



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 201 of 13 November 2020

**We the Captains Regent
of the Most Serene Republic of San Marino**

Having regard to Article 71, paragraph 1 of Law no. 125 of 29 July 2014, as amended by Article 31 of Delegated Decree no. 153 of 13 October 2015;

Having regard to Congress of State Decision no. 14, adopted during its sitting of 24 August 2020;

Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;

Promulgate and send for publication the following Delegated Decree:

AMENDMENTS TO LAW NO. 125 OF 29 JULY 2014- LAW REFORMING CIVIL AVIATION AND SUBSEQUENT AMENDMENTS

Art. 1

1. This delegated decree is aimed to grant to the Civil Aviation Authority the opportunity to perform its surveillance, registration, inspection and certification functions in accordance with the guidelines provided by ICAO (International Civil Aviation Authority) to the aviation sector.

2. To accomplish these purposes, the Civil Aviation Authority must also:

- a) have an adequate and effective organization to fully meet the requirements of civil aviation;
- b) have an effective system of air safety control;
- c) strengthen its organizational structure with highly qualified technical staff.

3. The Civil Aviation Authority will report annually to the Congress of State on the development of the Aeronautical Register of the Republic of San Marino.

Art. 2

1. The following paragraph 1-*bis* shall be added to paragraph 1 of Article 3 of Law no. 125 of 29 July 2014:

“1-bis. The Director General, as President, is required to nominate a Vice President among member of the Executive Board”.

Art. 3

1. The following paragraph 1-ter shall be added to paragraph 1-bis of Article 3 of Law no. 125 of 29 July 2014:

“1-ter. In case of absence of the Director General, the Vice President will chair the meetings of the Executive Board”.

Art. 4

1. The following paragraphs 7-bis and 7-ter shall be added to paragraph 7 of Article 4 of Law no. 125 of 29 July 2014:

“7-bis. Extraordinary meetings of the Executive Board may be convened when deemed necessary by the Director General or at the written request of at least two members of the Executive Board.

“7-ter. The Executive Board may invite any person to attend its meetings, who is useful to provide technical support on individual items on the agenda”.

Art. 5

1. The following Article 6-bis shall be added to Article 6 of Law no. 125 of 29 July 2014:

“Art. 6-bis (Functions of the Executive Board)

1. The main functions of the Executive Board shall be to develop policies and provide general guidance for the implementation and the achievement of the Authority’s objectives and functions.

2. The Executive Board must:

- a) Acknowledge the appointment of the Authority’s staff with the exception of the Director General;
- b) Approve terms and conditions of employment for all Authority’s staff;
- c) Evaluate the performances of the Director General;
- d) Approve rules, policies and procedures of the staff of the Authority;
- e) Examine annual activities, financial reports and any other reports that may be requested by the Executive Board or by the Secretary of State with responsibility for Transport;
- f) Propose the convening of meetings that may be considered necessary;
- g) Examine and approve the Authority’s budget;
- h) Examine and approve the Authority’s annual work plans;
- i) Consider and approve matters relating to the acquisitions and disposal of Authority’s assets”.

Art. 6

1. The following Article 6-ter shall be added to Article 6-bis of Law no. 125 of 29 July 2014:

“Article 6-ter (Conflicts of interest)

1. Without prejudice to the provisions of Delegated Decree No 128 of 30 July 2015, the members of the Executive Board may not control, manage or operate any activity related to the aviation sector while in office.
2. Where a member has a financial interest in any aviation-related activity, they shall disclose that interest to the appropriate appointing authority.
3. A member shall be prohibited from participating in any action or decision in a civil aviation related activity if it could directly or indirectly affect their financial interests.
4. Where a member or other component of the Executive Board is present at a meeting of the Board where the matter under consideration involves, directly or indirectly, such members or their spouses and/or relatives and relations within the fourth degree:
 - (a) before or once the meeting begins, the member or other component of the committee shall declare this circumstance;
 - (b) unless the Executive Board determines otherwise, the member or other component may not take part in any discussion and vote on any matter relating to this issue.
5. Any conflicts of interest must be recorded in the minutes of the meeting.
6. It is forbidden for all members and components of Executive Board meetings, except with the written consent of or on behalf of the Authority, to publish or disclose, outside the performance of their duties, the contents of any document, communication or information of which they become aware in the performance of their duties.
7. In the event of violation of the provisions set forth in paragraph 6), reference is made to the San Marino regulations in force as regards Conduct of Public Agents”.

