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EASA OPINION NO 11/2013

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

of **XXX**

laying down technical requirements and administrative procedures related to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 805/2011

(Text with EEA relevance)

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

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laying down technical requirements and administrative procedures related to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 805/2011

(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 ⁽¹⁾, and in particular Article 8c(10) thereof,

Whereas:

- (1) Regulation (EC) No 216/2008 aims at establishing and maintaining a high uniform level of civil aviation safety in Europe. That Regulation provides for the means of achieving that objective and other objectives in the field of civil aviation safety, which include the preparation, adoption and uniform application of all measures necessary to ensure the recognition, without additional requirements, of certificates and licences granted to personnel and organisations in accordance with that Regulation and its Implementing Rules.
- (2) The implementation of Regulation (EC) No 216/2008, as well as the Single European Sky II legislation ⁽²⁾ required the establishment of detailed Implementing Rules, in particular concerning the licensing of air traffic controllers, in order to maintain a high uniform level of civil aviation safety in Europe, to achieve the highest standards of responsibility and competence, to improve the availability of air traffic controllers and to promote the mutual recognition of licences while pursuing the objective of an overall improvement in air traffic safety and competence of personnel.
- (3) Air traffic controllers as well as persons and organisations involved in their training, testing, checking or medical assessment have to comply with the relevant essential requirements set out in Annex Vb to Regulation (EC) No 216/2008. According to that Regulation, air traffic controllers as well as persons and organisations involved in their training and medical certification should be certified or licensed once they have demonstrated compliance with the essential requirements.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (OJ L 300, 14.11.2009, p. 34).

- (4) The European licence has proved to be a successful tool for recognising the specific role which air traffic controllers play in the safe provision of air traffic control. The establishment of Union-wide competence standards has reduced fragmentation in this field, contributing to more efficient organisation of work in the framework of growing regional collaboration between air navigation service providers. Therefore, maintaining and enhancing the common licensing scheme for air traffic controllers in the Union is an essential element of the European air traffic control system.
- (5) This Regulation aims at fulfilling the relevant essential requirements set out in Annex Vb to Regulation (EC) No 216/2008. While building on previous achievements and EU regulatory requirements, this Regulation repeals and replaces Commission Regulation (EU) No 805/2011 ⁽³⁾.
- (6) The provision of air navigation services requires highly skilled personnel and specifically air traffic controllers whose competence is demonstrated by a licence which is issued when meeting the detailed requirements set out in this Regulation. The rating on a licence should indicate the type of air traffic service an air traffic controller is competent to provide. At the same time, the endorsements included on the licence reflect both the specific skills of the controller and the authorisation by the competent authorities to provide services for a particular sector, group of sectors and/or working positions. Authorities should be in a position to ensure the competence of air traffic controllers when issuing licences or extending the validity of the endorsements. The competent authorities should also be in a position to suspend or revoke licences, ratings, endorsements or certificates in cases where the conditions for their issue are no longer met.
- (7) The particular characteristics of air traffic in the Union call for the introduction and effective application of common competence standards for air traffic controllers employed by air navigation service providers providing air traffic management and air navigation services (ATM/ANS) to the public.
- (8) Member States should, as far as practicable, ensure that services provided or made available by military personnel to the public offer a level of safety that is at least equivalent to the level required by the essential requirements set out in Annex Vb to Regulation (EC) No 216/2008. Therefore, Member States may also decide to apply this Regulation to their military personnel providing services to the public referred to in Article 1(2)(c) of that Regulation.
- (9) In many incidents and accidents, communication plays a significant role. Therefore, this Regulation lays down detailed language proficiency requirements for air traffic controllers. Those requirements are based on the requirements adopted by the International Civil Aviation Organization (ICAO) and provide a means of enforcing these internationally accepted standards. The principles of non-discrimination, transparency and proportionality are ensured with regard to language requirements in order to encourage free movement of workers, while ensuring safety. The acknowledgement of the importance of clear and effective communication in the European airspace led to the introduction of a proportionate validity date for the highest language proficiency level for English, so as to ensure that language skills are maintained in the interest of safety and mobility.

