their limited risk to civil aviation safety, aircraft that are of simple design or operate mainly on a local basis, and those which are home-built or particularly rare or only exist in a small number, should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements. However, in order to facilitate the development of national rules for aircraft falling outside the scope of this Regulation, the European Union Aviation Safety Agency ('the Agency') can adopt guidance material for that purpose.

(5) However, provision should be made for the possibility to apply certain provisions under this Regulation to certain types of aircraft which are otherwise excluded from the scope of this Regulation, especially those which are produced in an industrial manner and which could benefit from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to apply for a type certificate to the Agency or, if applicable, to make a declaration to the Agency in respect of an aircraft type which is to be put on the market by such organisations.

(6) This Regulation should provide for a number of new tools that should support the implementation of simple and proportionate rules for sport and recreational aviation. The measures taken in accordance with this Regulation to regulate this segment of the aviation sector should be proportionate, cost-efficient, flexible and based on existing best practices in the Member States. Those measures should be developed in a timely manner, in close cooperation with the Member States and should avoid creating unnecessary administrative and financial burden for the manufacturers and operators.

(7) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use or aerodromes which do not serve commercial air transport or aerodromes without paved instrument runways of more than 800 metres and which do not exclusively serve helicopters using instrument approach or departure procedures should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.

(8) Member States should be allowed to exempt from this Regulation aerodromes with low volumes of traffic, provided that the aerodromes concerned meet the minimum common safety objectives laid down in the relevant essential requirements set out in this Regulation. When a Member State grants such

exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of groundhandling services and apron management services ('AMS') operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, and information about those exemptions should be made available to the public.

(9) Aerodromes that are controlled and operated by the military, as well as air traffic management and air navigation services ('ATM/ANS') that are provided or made available by the military, should be excluded from the scope of this Regulation. However, Member States should ensure, in accordance with their national law, that such aerodromes, when opened to the public, and such ATM/ANS when serving air traffic to which Regulation (EC) No 549/2004 of the European Parliament and of the Council applies, offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements for aerodromes and ATM/ANS set out in this Regulation.

(10) Where Member States consider it preferable, in particular with a view to achieving safety, interoperability or efficiency gains, to apply, instead of their national law, this Regulation to aircraft carrying out military, customs, police, search and rescue, firefighting, border control and coastguard or similar activities and services undertaken in the public interest, they should be allowed to do so. Member States making use of this possibility should cooperate with the Agency, in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.

(11) In order to take into account the interests and views of their aeronautical industry and aircraft operators, Member States should be allowed to exempt from this Regulation the design, production, maintenance and operation activities which are performed in respect of certain small aircraft, other than unmanned aircraft, unless, in respect of those aircraft, a certificate in accordance with this Regulation or with Regulation (EC) No 216/2008 of the European Parliament and of the Council has been issued, or has been deemed to have been issued, or a declaration has been made in accordance with this Regulation. Such exemptions should not create any obligation under this Regulation for other Member States to recognise such national arrangements. However, such exemptions should not prevent an organisation with a principal place of business in the territory of the Member State which has granted that exemption from deciding to conduct its design and production activities in respect of aircraft covered by that decision in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

(12) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, and the delegated and implementing acts adopted on the basis thereof, should correspond and be proportionate to the nature and risks associated with the different types of aircraft, operations and activities they address. Such measures should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives, and should also foster a systemic approach to civil aviation, taking into account interdependencies between safety and other technical domains of aviation regulation, including cyber security. This should contribute to a more cost-efficient achievement of required safety levels and to the stimulation of technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.

(13) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end, a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a State Safety Programme in accordance with the requirements contained in Annex 19 to the Chicago Convention. That Programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.

(14) In accordance with Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down a level of safety performance for the Union in respect to the different categories of aviation activities. That level of safety performance should not have a binding character but should rather express the ambition of the Union and of the Member States with regard to civil aviation safety.

(15) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their

implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, the obligations of Member States to notify the International Civil Aviation Organization accordingly are not affected.

(16) In line with the international standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.

(17) It is important that personnel used by ATM/ANS providers, such as Air Traffic Safety Electronics Personnel ('ATSEP') are appropriately qualified and trained to perform their duties. ATM/ANS providers should also implement training and checking programmes, taking into account the different types of safety-related tasks performed by their personnel. The implementing acts adopted under this Regulation and concerning responsibilities of ATM/ANS providers should lay down further detailed harmonised rules for such personnel, including ATSEP to ensure the necessary level of safety.

(18) The essential requirements concerning environmental compatibility of the design of aeronautical products should address, where necessary, both aircraft noise and emissions to protect the environment and human health from harmful effects of those products. They should correspond to the requirements which have been established in this regard at international level, as laid down in the Chicago Convention. In order to ensure full consistency, it is appropriate to refer in this Regulation to the relevant provisions of that Convention. However, products, parts and non-installed equipment should be made subject to the essential requirements for environmental compatibility laid down in Annex III to this Regulation to the extent that the provisions of the Chicago Convention do not contain environmental protection requirements. As regards those products, parts and non-installed equipment, provision should also be made for the possibility of laying down detailed environmental protection requirements.

(19) Essential requirements should also be laid down for the safe provision of groundhandling services and AMS.

(20) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.

(21) The obligations of an aerodrome operator can be fulfilled directly by the aerodrome operator or, in some cases, by a third party. In such cases, the aerodrome operator should have arrangements in place with that third party to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

(22) Essential requirements should be laid down concerning reporting and analysis of safety occurrences. The detailed rules adopted in order to ensure uniform implementation of, and compliance with, those essential requirements should be consistent with Regulation (EU) No 376/2014 of the European Parliament and of the Council.

(23) Aeronautical products, parts and non-installed equipment, aerodromes and their safety-related equipment, operators of aircraft and aerodromes, ATM/ANS systems and ATM/ANS constituents and ATM/ANS providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in, or pursuant to, this Regulation. In order to facilitate the process of certification, the necessary detailed rules for the issuance of those certificates and, where relevant, the declarations to be made to this effect, should be adopted, taking into account the objectives of this Regulation and the nature and risk of the particular activity concerned.

(24) Cabin crew involved in commercial air transport should be subject to certification and, as a result of that certification, should be issued with an attestation. In order to ensure uniform rules for the issuing of that attestation, implementing powers should be conferred on the Commission to establish detailed rules and procedures for the qualification of cabin crew members. It should also be possible for the Commission in those implementing acts, taking into account the nature and risk of the activity concerned, to require that cabin crew involved in other types of operations be subject to certification and hold an attestation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(25) The possibility should be given to the organisations involved in the design and production of aeronautical products, parts, and non-installed equipment to declare the compliance of the design of products, parts and non-installed equipment with the relevant industry standards, where it is considered that this will ensure an acceptable level of safety. That possibility should be limited to products used in sport and recreational aviation, and under appropriate limitations and conditions to ensure safety.

(26) Since unmanned aircraft also operate within the airspace alongside manned aircraft, this Regulation should cover unmanned aircraft, regardless of their operating mass. Technologies for unmanned aircraft now make possible a wide range of operations and those operations should be subject to rules that are proportionate to the risk of the particular operation or type of operations.

(27) In order to implement a risk-based approach and the principle of proportionality, a degree of flexibility should be provided for the Member States as regards unmanned aircraft operations, taking into account various local characteristics within individual Member States, such as population density, while ensuring an adequate level of safety.

(28) The rules regarding unmanned aircraft should contribute to achieving compliance with relevant rights guaranteed under Union law, and in particular the right to respect for private and family life, set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, set out in Article 8 of that Charter and in Article 16 TFEU, and regulated by Regulation (EU) 2016/679 of the European Parliament and of the Council.

(29) The essential requirements applicable to unmanned aircraft and their engines, propellers, parts and non-installed equipment should also cover matters relating to electromagnetic compatibility and the radio spectrum, in order to ensure that they do not cause harmful interference, that they use the radio spectrum effectively and that they support the efficient use of the radio spectrum. However, many types of aviation equipment are not necessarily intended specifically for use in either unmanned aircraft or in manned aircraft but could rather be used in both. Therefore, those requirements relating to electromagnetic compatibility and the radio spectrum should only apply from the moment that, and in as far as, the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are subject to certification in accordance with this Regulation. The reason for this is to ensure that the regime applicable to such aviation equipment is aligned with the regime applicable to other aircraft and their engines, propellers, parts and non-installed equipment in respect of which such certification is also required under this Regulation. In terms of content, in order to ensure consistency, those requirement should be equivalent to those in Directive 2014/30/EU of the European Parliament and of the Council and Directive 2014/53/EU of the European Parliament and of the Council.

(30) For some types of unmanned aircraft, the application of the provisions of this Regulation related to registration, certification, identification, oversight and enforcement, as well as of the provisions regarding the Agency is not necessary in order to reach adequate levels of safety. Market surveillance mechanisms provided by Union product harmonisation legislation should be made applicable to those cases.

(31) In view of the risks that unmanned aircraft can present for safety, privacy, protection of personal data, security or the environment, requirements should be laid down concerning the registration of unmanned aircraft and of operators of unmanned aircraft. It is also necessary to establish digital, harmonised and interoperable national registration systems in which information, including the same basic data, about unmanned aircraft and operators of unmanned aircraft registered in accordance with this Regulation and the implementing acts adopted on the basis thereof should be stored. Those national registration systems should comply with the applicable Union and national law on privacy and processing of personal data, and the information stored in those registration systems should be easily accessible.

(32) The conditions, rules and procedures for situations in which the design, production, maintenance and operation of unmanned aircraft, as well as the personnel and organisations involved in those activities, should be subject to certification, should take into account the nature and risk of the type of operation concerned. Those conditions, rules and procedures should, in particular, take into account the type, scale, and complexity of the operation, including, where relevant, the size and type of the traffic handled by the responsible organisation or person; whether the operation is open to members of the public; the extent to which other air traffic or persons and property on the ground could be endangered by the operation; the purpose of the flight and type of airspace used; and the complexity and performance of the unmanned aircraft involved.

(33) It should be possible to prohibit, limit or make subject to certain conditions the activities referred to in Chapter III of this Regulation where necessary in the interest of civil aviation safety. That possibility should be exercised in accordance with the delegated and implementing acts adopted by the Commission for that purpose. Member States have the possibility to take measures, in accordance with

Union law, falling outside the scope of this Regulation, for reasons including public security and the protection of the right to privacy and protection of personal data.

(34) Model aircraft are considered to be unmanned aircraft for the purposes of this Regulation and are used primarily for leisure activities. Delegated and implementing acts concerning unmanned aircraft, adopted on the basis of this Regulation, should take into account that such model aircraft have so far had a good safety record, especially those operated by members of model aircraft associations or clubs which have developed specific codes of conduct for such activities. In addition, when adopting those delegated and implementing acts, the Commission should take account of the need for a seamless transition from the different national systems to the new Union regulatory framework so that model aircraft can continue to operate as they do today, as well as take into account existing best practices in the Member States.

(35) In order to achieve the objectives of this Regulation, the Commission, the Agency and the competent authorities of the Member States should, by sharing resources and working jointly, act as a single European aviation safety system. The Agency should actively promote a common certification and oversight culture and the sharing of best administrative practices including by facilitating personnel exchanges between competent authorities in order to contribute to the achievement of the objectives of this Regulation, taking into account feedback from stakeholders. The monitoring activities of the Agency with regard to the application of this Regulation by the Member States should also aim to reinforce the capacity of the competent authorities of the Member States to fulfil their obligations related to certification and oversight and at transferring knowledge between those authorities.

(36) It is necessary to support Member States in performing their certification, oversight – and in particular cooperative and cross-border oversight – and enforcement tasks, by establishing an efficient framework for pooling and sharing of aviation inspectors and other specialists with relevant expertise. In this respect, and in order to facilitate such personnel exchanges between the national competent authorities, the Agency should be given a coordinating role.

(37) The Agency and the national competent authorities should work in partnership in order to improve the detection of unsafe conditions and take remedial measures as appropriate. Member States should in particular be able to reallocate to each other or to the Agency the responsibilities under this Regulation related to certification, oversight and enforcement, especially where that is necessary for enhanced safety or more efficient use of resources. Such reallocation should be voluntary, should only take place where there is sufficient assurance that those tasks can be performed effectively and should, considering the close relationship between certification, oversight and enforcement, necessarily cover all those responsibilities in respect of the legal or natural person, aircraft, equipment, aerodrome, ATM/ANS system or ATM/ANS constituent concerned by the reallocation. The reallocation of responsibility should be subject to mutual consent, the possibility to revoke the reallocation and the conclusion of arrangements setting out the necessary details to ensure a smooth transition and the continued effective performance of the tasks concerned. When concluding those detailed arrangements, due account should be taken of the views and legitimate interests of the legal or natural persons concerned and, where applicable, of the views of the Agency.

(38) Upon such reallocation of responsibility to another Member State, the national competent authority of the Member State which accepted the reallocation request should become the competent authority and should consequently have all powers and responsibilities in respect of the legal or natural persons concerned provided for in this Regulation, in the delegated and implementing acts adopted on the basis thereof and in the national law of the Member State which accepted the request. The reallocation in respect of enforcement should concern only decisions and measures related to tasks in the area of certification and oversight that were reallocated to the national competent authority of the Member State which accepted the request. Those decisions and measures should be subject to review by the national courts of the Member State which accepted the request in accordance with the national law of that Member State. It is possible that the Member State which accepted the request will be held liable for the performance of the tasks in question. All other enforcement responsibilities of the Member State which made the request should remain unaffected by the reallocation.

(39) The possibility to reallocate responsibility for the tasks related to certification, oversight and enforcement provided for in this Regulation to the Agency or another Member State should be without prejudice to the rights and obligations of the Member States under the Chicago Convention. Consequently, although such reallocation implies a transfer of responsibility to the Agency or to another Member State for the purposes of Union law, it does not affect the responsibility under the Chicago Convention of the Member State which made the request.

(40) Since cooperation between the Agency and the national competent authorities is essential in order to ensure a high and uniform level of safety in the Union, where certification, oversight, and enforcement tasks are reallocated from national competent authorities to the Agency in respect of organisations that

have a substantial proportion of facilities and personnel in more than one Member State, such reallocation should not endanger the sustainability of national competent authorities in terms of their knowledge, skills, resources and economic viability, should not generate forms of competition between the Agency and national competent authorities and should not affect the independence of the Agency when conducting standardisation inspections for the purpose of verifying the uniform implementation of this Regulation.

(41) An oversight support mechanism should be established in situations where verified safety-related evidence coming from inspections and other monitoring activities conducted by the Agency indicates a serious and persisting inability of a Member State in effectively ensuring certain or all of its certification, oversight and enforcement tasks under this Regulation, and where such situations endanger civil aviation safety. In such cases, the Agency and the Member State concerned should, at the request of the Commission, establish a temporary technical assistance programme in order to assist the Member State concerned in resolving the identified deficiencies. Such a technical assistance programme might include, in particular, the training of inspectors and other relevant personnel, assistance in development of oversight documentation and procedures, as well as other practical and tangible support necessary to restore safety. When designing the technical assistance programme and during its implementation, the needs and views of the Agency and Member State concerned should be taken into account. However, if the Member State concerned recognises that the programme cannot be successfully implemented as planned, it should inform the Commission, and either reallocate responsibility for the certification, oversight and enforcement tasks to which the deficiencies pertain to the Agency or another Member State, or take other measures to resolve the deficiencies.

(42) In order to achieve the main objectives of this Regulation, as well as objectives related to the free movement of goods, persons, services and capital, the certificates issued and declarations made in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof should be valid and should be recognised, without further requirements or evaluation, in all Member States.

