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EUROPEAN AIRLAW

Texts and Documents

KLUWER

**1.6A REGULATION (EC) NO. 1899/2006 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

of 12 December 2006

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

(Text with EEA relevance)

(OJ No. L 377 of 27 December 2006, p. 1)

**THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,**

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

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee,¹

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,²

Whereas:

(1) Regulation (EEC) No. 3922/91³ provides for common safety standards listed in Annex II to that Regulation with respect, in particular, to the design, manufacture, operation and maintenance of aircraft, as well as persons and organizations involved in those tasks. Those harmonized safety standards apply to all aircraft operated by Community operators, whether such aircraft are registered in a Member State or in a third country.

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

(3) Article 9 of Council Regulation (EEC) No. 2407/92 of 23 July 1992 on licensing of air carriers⁴ provides that the granting and validity at any time of

1. OJ No. C 14, 16 January 2001, p. 33.

2. Opinion of the European Parliament of 3 September 2002 (OJ No. C 272 E, 13 November 2003, p. 103), Council Common Position of 9 March 2006 (OJ No. C 179 E, 1 August 2006, p. 1), Position of the European Parliament of 5 July 2006 (not yet published in the Official Journal) and Council Decision of 23 October 2006.

3. OJ No. L 373, 31 December 1991, p. 4. Regulation as last amended by Regulation (EC) No. 1592/2002 (OJ No. L 240, 7 September 2002, p. 1).

4. OJ No. L 240, 24 August 1992, p. 1.

an operating licence shall be dependent upon the possession of a valid air operator's certificate specifying the activities covered by the operating licence and complying with the criteria to be established in a prospective regulation. It is now appropriate to establish such criteria.

(4) The Joint Aviation Authorities (JAA) have adopted a set of harmonized rules for commercial air transportation by aeroplane, called Joint Aviation Requirements for Commercial Air Transportation (Aeroplanes) (JAR-OPS 1), as amended. Those rules (Amendment 8 of 1 January 2005) provide for a minimum level of safety requirements and therefore constitute a good basis for Community legislation covering the operation of aeroplanes. Changes had to be made to JAR-OPS 1 in order to bring it into conformity with Community legislation and policies, account being taken of its numerous implications in the economic and social field. That new text cannot be introduced into Community law by simple reference to JAR-OPS 1 in Regulation (EEC) No. 3922/91. A new Annex containing the common rules should therefore be added to that Regulation.

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

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

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

(8) The provisions of Regulation (EEC) No. 3922/91 concerning the committee procedure should be adapted to take account of Council Decision No.

1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.¹

(9) The provisions of Regulation (EEC) No. 3922/91 relating to its scope should be adapted to take account of Regulation (EC) No. 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency,² as well as its implementing rules established by Commission Regulation (EC) No. 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organizations,³ and Commission Regulation (EC) No. 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organizations and personnel involved in these tasks.⁴

(10) This Regulation, in particular the provisions on flight and duty time limitations and rest requirements as set out in Subpart Q of Annex III, takes into account the limits and minimum standards already established in Directive 2000/79/EC.⁵ The limits set out in that Directive should always be respected for mobile workers in civil aviation. The provisions of Subpart Q of Annex III and other provisions approved pursuant to this Regulation should in no circumstances be broader and thereby provide those workers with less protection.

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

(12) Member States should be able to continue to apply national provisions on flight and duty time limitations and rest requirements for crew members in areas that are at present not covered by Subpart Q of Annex III, e. g. the

1. OJ No. L 184, 17 July 1999, p. 23. Decision as amended by Decision No. 2006/512/EC (OJ No. L 200, 22 July 2006, p. 11).

2. OJ No. L 240, 7 September 2002, p. 1. Regulation as last amended by Commission Regulation (EC) No. 1701/2003 (OJ No. L 243, 27 September 2003, p. 5).

