

COURTESY TRANSLATION

Decrees

Ministry for the Equipment, Transport, Tourism and Sea

Decree n°2007-863 of May 14, 2007 amending various provisions of the code of Civil Aviation (second part: Decree in council of state), particularly in relation to administrative penalties imposed for breaches of certain obligations on its books I and III

NOR: EQUA0751894D

The Prime minister,

On the report of the minister of Transport, Equipment, Tourism and Sea,

Considering the convention of international Civil Aviation of December 7, 1944, protocols that modified the convention including the protocol of September 24, 1968 regarding the authentic trilingual text of the convention, published by Decree 69-1158 of December 18, 1969;

Considering the regulation (E.E.C) of the board of July 23 n°2407/92 on licensing of air carriers, n°24085/92 on access for community air carriers to intra-community air routes and n°2409/92 on passenger fares and cargo of air services;

Considering the regulation (E.E.C) n° 95/93 of the council of January 18, 1993 establishing common rules for the allocation of slots at the airport community modified by the regulation (EC) n° 793/2004 of European parliament and the council of April 21, 2004;

Considering the regulation (EC) n°437/2003 of European Parliament and the council of February 27, 2003 on statistics relating to passenger, cargo and mail by air;

Considering the regulation (EC) n°2042/2003 of committee of November 20, 2003 on the continuing airworthiness of aircraft and aeronautics products, parts and appliances and on the approval of agencies and personnel involved;

Considering the regulation (EC) N° 261/2004 of European Parliament and of council of February 11, 2004 establishing common rules on compensation and assistance to passengers in event of denied boarding and cancellation or long delay of flights, and abrogating regulation (E.E.C) n°295/91;

Considering the regulation (EC) n°785/2004 of European Parliament and of council of April 21, 2004, on insurance requirements for air carriers and aircraft operators;

Considering the regulation (CE) n°2096/2005 of committee of December 20, 2005 establishing common requirements for the supply of air navigation services;

Considering the Civil Aviation code, in particular books I and III;

Considering the decree n°97-34 of January 15, 1997 modified on devolution of individual

administrative decisions, in particular Article 2;

Considering the decrees n°97-1198 and n°97-1206 of December 19, 1997 made for the purposes of 1st of article 2 of Decree n°97-34 of January 15, 1997 on devolution of individual administrative decisions;

Considering the Decree n°97-1199 of December 24, 1997 modified made for the application to the minister of equipment, Transport and Housing of Decree 97-34 on devolution of individual administrative decisions;

The State Council (Public work Section),

Decrees:

Article 1- The article R.132-4 of civil aviation code is replaced by the following:

“Article R.132-4- Any landing or take off of an aircraft operated by an airline or any other civil aircraft operators on a coordinated airport in the sense of Article R.221-12 is except, in case of force majeure, subject to a prior allocation, by the designates coordinator on the airport, corresponding slot as defined by the regulations referred to in article R.221-12.”

“The provisions of the preceding paragraph does not apply to emergency landing, the landing or take off of governmental flights or humanitarian flights.”

Article 2- Article R.221-12 is replaced by the following:

“Article R.221-12.- “I.- In accordance with the article 3 of regulation (E.E.C) n°95/93 of council of January 18, 1993 modified, laying down common rules for the allocation of slots at community airport, open to public air traffic is described, considering the constraints created by the air traffic, either 'schedule facilitated aerodrome' or 'coordinated airport'. The decision referring to this term is taken by order of the minister of civil aviation to aerodromes for which the ministry of defense is not the operator and by joint order of the Ministry of Defense and the minister of civil Aviation to aerodrome for which the ministry of Defense is the main or secondary operator.”

“II- When an aerodrome is described as coordinated airport, the order under the preceding paragraph specifies the mandatory coordination parameters of the airport, within the meaning of that regulation and their maximum values. These parameters and their maximum values are determined in accordance with the provisions of article 6 of these rules.”

“The Minister in charge of civil aviation exerts, by order, the right to reserve certain slots at coordinated airports allowed under article 9 of that regulation.”

“The coordination committees allowed under article 5 of that regulation are created by order of the minister of civil aviation. This order specifies the composition, the competence and the operating conditions of this committee.”

“In case of abnormal situations, an aerodrome can be temporarily describes as a coordinated airport by the ministry responsible for civil aviation if the ministry of Defense is not an operator of this aerodrome and jointly by the minister of defense and the minister of civil aviation if the ministry of Defense is the main or secondary operator. The minister responsible for civil aviation assigns the coordinator of this airport for that period and notifies the capacity parameters to take into account and their maximum values. He informs the concerned parts.”

