



Brussels, **XXX**  
[...] (2014) **XXX** draft

## **ANNEX TO EASA OPINION 04/2014**

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

**of **XXX****

**amending Commission Implementing Regulation (EU) No 923/2012<sup>1</sup> of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation (SERA Part C) and amending Regulations (EU) Nos 1332/2011<sup>2</sup> and 965/2012<sup>3</sup> and repealing Regulation (EC) No 730/2006<sup>4</sup>**

(Text with EEA relevance)

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<sup>1</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>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> Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

<sup>4</sup> Commission Regulation (EC) No 730/2006 of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195 (OJ L 128, 16.5.2006, p. 3).

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(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 551/2004<sup>5</sup> 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 and in particular Articles 4(a) and 4(b) thereof,

Having regard to Regulation (EC) No 216/2008<sup>6</sup> 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 (EASA), and in particular Articles 8 and 8b and Annex Vb thereto,

Whereas:

- (1) Article 2.2(d) of Regulation (EC) No 216/2008 mandates the Agency to assist Member States in fulfilling their obligations under the Chicago Convention by providing a basis for a common interpretation and uniform implementation of its provisions and by ensuring that its provisions are duly taken into account in the implementation measures. The same Article mandates to aim not only at high but also at uniform safety.
- (2) In addition, Article 8b of Regulation (EC) No 216/2008 and its essential requirements contained in paragraph 1(a) of Annex Vb thereto require the Agency to develop

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<sup>1</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).

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<sup>4</sup> Commission Regulation (EC) No 730/2006 of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195 (OJ L 128, 16.5.2006, p. 3).

<sup>5</sup> OJ L 96, 31.3.2004, p. 20.

<sup>6</sup> OJ L 79, 19.3.2008, p. 1.

detailed operating rules and procedures for the safe conduct of air traffic in a given airspace which are related to the safe interaction between aircraft.

- (3) Moreover, Article 4 of Regulation (EC) No 551/2004 requires the Commission to adopt Implementing Rules related to the rules of the air and to the uniform application of airspace classification.

The standardised European rules of the air have been developed in two phases:

- (a) In Phase I (SERA Part A): EUROCONTROL transposed ICAO Annex II, with the support of the Agency and ICAO on the basis of a mandate given by the European Commission in 2009.
- (b) In Phase II (SERA Part B), EUROCONTROL and the Agency transposed the relevant provisions from Annexes 11 and 3 with the support of ICAO, in accordance with the terms of the amended SERA mandate. The outcome was the Agency's Opinion No 05/2011 which was submitted to the European Commission on 14 November 2011.
- (4) This Regulation aims at completing the objective of Regulation (EU) No 923/2012 which is the harmonisation of the rules of the air and operational procedures for the use of European airspace with the developments of ICAO (SERA Part C).
- (5) The last, but not least, objective is the alignment between Regulation (EU) No 923/2012 and the provisions in other fields of aviation to ensure a total system approach.
- (6) Regulations (EU) Nos 923/2012 and 1332/2011 should, therefore, be amended accordingly. In addition, Regulation (EC) No 730/2006 should be repealed since its content is transposed in this Regulation.
- (7) The measures provided for in this Regulation are based on the Opinion issued by the Agency in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of the EASA Basic Regulation.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

*Regulation (EU) No 923/2012 is amended as follows:*

*Article 2 is amended as follows:*

*The following definitions are added:*

‘34a ‘ATS surveillance service’ means a service provided directly by means of an ATS surveillance system’.

‘89a. ‘Instrument approach operation’ means an approach and landing using instruments for navigation guidance based on an instrument approach procedure. There are two methods for executing instrument approach operations:

- (i) a two-dimensional (2D) instrument approach operation, using lateral navigation guidance only; and

(ii) a three-dimensional (3D) instrument approach operation, using both lateral and vertical navigation guidance.’

‘94a ‘minimum fuel’ is a term used to describe a situation in which an aircraft’s fuel supply has reached a state where the flight is committed to land at a specific aerodrome and no additional delay can be accepted.’

*The following definitions are amended:*

(i) Definition 90

(...)

‘(A) *Non-precision approach (NPA) procedure* means an instrument approach procedure designed for 2D instrument approach operations Type A.’