(43) When issuing certificates pursuant to this Regulation, account might need to be taken of certificates, or other relevant documentation attesting compliance, issued in accordance with the laws of third countries. That should be done where the relevant international agreements concluded by the Union with third countries or the delegated acts adopted by the Commission pursuant to this Regulation so provide, and in accordance with those agreements or delegated acts.

(44) In light of the rules on the acceptance of certificates and other relevant documentation attesting compliance, issued in accordance with the laws of third countries, for which this Regulation provides, any international agreements concluded between a Member State and a third country should be terminated or updated where such agreements are not compatible with those rules.

(45) A degree of flexibility should be provided for with respect to the application of the rules set out in this Regulation or in the delegated and implementing acts adopted on the basis thereof, in order to allow Member States to take the necessary measures to react immediately to problems relating to civil aviation safety or to grant exemptions in the event of certain urgent unforeseeable circumstances or urgent operational needs, subject to appropriate conditions to ensure, in particular, proportionality, objective control and transparency. For reasons of proportionality, the Agency and the Commission should only assess the exemptions in question with a view to issuing a recommendation or taking a decision, respectively, where their duration exceeds the duration of one airline scheduling season, that is, eight months, without prejudice to the powers of the Commission under Article 258 TFEU. Where the Agency is the competent authority with respect to the issuing of certain certificates in accordance with this Regulation, it should also have the power to grant such exemptions, in the same situations and subject to the same conditions as those that apply with respect to the Member States. In this connection, provision should also be made for possible amendments, where appropriate, of the relevant rules as laid down in the delegated and implementing acts adopted on the basis of this Regulation, in particular so as to allow other means of compliance while still ensuring an acceptable level of civil aviation safety in the Union.

(46) With a view to ensuring the proper application of this Regulation and having regard to the need to identify, assess and mitigate the risks for civil aviation safety, the Commission, the Agency and the national competent authorities should exchange any information available to them in the context of the application of this Regulation. For this purpose, the Agency should be allowed to organise a structured cooperation on gathering, exchange and analysis of relevant safety-related information using, where possible, existing information systems. To this end, it should be allowed to enter into the necessary arrangements with natural and legal persons subject to this Regulation or with associations of such persons. It should be clarified that, when carrying out any of its coordinating tasks relating to the

gathering, exchange and analysis of information, the Agency remains bound by the restrictions regarding the Agency's access to information from recordings of cockpit voice or image recorders and of flight data recorders set out in Regulation (EU) No 996/2010 of the European Parliament and of the Council, and in particular point (d) of Article 8(2), point (g) of Article 14(1) and Article 14(2) thereof.

(47) It is necessary to establish measures to ensure the appropriate protection of information gathered, exchanged and analysed under this Regulation by the Commission, the Agency and the national competent authorities, as well as to ensure the protection of the sources of such information. Those measures should not unduly interfere with the justice systems of the Member States. They should therefore be without prejudice to the applicable national material and procedural criminal laws, including the use of information as evidence. In addition, the rights of third parties to institute civil proceedings should not be affected by those measures and should be subject only to national law.

(48) In order to facilitate the exchange of information between the Commission, the Agency and the Member States, including data, which is relevant for certification, oversight and enforcement activities, an electronic repository of such information should be established and managed by the Agency in cooperation with the Commission and the Member States.

(49) Regulation (EU) 2016/679 applies to the processing of personal data carried out in application of this Regulation. Pursuant to that Regulation, Member States may provide for exemptions and restrictions in respect of some of the rights and obligations provided for therein, including as regards the processing of medical and health data. The processing of personal data, and in particular medical and health data, included in the repository established under this Regulation, is necessary to enable effective cooperation between the Member States in certification and oversight of medical fitness of pilots. Exchange of personal data should be subject to strict conditions, and limited to what is absolutely necessary for achieving the objectives of this Regulation. Thus, the principles set out in Regulation (EU) 2016/679 should be supplemented or clarified in this Regulation, where necessary.

(50) Regulation (EC) No 45/2001 of the European Parliament and of the Council and in particular the provisions thereof concerning confidentiality and security of processing, apply to the processing of personal data by the Agency when carrying out its responsibilities in application of this Regulation and more specifically in the management of the repository established under this Regulation. Thus, the principles set out in Regulation (EC) No 45/2001 should be supplemented or clarified in this Regulation, where necessary.

(51) The Agency has been established by Regulation (EC) No 1592/2002 of the European Parliament and of the Council within the Union's existing institutional structure and balance of powers, is independent in relation to technical matters and has legal, administrative and financial autonomy. The Agency has received further competences in accordance with Regulation (EC) No 216/2008. Certain adjustments should be made in its structure and functioning in order to better accommodate the new tasks conferred on it by this Regulation.

(52) Under the institutional system of the Union, implementation of Union law is primarily the responsibility of the Member States. Certification, oversight and enforcement tasks required by this Regulation, and by the delegated and implementing acts adopted on the basis thereof, should therefore, in principle, be carried out at national level by one or more competent authorities of the Member States. In certain clearly defined cases, however, the Agency should also have the power to conduct those tasks. In those cases the Agency should also be allowed to take the necessary measures related to the operation of aircraft, the qualification of aircrew or the use of third-country aircraft, where this is the best means to ensure uniformity and facilitate the functioning of the internal market.

(53) The Agency should provide the technical expertise to the Commission in the preparation of the necessary legislation and assist, where appropriate, the Member States and industry in its implementation. It should be able to issue certification specifications and guidance material, along with other detailed specifications and guidance material, and to make technical findings and issue certificates or register declarations, as required.

(54) Global navigation satellite systems (‘GNSS’), and in particular the Union Galileo programme, established by Regulation (EU) No 1285/2013 of the European Parliament and of the Council, will play a pivotal role in the implementation of a European air traffic management system. In this regard, it should be clarified that services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation, such as those provided by the operator of the European Geostationary Navigation Overlay Service (EGNOS) and by other providers, should be considered to be ATM/ANS. The Agency should also have the power to develop the necessary technical specifications and to certify organisations providing pan-European ATM/ANS, such as service provider of EGNOS, to ensure a high, uniform level of safety, interoperability and operational efficiency.

(55) Regulation (EC) No 2111/2005 of the European Parliament and of the Council imposes a duty on the Agency to communicate all information that could be relevant for the updating of the list of air carriers which, for safety reasons, are subject to an operating ban in the Union. The Agency should also assist the Commission in the implementation of that Regulation, by conducting the necessary evaluations of third country operators and authorities responsible for their oversight, and making appropriate recommendations to the Commission.

(56) In order to ensure compliance with this Regulation, it should be possible to impose fines or periodic penalty payments, or both, on holders of certificates issued by the Agency and on undertakings that made declarations to the Agency, where they infringed the rules applicable to them pursuant to this Regulation. The Commission should impose such fines and periodic penalty payments on the recommendation of the Agency. In this regard, the Commission should, in light of the circumstances of each individual case, respond to such infringements in a proportionate and adequate manner, taking account of other possible measures such as the withdrawal of a certificate.

(57) With a view to contributing to the uniform application of this Regulation, the Agency should be empowered to monitor such application by Member States, including by conducting inspections.

(58) On the basis of its technical expertise, the Agency should assist the Commission in the definition of research policy and in the implementation of Union research programmes. It should be allowed to conduct research which is immediately needed and to participate in ad hoc research projects under the Union Framework Programme for Research and Innovation or other Union and non-Union private or public funding programmes.

(59) Having regard to the existing interdependencies between safety and security in civil aviation, the Agency should take part in the cooperation concerning the area of aviation security, including cyber-security. It should contribute its expertise to the implementation, by the Commission and by Member States, of Union rules in that area.

(60) The Agency should, on request, assist the Member States and Commission in the field of international relations relating to matters covered by this Regulation, in particular as regards the harmonisation of rules and the mutual recognition of certificates. It should be entitled to establish the appropriate relations, through working arrangements, with the authorities of third countries and international organisations competent in matters covered by this Regulation, after consulting the Commission. In order to promote safety at the worldwide level, in light of the high standards applied within the Union, the Agency should be allowed to engage, within its field of competence, in *ad hoc* technical cooperation, research and assistance projects with third countries and international organisations. The Agency should also assist the Commission in the implementation of Union law in other technical domains of civil aviation regulation, such as security or the Single European Sky, where the Agency has the relevant expertise.

(61) In order to promote best practices and a uniform implementation of Union aviation safety legislation, the Agency should be able to approve providers of aviation training and provide such training.

(62) The Agency should be governed and operated in accordance with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012.

(63) The Commission and the Member States should be represented within the Management Board of the Agency in order to effectively control its functions. That Management Board should be entrusted with the necessary powers in particular to appoint the Executive Director, and to adopt the consolidated annual activity report, the programming document, the annual budget, and the financial rules applicable to the Agency.

(64) In the interests of transparency, interested parties should be given observer status within the Management Board of the Agency.

(65) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the delegated and implementing acts adopted on the basis thereof. To that end, safety-related decisions of the Agency should be made by its Executive Director, who should enjoy a high degree of flexibility in respect of obtaining advice and organising the internal functioning of the Agency.

(66) It is necessary to ensure that parties affected by decisions made by the Agency have access to the necessary remedies, which should be suited to the special character of the field of aviation. Therefore, an appropriate appeal mechanism should be set up so that decisions of the Agency can be subject to appeal to a Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union in accordance with the TFEU.

(67) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. The Court of Justice should, in accordance with Article 261 TFEU, be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.

(68) When the Agency develops draft rules of a general nature to be implemented by national authorities, Member States should be consulted. Furthermore, where such draft rules could have important social implications, stakeholders, including Union social partners, should be appropriately consulted by the Agency.

(69) With a view to effectively carrying out its tasks under this Regulation, the Agency should cooperate, as necessary, with Union institutions, bodies, offices and agencies in areas where their activities affect technical aspects of civil aviation. In particular, the Agency should collaborate with the European Chemicals Agency established by Regulation (EC) No 1907/2006 of the European Parliament and of the Council in the exchange of information on the safety of chemical substances, their impact on aviation safety and related scientific and technical aspects. When consultation relating to military aspects is required, the Agency should consult, in addition to the Member States, the European Defence Agency established by Council Decision (CFSP) 2015/1835 and military experts designated by the Member States.

(70) It is necessary to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council and relevant national legislation.

(71) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget principally funded from a contribution from the Union and from fees and charges paid by the users of the European aviation safety system. No financial contribution received by the Agency from Member States, third countries, or other entities or persons should compromise its independence and impartiality. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned, while the auditing of accounts should be carried out by the European Court of Auditors. In order to enable the Agency to participate in all relevant future projects, it should be given the possibility to receive grants.

(72) In order to ensure that the Agency can respond to demand for the activities it carries out, in particular as regards certification and activities related to a possible reallocation of responsibility from Member States, in an efficient and timely manner, while respecting sound financial management, the establishment plan should take into account the resources required to meet demands for certification and for other activities of the Agency in an efficient and timely manner, including those resulting from reallocation of responsibility. To this end, a set of indicators should be established to measure the Agency's workload and efficiency in relation to activities financed through fees and charges. Having regard to those indicators the Agency should adapt its staff planning and management of resources related to fees and charges so as to be able to adequately respond to such demand and to any fluctuations in revenue from fees and charges.

(73) It is necessary to establish appropriate measures to ensure the necessary protection of sensitive safety-related information.

(74) The fees and charges levied by the Agency should be set in a transparent, fair, non-discriminatory and uniform manner. They should not jeopardise the competitiveness of the Union's industry concerned. Furthermore, they should be established on a basis which takes due account of the ability of the legal or natural persons concerned to pay, in particular regarding small and medium-sized enterprises.

(75) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. The majority of those implementing powers, and in particular those relating to the laying down of detailed provisions concerning rules and procedures, should be exercised in accordance with Regulation (EU) No 182/2011.

(76) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to corrective action and safeguard measures, imperative grounds of urgency so require.

(77) In order to take into account technical, scientific, operational or safety needs, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, or, if applicable, supplementing, the provisions on airworthiness related to design and production, flight time limitations, aerodrome operators, ATM/ANS systems and ATM/ANS constituents and the design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as the provisions on personnel, including remote pilots, and organisations involved in those activities, third-country operators, on

certain aspects of oversight and enforcement, on acceptance of third-country certification, on fines and periodic penalty payments, on the Board of Appeal and on the requirements set out in Annexes II to IX to this Regulation. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the reference in this Regulation to the environmental protection requirements contained in Amendment 12 of Volume I, Amendment 9 of Volume II, and in the initial issue of Volume III, all as applicable on 1 January 2018, of Annex 16 to the Chicago Convention, in order to update them in light of subsequent amendments to Annex 16 to that Convention.

(78) When adopting the delegated acts amending the Annexes II to IX to this Regulation, the Commission should take due account of the international standards and recommended practices, and in particular of the international standards set out in all of the Annexes to the Chicago Convention.

(79) When adopting delegated acts under this Regulation, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(80) ANS Providers should establish and implement contingency planning for a disruption of ATM services.

(81) The involvement of European third countries should be pursued to ensure the improvement of civil aviation safety throughout Europe. European third countries that have concluded international agreements with the Union to adopt and apply the Union *acquis* in the field covered by this Regulation should be associated with the work of the Agency in accordance with rules and procedures set in the framework of those agreements.

(82) This Regulation sets common rules in the field of civil aviation and maintains the establishment of the Agency. Regulation (EC) No 216/2008 should therefore be repealed.

(83) Since the rules necessary for the interoperability of the European air traffic management network (EATMN) are either contained in this Regulation or will be contained in delegated or implementing acts adopted on the basis thereof, Regulation (EC) No 552/2004 of the European Parliament and of the Council should be repealed. However, a certain period of time will be required before necessary delegated and implementing acts can be prepared, adopted and can start to apply. The implementing rules adopted on the basis of Regulation (EC) No 552/2004 should therefore remain applicable for the time being, namely Commission Regulations (EC) No 1033/2006, (EC) No 1032/2006, (EC) No 633/2007, (EC) No 262/2009, (EC) No 29/2009, (EU) No 73/2010 and Commission Implementing Regulations (EU) No 1206/2011, (EU) No 1207/2011, and (EU) No 1079/2012. Certain Articles of Regulation (EC) No 552/2004, and the Annexes thereto to which they refer, should therefore also continue to apply in respect of the subject matter covered, until the date of application of the implementing and delegated acts concerned.

(84) Regulation (EC) No 216/2008 amends Council Regulation (EEC) No 3922/91 by deleting Annex III thereto with effect from the entry into force of the corresponding measures referred to in Article 8(5) of Regulation (EC) No 216/2008. Such measures still awaiting adoption concern flight time limitations and rest requirements with regard to air taxi, emergency medical services and single pilot commercial air transport operations by aeroplanes. The other provisions of Regulation (EEC) No 3922/91 have become obsolete. Regulation (EEC) No 3922/91 should therefore be repealed from the date of application of those measures still awaiting adoption. However, Regulation (EEC) No 3922/91 also establishes the Air Safety Committee, within the meaning of Regulation (EU) No 182/2011, and that committee also assists the Commission in the context of Regulation (EC) No 2111/2005. Regulation (EC) No 2111/2005 should therefore be amended so as to ensure that, for the purposes of that Regulation, that Committee continues to assist the Commission even after the repeal of Regulation (EEC) No 3922/91.

(85) The changes brought about by this Regulation have an impact on the implementation of other Union legislation. Regulation (EC) No 1008/2008 of the European Parliament and of the Council and Regulations (EU) No 996/2010, (EU) No 376/2014 and (EC) No 2111/2005 should therefore be amended accordingly. In particular, it should be possible for the responsible safety investigation authorities to decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required under this Regulation and no person has been fatally or seriously injured. It should be clarified that, in such a case, those certificates

and declarations are those which pertain to the compliance of the design of unmanned aircraft with the applicable requirements and which are under the oversight of the Agency. That flexibility of the safety investigation authorities should apply from the date of entry into force of this Regulation.