3. OJ No. L 243, 27 September 2003, p. 6. Regulation as amended by Regulation (EC) No. 706/2006 (OJ No. L 122, 9 May 2006, p. 16).

4. OJ No. L 315, 28 November 2003, p. 1. Regulation as amended by Regulation (EC) No. 707/2006 (OJ No. L 122, 9 May 2006, p. 17).

5. Council Directive No. 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organization of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) (OJ No. L 302, 1 December 2000, p. 57).

maximum daily flight duty period for single pilot operations and emergency medical operations, provisions regarding the reduction of flight duty periods, or the augmentation of rest periods when crossing multiple time zones.

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

(14) This Regulation should not affect the application of provisions on inspections as laid down in the 1944 Chicago Convention on International Civil Aviation and in Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports.¹

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

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

HAVE ADOPTED THIS REGULATION:

Article 1

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

(...)*

Article 2

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

Without prejudice to the provisions of Article 11 of Regulation (EEC) No. 3922/91, Annex III shall apply with effect from 16 July 2008.

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

1. OJ No. L 143, 30 April 2004, p. 76. Directive as amended by Regulation (EC) No. 2111/2005 (OJ No. L 344, 27 December 2005, p. 15).

* *Note of the editors:* taken into account in [B II] 1.6.

Done at Strasbourg, 12 December 2006

For the European Parliament
The President
Josep BORRELL FONTELLES

For the Council
The President
Mauri PEKKARINEN

ANNEX

(...)*

* *Note of the editors:* taken into account in [B II] 1.6, Annex III.

**1.6B REGULATION (EC) NO. 1900/2006 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**
of 20 December 2006

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

(OJ No. L 377 of 27 December 2006, p. 176)

**THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,**

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

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,¹

Whereas:

(1) Annex III to Regulation (EEC) No. 3922/91² provides for common technical requirements and administrative procedures applicable to commercial transportation by aeroplanes. Those harmonized requirements and procedures apply to all aeroplanes used by Community operators whether registered in a Member State or in a third country.

(2) The measures necessary for the implementation of Regulation (EEC) No. 3922/91 should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.³

(3) In particular, the Commission should be empowered to establish the conditions under which, as provided for in Regulation (EEC) No. 3922/91, the common technical requirements and administrative procedures set out in Annex III thereof may be amended or supplemented, or a Member State exempted from applying them. Since those measures are of general scope and are designed to amend non-essential elements of that Regulation, or to

1. Opinion of the European Parliament of 30 November 2006 (not yet published in the Official Journal) and Council Decision of 19 December 2006.

2. OJ No. L 373, 31 December 1991, p. 4. Regulation as last amended by Regulation (EC) No. 1899/2006 of the European Parliament and of the Council. (See [B II] 1.6A).

3. OJ No. L 184, 17 July 1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ No. L 200, 22 July 2006, p. 11).

supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(4) When, on imperative grounds of urgency regarding the maintenance of a sufficient level of aviation safety, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of certain measures.

(5) Regulation (EEC) No. 3922/1991 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

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

(...)*

Article 2

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

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

Done at Strasbourg, 20 December 2006

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

J. KORKEAOJA

* *Note of the editors:* taken into account in [B II] 1.6.

COMMISSION REGULATION (EC) NO. 8/2008

of 11 December 2007

amending Council Regulation (EEC) No. 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (Text with EEA relevance)

(OJ No. L 10 of 12 January 2008, p. 1)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No. 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation,¹ and in particular Article 11(1) thereof,

Whereas:

(1) Regulation (EEC) No. 3922/91 provides that the Commission shall adopt the amendments to the common technical requirements and administrative procedures listed in Annex III thereto which are necessitated by scientific and technical progress.

(2) Annex III to Regulation (EEC) No. 3922/91 containing common technical requirements and administrative procedures applicable to commercial transportation by aeroplane is based on a set of harmonized rules adopted by the Joint Aviation Authorities (JAA) called Joint Aviation Requirements for Commercial Air Transportation (Aeroplanes) (JAR-OPS 1), as amended on 1 January 2005 (Amendment 8).