Art. 7

1. The following Article 6-*quater* is added to Article 6-*ter* of Law no. 125 of 29 July 2014 :

“Art. 6- quater (Corporate Business Plan)

1. The Director General shall draw up a five-year corporate business plan to be examined by the Executive Board each year.
2. The corporate business plan must contain financial objectives and performance indicators for the Authority and must be approved by the Executive Board and the Secretary of State with responsibility for Transport.
3. When preparing the corporate business plan, the Director General must consider:
 - (a) the need for high standards of air safety;
 - (b) the objectives and policies of the Government of the Republic of San Marino;
 - (c) the instructions provided by the Secretary of State with responsibility for Transport;
 - (d) any transfer of funds from the Government to the Authority to finance its regulatory functions and search and rescue activities;
 - (e) the need to maintain a reasonable level of reserves, taking into account any future infrastructure needs;
 - (f) any other commercial considerations that the General Manager deems appropriate;
 - (g) possible contributions to international bodies related to civil aviation;
 - (h) the need to attract and retain highly qualified technical staff to achieve the standards in paragraph 3(a).

4. The corporate business plan must be submitted to the Secretary of State with responsibility for Transport at least six months prior to the beginning of the financial year in question.

5. The corporate business plan shall be reviewed annually by the Executive Board. Any revisions shall be submitted to the Secretary of State with responsibility for Transport prior to the beginning of the financial year.

6. A summary of the corporate business plan will be published by the Authority on the institutional websites of the public administration of the Republic of San Marino after the plan has been approved by the Secretary of State with responsibility for Transport”.

Art. 8

1. The following paragraph *g-bis* is added to paragraph 2 of Article 7 of Law no. 125 of 29 July 2014:

“*g-bis*. The Director General establishes an adequate organisational structure within the Authority to meet its administrative and technical obligations”.

Art. 9

1. The following paragraph *7-bis* is added to Article 7 of Law no. 125 of 29 July 2014:

“Art. 7-bis (Chief Operating Officer)

1. The Chief Operating Officer (C.O.O.) manages the technical functions of the Authority and provide support to the Director General for the following functions:

a) managing the operation of all sections for the provision of an effective and efficient air safety compliance service;

b) managing the initial assessment, annual air safety inspections / audits and issuing, suspending, revoking, restoring and renewing approvals for organisations / establishments providing services, such as:

1) Air operators for Public Transport;

2) air maintenance organisations;

3) organisations for the training of flight crew, cabin crew and air maintenance personnel;

4) flight simulators and other flight crew training equipment; and

5) personal safety - security.

c) managing the assessment process for changes to international standards and recommended practices in relation to aircraft operations, airworthiness and personnel licensing and managing the updating of national regulations applicable to the Authority.

d) managing the monitoring of compliance with aviation safety rules and standards by aircraft operators and their service providers and other approved organisations;

e) recommending the appointment and supervision of designated inspectors and ensuring the quality of their functions;

f) monitoring compliance by aircraft operators with the rules on the safe transport of dangerous goods by air;

g) recommending the safety management system (SMS) required for operators/organisations and ensuring the adequacy of such a system;

h) reviewing the security measures taken on board aircraft during flight and anti-hijacking procedures, the security devices and systems used, the procedures for collecting and

disseminating information and intelligence;

- i) managing the development of technical procedures for the implementation of aviation safety regulations, monitoring compliance and resolving non-compliance and safety issues;
- j) managing accident/incident investigations within the Authority's jurisdiction and recommending corrective action to protect human life and aircraft from harm;
- k) implementing a training programme for the staff of the Authority;
- l) acting on ICAO letters sent to Member States;
- m) continually reviewing ICAO amendments from the time they are in their proposed state, adoption state and final issue in the relevant annexes and incorporating the same into the Authority's regulations and procedures;
- n) correcting inconsistencies following ICAO USOAP audits;
- o) recommending the issue of Air Operating Licences (AOL) for potential applicants;
- p) recommending the approval of documents, such as permits to fly authorisations, agreements referred to in Article 83-bis, etc.