(86) Regulation (EC) No 1008/2008 should be amended to take due account of the possibility, established by this Regulation, that the Agency might become the competent authority for the issuance and oversight of air operator certificates. Moreover, given the growing importance of air carriers with operational bases in several Member States, which results in the competent authority for the operating licences and the competent authority for air operator certificates no longer being necessarily identical, there is a need to reinforce the efficient supervision of those air carriers. Regulation (EC) No 1008/2008 should therefore be amended to ensure close cooperation between the authorities responsible for the oversight in respect of the air operator certificate and the operating licence respectively.

(87) In view of the changes to the Union regulatory regime governing especially unmanned aircraft introduced by this Regulation, Directives 2014/30/EU and 2014/53/EU should be amended. In particular, in respect of aircraft other than unmanned aircraft, as well as the engines, propellers, parts and non-installed equipment associated to aircraft other than unmanned aircraft, it should be ensured that any such aviation equipment continues to be excluded from the scope of those Directives. Unmanned aircraft and their engines, propellers, parts and non-installed equipment should also be excluded from the scope of those Directives, but only from the moment and in as far as the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are certified by the Agency in accordance with this Regulation, given that under this Regulation they are, in that case, subject to essential requirements relating to electromagnetic compatibility and radio spectrum and that compliance with those requirements is to be assessed and ensured as part of the rules on certification, oversight and enforcement provided by this Regulation. However, the exclusion of any such aviation equipment from the scope of Directives 2014/30/EU and 2014/53/EU should only concern aviation equipment which falls within the scope of this Regulation and which is intended exclusively for airborne use on protected aeronautical frequencies. As a consequence, equipment to control unmanned aircraft remotely, as well as equipment which is intended for airborne use but also for certain other uses, is not excluded from the scope of Directives 2014/30/EU and 2014/53/EU and thus can be subject to the rules of both this Regulation and those Directives.

(88) Since the objectives of this Regulation, namely establishing and maintaining a high uniform level of civil aviation safety, while ensuring a high uniform level of environmental protection, cannot be sufficiently achieved by the Member States because of the largely transnational nature of aviation and its complexity, but can rather, by reason of their Union-wide scope, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Subject matter and objectives

1.The principal objective of this Regulation is to establish and maintain a high level of civil aviation safety in Gibraltar.

2.This Regulation further aims to:

(a) contribute to the wider Gibraltar aviation policy and to the improvement of the overall performance of the civil aviation sector;

(b) provide a level playing field for all actors in the Gibraltar aviation market, and improve the competitiveness of Gibraltar’s aviation industry;

(c) contribute to a high, level of environmental protection;

(d) facilitate, in the fields covered by this Regulation, the movement of goods, services and personnel worldwide, by establishing appropriate cooperation with third countries and their aviation authorities, and by promoting the mutual acceptance of certificates and other relevant documents;

(e) promote cost-efficiency, by, inter alia, avoiding duplication, and promoting effectiveness in regulatory, certification and oversight processes as well as an efficient use of related resources at national level;

(f) contribute, in the fields covered by this Regulation, to establishing and maintaining a high level of civil aviation security;

(g) assist Gibraltar, in the fields covered by this Regulation, in exercising its rights and fulfilling its obligations under the Chicago Convention;

(h) *Omitted*

(i) promote research and innovation, inter alia, in regulatory, certification and oversight processes;

(j) promote, in the fields covered by this Regulation, technical and operational interoperability and the sharing of administrative best practices;

(k) support passenger confidence in a safe civil aviation.

3.The objectives set out in paragraphs 1 and 2 shall be achieved by, inter alia:

(a) the preparation, making and application of all necessary regulations;

(b) the taking of measures to improve safety standards;

(c) *Omitted*

(d) the development, with the involvement of standardisation and other industry bodies, of detailed technical standards to be used as a means of compliance with this Regulation, and with the regulations made under it, where appropriate;

(e) *Omitted*

(f) the implementation of all necessary acts by the Minister and the Director, within their respective areas of responsibility;

(g) the gathering, analysis and exchange of information to support evidence-based decision making;

(h) the undertaking of awareness and promotion initiatives, including training, communication and dissemination of relevant information.

Article 2

Scope

1.This Regulation shall apply to:

(a) *Omitted*

(b) the operation of an unmanned aircraft, that is registered neither in Gibraltar nor in a third country and that is operated within Gibraltar by an aircraft operator established, residing or with a principal place of business within Gibraltar;

(c) the operation of aircraft into, within, or out of Gibraltar by a third country aircraft operator;

(d) the provision of groundhandling services at the aerodromes referred to in point (e);

(e) the design, maintenance and operation of aerodromes, including the safety-related equipment used at those aerodromes, located in Gibraltar, which:

  (i) are open to public use;

  (ii) serve commercial air transport; and

  (iii) have a paved instrument runway of 800 metres or more, or exclusively serve helicopters using instrument approach or departure procedures;

(f) without prejudice to national law on environment and land-use planning, the safeguarding of surroundings of the aerodromes referred to in point (e);

(g) the provision of ATM/ANS in Gibraltar airspace, and the maintenance and operation of systems and constituents used in the provision of those ATM/ANS;

(h) without prejudice to Regulation (EC) No 551/2004 of the European Parliament and of the Council and the responsibilities of Member States with regard to airspace under their jurisdiction, the design of airspace structures in the Single European Sky airspace.

2.This Regulation shall also apply to the personnel and organisations involved in the activities referred to in paragraph 1.

3.This Regulation shall not apply to:

(a) aircraft, and their engines, propellers, parts, non-installed equipment and equipment to control aircraft remotely, while carrying out military, customs, police, search and rescue, firefighting, border control, coastguard or similar activities or services under the control and responsibility of Gibraltar, undertaken in the public interest by or on behalf of a body vested with the powers of a public authority, and the personnel and organisations involved in the activities and services performed by those aircraft;

(b) aerodromes or parts thereof, as well as equipment, personnel and organisations, that are controlled and operated by the military;

(c) ATM/ANS, including systems and constituents, personnel and organisations, that are provided or made available by the military;

(d) the design, production, maintenance and operation of aircraft the operation of which involves low risk for aviation safety, as listed in Annex I, and to the personnel and organisations involved therein, unless the aircraft has been issued, or has been deemed to have been issued, with a certificate in accordance with Regulation (EC) No 216/2008.

4.*Omitted*

5.Without prejudice to national security and defence requirements, the Minister shall ensure that:

(a) the facilities referred to in point (b) of the first subparagraph of paragraph 3 of this Article that are open to public use; and

(b) the ATM/ANS referred to in point (c) of the first subparagraph of paragraph 3 of this Article that are provided to air traffic to which Regulation (EC) No 549/2004 applies,

offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements set out in Annexes VII and VIII to this Regulation.

6.The Minister may decide to apply any, or any combination, of Section I, II, III, or VII of Chapter III, to some or all activities referred to in point (a) of the first subparagraph of paragraph 3 and to the personnel and organisations involved in those activities, where the Minister considers that, in light of the characteristics of the activities, personnel and organisations in question and the purpose and content of the provisions concerned, those provisions can be effectively applied.

From the date specified in that decision, the activities, personnel and organisations concerned shall be solely regulated by the provisions of the Section, or Sections, concerned and by the provisions of this Regulation related to the application of those sections.

The Minister concerned shall without delay notify the Director of a decision and shall provide the Director with all relevant information, in particular:

(a) the Section or Sections concerned;

(b) the activities, personnel and organisations concerned;

(c) the reasons for the decision; and

(d) the date from which that decision applies.

The Minister may also at any time decide to modify or revoke the earlier decision referred to in the first subparagraph of this paragraph.

Article 3

Definitions

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

(1) ‘oversight’ means the verification, by or on behalf of the Director, on a continuous basis that the requirements of this Regulation and of regulations made under it, on the basis of which a certificate has been issued or in respect of which a declaration has been made, continue to be complied with;

(2) ‘Chicago Convention’ means the Convention on International Civil Aviation and the Annexes thereto, signed in Chicago on 7 December 1944;

(3) ‘product’ means an aircraft, an engine or a propeller;

(4) ‘part’ means any element of a product, as defined by that product's type design;

(5) ‘ATM/ANS’ means air traffic management and air navigation services and covers all of the following: the air traffic management functions and services as defined in point (10) of Article 2 of Regulation (EC) No 549/2004; the air navigation services as defined in point (4) of Article 2 of that Regulation, including the network management functions and services referred to in Article 6 of Regulation (EC) No 551/2004, as well as services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation; flight procedures design; and services consisting in the origination and processing of data and the formatting and delivering of data to general air traffic for the purpose of air navigation;

(6) ‘ATM/ANS constituent’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the EATMN depends;

(7) ‘ATM/ANS system’ means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight;

(8) *Omitted*

(9) ‘certification’ means any form of recognition in accordance with this Regulation, based on an appropriate assessment, that a legal or natural person, product, part, non-installed equipment, equipment to control unmanned aircraft remotely, aerodrome, safety-related aerodrome equipment, ATM/ANS system, ATM/ANS constituent or flight simulation training device complies with the applicable requirements of this Regulation and of regulations made under it, through the issuance of a certificate attesting such compliance;

(10) ‘declaration’ means any written statement made in accordance with this Regulation under the sole responsibility of a legal or natural person subject to this Regulation and which confirms that the applicable requirements of this Regulation and of regulations made under it relating to a legal or natural person, product, part, non-installed equipment, equipment to control unmanned aircraft remotely, safety-related aerodrome equipment, ATM/ANS system, ATM/ANS constituent or flight simulation training device are complied with;

(11) ‘qualified entity’ means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Regulation by and under the control and the responsibility of the Director;

(12) ‘certificate’ means any certificate, approval, licence, authorisation, attestation or other document issued as the result of a certification attesting compliance with the applicable requirements;

(13) ‘aircraft operator’ means any legal or natural person operating or proposing to operate one or more aircraft;

(14) ‘aerodrome operator’ means any legal or natural person operating or proposing to operate one or more aerodromes;

(15) ‘flight simulation training device’ means any type of device in which flight conditions are simulated on the ground, including flight simulators, flight training devices, flight and navigation procedures trainers and basic instrument training devices;

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

(17) ‘safety-related aerodrome equipment’ means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory that is used or intended to be used to contribute to the safe operation of aircraft at an aerodrome;

(18) ‘apron’ means a defined area of an aerodrome intended to accommodate aircraft for purposes of loading or unloading passengers, baggage, mail or cargo, fuelling, parking or maintenance;

(19) ‘apron management service (AMS)’ means a service provided to regulate the activities and the movement of aircraft and vehicles on an apron;

(20) ‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

(21) ‘general air traffic’ means all movements of civil aircraft and state aircraft carried out in conformity with the procedures of the International Civil Aviation Organization (‘ICAO’);

(22) ‘international standards and recommended practices’ means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;

(23) ‘groundhandling service’ means any service provided at aerodromes comprising safety -related activities in the areas of ground supervision, flight dispatch and load control, passenger handling, baggage handling, freight and mail handling, apron handling of aircraft, aircraft services, fuel and oil handling, and loading of catering; including the case where aircraft operators provide those groundhandling services to themselves (self-handling);

(24) ‘commercial air transport’ means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;

(25) ‘safety performance’ means Gibraltar's or an organisation's safety achievement, as defined by its safety performance targets and safety performance indicators;

(26) ‘safety performance indicator’ means a parameter used for monitoring and assessing safety performance;

(27) ‘safety performance target’ means a planned or intended objective for complying with safety performance indicators over a given period of time;

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

(29) ‘non-installed equipment’ means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory carried on board of an aircraft by the aircraft operator, which is not a part, and which is used or intended to be used in operating or controlling an aircraft, supports the occupants' survivability, or which could impact the safe operation of the aircraft;

(30) ‘unmanned aircraft’ means any aircraft operating or designed to operate autonomously or to be piloted remotely without a pilot on board;

(31) ‘remote pilot’ means a natural person responsible for safely conducting the flight of an unmanned aircraft by operating its flight controls, either manually or, when the unmanned aircraft flies automatically, by monitoring its course and remaining able to intervene and change the course at any time;

(32) ‘equipment to control unmanned aircraft remotely’ means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory that is necessary for the safe operation of an unmanned aircraft, which is not a part, and which is not carried on board of that unmanned aircraft;

(33) *Omitted*

(34) ‘national competent authority’ means one or more entities designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, and with Regulation (EC) No 549/2004.

(35) ‘the Director’ means the Director of Civil Aviation, as defined in the Civil Aviation Act 2009;

(36) ‘the Minister’ means the Minister with responsibility for Civil Aviation;

(37) ‘third country’ means any country or territory other than Gibraltar, except that the United Kingdom, the British overseas territories, the Channel Islands and the Isle of Man, are not within the meaning of third country for the purposes of Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

Article 4

Principles for measures under this Regulation

1.When taking measures under this Regulation the Minister and the Director shall:

(a) reflect the state of the art and best practices in the field of aviation, and take into account worldwide aviation experience and scientific and technical progress in the respective fields;

(b) build on the best available evidence and analysis;

(c) allow for immediate reaction to established causes of accidents, serious incidents and intentional security breaches;

(d) take into account interdependencies between the different domains of aviation safety, and between aviation safety, cyber security and other technical domains of aviation regulation;

(e) lay down, where possible, requirements and procedures in a manner which is performance-based and focuses on objectives to be achieved, while allowing different means of achieving compliance with those performance-based objectives;

(f) *Omitted*

(g) take non-binding measures, including safety promotion actions, where possible;

(h) take into account the international rights and obligations in the field of civil aviation that apply to Gibraltar, including those under the Chicago Convention.

2.The measures taken under this Regulation shall correspond and be proportionate to the nature and risk of each particular activity to which they relate. In preparing and enacting such measures, the Minister and the Director shall take into account, as appropriate for the activity concerned:

(a) whether persons other than flight crew are carried on board, and in particular whether the operation is open to members of the public;

(b) to what extent third parties or property on the ground could be endangered by the activity;

(c) the complexity, performance and operational characteristics of the aircraft involved;

(d) the purpose of the flight, the type of aircraft and type of airspace used;

(e) the type, scale, and complexity of the operation or activity, including, where relevant, the size and type of the traffic handled by the responsible organisation or person;

(f) the extent to which the persons affected by the risks involved in the operation are able to assess and exercise control over those risks;

(g) the results of past certification and oversight activities.

CHAPTER II

AVIATION SAFETY MANAGEMENT

Article 5

Omitted

Article 6

Omitted

Article 7

State Safety Programme

1.The Minister must, in consultation with the Director and other relevant stakeholders, establish and maintain a State safety programme for the management of civil aviation safety in relation to the aviation activities under the responsibility of the Minister (the 'State Safety Programme'). That programme shall be commensurate with the size and the complexity of those activities.

2.The State Safety Programme shall include at least the elements related to State safety management responsibilities described in the international standards and recommended practices.

3.The State Safety Programme shall specify, taking into account the objectives set out in Article 1, the level of safety performance to be achieved at national level in respect of the aviation activities under the responsibility of the Minister.

Article 8

State Plan for Aviation Safety

1.The State Safety Programme shall include or be accompanied by a State Plan for Aviation Safety. Based on the assessment of relevant safety information, the Minister, in consultation with the Director and other relevant stakeholders, shall identify in that plan the main safety risks affecting the national civil aviation safety system and shall set out the necessary actions to mitigate those risks.

