



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 81 of 5 July 2018

**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. 11 adopted during its sitting of 2 July 2018;

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 order the publication of the following Delegated Decree:

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

Art. 1

(Repeal of Article 10 of Law no. 125 of 29 July 2014)

1. Article 10 of Law no. 125 of 29 July 2014 shall be repealed.

Art. 2

(Replacement of Article 20 of Law no. 125 of 29 July 2014)

1. Article 20 of Law no. 125/2014 shall be amended as follows:

“Art. 20

(State Aeronautical Safety Management Responsibilities)

1. The Director General shall establish and maintain a State Safety Programme (SSP) proportionate to the size and complexity of the civil aviation sector, but may delegate safety management-related tasks and activities to another State, to the Regional Safety Oversight Organization (RSOO) or to the Regional Accident and Incident Investigation Organization (RAIO).
2. The policies, objectives and resources for State safety are organized as follows:
 - a) primary aviation legislation
 - 1) the Director General shall ensure that published primary aviation legislation is proportionate to the size and complexity of the aviation activity and consistent with the requirements contained in the International Convention on Civil Aviation, in order to allow the monitoring and management of aviation safety and the implementation of the regulations through the Authority.
 - 2) the primary aviation legislation allows safety oversight staff to access aircraft, operations, facilities, personnel and possible related documents belonging to individuals and organizations carrying out aviation activities;

- b) specific operating regulations:
 - 1) the Director General shall issue specific operating regulations to meet minimum national requirements set by primary aviation legislation, with regard to standardised operating procedures, products, services, equipment and infrastructures in accordance with the Annexes to the International Convention on Civil Aviation;
 - 2) the Director General shall periodically review specific operating regulations, guidance material and implementation policies to ensure they remain relevant and appropriate.
- c) State system and functions:
 - 1) the Director General shall establish systems and functions to ensure that the Authority is supported by sufficient and qualified staff, and has appropriate financial resources to manage safety;
 - 2) the Authority shall have established functions and objectives, so as to fulfil its safety management responsibility;
 - 3) the Director General shall ensure that personnel performing safety monitoring functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or apparent conflicts of interest in the performance of official duties;
- d) qualified technical personnel:
 - 1) the Director General shall establish minimum qualification requirements for the technical personnel performing safety-related functions and provide for appropriate initial and recurrent training to maintain and enhance their competence at the established level;
 - 2) the Director General shall implement a training record system for technical personnel;
- e) technical guidance, essential tools and information for safety: the Director General shall establish technical guidance and tools and supply essential information for safety by providing:
 - 1) appropriate facilities, comprehensive and updated technical guidance material and procedures, basic information on safety, tools and equipment, as well as transport means, as appropriate, to technical personnel, in order to enable them to perform their safety monitoring tasks effectively and in accordance with standard established procedures;
 - 2) technical guidance for the aviation industry on the implementation of relevant regulations.
- 3. The State's management of safety risks includes:
 - a) obligations concerning licenses, certificates, authorisations and approvals: the Authority shall meet the licensing, certification, authorization and approval obligations by implementing documented procedures and processes to ensure that individuals and organizations performing aviation activities meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorization or approval to conduct the relevant aviation activities
 - b) obligations concerning the safety management system: the Authority shall demand that the following service providers and operators under its responsibility develop a plan and implement a safety management system (SMS):
 - 1) qualified training organizations exposed to safety risks related to aircraft operations during the provision of their services;
 - 2) aircraft and helicopter operators authorised to perform international commercial air transport;
 - 3) qualified maintenance organizations providing services to operators of aircraft and helicopters involved in international commercial air transport;