³ Commission Regulation (EU) No 805/2011 of 10 August 2011 laying down detailed rules for air traffic controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 206, 11.8.2011, p. 21).

- (10) In order to enhance the confidence of Member States in each other's air traffic controller licensing systems, common rules for obtaining and maintaining licences are indispensable. It is therefore important, with a view to ensuring the highest level of safety, to introduce uniform requirements as regards training, qualifications and competence of air traffic controllers. This should lead to the provision of safe, high-quality air traffic control services and contribute to the recognition of licences throughout the European Union, thereby increasing freedom of movement and improving the availability of air traffic controllers.
- (11) This Regulation aims at reflecting the state of the art, including best practices and scientific and technical progress, in the field of air traffic controller training as well as regarding their medical certification. The profession of air traffic controller is subject to technical innovations which call for such controllers' skills to be regularly updated.
- (12) The minimum requirements for the training of air traffic controllers as contained in EUROCONTROL's Specification for the ATCO Common Core Content Initial Training set appropriate standards for initial training. In order to facilitate a truly uniform approach to initial training, which is the key element for ensuring air traffic controllers' mobility, those standards have now been transposed into EU law and should be maintained as necessary to keep them up to date with the evolution of air traffic control service provision. Requirements have also been established for unit and continuation training, taking into account the applicable essential requirements. ICAO has developed training standards also in areas where there are no common European training requirements, for example for the Precision Approach Radar or the Surveillance Radar Approach. In the absence of European training requirements, Member States may continue to rely on such ICAO Standards.
- (13) Member States have used the medical requirements for the medical assessment of air traffic controllers that had been developed by a group of specialists together with EUROCONTROL. These requirements have now been transposed into EU law in order to ensure their implementation in all Member States so that air traffic controllers benefit from the uniform application of such requirements throughout the European Union.
- (14) Oversight capabilities of competent authorities have not been provided for in Commission Regulation (EU) No 805/2011. This Regulation therefore includes the way of organising the safety responsibilities and accountabilities of Member States in a principled and structured manner facilitated by administration and management system of competent authorities and organisations acting on their behalf, in line with the ICAO State Safety Programme. In accordance with Regulation (EC) No 216/2008, rules on an information network between Member States, the Commission and the Agency should also be included in this Regulation. To ensure consistent and sound oversight of the regulated persons and organisations across the European Union, the competent authorities should be guaranteed sufficient independence and resources.
- (15) In order to ensure uniformity in the application of common air traffic controller licensing, medical certification and organisation certification requirements common procedures should be followed by the competent authorities of the Member States and, where applicable, the European Aviation Safety Agency (hereinafter referred to as the Agency) to assess compliance with these requirements. Competent authorities have a key role in achieving one of the main Union objectives as regards the freedom of movement of goods, persons, and services. While building on the experience and best practices shared between the competent authorities, the Agency should develop

Acceptable Means of Compliance and Guidance Material to facilitate the necessary regulatory uniformity as necessary.

- (16) Authorities performing supervision and verification of compliance should be sufficiently independent of air navigation service providers and training providers. Authorities must also remain capable of performing their tasks efficiently. The competent authority designated for the purpose of this Regulation may be the same body or bodies nominated or established in accordance with Article 4 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky ⁽⁴⁾, as amended by Regulation (EC) No 1070/2009. The Agency should act as the competent authority for the purpose of this Regulation to issue and renew the certificates of air traffic controller training organisations located outside the territory of the Member States and, where relevant, their personnel.
- (17) Acknowledging the need to strengthen further the safety culture, especially by integrating reliable incident reporting and just culture in order to learn from incidents, this Regulation should not establish an automatic link between an incident and the suspension of a licence, rating or endorsement. Revocation of a licence should be considered as the last resort.
- (18) This Regulation should not lead to circumvention of existing national provisions governing the rights and obligations applicable to the employment relationship between an employer and applicant air traffic controllers.
- (19) The certification of training organisations should be considered as one of the decisive factors contributing to the quality of air traffic controller training and therefore contributing to the safe provision of air traffic control. In order to achieve these objectives, it is necessary to strengthen the requirements for training organisations. Similarly to air navigation services, training of air traffic controllers should also be subject to a certification process. This Regulation should make it possible to certify training by type of training, by package of training services or by package of training and air navigation services, without losing sight of the particular characteristics of the training.
- (20) This Regulation confirms long-standing case-law of the Court of Justice of the European Union in the field of mutual recognition of diplomas and freedom of movement of workers. The principle of proportionality, reasoned justifications for the imposition of compensation measures and the provision of appropriate appeal procedures constitute basic principles which need to become applicable to the air traffic management sector in a more visible manner. Member States should recognise licences and certificates issued in accordance with the requirements of this Regulation without additional conditions. Since this Regulation aims at ensuring the recognition of licences, it does not regulate the conditions concerning access to employment.
- (21) This Regulation may have an impact on the daily working practices of air traffic controllers. Social partners should be informed and consulted in an appropriate way on all measures having significant social implications. The Sectoral Dialogue Committee set up under Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at