2.*Omitted*

CHAPTER III

SUBSTANTIVE REQUIREMENTS

SECTION I

Omitted

Articles 9 to 19

Omitted

SECTION II

Omitted

Articles 20 to 28

Omitted

SECTION III

Omitted

Articles 29 to 32

Omitted

SECTION IV

Aerodromes

Article 33

Essential requirements

Aerodromes, safety-related aerodrome equipment, the operation of aerodromes and the provision of groundhandling services and AMS at aerodromes referred to in point (e) of Article 2(1) shall comply with the essential requirements set out in Annex VII and, if applicable, Annex VIII.

Article 34

Aerodrome certification

1.A certificate shall be required in respect of aerodromes. That certificate shall cover the aerodrome and its safety-related equipment, unless that safety-related equipment is covered by a declaration or certificate referred to in points (a) and (b) respectively of Article 35(1).

2.The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that the aerodrome:

(a) complies with the regulations referred to in Article 36 and with the aerodrome certification basis set out in paragraph 5 of this Article; and

(b) has no feature or characteristic making it unsafe for operation.

3.The certificate referred to in paragraph 1 of this Article may be amended to include changes to the aerodrome or its safety-related equipment, in accordance with the regulations referred to in point (c) of Article 36(1).

4.The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the aerodrome or its safety-related equipment no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the regulations referred to in point (c) of Article 36(1).

5.The certification basis for an aerodrome shall consist of the following:

(a) the applicable certification specifications related to the type of aerodromes;

(b) those provisions of the applicable certification specifications for which an equivalent level of safety has been accepted;

(c) the special detailed technical specifications necessary when the design features of a particular aerodrome or the experience in operation render any of the certification specifications referred to in point (a) of this paragraph inadequate or inappropriate to ensure conformity with the essential requirements referred to in Article 33.

Article 35

Safety related aerodrome equipment

1.Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, regulations made under Article 36 may require organisations involved in the design, production and maintenance of safety related aerodrome equipment used or intended for use at aerodromes subject to this Regulation to:

(a) declare that such equipment complies with the detailed specifications established in accordance with regulations made under Article 36; or

(b) hold a certificate in respect of that safety-related aerodrome equipment.

2.The certificate referred to in point (b) of paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that the equipment complies with the detailed specifications established in accordance with regulations made under Article 36 adopted to ensure compliance with the essential requirements referred to in Article 33.

3.The certificate referred to in point (b) of paragraph 1 of this Article shall specify the functionalities of the equipment. That certificate may be amended to reflect the changes to those functionalities, in accordance with the regulations made under point (d) of Article 36(1).

4.The certificate referred to in point (b) of paragraph 1 of this Article may be limited, suspended or revoked, when the equipment no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the regulations made under point (d) of Article 36(1).

Article 36

Regulations **as regards aerodromes and safety-related aerodrome equipment**

1.In order to ensure compliance with the essential requirements referred to in Article 33, for aerodromes and safety-related aerodrome equipment, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the rules and procedures for establishing and notifying to an applicant, on the basis of Article 34(5), the certification basis applicable to an aerodrome for the purposes of certification in accordance with Article 34(1);

(b) the rules and procedures for establishing and notifying to an applicant the detailed specifications applicable to safety-related aerodrome equipment for the purposes of certification in accordance with Article 35(1);

(c) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the aerodrome certificates referred to in Article 34, including operating limitations related to the specific design of the aerodrome;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates for safety-related aerodrome equipment referred to in Article 35(1), and for the situations in

which such certificates are to be required;

(e) the rules and procedures for establishing the detailed specifications applicable to safety-related aerodrome equipment which is subject to a declaration in accordance with Article 35(1);

(f) the rules and procedures for the declaration, in accordance with Article 35(1), in respect of safety-related aerodrome equipment, and for the situations in which such declarations are to be required;

(g) the privileges and responsibilities of the holders of the certificates referred to in Articles 34 and 35(1), and of the organisations making declarations in accordance with Article 35(1);

2.When making regulations under subparagraph 1, the Minister shall ensure compliance with the essential requirements referred to in Article 33 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 14 to the Chicago Convention.

Article 37

Organisations

1.Organisations responsible for the operation of aerodromes shall be subject to certification and shall be issued with a certificate. That certificate shall be issued upon application, when the applicant has demonstrated that it complies with regulations made under Article 39 adopted to ensure compliance with the essential requirements referred to in Article 33.

The certificate shall specify the privileges granted to the certified organisation and the scope of the certificate.

2.Organisations responsible for the provision of groundhandling services and AMS at aerodromes subject to this Regulation shall declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 33.

Article 38

Protection of aerodrome surroundings

1.The Minister and the Director shall take the necessary measures to ensure that aerodromes located in Gibraltar are safeguarded against activities and developments in their surroundings which may cause unacceptable risks to aircraft using the aerodrome.

2.The organisations referred to in Article 37(1) shall monitor activities and developments which may cause unacceptable safety risks to aviation in the surroundings of the aerodrome for the operation of which they are responsible. They shall take the necessary measures to mitigate those risks in as far as this lies within their control and, where that is not the case, bring those risks to the attention of the Director.

3.In order to ensure the uniform application of this Article, the Minister may, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions.

Article 39

Delegated powers

1.For the operation of aerodromes and the provision of groundhandling services and AMS at aerodromes, the Minister may make regulations laying down detailed rules with regard to:

(a) the specific conditions for the operation of aerodromes in compliance with the essential requirements referred to in Article 33;

(b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 37(1);

(c) the privileges and responsibilities of the holders of the certificates referred to in Article 37(1);

(d) the conditions and procedures for the declaration by organisations providing groundhandling services and by organisations providing AMS in accordance with Article 37(2), including recognition, without further verification, by the operators, of those declarations;

(e) the privileges and responsibilities of the organisations providing groundhandling services and by organisations providing AMS which have made declarations in accordance with Article 37(2).

2.As regards aerodromes, safety-related aerodrome equipment, the operation of aerodromes, and groundhandling services and AMS the Minister may make regulations, to amend Annex VII and, if applicable, Annex VIII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the aerodromes, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION V

ATM/ANS

Article 40

Essential requirements

1.The provision of ATM/ANS referred to in point (g) of Article 2(1) shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.

2.Aircraft operating in Gibraltar airspace, except those engaged in activities referred to in point (a) of Article 2(3), shall comply with the essential requirements set out in point 1 of Annex VIII.

Article 41

ATM/ANS providers

1.Providers of ATM/ANS shall be required to hold a certificate.

2.The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with regulations made under Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40.

3.The certificate referred to in paragraph 1 of this Article shall specify the privileges granted. That certificate may be amended to add or remove privileges, in accordance with regulations made under point (b) of the first subparagraph of Article 43(1).

4.The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with regulations made under point (b) of the first subparagraph of Article 43(1).

5.By way of derogation from paragraph 1 of this Article, in accordance with regulations made under Article 43, the Director may decide that providers of flight information services are to be allowed to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 40.

6.By way of derogation from paragraph 1, the Director may grant exemptions to providers of ATM/ANS from the requirement to hold a certificate, where all of the following conditions have been met:

(a) the provider has its principal place of business located outside the territories for which Gibraltar is are responsible under the Chicago Convention;

(b) the provision of ATM/ANS by that provider concerns air traffic of small volume in a limited part of the airspace for which Gibraltar is responsible and where that part of the airspace borders with an airspace under the responsibility of a third country;

(c) requiring the provider to demonstrate compliance with the rules referred to in paragraph 1 would involve a disproportionate effort from that provider in light of the nature and risk of the particular activity that it carries out within that airspace;

(d) the Director has set rules and procedures applicable to the provision of ATM/ANS by the provider which ensure, in accordance with international standards and recommended practices and taking account of the specific circumstances of the case in question, an acceptable level of safety and compliance with the essential requirements referred to in Article 40, and has established appropriate and effective means and arrangements for oversight and enforcement to ensure compliance with those rules and procedures;

(e) the scope of the exemption is clearly defined and the exemption remains limited to what is strictly necessary; where its duration exceeds five years, the exemption is subject to regular review at suitable intervals; and the exemption is applied in a non-discriminatory manner.

Article 42

Organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents

1.Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents, may be required, in accordance with regulations made under Article 43, to:

(a) declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the activities performed in compliance with those regulations; or

(b) hold a certificate.

2.The certificate referred to in point (b) of paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with the rules established by regulations made under Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40.

3.The certificate referred to in point (b) of paragraph 1 of this Article shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with regulations made under point (d) of the first subparagraph of Article 43(1).

4.The certificate referred to in point (b) of paragraph 1 of this Article may be limited, suspended or revoked, when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with regulations made under point (d) of the first subparagraph of Article 43(1).

Article 43

Regulations **as regards ATM/ANS providers and organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents**

1.In order to ensure compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), the Minister shall, on the basis of the principles set out in

Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 40, including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1);

(c) the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article 42(1), and for the situations in which such certificates are to be required;

(e) the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;

(f) the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making declarations in accordance with Article 41(5) and point (a) of Article 42(1).

2.The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.

3.When making regulations under paragraph 1, the Minister shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.

Article 44

Regulations **as regards the use of airspace and the design of airspace structures**

1.In order to ensure compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), as well as for the design of airspace structures, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the operating rules related to the use of airspace, aircraft equipment and ATM/ANS systems and ATM/ANS constituents required for the use of airspace;

(b) the rules and procedures for the design of airspace structures in order to ensure compliance with Article 46.

2.*Omitted*

3.When making regulations under paragraph 1, the Minister shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2, 3, 10, 11 and 15 to the Chicago Convention.

Article 45

ATM/ANS systems and ATM/ANS constituents

1.Where regulations made under Article 47 so provide, the providers of ATM/ANS referred to in Article 41 shall be required to declare that the ATM/ANS systems and ATM/ANS constituents which are to be put into

operation by those service providers comply with the detailed specifications established in accordance with the regulations made under Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

2.Where the regulations made under Article 47 so provide, ATM/ANS systems and ATM/ANS constituents shall be subject to certification and shall be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that those systems and constituents comply with the detailed specifications established in accordance with regulations made under Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

By way of derogation from the first subparagraph, where regulations made under Article 47 so provide, the organisation involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents shall be permitted to declare that those systems and constituents comply with the detailed specifications established in accordance with regulations made under Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40 and that those systems and constituents are suitable for use.

Article 46

Design of airspace structures

The Director shall ensure that airspace structures are properly designed, surveyed and validated before they can be deployed and used by aircraft, in accordance with regulations made by the Minister under point (b) of Article 44(1).

Article 47

Delegated powers

1.For the ATM/ANS systems and ATM/ANS constituents the Minister may make regulations, laying down detailed rules with regard to:

(a) the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents for the purposes of certification in accordance with Article 45(2);

(b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 45(2), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such certificates are to be required or declarations are to be permitted, as applicable;

(c) the privileges and responsibilities of the holders of certificates referred to in Article 45(2);

(d) the privileges and responsibilities of the organisations issuing declarations in accordance with Article 45(1) and (2);

(e) the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 45(1), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned such declarations are to be required;

(f) the conditions for establishing the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents which are subject to a declaration in accordance with Article 45(1) and (2).

2.As regards the provision of ATM/ANS, the Minister may make regulations, to amend Annex VIII and, if applicable, Annex VII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the ATM/ANS, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION VI

Air traffic controllers

Article 48

Essential requirements

Air traffic controllers involved in the provision of ATM/ANS referred to in point (g) of Article 2(1), as well as persons, organisations and synthetic training devices involved in the training, testing, checking or medical assessment of those air traffic controllers, shall comply with the essential requirements set out in Annex VIII.

Article 49

Air traffic controllers

1.Air traffic controllers shall be required to hold an air traffic controller licence and an air traffic controller medical certificate appropriate for the service to be provided.

2.The air traffic controller licence referred to in paragraph 1 of this Article shall be issued upon application, when the applicant for the licence has demonstrated that he or she complies with regulations made under Article 50 adopted to ensure compliance with the essential requirements referred to in Article 48.

3.The air traffic controller medical certificate referred to in paragraph 1 of this Article shall be issued upon application, when the air traffic controller has demonstrated that he or she complies with regulations made under Article 50 adopted to ensure compliance with the essential requirements referred to in Article 48.

4.The air traffic controller licence and the air traffic controller medical certificate referred to in paragraph 1 of this Article shall specify the privileges granted to the air traffic controller. That air traffic controller licence and air traffic controller medical certificate may be amended to add or remove privileges, in accordance with regulations made under point (c) of the first subparagraph of Article 50(1).

5.The air traffic controller licence and the air traffic controller medical certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining a licence or a medical certificate, in accordance with regulations made under point (c) of the first subparagraph of Article 50(1).

Article 50

Regulations as regards air traffic controllers

1.In order to ensure compliance with the essential requirements referred to in Article 48, for air traffic controllers, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the different categories, ratings and endorsements for the air traffic controller licences referred to in Article 49;

(b) the privileges and responsibilities of the holders of air traffic controller licences, ratings and endorsements for the licences and medical certificates referred to in Article 49;

(c) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking licences, ratings and endorsements for the air traffic controller licences and medical certificates referred to in Article 49, including the rules and procedures for the conversion of national air traffic controller

licences and national medical certificates into the air traffic controller licences and medical certificates referred to in Article 49;

(d) the rules and procedures for air traffic controllers in regard to duty time limitations and rest requirements; such rules and procedures are to produce a high level of safety by protecting against the effects of tiredness while, at the same time, allowing for sufficient flexibility in scheduling.

2.When making regulations under paragraph 1, the Minister shall ensure compliance with the essential requirements referred to in Article 48 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

Article 51

Air traffic controller training organisations and aero-medical centres

1.An approval shall be required in respect of air traffic controller training organisations and aero-medical centres.

2.The approval referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with regulations made under Article 53 adopted to ensure compliance with the essential requirements referred to in Article 48.

3.The approval referred to in paragraph 1 of this Article shall specify the privileges granted to the organisation. The approval may be amended to add or remove privileges, in accordance with the regulations made under point (a) of the first subparagraph of Article 53(1).

4.The approval referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such approval, in accordance with the regulations made under point (a) of the first subparagraph of Article 53(1).

Article 52

Instructors, assessors and aero-medical examiners

1.Persons responsible for providing practical training, for assessing the practical skills of air traffic controllers, as well as aero-medical examiners, shall be required to hold a certificate.

2.The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that he or she complies with regulations made under Article 53 adopted to ensure compliance with the essential requirements referred to in Article 48.

3.The certificate referred to in paragraph 1 of this Article shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with regulations made under point (a) of the first subparagraph of Article 53(1).

4.The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with regulations made under point (a) of the first subparagraph of Article 53(1).

Article 53

Regulations **as regards training, testing, checking and medical assessment**

1.In order to ensure compliance with the essential requirements referred to in Article 48, for persons and organisations involved in the training, testing, checking and medical assessment of air traffic controllers, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the approvals and certificates referred to in Articles 51 and 52;

(b) the privileges and responsibilities of the holders of the approvals and certificates referred to in Articles 51 and 52.

2.When making regulations under paragraph 1, the Minister shall ensure compliance with the essential requirements referred to in Article 48 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

Article 54

Delegated powers

As regards air traffic controllers, persons and organisations involved in the training, testing, checking or medical assessment of air traffic controllers, as well as synthetic training devices, the Minister may make regulations, to amend Annex VIII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the training organisations and air traffic controllers, in order and to the extent necessary to achieve the objectives set out in Article 1.

SECTION VII

Unmanned aircraft

Article 55

Essential requirements for unmanned aircraft

The operation of aircraft referred to in point (b) of Article 2(1), where it concerns unmanned aircraft, and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as the personnel, including remote pilots, and organisations involved in those activities, shall comply with the essential requirements set out in Annex IX, and any regulations made under Articles 57 or 58 .

