

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 71

Flexibility provisions

1 Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to Chapter III, other than the essential requirements laid down in that Chapter, or to the delegated or implementing acts adopted on basis of that Chapter in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons, where all of the following conditions have been met:

- a it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;
- b safety, environmental protection and compliance with the applicable essential requirements are ensured, where necessary through the application of mitigation measures;
- c the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and
- d the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the exemption granted, its duration, the reason for granting it and, where applicable, the necessary mitigation measures applied.

2 Where the exemption referred to in paragraph 1 of this Article was granted for a duration that exceeds eight consecutive months or where a Member State has granted the same exemption repetitively and its total duration exceeds eight months, the Agency shall assess whether the conditions set out in paragraph 1 of this Article have been met and shall issue, within three months from the date of the reception of the last notification referred to in paragraph 1 of this Article, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 74.

In that case, the Commission shall, taking account of that recommendation, assess whether those conditions have been met. Where it considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency,

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 71. (See end of Document for details)

the Commission shall adopt, within 3 months from the date of the reception of that recommendation, an implementing act containing its decision to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and entered by the Agency into the repository established under Article 74.

Upon notification of an implementing act confirming that those conditions have not been met, the Member State concerned shall immediately revoke the exemption granted pursuant to paragraph 1 of this Article.

3 Where a Member State considers that the compliance with the applicable essential requirements set out in the Annexes can be demonstrated by other means than those laid down in the delegated and implementing acts adopted on the basis of this Regulation, and that those means present significant advantages in terms of civil aviation safety or of efficiency for the persons subject to this Regulation or for the authorities concerned, it may submit to the Commission and the Agency, through the repository established under Article 74, a reasoned request for amendment of the delegated or implementing act concerned so as to allow for the use of those other means.

In that case, the Agency shall, without undue delay, issue a recommendation to the Commission on whether the Member State's request fulfils the conditions set out in the first subparagraph. Where necessary as a result of the application of this paragraph, the Commission shall, without delay and taking account of that recommendation, consider amending the delegated or implementing act concerned.

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