- 4) organizations responsible for the type design or manufacturing of aircraft, engines or propellers;
 - 5) air traffic services (ATS) providers;
 - 6) operators of certified aerodromes; and
 - 7) international general aviation operators of large or turbojet powered aircraft using the established criteria related to the SMS system and the elements specified in the regulations;
- c) investigations on accidents and incidents: the Authority shall establish a process to investigate accidents and incidents in accordance with ICAO Annex 13, in support of State safety management;
- d) hazard identification and safety risk assessment:
- 1) the Authority shall establish and maintain a process to identify hazards on the basis of the data collected on safety;
 - 2) the Authority shall develop and maintain a process that ensures the assessment of safety risks linked to the identified hazards;
- e) safety risk management: the Authority shall establish mechanisms for the resolution of safety issues by:
- 1) using a documented process to take appropriate actions, also including implementation measures, to resolve the safety issues identified;
 - 2) ensuring that identified safety issues are timely resolved through a system that monitors and records progress, including initiatives taken by individuals and organisations performing aviation activities, in order to address such issues.
4. The State shall guarantee safety as follows:
- a) supervisory duties: the Authority shall meet the supervisory duties by implementing documented monitoring processes, defining and planning inspections, controls and monitoring activities on an ongoing basis, so as to proactively ensure that the holders of aviation licences, certificates, authorizations and approvals continue to meet the established requirements. This includes the supervision of the staff designated by the Authority to perform, on its behalf, safety monitoring functions;
- b) State's safety performance: the Authority shall establish the acceptable level of safety performance to be achieved through its State Safety Programme (SSP).
5. The collection, analysis, protection, sharing and exchange of safety data and safety information is based on:
- a) safety data collection and processing systems on the basis of which the Authority shall:
- 1) establish safety data collection and processing systems to capture, store, aggregate and enable the analysis of safety data and safety information; and
 - 2) establish a mandatory safety reporting system that includes the reporting of incidents; and
 - 3) establish a voluntary safety reporting system to collect safety data and safety information not captured by mandatory safety reporting systems.
- b) safety data and safety information analysis: the Authority shall establish and maintain a process with the aim to analyse the safety data and safety information provided by the safety data collection and processing systems and by related safety databases;
- c) protection of safety data and safety information on the basis of which the Authority shall:
- 1) provide protection to safety data and safety information derived from voluntary safety reporting systems and related sources;
 - 2) not make available or use safety data or safety information collected, memorized or analysed pursuant to paragraphs a) 2) and 3) for purposes other than the maintenance or the improvement of safety, apart from exceptions established by the Authority;

- 3) not be prevented from using safety data or safety information to take any corrective, preventive or remedial action that is necessary to maintain or improve aviation safety;
 - 4) take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the voluntary and mandatory safety reporting systems;
- d) safety information sharing and exchange:
- 1) if, while analysing the information contained in its safety data collection and processing systems, the Authority identifies safety matters considered to be of interest to other States, it shall forward such safety information to such States as soon as possible;
 - 2) prior to sharing such information, States shall agree on the level of protection and conditions on which safety information will be shared. The level of protection and the conditions shall be in line with issued regulations;
 - 3) the Authority shall promote the establishment of networks aimed at sharing or exchanging safety information among users of the aviation system, and facilitate the sharing and exchange of safety information.”.

Art. 3

(Introduction of paragraph 3 bis into Article 36 of Law no. 125 of 29 July 2014)

1. The following paragraph 3 bis shall be added to Article 36 of Law no. 125/2014:
“3 bis. The Authority shall ensure that all aircraft, ships, services and local structures that do not form part of the search and rescue organisation cooperate fully with said organisation in search and rescue operations and that they provide all possible assistance to survivors of aircraft accidents.”.

Art. 4

(Introduction of Article 21 bis into Law no. 125 of 29 July 2014)

1. The following Article 21 bis shall be added to Law no. 125/2014:

“Art. 21 bis

(Language of documentation)

1. All documentation required by the Authority in the performance of its functions may be submitted in English without the need to be accompanied by a specific sworn translation in Italian. Such rule also applies to any other type of notice addressed to the Authority.
2. The Authority may use English in the performance of all its functions if required or when deemed most suitable.”.

Art. 5

(Amendment to paragraph 4 bis, Article 38 of Law no. 125 of 29 July 2014)

1. Paragraph 4 bis of Law 125/2014 shall be amended as follows:
“4 bis. The title deed to register aircraft shall consist of the following:
 - a) documents envisaged by Law no. 87 of 29 October 1981;
 - b) a private deed certified by the Director General of the Authority;
 - c) an original copy of the title deed with which the aircraft was previously registered, i.e. the transfer of ownership that was previously entered into the aircraft register of origin, if the applicant requesting registration is the last registered owner based on the documentation issued by such registry;

- d) an uncertified copy of the title deed in letter c), together with a specific certified statement by the owner attesting to the validity of the title, if the applicant requesting registration is the last registered owner based on the documentation issued by such registry;
- e) an uncertified copy of the deed together with a declaration of ownership by the buyer with certified signature.

The documents indicated in letters a) and b) shall also be required for the registration, modification and cancellation of security interests or financial leasing contracts.”.

Art. 6

(Amendment to paragraph 6, Article 38 of Law no. 125 of 29 July 2014)

1. In paragraph 6 of Article 38, the words "or availability" after the word "ownership" shall be deleted.

Art. 7

(Repeal of paragraph 5, Article 40 of Law no. 125 of 29 July 2014)

1. Paragraph 5 of Article 40 of Law no. 125/2014 shall be repealed.

Art. 8

(Introduction of Article 41 bis into Law no. 125 of 29 July 2014)

1. The following Article 41 *bis* shall be added to Law no. 125/2014:

“41 bis.

