

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 339/15/COL

of 16 September 2015

authorising Norway to derogate from certain common aviation safety rules pursuant to Article 14(6) of the Act referred to at point 66n of Annex XIII to the Agreement on the European Economic Area (Regulation (EC) No 216/2008 of the European Parliament and of the Council 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, as amended) [2016/1812]

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to Article 14(6) and (7) of the Act referred to at point 66n of Annex XIII to the EEA Agreement, as adapted by Decision of the EEA Joint Committee No 163/2011 of 19 December 2011 amending Annex XIII (Transport) to the EEA Agreement ⁽¹⁾ (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 ⁽²⁾, as amended),

Having regard to point CAT.POL.A.210(b)(2), (4) and (5) of Annex IV to the Act referred to at point 66nf of Annex XIII to the EEA Agreement (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 ⁽³⁾, as amended),

both as adapted to the EEA Agreement by Protocol 1 thereto,

Having regard to the opinion of the EFTA Transport Committee delivered on 21 August 2015,

Whereas:

- (1) Norway has requested to apply a certain derogation from the common aviation safety rules contained in the rules implementing Regulation (EC) No 216/2008.
- (2) Pursuant to Article 14(7) of that Regulation, as adapted, the EFTA Surveillance Authority has assessed the need for, and the level of protection emerging from, the derogation requested, based on a recommendation from the European Aviation Safety Agency issued on 26 June 2015 (Doc No 762327). The Authority concludes, based on the mitigation measures described in Norway's notification, that the notified Norwegian derogation fulfils the requirements laid down in Article 14(6) of Regulation (EC) No 216/2008.
- (3) Pursuant to Article 14(7) of Regulation (EC) No 216/2008 as adapted, a derogation granted to one Member State shall be notified to all Member States, which shall also be entitled to apply that derogation.

⁽¹⁾ OJ L 76, 15.3.2012, p. 51.

⁽²⁾ OJ L 79, 19.3.2008, p. 1.

⁽³⁾ OJ L 296, 25.10.2012, p. 1.

- (4) Pursuant to Article 1 of Decision No 163/2011 and adaptation (a) set out in point 3 of the Annex thereto, the term 'Member State(s)' is to be understood to include, in addition to its meaning in the Regulation, the EFTA States.
- (5) The description of the derogation, as well as the conditions attached to it, should be such as to enable other EFTA States within the meaning of Regulation (EC) No 216/2008, as adapted, to apply that measure when they are in the same situation, without requiring further approval from the EFTA Surveillance Authority. Nevertheless, the EFTA States within the meaning of Regulation (EC) No 216/2008, as adapted, should notify the application of derogations to the EFTA Surveillance Authority, the European Aviation Safety Agency and national aviation authorities, as they may have effects outside that State.
- (6) Pursuant to Article 1 of Decision No 163/2011 and adaptation (e) set out in point 3 of the Annex thereto, the European Commission shall communicate the information on a decision taken pursuant to paragraph 14(7) of Regulation (EC) No 216/2008 received from the EFTA Surveillance Authority to the EU Member States.
- (7) This Decision should therefore be notified to all EFTA States, and to the European Commission for communication to the EU Member States.
- (8) The measures provided for in this Decision are in accordance with the opinion of the EFTA Transport Committee.

HAS ADOPTED THIS DECISION:

Article 1

Norway may grant approvals derogating from certain implementation rules under Regulation (EC) No 216/2008, as specified in the Annex to this Decision, provided that the conditions specified in section 2 of the Annex to this Decision are complied with.

Article 2

All EFTA States shall be entitled to apply the same measures referred to in Article 1, as specified in the Annex to this Decision, and subject to the notification obligation set out in Article 14(6) Regulation (EC) No 216/2008, as adapted.

Article 3

The Decision is addressed to Norway. It is authentic in the English language.

Article 4

This Decision shall be notified to Norway, Iceland, Liechtenstein and to the European Commission.

Done at Brussels, 16 September 2015.

For the EFTA Surveillance Authority

Helga JÓNSDÓTTIR
College Member

Markus SCHNEIDER
Acting Director

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ANNEX

DEROGATION BY NORWAY FROM REGULATION (EU) NO 965/2012, WITH REGARD TO TAKE-OFF OBSTACLE CLEARANCE AT MO I RANA (ENRA) AND ØRSTA-VOLDA (ENOV)**1. Description of the derogation**

Norway may, by derogation from point CAT.POL.A.210(b)(2), (4) and (5) (Take-off obstacle clearance) of Annex IV (Part-CAT) to Regulation (EU) No 965/2012 ⁽¹⁾, as amended, allow the air operator Widerøe Flyveselskap AS to use up to 25 degrees bank angle from a minimum height of 100 feet to 400 feet for their Bombardier Dash 8 aircrafts for operations into two different airports, Mo i Rana (ENRA) and Ørsta-Volda (ENOV).

2. Conditions attached to the application of the derogation

This derogation applies to the air operator Widerøe Flyveselskap AS, on the basis of the additional measures implemented by the air operator to achieve a safety level equivalent to that attained by the application of the common technical requirements and administrative procedures set out in Regulation (EU) No 965/2012 as amended. The additional measures are described in the European Aviation Safety Agency's recommendation, dated 26 June 2015 (Doc No 762327) and relate to: initial and recurrent training of pilots, crew familiarization requirements, visual aids to guide the turns and obstacle lights, weather restrictions, de-ice fluid type restrictions, AFM ⁽²⁾ Supplement 47 covering operating procedures and performance issues, the use of single take-off flap setting (15 degrees) to avoid incorrect take-off of flap settings, use of Flight Data Monitoring program to monitor the initial climb bank angle, use of compliance monitoring program that include yearly audits of the performance and training department, moreover, the continued oversight program of the Norwegian Civil Aviation Authority takes into account the mitigating elements and terms of approval of the air operator Widerøe Flyveselskap AS.

⁽¹⁾ The Act referred to at point 66nf of Annex XIII to the EEA Agreement (Regulation (EU) No 965/2012), as adapted to the EEA Agreement by Protocol 1 thereto.

⁽²⁾ De Havilland Inc. Dash 8 Flight Manual Supplement 47: 'Operation with 25 degree banked turn (For Norwegian operators only)'.