Article 56

Compliance of unmanned aircraft

1.Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the operational characteristics of the unmanned aircraft concerned and the characteristics of area of operation, a certificate may be required for the operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as for the personnel, including remote pilots, and organisations involved in those activities, in accordance with regulations made under Article 58 and regulations made under Article 57.

2.The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with regulations made under Article 58 and the regulations made under Article 57.

3.The certificate referred to in paragraph 1 of this Article shall specify the safety-related limitations, operating conditions and privileges. The certificate may be amended to add or remove limitations, conditions and privileges, in accordance with regulations made under Article 58 and regulations made under Article 57.

4.The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the conditions, rules and procedures for issuing or maintaining such certificate, in accordance with regulations made under Article 58 and regulations made under Article 57.

5.Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the operational characteristics of the unmanned aircraft concerned and the characteristics of area of operation, regulations made under Article 58 and regulations made under Article 57 may require in respect of the and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as of the personnel, including remote pilots, and organisations involved in those activities, a declaration confirming compliance with those regulations.

6.Omitted

7.The Director shall ensure that information about registration of unmanned aircraft and of operators of unmanned aircraft that are subject to a registration requirement in accordance with regulations made under Article 57 and point 4 of Annex IX is stored in a digital national registration system.

8.This Section shall be without prejudice to the possibility for the Minister to lay down regulations to make subject to certain conditions the operations of unmanned aircraft for reasons falling outside the scope of this Regulation, including public security or protection of privacy and personal data.

Article 57

Regulation**s as regards unmanned aircraft**

In order to ensure tcompliance with the essential requirements referred to in Article 55, for the operation of aircraft referred to in point (b) of Article 2(1), where it concerns unmanned aircraft, as well as for personnel, including remote pilots, and organisations involved in those activities, and on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, the Minister may make regulations laying down detailed provisions concerning:

(a) the specific rules and procedures for the operation of unmanned aircraft as well as for the personnel, including remote pilots, and organisations involved in those operations;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending, or revoking the certificates, or for making declarations, for the operation of unmanned aircraft as well as for personnel, including remote pilots, and organisations involved in those activities, and for the situations in which such certificates or declarations are to be required; the rules and procedures for issuing those certificates and for making those declarations may be based on, or consist of, the detailed requirements referred to in Sections I, II and III;

(c) the privileges and responsibilities of the holders of certificates and of natural and legal persons making declarations;

(d) the rules and procedures for the registration and marking of unmanned aircraft and for the registration of operators of unmanned aircraft, referred to in Section 4 of Annex IX;

(e) the rules and procedures for establishing a digital national registration system referred to in Article 56(7);

(f) the rules and procedures for the conversion of national certificates into the certificates required under Article 56(1).

Article 58

Delegated powers

1.*Omitted*

2.As regards the operation of aircraft referred to in point (b) of Article 2(1), where it concerns unmanned aircraft, and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as the personnel, including remote pilots, and organisations involved in those activities, the Minister may make regulations, to amend Annex IX and, if applicable, Annex III, where necessary for reasons of technical, operational or scientific developments or safety evidence related to air operations, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION VIII

Aircraft used by a third-country operator into, within or out of Gibraltar

Article 59

Applicable rules

Without prejudice to point 1 of Annex VIII and the rules adopted on the basis of point (a) of Article 44(1), aircraft referred to in point (c) of Article 2(1), as well as their aircrew and their operations, shall comply with the applicable ICAO standards.

To the extent that there are no such standards, those aircraft, their aircrew and their operations shall comply:

(a) as regard aircraft other than unmanned aircraft, with the essential requirements set out in Annexes II, IV and V;

(b) as regards unmanned aircraft, with the essential requirements set out in Annex IX and, where regulations made under Article 61 so provide, with the essential requirements set out in Annexes II, IV and V.

However, the second subparagraph shall not apply where those essential requirements are in conflict with the rights of third countries under international conventions.

Article 60

Compliance

1.The operation of the aircraft referred to in point (c) of Article 2(1) for commercial air transport shall be subject to certification and shall be issued with an authorisation.

That authorisation shall be issued upon application, when the applicant has demonstrated its capability, and the availability to it of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59. The authorisation shall specify the privileges granted to the operator and the scope of the operations.

2.Where regulations made under Article 61 so provide, the operation of aircraft referred to in point (c) of Article 2(1) other than for commercial air transport shall be subject to certification and shall be issued with an authorisation.

That authorisation shall be issued upon application, when the applicant has demonstrated its capability, and the availability to it of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59.

The authorisation shall specify the privileges granted to the operator and the scope of the operations.

By way of derogation from the first subparagraph of this paragraph, where regulations made under Article 61 so provide, the operators of the aircraft referred to in point (c) of Article 2(1) engaged in operations other than commercial air transport shall be permitted to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59.

3.Except for the operation of unmanned aircraft, the authorisations and declarations referred to in paragraphs 1 and 2 shall not be required in respect of the operation of aircraft that are only overflying Gibraltar.

Article 61

Delegated powers

1.For the aircraft referred to in point (c) of Article 2(1), as well as their aircrew and their operations, the Minister may make regulations, laying down detailed rules with regard to:

(a) the authorisation of aircraft, in respect of which there is no standard ICAO certificate of airworthiness, or the authorisation of pilots who do not hold a standard ICAO licence, to operate into, within or out of Gibraltar;

(b) the specific conditions to operate an aircraft in compliance with Article 59;

(c) alternative conditions for cases where compliance with the standards and requirements referred to in Article 59 is not possible or involves a disproportionate effort from the operator, while ensuring that the objectives of the standards and requirements concerned are met;

(d) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the authorisations referred to in Article 60, and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such authorisations are to be required or declarations are to be permitted, as applicable. Those conditions shall take into account the certificates issued by the state of registry, the state of the operator, and, in case of unmanned aircraft, the state where the equipment to control the unmanned aircraft remotely is located, and be without prejudice to Regulation (EC) No 2111/2005;

(e) the privileges and responsibilities of the holders of the authorisations referred to in Article 60(1) and (2), and, where relevant, aircraft operators that made declarations in accordance with Article 60(2).

2.When making regulations under paragraph 1, the Minister shall ensure, in particular, that:

(a) use is made, as appropriate, of ICAO recommended practices and guidance documents;

(b) *Omitted*

(c) the process through which the authorisations referred to in Article 60(1) and (2) are obtained is simple, proportionate, effective and cost-efficient and allows for demonstrations of compliance which are proportionate to the complexity of the operation and the risk involved in that operation. The Minister shall in particular ensure that account is taken of:

  (i) the results of the ICAO Universal Safety Oversight Audit Programme;

  (ii) information collected under ramp inspection programmes established in accordance with regulations made under Article 62(13) and regulations made under Article 62(14);

  (iii) other recognised information on safety aspects with regard to the operator concerned;

  (iv) certificates issued in accordance with the laws of a third country;

(d) aspects related to ATM/ANS are taken into account.

CHAPTER IV

JOINT CERTIFICATION, OVERSIGHT AND ENFORCEMENT SYSTEM

Article 62

Certification, oversight and enforcement

1.The Minister and the Director must cooperate to ensure compliance with this Regulation and with regulations made under it.

2.To ensure compliance with this Regulation and with regulations made under it, the Director shall:

(a) receive and assess the applications made to him, and, where applicable, issue or renew certificates and receive declarations made to him, in accordance with Chapter III;

(b) perform oversight of holders of certificates, of natural and legal persons that made declarations, and of products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;

(c) conduct the necessary investigations, inspections, including ramp inspections, audits and other monitoring activities to identify possible infringements by legal or natural persons subject to this Regulation of the requirements set out in this Regulation and in regulations made under it;

(d) take all necessary enforcement measures, including amending, limiting, suspending or revoking certificates issued by him, grounding of aircraft and imposing penalties, in order to terminate identified infringements;

(e) prohibit, limit or make subject to certain conditions the activities referred to in Chapter III, in the interest of safety;

(f) ensure an appropriate level of qualification of his staff involved in certification, oversight and enforcement tasks, including by providing adequate training.

3.*Omitted*

4.Where regulations made under paragraph 15 so provide:

(a) aero-medical examiners, aero-medical centres and general medical practitioners shall be responsible for issuing the pilot medical certificates referred to in Article 21(1) and the air traffic controller medical certificates referred to in Article 49(1);

(b) *Omitted*

5.*Omitted*

6.The oversight conducted by the Director shall be continuous and based on priorities set in the light of the risks to civil aviation.

7.*Omitted*

8.The Director shall manage and operate the tools and procedures necessary for the collection and analysis of safety-related information obtained from ramp inspections referred to in point (c) of paragraph 2.

9.*Omitted*

10.*Omitted*

11.*Omitted*

12.The Director shall undertake the necessary and effective actions to increase and promote awareness of civil aviation safety and disseminate safety related information relevant for the prevention of accidents and incidents.

13.*Omitted*

14.In order to ensure compliance with paragraphs 2, 4, 6 and 8 of this Article, with regard to the tasks of the Director related to certification, oversight and enforcement under this Regulation, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) the rules and procedures for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the Director of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;

(b) the rules and procedures for conducting ramp inspections by the Director and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with regulations made under it;

(c) *Omitted*

(d) *Omitted*

(e) the rules and procedures for the accreditation by the Director of a qualified entity for the purpose of Article 69.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

15.In order to ensure compliance with paragraphs 2, 4, 6 and 8 of this Article, with regard to the tasks of the Director related to certification, oversight and enforcement under this Regulation, the Minister shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, make regulations laying down detailed provisions concerning:

(a) *Omitted*

(b) the rules and procedures for the qualifications of the Director staff involved in certification, oversight and enforcement tasks and of the organisations involved in their training;

(c) the rules and procedures for the administration and management systems of the Director relating to the exercise of the certification, oversight and enforcement tasks;

(d) in respect of paragraph 4 of this Article, the rules and procedures for allocation of responsibilities to aero-medical examiners and aero-medical centres for the purpose of issuing pilot medical certificates and air traffic controller medical certificates, as well as the conditions under which general medical practitioners are to be given such responsibilities, with a view to ensuring effective performance of the tasks related to medical certification of pilots and air traffic controllers;

Articles 63 to 67

Omitted

Article 68

Acceptance of third-country certification

1.The Director may either issue the certificates provided for in this Regulation, and in regulations made under it, on the basis of certificates issued in accordance with the laws of a third country, or accept certificates and other relevant documentation attesting compliance with civil aviation rules which were issued in accordance

with the laws of a third country, where such possibility is provided for in:

(a) international agreements concerning the recognition of certificates concluded between Gibraltar and a third country; or

(b) regulations made under paragraph 3;

2.In order to achieve and maintain confidence in the regulatory systems of third countries, the Director shall be authorised to conduct the necessary technical assessments and evaluations of the laws of third countries and of foreign aviation authorities. For the purpose of conducting such assessments and evaluations, the Director may conclude working arrangements in accordance with Article 90(2).

3.The Minister may make regulations laying down detailed rules with regard to the acceptance of certificates and other documentation attesting to compliance with civil aviation rules issued in accordance with the laws of a third country and ensuring an equivalent level of safety to that provided for in this Regulation, including the conditions and procedures for achieving and maintaining the necessary confidence in regulatory systems of third countries.

Article 69

Qualified entities

1.The Director may allocate its tasks related to certification and oversight under this Regulation to qualified entities that have been accredited in accordance with regulations made under point (e) of the first subparagraph of Article 62(14) as being compliant with the criteria set out in Annex VI.

The Director shall establish a system for that accreditation and for the assessment of the compliance of qualified entities with those criteria, both at the moment of accreditation and continuously thereafter.

2.The Director shall amend, limit, suspend or revoke the accreditation of a qualified entity, when that entity no longer complies with the criteria set out in Annex VI.

3.The Director may grant a qualified entity a privilege to issue, renew, amend, limit, suspend and revoke certificates, or to receive declarations, on behalf of the Director. That privilege shall be included in the scope of the accreditation.

Article 70

Safeguard provisions

1.This Regulation and the regulations made under shall not prevent the Director from reacting immediately to a problem relating to civil aviation safety, where all of the following conditions have been met:

(a) the problem involves a serious risk to aviation safety and immediate action by the Director is required to address it;

(b) it is not possible for the Director to adequately address the problem in compliance with this Regulation and with regulations made under it;

(c) the action taken is proportionate to the severity of the problem.

2.*Omitted*

Articles 71 to 74

Omitted

CHAPTER V

Omitted

Articles 75 to 126

Omitted

CHAPTER VI

FINAL PROVISIONS

Article 127

Regulations

1.The Minister may make regulations under this Regulation.

2. Regulations made under this Regulation may –

(a) make different provision for different purposes or areas;
(b) include supplementary, incidental or consequential provision;
(c) make transitional, transitory or saving provision.

Articles 128 to 131

Omitted

Article 132

Processing of personal data

1.With regard to the processing of personal data within the framework of this Regulation, the Minister and the Director shall carry out their tasks under this Regulation in accordance with data protection legislation within the meaning of section 2(1) of the Data Protection Act 2004.

2.*Omitted*

Article 133

Amendment to Regulation (EC) No 2111/2005

In Article 15 of Regulation (EC) No 2111/2005, paragraphs 1 to 3 are replaced by the following:

‘1.The Commission shall be assisted by a committee (‘EU Air Safety Committee’). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2.Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3.Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’.

Article 134

Amendments to Regulation (EC) No 1008/2008

Regulation (EC) No 1008/2008 is amended as follows:

(1) in Article 4, point (b) is replaced by the following:

‘(b) it holds a valid AOC issued in accordance with Regulation (EU) 2018/1139 of the European Parliament and of the Council either by a national authority of a Member State, by several national authorities of Member States acting jointly in accordance with Article 62(5) of that Regulation or by the European Union Aviation Safety Agency.’;

(2) Article 6 is replaced by the following:

‘Article 6Air operator certificate

1.The granting and validity of an operating licence shall be dependent on the possession of a valid AOC specifying the activities covered by that operating licence.

2.Any modification to the AOC of a Community air carrier shall be reflected, where appropriate, in its operating licence.

The authority competent for the AOC shall inform the competent licensing authority as soon as possible of any relevant proposed changes to the AOC.

3.The authority competent for the AOC and the competent licensing authority shall agree measures to proactively exchange information relevant for the assessment and retention of the AOC and operating licence.

That exchange may include, without being limited to, information relating to the financial, ownership or organisational arrangements of the Community air carrier which may affect the safety or solvency of its operations or which may assist the authority competent for the AOC in performing its oversight activities related to safety. Where information is provided in confidence, measures shall be put in place to ensure that the information is appropriately protected.

3a.Where it is likely that enforcement action will be necessary, the authority competent for the AOC and the competent licensing authority shall consult each other as soon as possible prior to taking such action, and work together in seeking to resolve the issues before action is taken. Where action is taken, the authority competent for the AOC and the competent licensing authority shall notify each other as soon as possible that action has been taken.’;

(3) in Article 12, paragraph 1 is replaced by the following:

‘1.Aircraft used by a Community air carrier shall be registered, at the option of the Member State whose competent authority issues the operating licence, either in its own national register or in the national register of another Member State. However, when used under a dry lease or a wet lease agreement in accordance with Article 13, such aircraft may be registered in the national register either of any Member State or of a third country.’.

Article 135

Amendments to Regulation (EU) No 996/2010

Article 5 of Regulation (EU) No 996/2010 is replaced by the following:

‘Article 5Obligation to investigate

1.Every accident or serious incident involving aircraft to which Regulation (EU) 2018/1139 of the European Parliament and of the Council applies shall be the subject of a safety investigation in the Member State in which the accident or serious incident occurred.

2.Where an aircraft to which Regulation (EU) 2018/1139 applies and which is registered in a Member State is involved in an accident or a serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.