‘(B) *Approach procedure with vertical guidance (APV)* means a performance-based navigation (PBN) instrument approach procedure designed for 3D instrument approach operations Type A.’

‘(C) *Precision approach (PA) procedure* means an instrument approach procedure based on navigation systems (ILS, MLS, GLS and SBAS Cat I) designed for 3D instrument approach operations Type A or B;’

(ii) Definition 116 is amended to read:

‘safety-sensitive personnel’ means persons who might endanger aviation safety if they perform their duties and functions improperly including, but not limited to, crew members, aircraft maintenance personnel, aerodrome operations personnel, rescue and fire-fighting and maintenance personnel, personnel allowed unescorted access on the movement area, and air traffic controllers;’

*The Annex (Rules of the air) to Regulation (EU) No 923/2012 is amended in accordance with the Annex to this Regulation.*

## Article 2

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

Article 4 is amended as follows:

‘Special provisions applying to operators subject to Regulation (EU) No 965/2012, as amended by Regulations (EU) Nos 800/2013 and 379/2014

(1) By derogation from provisions CAT.IDE.A.155 and CAT.OP.MPA.295 of Regulation (EU) No 965/2012, NCC.IDE.A.140, NCO.OP.200 and NCC.OP.220 of Regulation (EU) No 800/2013, and Article 3 and the Annex to this Regulation shall apply for operators of aeroplanes referred to in Article 1(a);

(2) any other obligation imposed on air operators by Regulations (EU) Nos 965/2012, 800/2013 and 379/2014 as regards the approval, installation or operation of equipment shall continue to apply to ACAS II.’

*The Annex to Regulation (EU) No 1332/2011 is amended as follows:*

### ‘ANNEX

Airborne collision avoidance systems (ACAS) II, (Part-ACAS)’

‘Section I’ is deleted.

The entire Section II is deleted.

### Article 3

*Annex IV (Part-CAT), Subpart B, Section 1 to Regulation (EU) No 965/2012 is amended as follows:*

‘CAT.OP.MPA.295 Use of airborne collision avoidance system (ACAS)

The operator shall establish operational procedures in accordance with Regulation (EU) No 923/2012 and training programmes in accordance with Regulation (EU) No 1332/2011 when ACAS is installed and serviceable so that the flight crew is appropriately trained in the avoidance of collisions and competent in the use of ACAS II equipment.’

*Annex VIII (Part-SPO), Subpart B to Regulation (EU) No 965/2012 is amended as follows:*

‘SPO.OP.205(a) Airborne collision avoidance system (ACAS)

The operator shall establish operational procedures in accordance with Regulation (EU) No 923/2012 and training programmes in accordance with Regulation (EU) No 1332/2011 when ACAS is installed and serviceable so that the flight crew is appropriately trained in the avoidance of collisions and competent in the use of ACAS II equipment.’

*Annex VI (Part-NCC), Subpart B to Commission Regulation (EU) No 965/2012 is amended as follows:*

‘NCC.OP.220 Airborne collision avoidance system (ACAS)

The operator shall establish operational procedures in accordance with Regulation (EU) No 923/2012 and training programs in accordance with Regulation (EU) No 1332/2011 when ACAS is installed and serviceable so that the flight crew is appropriately trained in the avoidance of collisions and competent in the use of ACAS II equipment.’

*Annex VII (Part-NCO), Subpart B to Commission Regulations (EU) Nos 965/2012 and 800/2013 is amended as follows:*

‘NCO.OP.220 Airborne collision avoidance system (ACAS II)

When ACAS II is used, operational procedures shall be in accordance with Regulation (EU) No 923/2012 and training in accordance with Regulation (EU) No 1332/2011.’

### Article 5

Regulation (EC) No 730/2006 is repealed.

### Article 6

#### *Entry into force and application*

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

The provisions for ACAS II shall apply as from 1 December 2015.

(b) By way of derogation from paragraph 1, Member States may decide not to apply the provisions of this Regulation until 4 November 2016.

When a Member State makes use of that possibility, it shall notify this to the Commission and EASA.

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

Done at Brussels,

*For the Commission*

*Member of the Commission*