⁽⁴⁾ OJ L 96, 31.3.2004, p. 10.

European level ⁽⁵⁾ should be consulted in an appropriate way on further implementing measures taken by the Commission.

- (22) The general conditions for obtaining a licence, insofar as they relate to age and medical requirements, should not affect the holders of existing licences. Licences and medical certificates issued by Member States in accordance with Directive 2006/23/EC and with Commission Regulation (EU) No 805/2011 should be considered as having been issued in accordance with this Regulation in order to guarantee continuation of existing licence privileges and a smooth transition for all licence holders and for the competent authorities.
- (23) 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.
- (24) 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

Objective

The objective of this Regulation is to increase safety and to improve the operation of the air traffic control system within the Union through the issue of an air traffic controller licence based on common licensing requirements and through the establishment of common requirements for the persons and organisations involved in the training, testing, checking, medical examination and assessment of air traffic controllers.

Article 2

Subject matter and scope

1. This Regulation lays down detailed rules for:
 - (a) the conditions for the issue, suspension and revocation of licences of air traffic controllers and student air traffic controllers, as well as of associated ratings and endorsements, and the privileges and responsibilities of the holders of such licences, ratings and endorsements;
 - (b) the conditions for the issue, limitation, suspension and revocation of medical certificates for air traffic controllers and student air traffic controllers, as well as the privileges and responsibilities of the holders of medical certificates;
 - (c) the certification of aero-medical examiners and aero-medical centres for air traffic controllers and student air traffic controllers;
 - (d) the certification of air traffic controller training organisations;
 - (e) the conditions for the validity, revalidation, renewal and use of such licences, ratings, endorsements and certificates.
2. This Regulation shall apply to:
 - (a) student air traffic controllers and air traffic controllers exercising their functions within the scope of Regulation (EC) No 216/2008; and

⁽⁵⁾ OJ L 225, 12.8.1998, p. 27.

- (b) persons and organisations involved in the licensing, training, testing, checking or medical examination and assessment of applicants in accordance with this Regulation.
3. Personnel referred to in paragraph 2 shall be qualified and licensed in accordance with the provisions of Annexes I and III to this Regulation.
4. Organisations referred to in paragraph 2 shall comply with the technical requirements and administrative procedures laid down in Annexes I, II, III and IV to this Regulation and shall be certified.
5. The medical certification of the personnel referred to in paragraphs 2(a) and 2(b) shall comply with the technical requirements and administrative procedures laid down in Annexes III and IV to this Regulation.

Article 3

Provision of air traffic control services

1. Air traffic control services within the scope of Regulation (EC) No 216/2008 shall only be provided by air traffic controllers qualified and licensed in accordance with this Regulation.
2. Subject to Article 1(3) of Regulation (EC) No 216/2008, Member States shall, as far as practicable, ensure that services provided or made available by military personnel to the public referred to in Article 1(2)(c) of that Regulation offer a level of safety that is at least equivalent to the level required by the essential requirements as defined in Annex Vb to that Regulation.
3. With the objective of achieving a harmonised level of safety within the European airspace, Member States may decide to apply this Regulation to their military personnel providing services to the public referred to in Article 1(2)(c) of Regulation (EC) No 216/2008.

