

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)

CHAPTER IV

JOINT CERTIFICATION, OVERSIGHT AND ENFORCEMENT SYSTEM

Article 62

Certification, oversight and enforcement

1 The Commission, the Agency and the Member States shall cooperate within a single European aviation safety system to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

2 To ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, the Agency and the national competent authorities shall:

- a receive and assess the applications made to them, and, where applicable, issue or renew certificates and receive declarations made to them, 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 the delegated and implementing acts adopted on the basis thereof;
- d take all necessary enforcement measures, including amending, limiting, suspending or revoking certificates issued by them, 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 their staff involved in certification, oversight and enforcement tasks, including by providing adequate training.

3 Member States shall ensure that their national competent authorities are independent when taking technical decisions on certification, oversight and enforcement and exercise their tasks impartially, and transparently and are organised, staffed and managed accordingly. Member States shall also ensure that their national competent authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

Status: Point in time view as at 31/01/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, Article 62. (See end of Document for details)

4 The responsibilities for the tasks related to certification, oversight and enforcement referred to in paragraph 2 shall be determined in accordance with this paragraph.

The Agency shall be responsible where those tasks have been attributed to it pursuant to Articles 77 to 82 and where those tasks have been allocated to it pursuant to Articles 64 and 65.

However, where a Member State grants an exemption in accordance with Article 41(6), point (a) of Article 80(1) shall no longer apply and that Member State shall be responsible for oversight and enforcement in respect of the provider of ATM/ANS concerned as provided for in that exemption.

The national competent authority of the Member State where the aerodrome is located shall be responsible for those tasks with respect to the aerodrome certificate referred to in Article 34(1) and the certificate for an aerodrome operator referred to in Article 37(1).

That national competent authority shall also be responsible for the oversight and enforcement tasks with respect to organisations responsible for the provision of groundhandling services or AMS at that aerodrome.

In all other cases, the national competent authority of the Member State where the natural or legal person applying for the certificate or making the declaration has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for those tasks, unless the effective performance of the tasks related to certification, oversight, and enforcement requires their allocation to a national competent authority of a different Member State in accordance with the detailed rules referred to in point (d) of paragraph 14.

However, where the implementing acts referred to in 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 cabin crew training organisations that have been issued an approval in accordance with Article 24 and aircraft operators that have been issued a certificate in accordance with Article 30 shall be responsible for issuing the cabin crew attestations referred to in Article 22.

5 Member States may decide that, by way of derogation from paragraph 4, their national competent authorities shall be jointly responsible for the tasks related to certification, oversight and enforcement in respect of an aircraft operator involved in commercial air transport where both of the following conditions are met:

- a such joint responsibility was provided for in an agreement concluded between those Member States before 1 January 1992;
- b those Member States have ensured that their national competent authorities effectively carry out those tasks in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

The Member States concerned shall, by 12 March 2019 at the latest, notify the Commission and the Agency of that joint-responsibility decision and provide them with all relevant information, in particular the agreement referred to in point (a) and the measures taken to ensure that those tasks are carried out effectively in accordance with point (b).

Status: Point in time view as at 31/01/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, Article 62. (See end of Document for details)

Where the Commission, after consulting the Agency, considers that the conditions specified in the first subparagraph have not been met, the Commission shall adopt implementing acts setting out its decision to that effect. Once the Commission has notified such implementing acts to the Member States concerned, those Member States shall without delay modify or revoke their joint-responsibility decision and shall inform the Commission and the Agency accordingly.

The Agency shall include in the repository referred to in Article 74 all of the decisions of the Commission and of the Member States that have been notified pursuant to this paragraph.

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

7 When conducting the ramp inspections referred to in point (c) of paragraph 2, the Agency shall cooperate with the national competent authority of the Member State in the territory of which the ramp inspection takes place.

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

9 In order to facilitate the effective exercise of their tasks related to certification, oversight and enforcement, the Commission, the Agency and national competent authorities, shall exchange relevant information, including on possible or identified infringements.

10 The Agency shall promote a common understanding and application of the requirements contained in this Regulation and in the delegated and implementing acts adopted on the basis thereof, inter alia, by developing the guidance material referred to in Article 76(3) in consultation with the national competent authorities.

11 Any legal or natural person subject to this Regulation may bring to the attention of the Agency any alleged differences in the application of the rules between the Member States. Where such differences seriously hamper the activities of those persons, or otherwise lead to substantial difficulties, the Agency and the national competent authorities of the Member States concerned shall cooperate to address, and where necessary, promptly eliminate those differences. Where those differences cannot be eliminated, the Agency shall present the matter to the Commission.

12 The Agency and the national competent authorities 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 With regard to the tasks of the Agency related to certification, oversight and enforcement under this Regulation, the Commission is empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules concerning:

- a the conditions for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the Agency 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 conditions for conducting ramp inspections by the Agency 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 the delegated and implementing acts adopted on the basis thereof;

Status: Point in time view as at 31/01/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, Article 62. (See end of Document for details)

- c the conditions in accordance with which the activities regulated by Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;
- d the conditions for issuing and disseminating mandatory information and recommendations by the Agency in accordance with Article 76(6), in order to ensure the safety of the activities regulated by Chapter III;
- e the conditions for issuing and disseminating mandatory information by the Agency, in accordance with Article 77, to ensure the continuing airworthiness and environmental compatibility of products, parts, non-installed equipment and equipment to control the aircraft remotely, and conditions for approval of alternative means of compliance to that mandatory information;
- f the conditions and procedures for the accreditation by the Agency of a qualified entity for the purpose of Article 69.

14 In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission 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, adopt implementing acts 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 national competent authority 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 national competent authority 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 the delegated and implementing acts adopted on the basis thereof;
- c the rules and procedures in accordance with which the activities regulated in Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;
- d in respect of paragraph 4, the rules and procedures for allocation of responsibilities between the national competent authorities, with a view to ensuring the effective performance of the tasks related to certification, oversight and enforcement;
- e the rules and procedures for the accreditation by the national competent authority 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 the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the Agency and national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission 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, adopt implementing acts laying down detailed provisions concerning:

- a the rules and procedures for the gathering, exchange and dissemination of relevant information between the Commission, the Agency and the national competent authorities for the effective performance of their tasks related to certification, oversight and enforcement, including information on possible or identified infringements;
- b the rules and procedures for the qualifications of the Agency and national competent authorities staff involved in certification, oversight and enforcement tasks and of the organisations involved in their training;

Status: Point in time view as at 31/01/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, Article 62. (See end of Document for details)

- c the rules and procedures for the administration and management systems of the Agency and national competent authorities 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;
- e in respect of paragraph 4 of this Article, the rules and procedures for allocation of responsibilities to cabin crew training organisations and aircraft operators for the purpose of issuing cabin crew attestations, with a view to ensuring effective performance of the tasks related to certification of cabin crew.

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

Status:

Point in time view as at 31/01/2020. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, Article 62.