3.The extent of safety investigations referred to in paragraphs 1, 2 and 4 and the procedure to be followed in conducting such safety investigations shall be determined by the safety investigation authority, taking into account the consequences of the accident or serious incident and the lessons it expects to draw from such investigations for the improvement of aviation safety.

4.Safety investigation authorities may decide to investigate incidents other than those referred to in paragraphs 1 and 2, as well as accidents or serious incidents to other types of aircraft, in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them.

5.By way of derogation from paragraphs 1 and 2 of this Article, the responsible safety investigation authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/1139, or concerns a manned aircraft with a maximum take-off mass less than or equal to 2 250 kg, and where no person has been fatally or seriously injured.

6.Safety investigations referred to in paragraphs 1, 2 and 4 shall in no case be concerned with apportioning blame or liability. They shall be independent of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.’.

Article 136

Amendments to Regulation (EU) No 376/2014

In Article 3 of Regulation (EU) No 376/2014, paragraph 2 is replaced by the following:

‘2.This Regulation applies to occurrences and other safety-related information involving civil aircraft to which Regulation (EU) 2018/1139 of the European Parliament and of the Council applies.

However, this Regulation shall not apply to occurrences and other safety-related information involving unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/1139, unless the occurrence or other safety-related information involving such unmanned aircraft resulted in a fatal or serious injury to a person or it involved aircraft other than unmanned aircraft.

Member States may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft to which Regulation (EU) 2018/1139 does not apply.’.

Article 137

Amendments to Directive 2014/30/EU

In Article 2(2) of Directive 2014/30/EU, point (b) is replaced by the following:

‘(b) The following aviation equipment, where that equipment falls within the scope of Regulation (EU) 2018/1139 of the European Parliament and of the Council and is intended exclusively for airborne use:

(i) aircraft, other than unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment;

(ii) unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) of that Regulation which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunications Union for protected aeronautical use.’.

Article 138

Amendments to Directive 2014/53/EU

In Annex I to Directive 2014/53/EU, point 3 is replaced by the following:

‘3.The following aviation equipment, where that equipment falls within the scope of Regulation (EU) 2018/1139 of the European Parliament and of the Council and is intended exclusively for airborne use:

(a) aircraft, other than unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment;

(b) unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) of that Regulation and which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunications Union for protected aeronautical use.’.

Article 139

Repeal

1.Regulation (EC) No 216/2008 is repealed with effect from 11 September 2018.

2.Regulation (EC) No 552/2004 is repealed with effect from 11 September 2018. However, Articles 4, 5, 6, 6a and 7 of that Regulation and Annexes III and IV thereto shall continue to apply until the date of application of the delegated acts referred to in Article 47 of this Regulation and insofar as those acts cover the subject matter of the relevant provisions of Regulation (EC) No 552/2004, and in any case not later than 12 September 2023.

3.Regulation (EEC) No 3922/91 is repealed from the date of application of the detailed rules adopted pursuant to point (a) of Article 32(1) on flight and duty time limitations and rest requirements with regard to air taxi, emergency medical service and single pilot commercial air transport operations by aeroplanes.

4.References to the repealed Regulations referred to in paragraphs 1, 2 and 3 shall be construed as references to this Regulation and, where appropriate, read in accordance with the correlation table in Annex X.

Article 140

Transitional provisions

1.The certificates and specific airworthiness specifications issued or recognised and the declarations made or recognised in accordance with Regulation (EC) No 216/2008 and its implementing rules shall continue to be valid and shall be deemed to have been issued, made and recognised pursuant to the corresponding provisions of this Regulation.

2.Not later than 12 September 2023 the implementing rules adopted on the basis of Regulations (EC) No 216/2008 and (EC) No 552/2004 shall be adapted to this Regulation. Until adaptation, any references in those implementing rules to:

(a) ‘commercial operation’ shall be understood as a reference to point (i) of Article 3 of Regulation (EC) No 216/2008;

(b) ‘complex motor-powered aircraft’ shall be understood as a reference to point (j) of Article 3 of Regulation (EC) No 216/2008;

(c) ‘appliances’ shall be understood as a reference to point (29) of Article 3 of this Regulation;

(d) ‘leisure pilot licence’ shall be understood as a reference to the licence referred to in Article 7(7) of Regulation (EC) No 216/2008.

3.The Agency shall issue, at the latest two years after 11 September 2018, in accordance with Article 76(1) and 76(3) of this Regulation, opinions concerning proposals for amendments to Commission Regulations (EU) No 748/2012, (EU) No 1321/2014, (EU) No 1178/2011, and (EU) No 965/2012 and the applicable certification specification in order to adapt them, as regards aircraft intended primarily for sports and recreational use, to this Regulation.

4.*Omitted*

5.By way of derogation from Articles 55 and 56, the relevant provisions of Regulation (EC) No 216/2008 shall continue to apply until regulations made under Article 57 and Article 58 enter into force.

Article 141

Entry into force

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

Done at Strasbourg, 4 July 2018.

ANNEX I

Aircraft referred to in point (d) of Article 2(3)

1.Categories of manned aircraft to which this Regulation does not apply:

(a) historic aircraft meeting the following criteria:

(i)

aircraft whose:

- initial design was established before 1 January 1955, and

- production has been stopped before 1 January 1975;

or

(ii)

aircraft having a clear historical relevance, related to:

- a participation in a noteworthy historical event,

- a major step in the development of aviation, or

- a major role played into the armed forces;

or

(b) aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers;

(c) aircraft, including those supplied in kit form, where at least 51 % of the fabrication and assembly tasks are performed by an amateur, or a non-profit making association of amateurs, for their own purposes and without any commercial objective;

(d) aircraft that have been in the service of military forces, unless the aircraft is of a type for which a design standard has been adopted by the Director;

(e) aeroplanes having measurable stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS), helicopters, powered parachutes, sailplanes and powered sailplanes, having no more than two seats and a maximum take-off mass (MTOM), as recorded by the Member States, of no more than:

	Aeroplane/Helicopter/Powered parachute/powered sailplanes	Sailplanes	Amphibian or floatplane/helicopter	Airframe mounted total recovery parachute
Single-seater	300 kg MTOM	250 kg MTOM	Additional 30 kg MTOM	Additional 15 kg MTOM
Two-seater	450 kg MTOM	400 kg MTOM	Additional 45 kg MTOM	Additional 25 kg MTOM
When an amphibian or a floatplane/helicopter is operating both as a floatplane/helicopter and as a land plane/helicopter, it must fall below the applicable MTOM limit.				

(f) single and two-seater gyroplanes with a MTOM not exceeding 600 kg;

(g) replicas of aircraft meeting the criteria of points (a) or (d), for which the structural design is similar to the original aircraft;

(h) balloons and airships having a single or double occupancy and a maximum design volume of, in the case of hot air not more than 1 200 m^3, and in the case of other lifting gas not more than 400 m^3;

(i) any other manned aircraft which has a maximum empty mass, including fuel, of no more than 70 kg.

2.Furthermore, this Regulation shall not apply to:

(a) tethered aircraft with no propulsion system, where the maximum length of the tether is 50 m, and where:

(i) the MTOM of the aircraft, including its payload, is less than 25 kg, or

(ii) in the case of a lighter-than-air aircraft, the maximum design volume of the aircraft is less than 40 m^3;

(b) tethered aircraft with a MTOM of no more than 1 kg.

ANNEX II

Omitted

ANNEX III

Omitted

ANNEX IV

Omitted

ANNEX V

Omitted

ANNEX VI

Essential requirements for qualified entities

1.The qualified entity, its Director and the staff responsible for carrying out the certification and oversight tasks, may not be involved, either directly or as authorised representatives, in the design, production,

marketing or maintenance of the products, parts, non-installed equipment, constituents or systems or in their operations, service provision or use. This does not exclude the possibility of an exchange of technical information between the involved organisations and the qualified entity.

The first subparagraph shall not prevent an organisation created with the aim of promoting aerial sport or leisure aviation from being eligible for accreditation as a qualified entity, on condition that it demonstrates to the satisfaction of the accrediting authority that it has put in place adequate arrangements for the prevention of conflict of interest.

2.The qualified entity and the staff responsible for the certification and oversight tasks must carry out their duties with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive of any type, in particular of a financial type, which could affect their judgement and decisions or the results of their certification and oversight tasks, in particular from persons or groups of persons affected by those results.

3.The qualified entity must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the certification and oversight process; it shall also have access to the equipment needed for exceptional checks.

4.The qualified entity and its staff responsible for investigation must have:

(a) sound technical and vocational training, or sufficient expertise gained through experience of relevant activities;

(b) satisfactory knowledge of the requirements of the certification and oversight tasks they carry out and adequate experience of such processes;

(c) the ability required to draw up statements, records and reports to demonstrate that the certification and oversight tasks have been carried out.

5.The impartiality of the staff responsible for certification and oversight tasks must be guaranteed. Their remuneration must not depend on the number of investigations carried out or on the results of such investigations.

6.The qualified entity must take out liability insurance unless its liability is assumed by the Director.

7.The staff of the qualified entity must observe professional secrecy with regard to all information acquired in carrying out their tasks under this Regulation.

ANNEX VII

Essential requirements for aerodromes

1.PHYSICAL CHARACTERISTICS, INFRASTRUCTURE AND EQUIPMENT

1.1.Movement area

1.1.1.Aerodromes shall have a designated area for the landing and take-off of aircraft, which satisfies the following conditions:

(a) the landing and take-off area shall have dimensions and characteristics suitable for the aircraft intended to use the facility;

(b) the landing and take-off area, where applicable, shall have a bearing strength sufficient to support repetitive operations of the intended aircraft. Those areas not intended for repetitive operations only need to be capable of supporting the aircraft;

(c) the landing and take-off area shall be designed to drain water and to prevent standing water becoming an unacceptable risk to aircraft operations;

(d) the slope and slope changes of the landing and take-off area shall not create an unacceptable risk to aircraft operations;

(e) the surface characteristics of the landing and take-off area shall be adequate for use by the intended aircraft; and

(f) the landing and take-off area shall be free from objects which might create an unacceptable risk to aircraft operations.

1.1.2.Where there are several designated landing and take-off areas, they shall be such that they do not create an unacceptable risk to aircraft operations.

1.1.3.The designated landing and take-off area shall be surrounded by defined areas. Those areas are intended to protect aircraft flying over them during take-off or landing operations or to mitigate the consequences of undershooting, running off the side or overrunning the take-off and landing area, and shall satisfy the following conditions:

(a) those areas shall have dimensions appropriate to the aircraft operations anticipated;

(b) the slope and slope changes of those areas shall not create an unacceptable risk to aircraft operations;

(c) those areas shall be free from objects which might create an unacceptable risk to aircraft operations. This shall not preclude frangible equipment to be located in those areas, if required to assist aircraft operations; and

(d) each of those areas shall have a bearing strength sufficient to serve its purpose.

1.1.4.Those areas of an aerodrome, with their associated immediate surroundings, that are to be used for taxiing or parking aircraft, shall be designed to permit safe operation of the aircraft expected to use the particular facility under all the conditions planned for, and shall satisfy the following conditions:

(a) those areas shall have a bearing strength sufficient to support repetitive operations of the intended aircraft, except for areas which are expected for only occasional use which only need to be capable of supporting the aircraft;

(b) those areas shall be designed to drain water and to prevent standing water becoming an unacceptable risk to aircraft operations;

(c) the slope and slope changes of those areas shall not create an unacceptable risk to aircraft operations;

(d) the surface characteristics of those areas shall be adequate for use by the intended aircraft; and

(e) those areas shall be free from objects which might create an unacceptable risk to aircraft. This shall not preclude parking equipment required for that area in specifically identified positions or zones.

1.1.5.Other infrastructure intended for use by aircraft shall be so designed that use of that infrastructure does not create an unacceptable risk to aircraft using it.

1.1.6.Constructions, buildings, equipment or storage areas shall be located and designed so as not to create an unacceptable risk for aircraft operations.

1.1.7.Suitable means shall be provided to prevent unauthorised persons, unauthorised vehicles or animals large enough to create an unacceptable risk to aircraft operations from entering the movement area, without prejudice to national and international animal protection provisions.

1.2.Obstacle clearances

1.2.1.To protect aircraft proceeding to an aerodrome for landing or for their departure from an aerodrome, arrival and departure routes or areas shall be established. Such routes or areas shall provide aircraft with the required clearance from obstacles located in the area surrounding the aerodrome taking due account of the local physical characteristics.

1.2.2.Such obstacle clearance shall be appropriate to the phase of flight and type of operation being conducted. It shall also take into account the equipment being used for determining the position of the aircraft.

1.3.Safety-related aerodrome equipment, including visual and non-visual aids

1.3.1.Aids shall be fit for purpose, recognisable and provide unambiguous information to users under all intended operational conditions.

1.3.2.Safety-related aerodrome equipment shall function as intended under the foreseen operating conditions. Under operating conditions or in case of failure, safety-related aerodrome equipment shall not cause an unacceptable risk to aviation safety.

1.3.3.The aids and their electrical power supply system shall be so designed that failures do not result in inappropriate, misleading or insufficient information being given to users or in interruption of an essential service.

1.3.4.Suitable means of protection shall be provided to avoid damage or disturbance to such aids.

1.3.5.Sources of radiation or the presence of moving or fixed objects shall not interfere with or adversely affect the performance of aeronautical communications, navigation and surveillance systems.

1.3.6.Information on operation and use of safety-related aerodrome equipment shall be made available to relevant staff, including clear indications of the conditions which may create unacceptable risks to aviation safety.

1.4.Aerodrome data

1.4.1.Data relevant to the aerodrome and the available services shall be established and kept up to date.

1.4.2.The data shall be accurate, readable, complete and unambiguous. Authenticity and appropriate integrity levels shall be maintained.

1.4.3.The data shall be made available to the users and the relevant ANS providers in a timely manner, using a sufficiently secure and expeditious method of communication.

2.OPERATIONS AND MANAGEMENT

2.1.Responsibilities of the aerodrome operator

The aerodrome operator is responsible for operation of the aerodrome. The responsibilities of the aerodrome operator are as follows:

(a) the aerodrome operator shall have, directly or through arrangements with third parties, all the means necessary to ensure safe operation of aircraft at the aerodrome. Those means shall include, but are not limited to, facilities, personnel, equipment and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) the aerodrome operator shall verify that the requirements of point 1 are complied with at all times or take appropriate measures to mitigate the risks associated with non-compliance. Procedures shall be

established and applied to make all users aware of such measures in a timely manner;

(c) the aerodrome operator shall establish and implement an appropriate aerodrome wildlife risk management programme directly or through arrangements with third parties;

(d) the aerodrome operator shall ensure, directly or through arrangements with third parties, that movements of vehicles and persons in the movement area and other operational areas are coordinated with movements of aircraft in order to avoid collisions and damage to aircraft;

(e) the aerodrome operator shall ensure that procedures to mitigate risks related to aerodrome operations in winter operation, adverse weather conditions, reduced visibility or at night, if applicable, are established and implemented;

(f) the aerodrome operator shall establish arrangements with other relevant organisations to ensure continuing compliance with the essential requirements for aerodromes set out in this Annex. Those organisations include, but are not limited to, aircraft operators, ANS providers, groundhandling service providers, AMS providers and other organisations whose activities or products may have an effect on aircraft safety;

(g) the aerodrome operator shall verify that organisations involved in storing and dispensing of fuel/energy for propulsion to aircraft have procedures to ensure that aircraft are provided with fuel/energy for propulsion which is uncontaminated and of the correct specification;

(h) manuals for operation and maintenance of aerodrome equipment shall be available, applied in practice and cover maintenance and repair instructions, servicing information, troubleshooting and inspection procedures;

(i) the aerodrome operator shall establish, directly or through arrangements with third parties, and implement an aerodrome emergency plan, covering emergency scenarios that may occur at the aerodrome or in its surroundings. This plan shall be coordinated, as appropriate, with the community emergency plan;

(j) the aerodrome operator shall ensure, directly or through arrangements with third parties, that adequate aerodrome rescue and firefighting services are provided. Such services shall respond to an incident or accident with due urgency and shall include at least equipment, extinguishing agents and a sufficient number of personnel;

(k) the aerodrome operator shall use only trained and qualified personnel for aerodrome operations and maintenance and shall, directly or through arrangements with third parties, implement and maintain training and checking programmes to ensure the continuing competence of all relevant personnel;

(l) the aerodrome operator shall ensure that any person permitted unescorted access to the movement area or other operational areas is adequately trained and qualified for such access;

(m) the rescue and firefighting personnel shall be properly trained and qualified to operate in the aerodrome environment. The aerodrome operator shall, directly or through arrangements with third parties, implement and maintain training and checking programmes to ensure the continuing competence of this personnel; and

(n) all rescue and firefighting personnel potentially required to act in aviation emergencies shall periodically demonstrate their medical fitness to execute their functions satisfactorily, taking into account the type of activity. In this context, medical fitness, comprising both physical and mental fitness, means not suffering from any disease or disability which could make this personnel unable:

- to execute the tasks necessary to operate in aviation emergencies;
- to perform their assigned duties at any time; or
- to perceive their environment correctly.

