



Brussels, **XXX**
[...] (2017) **XXX** draft

ANNEX TO EASA OPINION 02-2018

COMMISSION REGULATION (EU) No .../..

of **XXX**

amending Regulation (EU) 2017/373 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, and Regulation (EU) No 139/2014 laying down requirements and administrative procedures related to aerodromes

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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 ⁽¹⁾, and in particular Articles 8a(5) and 8b(6) thereof,

Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) ⁽²⁾, and in particular Articles 4 and 6 thereof,

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) ⁽³⁾, and in particular Article 6(7) thereof,

Whereas:

- (1) Regulation (EU) 2017/373 of 1 March 2017 lays down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight ⁽⁴⁾,
- (2) Regulation (EU) No 139/2014 of 12 February 2014 lays down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 ⁽⁵⁾,
- (3) In order to ensure a high level of civil aviation safety in the European Union (EU), the measures set out in this Regulation should reflect the state of the art in aviation safety in the field of meteorological services (MET). Therefore, this Regulation should be based on the latest amendments to the applicable International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs), specifically Annex 3 ‘Meteorological Service for International Air Navigation’ to the Convention on

¹ OJ L 79, 19.3.2008, p. 1.

² OJ L 96, 31.3.2004, p. 10.

³ OJ L 96, 31.3.2004, p. 20.

⁴ OJ L 62, 8.3.2017, p. 1.

⁵ OJ L 44, 14.2.2014, p. 1.

International Civil Aviation, signed in Chicago on 7 December 1944 (the ‘Chicago Convention’).

- (4) In addition, the measures set out in this Regulation should reflect the state of the art in aviation safety, including best practices and scientific and technical progress, in the field of aeronautical information services (AIS). Therefore, this Regulation should be based on the applicable ICAO SARPs, specifically Annex 15 ‘Aeronautical Information Services’ to the Chicago Convention, while drawing on the experience of EU and worldwide AIS provision and ensuring proportionality according to the size, type, and complexity of the AIS provider (AISP).
- (5) The applicability of the requirements for aeronautical data and aeronautical information to visual flight rules (VFR) aerodromes should be left to the discretion of the Member States, for example when those VFR aerodromes are included in the aeronautical information publication (AIP).
- (6) Common technical requirements for airspace structure design (ASD) as well as common requirements for the certification of flight procedure design service providers (FPDSPs) should be established to ensure that the airspace structures and flight procedures are properly designed, documented, maintained, periodically reviewed and validated before they can be deployed and used by aircraft.
- (7) Flight procedures and any changes thereto may affect the safety and regularity of flight operations at the aerodrome. As a consequence, introduction of new flight procedures or any changes to the existing ones should require prior approval and oversight by the competent authority.
- (8) The measures provided for in this Regulation are based on Opinion No xx/2018 issued by the European Aviation Safety Agency pursuant to Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 5(3) of Regulation (EC) No 549/2004 ⁽⁶⁾.
- (10) 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

Article 1 of Regulation (EU) 2017/373 is replaced as follows:

‘This Regulation lays down common requirements for:

- (a) the provision of air traffic management and air navigation services (ATM/ANS), flight procedure design (FPD), and airspace structure design (ASD) services and other air traffic management (ATM) network functions for general air traffic, in particular for the legal or natural persons providing those services and functions; and

⁶ OJ L 96, 31.3.2004, p. 1.

- (b) the competent authorities and qualified entities acting on their behalf, which perform certification, oversight and enforcement tasks in respect of the services and functions referred to in point (a).’

Article 2

Article 2(2) of Regulation (EU) 2017/373 is replaced as follows:

- ‘(2) ‘service provider’ means any legal or natural person providing functions and/or services of ATM/ANS as defined in Article 3(q) of Regulation (EC) No 216/2008, flight procedure design services (FPDS), and/or other ATM network functions, either individually or bundled, for general air traffic;’

Article 3

Article 3 of Regulation (EU) 2017/373 is amended as follows:

1. The title is replaced as follows:

‘Provision of ATM/ANS, FPD/ASD, and ATM network functions’.