(3) JAR-OPS 1 has been amended since 1 January 2005 (Amendments 9 to 12) to improve safety requirements contained therein. The new requirements should be applicable without delay, and in any case from the date of application of Annex III to Regulation (EEC) No. 3922/91, i.e. 16 July 2008.

(4) As the amendments are urgent in order to provide the concerned air operators and Authorities with the period necessary to adjust to the new requirements, the urgency procedure laid down in Article 12(4) of the same Regulation should apply.

(5) Annex III to Regulation (EEC) No. 3922/91 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Air Safety Committee established by Article 12 of Regulation (EEC) No. 3922/91,

1. OJ No. L 373, 31.12.1991, p. 4. Regulation as last amended by Regulation (EC) No. 1900/2006 (OJ No. L 377, 27.12.2006, p. 176).

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Council Regulation (EEC) No. 3922/91 is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 11 December 2007.

For the Commission
Jacques BARROT
Vice-President

ANNEX*

* Taken into account in B II [1.6].

1.6D COMMISSION REGULATION (EC) NO. 859/2008

of 20 August 2008

amending Council Regulation (EEC) No. 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane

(OJ No. L 254 of 20 September 2008, p. 1)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No. 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation,¹ and in particular Article 11(1) thereof,

Whereas:

(1) Regulation (EEC) No. 3922/91 provides that the Commission shall adopt the amendments to the common technical requirements and administrative procedures listed in Annex III thereto which are necessitated by scientific and technical progress;

(2) Annex III to Regulation (EEC) No. 3922/91 is based on a set of harmonized rules adopted by the Joint Aviation Authorities (JAA) called Joint Aviation Requirements for Commercial Air Transportation (Aeroplanes) (JAR-OPS 1).

(3) Regulation (EEC) 8/2008,² updated Annex III in order to reflect the amendments made to JAR-OPS since 1 January 2005 (Amendments 9 to 12) before the date on which that Annex will become applicable (16 July 2008)

(4) On the basis of further work conducted by the European Air Safety Agency, and pending the adoption of the implementing regulations provided in Regulation (EC) 8/2008, that Annex should be amended again in order to include certain detailed technical and operational requirements relating to the most crucial safety elements of that Annex.

(5) These new requirements should be applicable without delay. However, a lead time is needed by the industry and the authorities for the implementation of complex provisions pertaining to all weather operations and cabin crew training;

(6) Annex III to Regulation (EEC) No. 3922/91 should therefore be amended accordingly.

1. OJ No. L 373, 31.12.1991, p. 4.

2. OJ No. L 10, 12.1.2008, p. 1.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Air Safety Committee established by Article 12 of Regulation (EEC) No. 3922/91,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Council Regulation (EEC) No. 3922/1991 is replaced by the Annex to this Regulation.

Article 2

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

2. The provisions of the Annex of this Regulation concerning OPS 1.1005, OPS 1.1010, OPS 1.1015, Appendix 1 to OPS 1.1005, Appendix 1 to OPS 1.1010, Appendix 1 to OPS 1.1015 and Appendix 3 to OPS 1.1005/1.1010/1.1015 shall apply from 16 July 2009.

3. The provisions of the Annex of this Regulation concerning OPS 1.430, OPS 1.435, OPS 1.440, OPS 1.450, OPS 1.455, OPS 1.460, Appendix 1 to OPS 1.430, Appendix 1 to OPS 1.440, Appendix 1 to OPS 1.450 and Appendix 1 to OPS 1.455 shall apply from 16 July 2011.

4. Pending the application of the provisions referred to in paragraphs 2 and 3, the corresponding provisions of the Annex to Regulation (EEC) 8/2008 shall continue to apply.

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

Done at Brussels, 20 August 2008.

For the Commission
Antonio TAJANI
Vice-President