2.2.Management systems

2.2.1.As appropriate for the type of activity undertaken and the size of the organisation, the aerodrome operator shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks, and aim for continuous improvement of this system.

2.2.2.The aerodrome operator shall establish an occurrence reporting system as part of the management system under point 2.2.1, in order to contribute to the aim of continuous improvement of safety. The analysis of information from this occurrence reporting system shall involve the parties listed in point 2.1(f), as

appropriate. The occurrence reporting system shall be compliant with the applicable law.

2.2.3.The aerodrome operator shall develop an aerodrome manual and operate in accordance with that manual. Such manuals shall contain all necessary instructions, information and procedures for the aerodrome, the management system and for operations and maintenance personnel to perform their duties.

3.AERODROME SURROUNDINGS

3.1.1.The airspace around aerodrome movement areas shall be safeguarded from obstacles so as to permit the intended aircraft operations at the aerodromes without creating an unacceptable risk caused by the development of obstacles around the aerodrome. Obstacle monitoring surfaces shall therefore be developed, implemented and continuously monitored to identify any infringing penetration.

3.1.2.Any infringement of those surfaces will require an assessment to identify whether or not the object creates an unacceptable risk. Any object posing an unacceptable risk shall be removed or appropriate mitigating action shall be taken to protect aircraft using the aerodrome.

3.1.3.Any remaining obstacles shall be published and, depending on the need, shall be marked and, where necessary, made visible by means of lights.

3.2.Hazards related to human activities and land use, such as, but not limited to, items on the following list, shall be monitored. The risk caused by them shall be assessed and mitigated as appropriate:

(a) any development or change in land use in the aerodrome area;

(b) the possibility of obstacle-induced turbulence;

(c) the use of hazardous, confusing and misleading lights;

(d) the dazzling caused by large and highly reflective surfaces;

(e) the creation of areas that might encourage wildlife activity in the surroundings of the aerodrome movement area; or

(f) sources of non-visible radiation or the presence of moving or fixed objects which may interfere with, or adversely affect, the performance of aeronautical communications, navigation and surveillance systems.

3.3.The Director shall ensure that an emergency plan is established for aviation emergency situations occurring in the aerodrome local area.

4.GROUNDHANDLING SERVICES

4.1.Responsibilities of the groundhandling services provider

The provider of groundhandling service is responsible for the safe operation of its activities at the aerodrome. The responsibilities of the provider are as follows:

(a) the provider shall have all the means necessary to ensure safe provision of service at the aerodrome. Those means shall include, but are not limited to, facilities, personnel, equipment and material;

(b) the provider shall comply with the procedures contained in the aerodrome manual, including those in relation to movements of its vehicles, equipment and personnel and the risk related to aerodrome operations in winter, at night and in adverse weather conditions;

(c) the provider shall provide the groundhandling services in accordance with the procedures and instructions of the aircraft operator it serves;

(d) the provider shall ensure that manuals for the operation and maintenance of groundhandling equipment are available, applied in practice and cover operation, maintenance and repair instructions, servicing

information, troubleshooting and inspection procedures;

(e) the provider shall use only adequately trained and qualified personnel and shall ensure the implementation and maintenance of training and checking programmes to ensure the continuing competence of all relevant personnel;

(f) the provider shall ensure that its personnel is physically and mentally fit to execute their functions satisfactorily, taking into account the type of activity and in particular its potential safety and safety-related security impact.

4.2.Management systems

4.2.1.As appropriate for the type of activity undertaken and the size of the organisation, the provider shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and to aim for continuous improvement of this system. Such system shall be coordinated with the management system of the aerodrome operator.

4.2.2.The provider shall establish an occurrence reporting system as part of the management system under point 4.2.1 in order to contribute to the aim of continuous improvement of safety. Without prejudice to other reporting obligations, the provider shall transmit all occurrences to the reporting system of the aerodrome operator, the aircraft operator and, if relevant, to that of the air traffic service provider. The occurrence reporting system shall be compliant with the applicable law.

4.2.3.The provider shall develop a groundhandling service manual and operate in accordance with that manual. Such manual shall contain all necessary instructions, information and procedures for the service, the management system and for service personnel to perform their duties.

5.APRON MANAGEMENT SERVICES (AMS)

5.1.The AMS provider shall provide its services in accordance with the operating procedures included in the aerodrome manual.

5.2.As appropriate for the type of activity undertaken and the size of the organisation, the AMS provider shall implement and maintain a management system, including safety management, to ensure compliance with the essential requirements set out in this Annex.

5.3.The AMS provider shall establish formal arrangements with the aerodrome operator and the air traffic services provider describing the scope of the services to be provided.

5.4.The AMS provider shall establish an occurrence reporting system as part of the management system under point 5.2 in order to contribute to the aim of continuous improvement of safety. Without prejudice to other reporting obligations, the provider shall transmit all occurrences to the reporting system of the aerodrome operator, and, if relevant, to that of the air traffic services provider.

5.5.The AMS provider shall participate in the safety programmes established by the aerodrome operator.

6.OTHERS

Without prejudice to the responsibilities of the aircraft operator, the aerodrome operator shall ensure that, except for aircraft emergency situations, when diverting to an alternate aerodrome, or under other conditions specified in each case, an aerodrome or parts thereof shall not be used by aircraft for which the aerodrome design and operating procedures are not normally intended.

ANNEX VIII

Essential requirements for ATM/ANS and air traffic controllers

1.USE OF THE AIRSPACE

1.1.All aircraft, excluding those engaged in the activities referred to in Article 2(3)(a), in all phases of flight or on the movement area of an aerodrome, shall be operated in accordance with common general operating rules and any applicable procedure specified for the use of airspace.

1.2.All aircraft, excluding those engaged in the activities referred to in Article 2(3)(a), shall be equipped with the required constituents and operated accordingly. Constituents used in the ATM/ANS system shall also comply with the requirements in point 3.

2.SERVICES

2.1.Aeronautical information and data for airspace users for the purpose of air navigation

2.1.1.The data used as a source for aeronautical information shall be of sufficient quality, complete, current and provided in a timely manner.

2.1.2.Aeronautical information shall be accurate, complete, current, unambiguous, from a legitimate source, and of adequate integrity, as well as in a format suitable for users.

2.1.3.The dissemination of such aeronautical information to airspace users shall be timely and use sufficiently reliable and expeditious means of communication protected from intentional and unintentional interference and corruption.

2.2.Meteorological information

2.2.1.The data used as a source for aeronautical meteorological information shall be of sufficient quality, complete and current.

2.2.2.To the extent possible, aeronautical meteorological information shall be precise, complete, current, of adequate integrity and unambiguous in order to meet the needs of airspace users. Aeronautical meteorological information shall be from a legitimate source.

2.2.3.The dissemination of such aeronautical meteorological information to airspace users shall be timely and use sufficiently reliable and expeditious means of communication protected from interference and corruption.

2.3.Air traffic services

2.3.1.The data used as a source for the provision of air traffic services shall be correct, complete and current.

2.3.2.The provision of air traffic services shall be sufficiently precise, complete, current, and unambiguous to meet the safety needs of users.

2.3.3.Automated tools providing information or advice to users shall be properly designed, produced and maintained to ensure that they are fit for their intended purpose.

2.3.4.Air traffic control services and related processes shall provide for adequate separation between aircraft and, on the aerodrome manoeuvring area, prevent collisions between aircraft and obstructions and, where appropriate, assist in protection from other airborne hazards and shall ensure prompt and timely coordination with all relevant users and adjacent volumes of airspace.

2.3.5.Communication between air traffic services and aircraft and between relevant air traffic services units shall be timely, clear, correct and unambiguous, protected from interference and commonly understood and, if applicable, acknowledged by all actors involved.

2.3.6.Means shall be in place to detect possible emergencies and, when appropriate, to initiate effective search and rescue action. Such means shall, as a minimum, comprise appropriate alerting mechanisms, coordination measures and procedures, means and personnel to cover the area of responsibility efficiently.

2.4.Communication services

Communication services shall achieve and maintain sufficient performance with regard to their availability, integrity, continuity and timeliness. They shall be expeditious and protected from corruption and interference.

2.5.Navigation services

Navigation services shall achieve and maintain a sufficient level of performance with regard to guidance, positioning and, when provided, timing information. The performance criteria include accuracy, integrity, legitimacy of the source, availability, and continuity of the service.

2.6.Surveillance services

Surveillance services shall determine the respective position of aircraft in the air and of other aircraft and ground vehicles on the aerodrome surface, with sufficient performance with regard to their accuracy, integrity, legitimacy of the source, continuity and probability of detection.

2.7.Air traffic flow management

The tactical management of air traffic flows at national level shall use and provide sufficiently precise and current information of the volume and nature of the planned air traffic affecting service provision and shall coordinate and negotiate re-routing or delaying traffic flows in order to reduce the risk of overloading situations occurring in the air or at the aerodromes. Flow management shall be performed with a view to optimising available capacity in the use of airspace and enhancing air traffic flow management processes. It shall be based on safety, transparency and efficiency, ensuring that capacity is provided in a flexible and timely manner, consistent with the European Air Navigation Plan.

The measures referred to in Article 43, concerning flow management shall support operational decisions by air navigation service providers, aerodrome operators and airspace users and shall cover the following areas:

(a) flight planning;

(b) use of available airspace capacity during all phases of flight, including en-route slot assignment;

(c) use of routings by general air traffic, including:

- the creation of a single publication for route and traffic orientation,

- options for diversion of general air traffic from congested areas, and

- priority rules regarding access to airspace for general air traffic, particularly during periods of congestion and crisis; and

(d) the consistency between flight plans and airport slots and the necessary coordination with adjacent regions, as appropriate.

2.8.Airspace management

The designation of specific volumes of airspace for a certain use shall be monitored, coordinated and promulgated in a timely manner in order to reduce the risk of loss of separation between aircraft in all circumstances. Taking into account the organisation of military activities and related aspects under the responsibility of the Minister, airspace management shall also support the uniform application of the concept of the flexible use of airspace as described by the ICAO and as given effect under Eurocontrol airspace management documents, in order to facilitate airspace management and air traffic management.

2.9.Flight procedure design

Flight procedures shall be properly designed, surveyed and validated before they can be deployed and used by aircraft.

3.SYSTEMS AND CONSTITUENTS

3.1.General

ATM/ANS systems and ATM/ANS constituents providing related information to and from the aircraft and on the ground shall be properly designed, produced, installed, maintained, protected against unauthorised interference and operated to ensure that they are fit for their intended purpose.

The systems and procedures shall include in particular those required to support the following functions and services:

(a) Airspace management;

(b) Air traffic flow management;

(c) Air traffic services, in particular flight data processing systems, surveillance data processing systems and human-machine interface systems;

(d) Communications including ground-to-ground/space, air-to-ground and air-to-air/space communications;

(e) Navigation;

(f) Surveillance;

(g) Aeronautical information services; and

(h) Meteorological services.

3.2.System and constituent integrity, performance and reliability

The integrity and safety-related performance of systems and constituents whether on aircraft, on the ground or in space, shall be fit for their intended purpose. They shall meet the required level of operational performance for all their foreseeable operating conditions and for their whole operational life.

ATM/ANS systems and ATM/ANS constituents shall be designed, built, maintained and operated using the appropriate and validated procedures, in such a way as to ensure the seamless operation of the European air traffic management network (EATMN) at all times and for all phases of flight. Seamless operation can be expressed, in particular, in terms of information-sharing, including the relevant operational status information, common understanding of information, comparable processing performances and the associated procedures enabling common operational performances agreed for the whole or parts of the EATMN.

The EATMN, its systems and their constituents shall support, on a coordinated basis, new agreed and validated concepts of operation that improve the quality, sustainability and effectiveness of air navigation services, in particular in terms of safety and capacity.

The EATMN, its systems and their constituents shall support the progressive implementation of civil/military coordination, to the extent necessary for effective airspace and air traffic flow management, and the safe and efficient use of airspace by all users, through the application of the concept of the flexible use of airspace.

To achieve those objectives, the EATMN, its systems and their constituents shall support the timely sharing of correct and consistent information covering all phases of flight, between civil and military parties, without prejudice to security or defence policy interests, including requirements on confidentiality.

3.3.Design of systems and constituents

3.3.1.Systems and constituents shall be designed to meet applicable safety and security requirements.

3.3.2.Systems and constituents, considered collectively, separately and in relation to each other, shall be designed in such a way that an inverse relationship exists between the probability that any failure can result in a total system failure and the severity of its effect on the safety of services.

3.3.3.Systems and constituents, considered individually and in combination with each other, shall be designed taking into account limitations related to human capabilities and performance.

3.3.4.Systems and constituents shall be designed in a manner that protects them and the data they convey from harmful interactions with internal and external elements.

3.3.5.Information needed for production, installation, operation and maintenance of the systems and constituents as well as information concerning unsafe conditions shall be provided to personnel in a clear, consistent and unambiguous manner.

3.4.Continuing level of service

Safety levels of systems and constituents shall be maintained during service and any modifications to service.

4.QUALIFICATION OF AIR TRAFFIC CONTROLLERS

4.1.General

A person undertaking training as an air traffic controller or as a student air traffic controller, shall be sufficiently mature educationally, physically and mentally to acquire, retain and demonstrate the relevant theoretical knowledge and practical skill.

4.2.Theoretical knowledge

4.2.1.An air traffic controller shall acquire and maintain a level of knowledge appropriate to the functions exercised and proportionate to the risks associated with the type of service.

4.2.2.Acquisition and retention of theoretical knowledge shall be demonstrated by continuous assessment during training, or by appropriate examinations.

4.2.3.An appropriate level of theoretical knowledge shall be maintained. Compliance shall be demonstrated by regular assessments or examinations. The frequency of examinations shall be proportionate to the level of risk associated with the type of service.

4.3.Practical skill

4.3.1.An air traffic controller shall acquire and maintain the practical skills appropriate to exercise his or her functions. Such skills shall be proportionate to the risks associated with the type of service and shall cover at least, if appropriate to the functions exercised, the following items:

(a) operational procedures;
(b) task specific aspects;
(c) abnormal and emergency situations; and
(d) human factors.

4.3.2.An air traffic controller shall demonstrate the ability to perform the associated procedures and tasks with a level of competence appropriate to the functions exercised.

4.3.3.A satisfactory level of competence in practical skill shall be maintained. Compliance shall be verified by regular assessments. The frequency of those assessments shall be proportionate to the complexity and the level of risk associated with the type of service and the tasks performed.