2. Paragraph 1 is replaced as follows:

- ‘1. Member States shall ensure that the appropriate ATM/ANS, FPD/ASD, and ATM network functions are provided in accordance with this Regulation in a manner that facilitates general air traffic, while taking into account safety considerations, traffic requirements and environmental impact.’

3. New paragraphs 5, 6,7 and 8 are added:

- ‘(5) When aeronautical data and aeronautical information is originated by parties other than service providers regulated by this Regulation or other than aerodrome operators regulated by Regulation (EU) No 139/2014, Member States shall ensure that:

- (i) those aeronautical data and aeronautical information meet the requirements laid down in:

- (A) ATM/ANS.OR.A.085, except those in points (e), (g) and (h); and
(B) ATM/ANS.OR.A.090; and

- (ii) personnel of those parties meet the requirements of ATM/ANS.OR.B.005(a)(6).

- (6) When it is determined that ATS will be provided in particular portions of the airspace or at particular aerodromes in accordance with paragraph 1, Member States shall ensure that those portions of the airspace or those aerodromes are designated in relation to the ATS that are to be provided.
- (7) With regard to ASD, when ensuring the appropriate services and functions, as laid down in paragraph 1, the Member State shall ensure that the design criteria laid down in Appendices 1 to Annex XI (Part-FPD) to this Regulation are met.

- (8) Member States shall ensure that maintenance and periodic review of flight procedures for aerodromes and in airspace under their responsibility are conducted.’

Article 4

Article 6(k) of Regulation (EU) 2017/373 is replaced as follows:

- ‘(k) for providers of flight procedure design services, in addition to the requirements of points (a) and (b), the requirements laid down in Annex XI (Part-FPD) to Regulation (EU) 2017/373;’

Article 5

New paragraphs 4, 5, 6, and 7 are added to Article 10 of Regulation (EU) 2017/373 as follows:

- ‘(4) In respect of ASD, Member States shall ensure that the design criteria laid down in Appendix 1 to Annex XI (Part-FPD) to this Regulation are met by [27 January 2022].
- (5) In respect of FPDSPs, Article 6(k) shall apply from the date of issuance of the certificate, but not later than [27 January 2022].
- (6) By way of derogation from paragraph 4, Member States may decide not to apply aspects of Appendix 1 to Annex XI (Part-FPD) to this Regulation, in whole or in part, until [25 January 2024].

When a Member State makes use of this possibility, it shall notify the European Commission and the Agency by [30 November 2021] at the latest. The notification shall describe the scope of the derogation(s) as well as the implementation programme that contains the measures envisaged and the related timing.

- (7) In respect of service providers, Appendix 3a to Annex VI (Part-AIS) to this Regulation shall apply from 5 November 2020.’.

Article 6

The following ‘TABLE OF CONTENTS’ is inserted after Article 10 of Regulation (EU) 2017/373 and before Annex I (Part-DEFINITIONS) thereto, as follows:

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Article 7

Annex I (Part-DEFINITIONS) to Regulation (EU) 2017/373 is amended in accordance with Annex I to this Regulation.

Article 8

Annex II (Part-ATM/ANS.AR) to Regulation (EU) 2017/373 is amended in accordance with Annex II to this Regulation.

Article 9

Annex III (Part-ATM/ANS.OR) to Regulation (EU) 2017/373 is amended in accordance with Annex III to this Regulation.

Article 10

Annex V (Part-MET) to Regulation (EU) 2017/373 is amended in accordance with Annex IV to this Regulation

Article 11

Annex VI (Part-AIS) to Regulation (EU) 2017/373 is amended in accordance with Annex V to this Regulation.

Article 12

Annex XI ‘SPECIFIC REQUIREMENTS FOR PROVIDERS OF PROCEDURE DESIGN (Part-ASD)’ to Regulation (EU) 2017/373 is renamed as ‘SPECIFIC REQUIREMENTS FOR PROVIDERS OF FLIGHT PROCEDURE DESIGN (Part-FPD)’ and amended in accordance with Annex VI to this Regulation.

Article 13

Regulation (EU) No 139/2014 is amended in accordance with Annex VII to this Regulation

Article 14

Regulation (EU) No 73/2010 is repealed.

Article 15

This Regulation shall enter into force on the twentieth day following that 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,

*For the Commission
The President*