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AVIATION 165

**COVER NOTE**

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To:	General Secretariat of the Council
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Delegations will find attached document D042245/03.

Encl.: D042245/03



Brussels, **XXX**  
**[...]**(2015) **XXX** draft

**COMMISSION REGULATION (EU) .../...**

**of **XXX****

**amending Regulation (EU) No 1332/2011 laying down common airspace usage  
requirements and operating procedures for airborne collision avoidance**

(Text with EEA relevance)

# COMMISSION REGULATION (EU) .../...

of **XXX**

## **amending Regulation (EU) No 1332/2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC<sup>1</sup>, and in particular Article 8(5) and 9(4) thereof,

Whereas:

- (1) Commission Regulation (EU) No 1332/2011<sup>2</sup> requires turbine-powered aeroplanes, with a maximum certificated take-off mass (MCTOM) of more than 5 700 kg or authorised to carry more than 19 passengers to be equipped with a new software version 7.1 of the airborne collision avoidance system (ACAS II) to avoid mid-air collision. This requirement also applies to operators of certain aeroplanes registered in a third country.
- (2) Regulation (EU) No 1332/2011 also requires Union air operators who are subject to Council Regulation (EEC) No 3922/91<sup>3</sup> to install the new software version 7.1 of ACAS II on their aeroplanes. However, this provision is obsolete as Regulation (EEC) No 3922/91 no longer applies to those operators since its Annex III has been deleted. Commission Regulation (EU) No 965/2012 now applies to those operators instead and contains the necessary rules in this regard. The obsolete provision of Regulation (EU) No 1332/2011 should therefore be deleted.
- (3) Regulation (EU) No 1332/2011 contains rules on operational procedures applicable in situations where ACAS II gives indication to the flight crew recommending a manoeuvre to ensure separation of the aeroplane from all threats or to maintain existing separation (resolution advisory). As those rules are safety-critical both for

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<sup>1</sup> OJ L 79, 19.3.2008, p. 1.

<sup>2</sup> Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (OJ L 336, 20.12.2011, p. 20).

<sup>3</sup> 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 (OJ L 373, 31.12.1991, p. 4).

pilots and controllers, especially as regards the interface between them, they are better addressed in Commission Implementing Regulation (EU) No 923/2012<sup>4</sup> instead. Therefore, the rules related to such operational procedures set out in Regulation (EU) No 1332/2011 should be deleted.

- (4) Regulation (EU) No 1332/2011 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are based on the opinion<sup>5</sup> issued by the European Aviation Safety Agency in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EU) No 1332/2011 is amended as follows:

- (1) Article 4 is deleted;
- (2) in Article 5, paragraphs 2 and 3 are replaced by the following:
  - '2. Article 3 shall apply as of 1 March 2012.
  - 3. By way of derogation from paragraph 2, in the case of aircraft with an individual certificate of airworthiness issued before 1 March 2012, Article 3 shall apply as of 1 December 2015.';
- (3) the Annex is replaced by the text in the Annex to this Regulation.

#### *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*.

It shall apply from 25 August 2016.

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

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<sup>4</sup> Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1).

<sup>5</sup> European Aviation Safety Agency Opinion No 04/2014 of 16 December 2014 for the amendment to Commission Implementing Regulation (EU) No 923/2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation (SERA Part C)

Done at Brussels,

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*