(Registration of mortgage priority notice)

1. The Director General, at the request of the future mortgagee, may enter a mortgage priority notice, with regard to a registered or not yet registered aircraft, into the register referred to in Article 38. In case of subsequent mortgage registration in favour of the creditor under this law, the mortgage priority order shall be based on the date of registration of the notice.
2. The mortgage priority notice shall be valid for a period of thirty days from the date of entry of the notice. Failing the registration of a mortgage within such deadline, the notice shall produce no effect and the Director General shall delete it ex-officio.
3. This Article shall be without prejudice to the application of the Cape Town Convention of 16 November 2001 on International Interests in Mobile Equipment and its Aircraft Protocol.”.

Art. 9

(Integration of paragraph 2, Article 45 of Law no. 125 of 29 July 2014)

1. In paragraph 2, Article 45 , of Law no. 125/2014 after the word "Register" the following words shall be inserted:”, without prejudice to the provisions of Article 41 *bis*”.

Art. 10

(Amendment to Article 59 of Law no. 125 of 29 July 2014)

1. Article 59 of Law no. 125/2014 shall be amended as follows:

“Art. 59
(Administrative sanctions)

1. Any person violating the provisions of this law, as well as the directives or regulations pursuant to such Law, shall be subject to the administrative sanctions defined hereunder.
2. The Director General shall have the power to assess and adjust all administrative sanctions. The Director General shall determine the severity of such sanctions by taking into account the nature, circumstances, extent and seriousness of the violation committed and, with respect to the person who committed the violation, any previous violations and all other facts that may be requested for the purposes of a proper assessment.
3. In the case of an aircraft involved in a violation committed by the owner or operator, the Director General may impose restrictions on such aircraft.
4. Unless the fact constitutes an offence, the administrative sanction from 5,000.00 Euro to 15,000.00 Euro shall be applied to the pilot-in-command of an aircraft who:
 - a) uses an aircraft that is not registered or is not provided with the airworthiness certificate;
 - b) uses an aircraft without having the necessary licences or qualifications, or without crew members having them. In the latter case, the sanction shall apply also to crew members;
 - c) uses the aircraft without the operator's permission;
 - d) uses the aircraft without the necessary registration marks or with non-complying marks;
 - e) performs flights although the aircraft is not covered by the necessary insurance;
 - f) fails to follow interception procedures in the cases envisaged by a specific regulation of the Authority;
 - g) violates the provisions concerning the keeping and updating of the documents carried in aircraft;
 - h) performs flights in prohibited areas or drops any objects from an aircraft in flight without authorisation;
 - i) takes off or lands without the necessary authorisations or the relevant permits granted by the competent authorities;
 - l) performs acrobatic flights, parachute jumps or manoeuvres dangerous for public safety without the necessary authorisations;
 - m) performs flights at an altitude lower than what provided for in the relevant regulations;
 - n) performs unnecessary manoeuvres likely to put people or things aboard an aircraft in danger;
 - o) fails to comply with the instructions given by the air traffic control body;
 - p) lands, without a valid reason, in areas not designated for aircraft landing;
 - q) refuses, without justification, to participate in research or rescue operations;
 - r) embarks or disembarks passengers and goods in violation of regulations;
 - s) commences a flight without having aboard the aircraft the documents set forth by the Authority;
 - t) as the holder of licences for UAVs, exercises his duties in a mental and physical state impaired by the use of alcoholic beverages, drugs or psychotropic substances or by drug abuse.

In the cases referred to in letters a), b), d), e), f), q) and t), the revocation of the flight license shall also apply. In the cases referred to in letters l) and o) the suspension of the license from one to six months shall apply. The aircraft operator shall be liable, jointly and severally, with the pilot-in-command for all administrative pecuniary sanctions imposed on the latter under this paragraph.

5. Unless the fact constitutes an offence, the administrative sanction from 10,000.00 to 25,000.00 Euro shall be applied to the operator that:
 - a) assigns a non-airworthy aircraft to the pilot-in-command;
 - b) assigns a non-registered aircraft for the purposes of its operation;
 - c) enters an aircraft into a foreign register without the latter having been deleted from the San Marino register.

6. Unless the fact constitutes an offence, the administrative sanction from 500.00 to 2,000.00 Euro shall be applied to anyone who:

- a) refuses to show to the Authority the documents carried in aircraft;
- b) organises or participates in air shows, involving acrobatics and parachute jumps, without the necessary permission;
- c) is on board an aircraft without the permission of the pilot-in-command or without a valid reason;
- d) on board an aircraft as a passenger, is drunk or under the influence of drugs;
- e) fails to comply with the instructions given by the pilot-in-command;
- f) fails to comply with the obligation to report accidents or incidents;
- g) voluntarily projects a bright light source into navigable airspace that may pose a risk to aviation safety, damage aircraft or cause injury to persons on board aircraft.