Article 4

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. ‘abnormal situation’ means circumstances which are neither routinely nor commonly experienced and for which an air traffic controller has not developed automatic skills, including degraded situations;
2. ‘acceptable means of compliance (AMC)’ means non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules;
3. ‘air traffic control (ATC) service’ means a service provided for the purpose of:
 - (a) preventing collisions:
 - between aircraft, and
 - in the manoeuvring area between aircraft and obstructions; and
 - (b) expediting and maintaining an orderly flow of air traffic;
4. ‘air traffic control (ATC) unit’ means a generic term meaning variously, area control centre, approach control unit or aerodrome control tower;

5. 'alternative means of compliance' means an alternative to an existing AMC or a new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;
6. 'assessment' means an evaluation of the practical skills leading to the issue of the licence, rating and/or endorsement(s) and their revalidation and/or renewal, including behaviour and the practical application of knowledge and understanding being demonstrated by the person being assessed;
7. 'assessor endorsement' means the authorisation entered on and forming part of the licence, indicating the competence of the holder to assess student air traffic controller's and air traffic controller's practical skills;
8. 'critical incident stress' means the manifestation of unusual and/or extreme emotional, physical and/or behavioural reactions in an individual following an event;
9. 'emergency situation' means a serious and dangerous situation requiring immediate actions;
10. 'examination' means a formalised test that evaluates the person's knowledge and understanding;
11. 'guidance material (GM)' means non-binding material developed by the Agency that helps to illustrate the meaning of a requirement or specification and is used to support the interpretation of Regulation (EC) No 216/2008, its Implementing Rules and AMC;
12. 'ICAO location indicator' means the four-letter code group formulated in accordance with the rules prescribed by ICAO in its manual DOC 7910 in its latest updated version and assigned to the location of an aeronautical fixed station;
13. 'language proficiency endorsement' means the statement entered on and forming part of a licence, indicating the language proficiency of the holder;
14. 'licence' means a certificate, by whatever name it may be known, issued and endorsed in accordance with this Regulation and entitling its lawful holder to exercise the privileges of the ratings and endorsements contained therein;
15. 'on-the-job training instructor (OJTI) endorsement' means the authorisation entered on and forming part of a licence, indicating the competence of the holder to give on-the-job training instruction and instruction on synthetic training devices;
16. 'part-task trainer (PTT)' means a synthetic training device to provide training for specific and selected operational tasks without requiring the learner to practise all of the tasks which are normally associated with a fully operational environment;
17. 'performance objective' means a clear and unambiguous statement of the performance expected from the person undertaking training, the conditions under which the performance takes place and the standard which the person undertaking training should meet;
18. 'provisional inability' means a temporary state in which the licence holder is prevented from exercising the privileges of the licence when ratings, endorsements and his/her medical certificate are valid;
19. 'psychoactive substance' means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas caffeine and tobacco are excluded;

20. 'rating endorsement' means the authorisation entered on and forming part of a licence, indicating the specific conditions, privileges or limitations pertaining to the relevant rating;
21. 'renewal' means the administrative act taken after a rating, endorsement or certificate has expired that renews the privileges of the rating, endorsement or certificate for a further specified period subject to the fulfilment of specified requirements;
22. 'revalidation' means the administrative act taken within the period of validity of a rating, endorsement or certificate that allows the holder to continue to exercise the privileges of a rating, endorsement or certificate for a further specified period subject to the fulfilment of specified requirements;
23. 'sector' means a part of a control area and/or part of a flight information region/upper region;
24. 'simulator' means a synthetic training device that presents the important features of the real operational environment and reproduces the operational conditions under which the person undertaking training can practice real-time tasks directly;
25. 'synthetic training device' means any type of device by which operational conditions are simulated; these include simulators and part-task trainers;
26. 'synthetic training device instructor (STDI) endorsement' means the authorisation entered on and forming part of a licence, indicating the competence of the holder to give instruction on synthetic training devices;
27. 'training course' means theoretical and/or practical instruction developed within a structured framework and delivered within a defined duration;
28. 'training organisation' means an organisation which has been certified by the competent authority to provide one or more types of training;
29. 'unit endorsement' means the authorisation entered on and forming part of a licence, indicating the ICAO location indicator and the sector, group of sectors or working positions where the licence holder is competent to work;
30. 'validation' means a process by which, through the successful completion of a unit endorsement course associated to a rating or a rating endorsement, the holder may start exercising the privileges of that rating or rating endorsement.