4.4.Language proficiency

4.4.1.An air traffic controller shall demonstrate proficiency to speak and understand English to the extent he/she is able to communicate effectively in voice-only (telephone/radiotelephone) and in face-to-face situations on concrete and work-related topics, including in emergency situations.

4.4.2.Whenever necessary in a defined volume of airspace for Air Traffic Service (ATS) provision purposes, an air traffic controller shall also have proficiency to speak and understand the national language(s) to the extent described above.

4.5.Synthetic training devices (STD)

When an STD is used for practical training on situational awareness and human factors or to demonstrate that skills are acquired or maintained, it shall have a level of performance that allows adequate simulation of the working environment and operational situations appropriate to the training provided.

4.6.Training course

4.6.1.Training shall be given by a training course, which may comprise theoretical and practical instruction, including training on an STD, if applicable.

4.6.2.A course shall be defined and approved for each type of training.

4.7.Instructors

4.7.1.Theoretical instruction shall be given by appropriately qualified instructors. They shall:

(a) have appropriate knowledge in the field where instruction is to be given; and
(b) have demonstrated the ability to use appropriate instructional techniques.

4.7.2.Instruction on practical skills shall be given by appropriately qualified instructors, who have the following qualifications:

(a) meet the theoretical knowledge and the experience requirements appropriate to the instruction being given;
(b) have demonstrated the ability to instruct and to use appropriate instructional techniques;
(c) have practised instructional techniques in those procedures in which it is intended to provide instruction; and
(d) receive regular refresher training to ensure that the instructional competences are maintained up to date.

4.7.3.Instructors on practical skills shall also be or have been entitled to act as an air traffic controller.

4.8.Assessors

4.8.1.Persons responsible for assessing the skill of air traffic controllers shall:

(a) have demonstrated the ability to assess the performance of, and conduct tests and checks on air traffic controllers; and
(b) receive regular refresher training to ensure that the assessment standards are maintained up to date.

4.8.2.Assessors on practical skills shall also be or have been entitled to act as an air traffic controller in those areas in which assessment is to be made.

4.9.Medical fitness of an air traffic controller

4.9.1.All air traffic controllers shall periodically demonstrate medical fitness to satisfactorily execute their functions. Compliance shall be shown by appropriate assessment taking into account the possible mental and physical degradation due to age.

4.9.2.Demonstration of medical fitness, comprising physical and mental fitness, shall include the demonstrated absence of any disease or disability, which makes the person providing an air traffic control (ATC) service unable:

(a) to execute properly the tasks necessary to provide an ATC service,

(b) to perform assigned duties at any time, or

(c) to perceive correctly his/her environment.

4.9.3.Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent safety may be implemented.

5.SERVICE PROVIDERS AND TRAINING ORGANISATIONS

5.1.Service provision shall not be undertaken unless the following conditions are met:

(a) the service provider shall have directly or through agreements with third parties the means necessary for the scale and scope of the service. Those means shall comprise but are not limited to the following: systems, facilities, including power supply, management structure, personnel, equipment and its maintenance, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) the service provider shall develop and keep up-to-date management and operations manuals relating to the provision of its services and operate in accordance with those manuals. Such manuals shall contain all necessary instructions, information and procedures for the operations, the management system and for operations personnel to perform their duties;

(c) as appropriate for the type of activity undertaken and the size of the organisation, the service provider shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system;

(d) the service provider shall use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the personnel;

(e) the service provider shall establish formal interfaces with all stakeholders which may influence directly the safety of their services to ensure compliance with the essential requirements set out in this Annex;

(f) the service provider shall establish and implement a contingency plan covering emergency and abnormal situations that may occur in relation to its services, including in the case of events which result in significant degradation or interruption of its operations;

(g) the service provider shall establish an occurrence reporting system as part of the management system under point (c) in order to contribute to the aim of continuous improvement of safety. The occurrence reporting system shall be compliant with the applicable law; and

(h) the service provider shall make arrangements to verify that the safety performance requirements of any system and constituent they operate are met at any time.

5.2.ATC service provision shall not be undertaken unless the following conditions are met:

(a) the prevention of fatigue of personnel providing an ATC service shall be managed through a rostering system. Such a rostering system needs to address duty periods, duty time and adapted rest periods. Limitations established within the rostering system shall take into account relevant factors contributing to fatigue such as, in particular, sleep deprivation, disruption of circadian cycles, night hours, cumulative duty time for given periods of time and also the sharing of allocated tasks between personnel;

(b) the prevention of stress of personnel providing an ATC service shall be managed through education and prevention programmes;

(c) the ATC service provider shall have in place procedures to verify that the cognitive judgement of personnel providing ATC services is not impaired or their medical fitness insufficient; and

(d) the ATC service provider shall take into account operational and technical constraints as well as human factor principles in its planning and operations.

5.3.Communication, navigation and/or surveillance service provision shall not be undertaken unless the following condition is met:

The service provider shall keep relevant airspace users and ATS units informed on a timely basis of the operational status (and changes thereof) of their services provided for ATS purposes.

5.4.Training organisations

A training organisation providing training for personnel providing an ATC service shall meet the following requirements:

(a) have all the means necessary for the scope of responsibilities associated with their activity. Those means comprise, but are not limited to, the following: facilities, personnel, equipment, methodology, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) as appropriate for the training provided and the size of the organisation, shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks, including risks related to deterioration in the standard of training, and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the essential requirements set out in this Annex.

6.AEROMEDICAL EXAMINERS AND AEROMEDICAL CENTRES

6.1.Aero-medical examiners

An aero-medical examiner must:

(a) be qualified and licensed in the practice of medicine;

(b) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained up to date; and

(c) have acquired practical knowledge and experience with regard to the conditions in which air traffic controllers carry out their duties.

6.2.Aero-medical centres

Aero-medical centres must meet the following conditions:

(a) have all the means necessary for the scope of responsibilities associated with their privileges. Those means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) as appropriate for the type of activity undertaken and the size of the organisation, implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the requirements set out in this Annex.

ANNEX IX

Essential requirements for unmanned aircraft

1.ESSENTIAL REQUIREMENTS FOR THE DESIGN, PRODUCTION, MAINTENANCE AND OPERATION OF UNMANNED AIRCRAFT

1.1.The operator and the remote pilot of an unmanned aircraft must be aware of the applicable rules relating to the intended operations, in particular with regard to safety, privacy, data protection, liability, insurance, security and environmental protection. The operator and the remote pilot must be able to ensure the safety of operation and safe separation of the unmanned aircraft from people on the ground and from other airspace users. This includes good knowledge of the operating instructions provided by the producer, of safe and environmentally-friendly use of unmanned aircraft in the airspace, and of all relevant functionalities of the unmanned aircraft and applicable rules of the air and ATM/ANS procedures.

1.2.An unmanned aircraft must be designed and constructed so that it is fit for its intended function, and can be operated, adjusted and maintained without putting persons at risk.

1.3.If necessary to mitigate risks pertaining to safety, privacy, protection of personal data, security or the environment, arising from the operation, the unmanned aircraft must have the corresponding and specific features and functionalities which take into account the principles of privacy and protection of personal data by design and by default. According to the needs those features and functionalities must ensure easy identification of the aircraft and of the nature and purpose of the operation; and must ensure that applicable limitations, prohibitions or conditions be complied with, in particular with respect to the operation in particular geographical zones, beyond certain distances from the operator or at certain altitudes.

1.4.The organisation responsible for the production or for the marketing of the unmanned aircraft must provide information to the operator of an unmanned aircraft and, where relevant, to the maintenance organisation on the kind of operations for which the unmanned aircraft is designed together with the limitations and information necessary for its safe operation, including operational and environmental performance, airworthiness limitations and emergency procedures. This information shall be given in a clear, consistent and unambiguous manner. The operational capabilities of unmanned aircraft that can be used in operations that do not require a certificate or declaration must allow the possibility to introduce limitations which meet airspace rules applicable to such operations.

2.ADDITIONAL ESSENTIAL REQUIREMENTS FOR THE DESIGN, PRODUCTION, MAINTENANCE AND OPERATION OF UNMANNED AIRCRAFT REFERRED TO ARTICLE 56(1) AND (5)

Taking in account the objectives set out in Article 1, the following requirements must be met to ensure safety for people on the ground and other airspace users during the operation of the unmanned aircraft, taking into account the level of risk of the operation as necessary:

2.1.Airworthiness

2.1.1.Unmanned aircraft must be designed in a way that, or contain features or details that, the safety of the person operating the unmanned aircraft or of third parties in the air or on the ground, including property, can be satisfactorily demonstrated.

2.1.2.Unmanned aircraft must provide product integrity that is proportionate to the risk in all anticipated flight conditions.

2.1.3.Unmanned aircraft must be safely controllable and manoeuvrable, as necessary under all anticipated operating conditions including following the failure of one or, if appropriate, more systems. Due account must be taken of human-factor considerations, in particular available knowledge about factors conducive to safe operation of technology by humans.

2.1.4.Unmanned aircraft and their engines, propellers, parts, non-installed equipment, and equipment to control the unmanned aircraft remotely must function as intended under any foreseeable operating conditions, throughout, and sufficiently beyond, the operation for which the aircraft was designed.

2.1.5.Unmanned aircraft and their engines, propellers, parts, non-installed equipment, and equipment to control the unmanned aircraft remotely, considered separately and in relation to each other, must be designed such that the probability of a failure condition and the severity of its effect on people on the ground and other airspace users are mitigated on the basis of the principles laid down in Article 4(2).

2.1.6.Any equipment to control the unmanned aircraft remotely involved in the operation must be so as to facilitate flight operations, including means providing situational awareness, and management of any expected situation and emergencies.

2.1.7.Organisations involved in the design of unmanned aircraft, engines and propellers must take precautions so as to minimise the hazards arising from conditions, both internal and external to the unmanned aircraft and their systems, that experience has shown to have a safety impact. This includes protection against interference by electronic means.

2.1.8.The manufacturing processes, materials and components used to produce the unmanned aircraft must result in adequate and reproducible properties and performance that are compliant with the design properties.

2.2.Organisations

Organisations involved in unmanned aircraft design, production, maintenance, operations, related services and training shall meet the following conditions:

(a) the organisation must have all the means necessary for the scope of its work and ensure compliance with the essential requirements and regulations made under Articles 57 and 58, relevant for its activity;

(b) the organisation must implement and maintain a management system to ensure compliance with the relevant essential requirements, manage safety risks and aim for continuous improvement of this system. Such management system must be proportionate to the organisation's type of activity and size;

(c) the organisation must establish an occurrence reporting system, as part of the safety management system, in order to contribute to the continuous improvement of safety. Such reporting system must be proportionate to the organisation's type of activity and size;

(d) the organisation must establish arrangements, where relevant, with other organisations to ensure continuing compliance with the relevant essential requirements.

2.3.Persons involved in operation of unmanned aircraft

Any person involved in the operation of an unmanned aircraft, including the remote pilot, shall possess the required knowledge and skills necessary to ensure the safety of the operation and proportionate to the risk associated with the type of operation. This person shall also demonstrate medical fitness, if this is necessary to mitigate the risks involved in the operation concerned.

2.4.Operations

2.4.1.The operator of an unmanned aircraft is responsible for the operation and must take any appropriate actions to ensure the safety of the operation.

2.4.2.A flight must be performed in accordance with the applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the area, airspace, aerodromes or sites planned to be used and, where applicable, related ATM/ANS systems.

2.4.3.Operations with unmanned aircraft must ensure the safety of third parties on the ground and of other airspace users and minimise the risks resulting from adverse external and internal conditions, including environmental conditions, through maintaining appropriate separation distance during all phases of the flight.

2.4.4.Unmanned aircraft must be operated only if it is in airworthy condition and where the equipment and the other components and services necessary for the intended operation are available and serviceable.

2.4.5.Unmanned aircraft and operations with unmanned aircraft must comply with relevant rights guaranteed under the law of Gibraltar.

2.4.6.The operator of an unmanned aircraft must ensure that the aircraft has the necessary navigation, communication, surveillance, detect and avoid equipment, as well as any other equipment deemed necessary for the safety of the intended flight, taking account of the nature of the operation, air traffic regulations and rules of the air applicable during any phase of the flight.

2.5.Essential requirements relating to electromagnetic compatibility and radio spectrum, for unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) and which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunication Union for protected aeronautical use

2.5.1.Those unmanned aircraft, engines, propellers, parts and non-installed equipment shall be designed and produced in such a manner, having regard to the state of the art, as to ensure that:

(a) the electromagnetic disturbance which they generate does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended; and

(b) they have a level of immunity to the electromagnetic disturbance which allows them to operate without unacceptable degradation of their intended use.

2.5.2.Those unmanned aircraft, engines, propellers, parts and non-installed equipment shall be designed and produced in such a manner, having regard to the state of the art, as to ensure that they effectively use and support the efficient use of radio spectrum in order to avoid harmful interference.

3.ESSENTIAL ENVIRONMENTAL REQUIREMENTS FOR UNMANNED AIRCRAFT

Unmanned aircraft shall comply with the environmental performance requirements set out in Annex III.

4.ESSENTIAL REQUIREMENTS FOR REGISTRATION OF UNMANNED AIRCRAFT AND THEIR OPERATORS AND MARKING OF UNMANNED AIRCRAFT

4.1.Without prejudice to obligations of Gibraltar under the Chicago Convention unmanned aircraft the design of which is subject to certification pursuant to Article 56(1) shall be registered in accordance with regulations made under Article 57.

4.2.Operators of unmanned aircraft shall be registered in accordance with regulations made under Article 57, where they operate any of the following:

(a) unmanned aircraft which, in the case of impact, can transfer, to a human, kinetic energy above 80 Joules;

(b) unmanned aircraft the operation of which presents risks to privacy, protection of personal data, security or the environment;

(c) unmanned aircraft the design of which is subject to certification pursuant to Article 56(1).

4.3.Where a requirement of registration applies pursuant to point 4.1 or 4.2, the unmanned aircraft concerned shall be individually marked and identified, in accordance with regulations made under Article 57.

ANNEX X

Correlation table

Regulation (EC) No 216/2008	This Regulation
Article 1(1)	Article 2(1) and (2)
Article 1(2)	Article 2(3)
Article 1(3)	Article 2(5)
Article 2	Article 1
Article 3	Article 3
Article 4(1)(a)	Article 2(1)(a)
Article 4(1)(b)	Article 2(1)(b)(i)
Article 4(1)(c)	Article 2(1)(b)(ii)
—	Article 2(1)(b)(iii)
Article 4(1)(d)	Article 2(1)(c)
Article 4(2)	Article 2(2)
Article 4(3)	Article 2(1)(b) and (c)
Article 4(3a)	Article 2(1)(d), (e) and (2)
—	Article 2(4)
—	Article 2(6)
Article 4(3b)	Article 2(7)
Article 4(3c)	Article 2(1)(g) and (2)
Article 4(4) and (5)	Article 2(3)(d)
Article 4(6)	—
—	Article 2(8) to (11)
—	Article 4
—	Article 5

—	Article 6
—	Article 7
—	Article 8
Article 5(1), (2) and (3)	Articles 9 to 16
Article 5(4)(a) and (b)	Article 18(2)
Article 5(4)(c)	Article 18(1)(b)
—	Article 18(1)(a)
Article 5(5)	Article 17 and 19
Article 5(6)	Article 4
Article 6	Articles 9(2) and 19(3)
Article 7(1) and (2)	Articles 20 and 21
Article 8(4)	Article 22
Article 7(3) to (7)	Articles 23 to 28
Article 8(1) to (3)	Articles 29, 30(1) to (3)
—	Article 30(4) to (7)
Article 8(5)	Article 31 and 32
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