Unless the fact constitutes an offence, any other violation of the provisions contained in this law, regulations or directives shall be punished with the administrative sanction from 2,000.00 to 5,000.00 Euro. In the event of non-compliance with regulations issued by the Director General in order to protect internationally relevant public interests, the administrative sanction shall be doubled.

7. Unless the fact constitutes an offence, any operator performing commercial flights in return for payment without the necessary authorisations shall be punished with an administrative sanction from 15,000.00 to 30,000.00 Euro.

8. Unless the fact constitutes an offence, the administrative sanction from 5,000.00 to 25,000.00 Euro shall be applied to any commercial operator that:

- a) refuses, without justification, access by the public to its services;
- b) fails to comply with the obligations envisaged in the air operator certificate;
- c) fails to comply with maintenance plans or other obligations guaranteeing safety of flight;
- d) performs flights other than those envisaged in the air operator certificate.

8 bis: Unless the fact constitutes an offence, anyone failing to submit the required administrative, technical or legal documents to the Authority by the deadline specified by the Director General, shall be punished with an administrative sanction from 5,000.00 Euro to 10,000.00 Euro.

9. The measure concerning the administrative sanctions referred to in paragraphs 4, 5, 6, 7 and 8 may be subject to revision and, in any case, shall be ratified annually through a ad-hoc delegated decree.

9 bis: Until payment of the administrative pecuniary sanctions imposed under this law, the Director General shall have the power to:

- a) refuse the renewal of airworthiness certificates required by the sanctioned operator for any aircraft belonging to the fleet operated by the latter;
- b) refuse the granting of pilot licenses or endorsements of pilot licenses in respect of the sanctioned aircraft pilot-in-command;
- c) refuse to fulfil any other act required by the sanctioned operator and concerning the operator, the fleet operated by the latter and the employed technical staff and flight attendants operating on said aircraft on his behalf;
- d) prohibit the use of aircraft belonging to the fleet operated by the sanctioned operator.

These powers may also be exercised cumulatively.

Art. 11

(Amendment to paragraph 4, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 4 of Article 60 of Law 125/2014 shall be amended as follows:

“4. In case of aircraft accidents, anyone who, acting as a representative or employee of an air operator, fails or refuses to prepare or keep the reports, records and memories in the manner established by the Director General; or voluntarily alters or cancels reports, records or memories; or deposits false reports, records or memories shall be punished with second degree imprisonment and fine.”.

Art. 12

(Repeal of paragraph 5, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 5 of Article 60 of Law no. 125/2014 shall be repealed.

Art. 13

(Amendment to paragraph 7, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 7 of Article 60 of Law 125/2014 shall be amended as follows:
“7. Any person who, while on board or trying to board an aircraft used or intended to be used in commercial air transport operations, carries or places weapons, bombs or explosive material shall be punished with fourth degree imprisonment and fine. This paragraph shall not apply to officials of San Marino armed forces, who are authorised to carry weapons within their official duties.”

Art. 14

(Amendment to paragraph 10, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 10 of Article 60 of Law 125/2014 shall be amended as follows:
“10. Anyone who voluntarily carries goods, luggage or other property in violation of the provisions of international ICAO regulations on the transport of dangerous goods, from time to time in force, shall be punished with third degree imprisonment and fine.”

Art. 15

(Amendment to paragraph 11, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 11 of Article 60 of Law 125/2014 shall be amended as follows:
“11. The pilot-in-command of the aircraft, with the exception of the pilot-in-command of UAVs, who exercises his duties in a mental and physical state impaired by the use of alcoholic beverages, drugs or psychotropic substances or by drug abuse shall be punished with third degree imprisonment and fine, or with one or the other of these punishments.”

Art. 16

(Repeal of paragraph 11 bis, Article 60 of Law no. 125 of 29 July 2014)

1. Paragraph 11 bis of Article 60 of Law no. 125/2014 shall be repealed.

Art. 17

(Amendment to paragraph 2, Article 62 of Law no. 125 of 29 July 2014)

1. Paragraph 2 of Article 62 of Law 125/2014 shall be amended as follows:
“2. “The Director General may modify, suspend or revoke any license for failure to comply with any requirements specified therein.”

Art. 18
(Coordinated text)

1. The Civil Aviation and Maritime Navigation Authority shall draft a consolidated text of civil aviation legislation in Italian/English.
2. The aforesaid text shall be officially adopted through a Congress of State decision, which shall not have legislative value.

Done at Our Residence, on 5 July 2018/1717 since the Foundation of the Republic

THE CAPTAINS REGENT
Stefano Palmieri – Matteo Ciacci

THE MINISTER OF
INTERNAL AFFAIRS
Guerrino Zanotti