Article 5

Competent authority

1. Member States shall nominate or establish one or more competent authority(ies) with allocated responsibilities for the certification and oversight of persons and organisations subject to this Regulation.
2. Within a functional airspace block or in the case of cross-border service provision the competent authority(ies) shall be designated by agreement of the Member States involved.
3. If a Member State nominates or establishes more than one competent authority, the areas of competence of each competent authority shall be clearly defined in terms of responsibilities and geographic limitation, where appropriate. Coordination shall be established between those authorities to ensure effective oversight of all organisations and persons subject to this Regulation within their respective remits.

4. By way of derogation from paragraph 1, the competent authority nominated or established by a Member State for the purposes of Commission Regulation (EU) No 805/2011 shall be deemed to remain the competent authority for the purposes of this Regulation unless otherwise determined by the Member State concerned.
5. For the purpose of Annex I to this Regulation, the competent authority shall be the authority(ies) nominated or established by the Member State to whom the person applies for the issue of a licence.
6. For the purpose of Annex III to this Regulation and for the oversight of the requirements of Annex I to this Regulation regarding air navigation service providers, the competent authority shall be:
 - (a) the authority nominated or established by the Member State as its competent authority for oversight where the applicant has its principal place of operation or its registered office, if any, unless otherwise provided for in bilateral or multilateral agreements between Member States or competent authorities;
 - (b) the Agency, if the applicant has its principal place of operation or its registered office, if any, outside the territory of the Member States.
7. For the purpose of Annex IV to this Regulation, the competent authority shall be:
 - (a) for aero-medical centres (AeMCs):
 - (1) the authority designated by the Member State where the AeMC has its principal place of business;
 - (2) the Agency, when the AeMC is located in a third country.
 - (b) for aero-medical examiners (AMEs):
 - (1) the authority designated by the Member State where the AMEs have their principal place of practice;
 - (2) if the principal place of practice of an AME is located in a third country, the authority designated by the Member State to which the applicant AME applies for the issue of the certificate.
8. The competent authority(ies) shall be independent of air navigation service providers and training organisations. This independence shall be achieved through adequate separation, at least at functional level, between the competent authorities, air navigation service providers and training organisations. Member States shall ensure that competent authorities exercise their powers impartially and transparently.
9. Member States — and concerning the Agency, the European Union — shall ensure that the competent authorities have the necessary capability to conduct the certification and oversight activities covered by their certification and oversight programmes, including sufficient resources to fulfil the requirements of Annex II to this Regulation (Part ATCO.AR). When ensuring the necessary capability, Member States and the European Union shall use the assessments produced by the competent authorities in accordance with ATCO.AR.A.005(a).
10. Member States shall ensure that competent authority personnel do not perform oversight activities when there is evidence that this could result directly or indirectly in a conflict of interest, in particular when relating to family or financial interest.
11. Member States shall notify the Agency of the name(s) and address(es) of the competent authority(ies), as well as any changes thereto.

Article 6

Recognition of licences and certificates

1. In accordance with Article 11 of Regulation (EC) No 216/2008, Member States shall recognise:
 - (a) air traffic controller and student air traffic controller licences, including their ratings, rating endorsements, on-the-job training instructor (OJTI), synthetic training device instructor (STDI) and assessor endorsements, as well as language proficiency endorsements and associated medical certificates issued by other Member States in accordance with this Regulation;
 - (b) certificates of air traffic controller training organisations, aero-medical examiners and aero-medical centres issued by other Member States in accordance with this Regulation; and
 - (c) certificates of completion of training courses issued by training organisations approved by other Member States leading to the grant of the ratings and/or endorsements referred to in paragraph (a).
2. In cases where a licence holder intends to exercise the privileges of the licence in a Member State for which the competent authority is not the one that issued the licence, the procedure foreseen in ATCO.A.010 shall be followed.