2. In addition to the above responsibilities, the Chief Operating Officer is accountable to the Director General for providing a full licensing service, including examinations and tests, for all aviation personnel in accordance with regulations. In particular:

- (a) issuing flight licences and endorsements;
- (b) reviewing and updating the licensing procedures for flight crew and aircraft maintenance personnel;
- (c) supervising the licensing section and guiding the inspectors/licensing staff;
- (d) organising and conducting the in-flight examinations and written tests required for licence applicants;
- (e) reviewing applications for the issue/renewal/reissue of licences and ratings and recommending their approval to the Director General;
- (f) maintaining records of licences, endorsements, assessments, competency, renewals and medical examinations;
- (g) recommending the approval of:
 - 1) aeronautical medical examiners;
 - 2) designated examiners: Flight and cabin crew.

3. The Chief Operating Officer must have the following qualifications and experience:

- (a) hold or have held a professional flight crew licence or an aircraft maintenance licence;
- (b) at least 10 years experience in civil aviation, including 5 years with the Civil Aviation Administration as a flight operations inspector or airworthiness inspector or air licensing specialist, or at least 5 years experience with an airline in a senior position in the flight operations department or quality control;
- (c) a thorough knowledge of the air transport sector and international civil aviation Standards And Recommended Practices (SARPs) in relation to ICAO Annexes, in particular in relation to aircraft operations, aircraft airworthiness and personnel licensing.

4. The Chief Operating Officer is appointed by the Executive Board, after public selection process to be carried out in compliance with the standards in force regarding transparency and publicity.

5. The Chief Operating Officer will be hired with a private law contract of indefinite duration, after the approval of the Congress of State as per paragraph 3 and 4 of art. 44 of Law no. 150 of 21 December 2012 and having the contents provided for in Article 7-quinquies”.

Art. 10

1. The following paragraph 7-ter is added to Article 7-bis of Law no. 125 of 29 July 2014:

“Art. 7-ter
(Deputy Chief Operating Officer)

1. The Deputy Chief Operating Officer collaborates with the Chief Operating Officer for all the technical activities of the Authority and manages such activities in the absence of the responsible person.
2. The Deputy Chief Operating Officer must have the following qualifications and experience:
 - (a) degree in aerospace engineering or;
 - (b) hold or have held a professional flight crew licence with at least 5 years experience in civil aviation or as an aviation licensing expert, or at least 2 years experience with an airline in a senior position in the flight operations/quality control department or;
 - (c) hold or have held an aircraft maintenance licence with at least 5 years experience in civil aviation, or at least 2 years experience with a reputable airline in a senior position in the flight operations or quality control department.
3. The Deputy Chief Operating Officer is appointed by the Executive Board after a public selection process to be carried out in compliance with the standards in force regarding transparency and publicity.
4. The Deputy Chief Operating Officer will be hired with a private law contract of fixed or indefinite duration, after the approval of the Congress of State as per paragraph 3 and 4 of art. 44 of Law no. 150 of 21 December 2012 and having the contents provided for in Article 7-quinquies”.

Art. 11

1. The following paragraph 7-quater is added to Article 7-ter of Law no. 125 of 29 July 2014:

“Art. 7-quater
(Airworthiness Expert)

1. The Airworthiness Expert is accountable to the Director General.
2. The Airworthiness Expert must have the following qualifications and experience:
 - (a) degree in aerospace engineering or;
 - (b) hold or have held an aircraft maintenance licence with at least 5 years experience in civil aviation, including 2 years with the Civil Aviation Administration as airworthiness inspector, or at least 2 years experience with a reputable airline in a senior position in the airworthiness /quality control department.
3. Their main responsibilities are:
 - (a) conducting a preliminary assessment and inspection of applicants/organisations for the initial issuance of an Air Operator Certificate (AOC) and the continuing oversight of assigned operators/organisations for safety compliance in accordance with regulations;
 - (b) reporting the result of the aforementioned inspections and recommending appropriate actions;
 - (c) conducting initial and annual audits of assigned maintenance organisations, overhauls and repair facilities that aircraft operators intend to use and recommend for approval;
 - (d) reviewing and recommending the following for approval in accordance with regulations:
 - 1) maintenance manuals, maintenance programmes and other documentation for each applicable aircraft operator/maintenance organisation;

- 2) repairs, maintenance and modifications on aircraft, power plants and components, control systems and avionics;
 - (e) monitoring the implementation of safety standards, including passenger safety on aircraft in accordance with airworthiness requirements in relation to assigned air operators;
 - (f) assisting in maintaining the aeronautical register and advising on the following certification process:
 - 1) airworthiness inspection and issue/variation of the certificate of airworthiness;
 - 2) radio station certificate/license;
 - 3) acoustic certificate;
 - 4) certificate of airworthiness for export;
 - (g) ensuring compliance with airworthiness directives and the inclusion of maintenance bulletins in the maintenance programme for each aircraft type by the assigned maintenance organisation/establishment;
 - (h) recommending the approval of the SMS operator/organisation and ensuring the adequacy of the system;
 - (i) conducting ground inspections as instructed;
 - (j) participating in accident/incident investigations as indicated by the Director General.
 - (k) attending to correspondence on all aspects.
4. The Airworthiness Expert is appointed by the Executive Board, after a public selection process to be carried out in compliance with the standards in force regarding transparency and publicity.
5. The Airworthiness Expert will be hired with a private law contract of fixed or indefinite duration, after the approval of the Congress of State and having the contents provided for in Article 7-*quinquies*".

Art. 12

1. The following paragraph 7-*quinquies* is added to Article 7-*quater* of Law no. 125 of 29 July 2014:

“Art. 7-quinquies (Private law contracts)

1. The private law contract defines the probationary period, the conditions for termination and withdrawal, incompatibilities, remuneration and any other terms and conditions useful for the regulation of the job performance.
2. If the appointments relating to the positions referred to in Articles 7-*bis*, 7-*ter* and 7-*quater* involve personnel already employed in the wider public sector, in a permanent or indefinite term position according to the rules of public employment, the person concerned has the right to apply for a leave from the public employment position for the maximum period provided for by the relevant public sector regulations in the case of a contract of indefinite duration or for the duration of the fixed-term contract.
3. Once the maximum period of leave referred to in paragraph 2 has elapsed, in the case of a contract of indefinite duration, the person concerned is required to opt irrevocably for the regulatory and remuneration regime of a private nature, forfeiting the pre-existing relationship of a public nature or to re-assume their position in the wider public sector or in another position of equal rank”

Article 13

1. Paragraph 4-*bis* of Article 38 of Law no. 125 of 2014, added by Article 12 of Delegated Decree no. 153 of 13 October 2015 and amended by Article 5 of Delegated Decree no. 81 of 05 July 2018 is amended as follows:

“4-*bis*. The title for obtaining the registration of aircraft consists of:

- (a) the acts envisaged by Law No 87 of 29 October 1981;
- (b) a private deed certified by the Director General of the Authority;
- (c) a certified copy of the deed under which the aircraft has been previously registered, or the relevant transfer of ownership that has been previously transcribed, in the aeronautical register of origin if the applicant for registration is the last registered owner according to the documentation issued by that register of origin;
- (d) an uncertified copy of the deed referred to in point c) together with a certified declaration of the owner attesting the validity of the same, if the applicant for registration is the last registered owner according to the documentation issued by that register;
- (e) an uncertified copy of the deed together with a declaration of ownership of the buyer with certified signature;
- (f) a copy of the transfer of ownership deed;
- (g) Points a) and b) shall also constitute grounds for obtaining the registration, modification and cancellation of rights in rem of collateral or lease agreements”.

Art. 14

1. The following Article 21-*ter* is added to Article 21-*bis* of Law no. 125 of 29 July 2014

“Art. 21-*ter*
(*Signature of documentation*)

1. All documentation required by the Authority in the performance of its functions must be signed with full name and surname, in a comprehensive and legible manner.
2. Digitally signed documents are accepted”.

Art. 15

1. Paragraph 4 of Article 5 of Law no. 125 of 2014 and Delegated Decree no. 108 of 25 June 2019 are repealed.

Done at Our Residence, on 26 May 2017/1716 since the Foundation of the Republic.

THE CAPTAINS REGENT
Alessandro Mancini – Grazia Zafferani

THE MINISTER OF
INTERNAL AFFAIRS
Elena Toninini