Article 7

Transitional arrangements

1. Commission Regulation (EU) No 805/2011 laying down detailed rules for air traffic controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council shall be repealed from the date of application of this Regulation, in accordance with the provisions of paragraphs 1 and 2 of Article 9 of this Regulation.
2. Notwithstanding paragraph 5, licences, ratings and endorsements issued in accordance with the relevant provisions of national legislation based on Directive 2006/23/EC as well as in accordance with the provisions of Commission Regulation (EU) No 805/2011 shall be deemed to be issued in accordance with this Regulation.
3. The Area Control Procedural (ACP) rating with the Oceanic Control (OCN) rating endorsement issued on the basis of national rules based on Article 31(1) of Commission Regulation (EU) No 805/2011 shall be deemed to be issued in accordance with this Regulation.
4. Member States shall replace the licences referred to above with licences complying with the format laid down in Appendix 1 to this Regulation at the latest 6 months following the date of applicability established in accordance with Article 9.
5. The privileges of examiners and assessors for initial training according to Article 20 of Commission Regulation (EU) No 805/2011, of competence examiners and competence assessors for unit and continuation training approved by the competent authority according to Article 24 of Commission Regulation (EU) No 805/2011 shall be converted into the privileges of an assessor endorsement according to this Regulation, if appropriate, at the latest 6 months following the date of applicability established in accordance with Article 9.

6. The privileges for national simulator or synthetic training device instructors may be converted into privileges for a synthetic training device instructor endorsement according to this Regulation, if appropriate, at the latest 6 months following the date of applicability established in accordance with Article 9.
7. Medical certificates and certificates for training organisations, aero-medical examiners and aero-medical centres, as well as approvals of unit competence schemes and training plans issued in accordance with the relevant provisions of national legislation based on Directive 2006/23/EC as well as in accordance with the provisions of Commission Regulation (EU) No 805/2011 shall be deemed to be issued in accordance with this Regulation.
8. Member States shall replace the air traffic controller training organisations' certificates referred to in paragraph 6 with certificates complying with the format laid down in Appendix 10 to this Regulation at the latest 6 months following the date of applicability established in accordance with Article 9.
9. Member States shall replace the aero-medical examiners' certificates and the certificates for aero-medical centres referred to in paragraph 6 with certificates complying with the format laid down in Appendices 11 and 12 to this Regulation at the latest 6 months following the date of applicability established in accordance with Article 9.
10. Air navigation service providers shall adapt their unit competence schemes to comply with the requirements of this Regulation at the latest 6 months following the date of applicability established in accordance with Article 9.
11. Air traffic controller training organisations shall adapt their training plans to comply with the requirements of this Regulation at the latest 6 months following the date of applicability established in accordance with Article 9.
12. Certificates of completion of training courses started prior to the application of this Regulation in accordance with Commission Regulation (EU) No 805/2011 shall be accepted for the purpose of the issue of the relevant licences, ratings and endorsements in accordance with this Regulation provided that the training and the assessment have been completed at the latest 12 months following the date of applicability established in accordance with Article 9.

Article 8 **Amendments**

Commission Implementing Regulation (EU) No 923/2012 ⁽⁶⁾ is hereby amended as follows:

1. In Article 2, definition No 104 is replaced by the following:
 '104. 'psychoactive substance' means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas caffeine and tobacco are excluded;'

⁽⁶⁾ 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).

Article 9

Entry into force and application

1. 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 ... (6 months after publication).

2. By way of derogation from paragraph 1, Member States may decide not to apply the provisions of Annexes I to IV to this Regulation, in whole or in part, until ... (18 months after publication).

When a Member State makes use of this possibility, it shall notify the Commission and the Agency by ... (end of the 6-month period after publication). This notification shall describe the scope of such derogation(s) as well as the programme for implementation containing actions envisaged and related timing.

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

Done at Brussels,

For the Commission

The President

[\[...\]](#)