“III- The schedule facilitator of a schedules facilitated airport or the coordinator

of a coordinated airport is assigned by order of the minister under the conditions fixed in article 4 of this regulation. This schedule facilitator or schedule coordinator is qualified and can be a physical person or a person of legal entity of private law. Specification attached to the order designating the schedule facilitator or the coordinator defines the means that are necessary to perform his missions in accordance with national and community dispositions and the means and modalities to ensure the continuity of its missions. It also defines the information that the facilitator or coordinator communicates to the minister responsible for civil aviation for the exercise of his functions.”

Article 3- After the article R.10033-16 are added article R.133-17 and R.133-18:

“Article R 133-17- The ministry in charge of the civil aviation issue the license aircraft maintenance under Article 5 of regulation (EC) n°2042/2003 of the commission of November 20, 2003 for the continued airworthiness of aircraft and product, parts and appliances aeronautical and on approval of organizations and personnel involved in these tasks.”

“Article R 133- 18- The operation of a flight on an aerodrome where the service of traffic control does not provide flight information and alerting is subject to the issuance by the Minister responsible for civil aviation of qualification certifying the acquisition of theoretical and practical knowledge.

The conditions of issue and validity of the qualification are determined by the order of the minister responsible for civil aviation.”

“ The minister responsible for the civil aviation may delegate his signature to issue and renew the qualification mentioned in the preceding paragraph to the heads of decentralized departments of civil aviation, to the director of Antilles-Guyana Civil Aviation and the director of Civil Aviation Service of ocean India and the officials under their authority.”

Article 4- Article R.160-1 is replaced by the following:

“Article R.160- I - The minister responsible for the Civil Aviation may impose an administrative fine against an air carrier or other operator of civil aircraft:”

“1° When it is prejudicial to airport operations or air traffic, conducts on a coordinated airport, repeatedly and intentionally in violation of Article 132-4, to landings or takeoffs without having the corresponding slots, or schedules significantly different from the slots allocated by the airport coordinator, or use the slots in a manner significantly different from that stated at the time of grant.”

“2° Either operates an aircraft in contradiction with the rules on withdrawal of noisy aircraft”

“3° Or do not respect requirements of minimum insurance coverage set by provisions of regulation (EC) No 785/2004 of the European Parliament and Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators.”

“The Minister responsible for Civil Aviation sets the amount of the fine by taking into account the type and severity of the failure and, possibly, the benefits derived from. This amount can not exceed, by failure noticed, 1500 euros for an individual and 7500 euros for a corporation. These limits are doubled for a new failure during a period of one year after the previous failure”.

“When an particularly serious failure in relation to 3° is noticed, the Minister may, instead of the administrative fine, pronounce either the withdrawal of license or the refusal of landing rights on the national territory in accordance with paragraphs 5 and 6 of Article 8 of that Regulation.”

“II- When the licensee of aircraft maintenance is responsible for, in his function , the actions listed in paragraph 66 B 500 of Annex III (Part 66) the regulations referred to in Article R.133-17, the Minister responsible for Civil Aviation may, according to the type of gravity of failure , vote against him one of the following sanctions:”

“1° A warning;”

“2° Suspension, until a further practical and/or theoretical training conducted under the conditions set by the sanction has been followed by the person, license, categories and qualifications.”

“3° Temporary withdrawal with or without suspension of license, qualifications and categories;”

“4° The final withdrawal of the license, categories and qualifications set out with a ban, if need be, to solicit new issue, either permanently or for a period determined by the penalty decision;”

« III- The Minister responsible for Civil Aviation may suspend provisionally, pending consultation with the commission referred to in Article R. 160-3, aircraft maintenance licence for a period not exceeding four months, if he considers that the safety has been compromised by a breach of security. He decides, after consulting the commission, a final determination of penalty before the end of the suspension”.

Article 5 - The article R 160-2 is replaced by the following:

“Article.R. 160-2 - The failures mentioned in Article R.160-1 is recognized by officials and agents listed in Article .150-13 and are subject to statements.These statements are notified within a year after the commission of failure of the person or persons concerned and forwarded to the minister for civil aviation. The notification state the maximum amount of the fine or the maximum degree of the penalty.The person are invited to submit their comments within one month after the notification”

“At the expiration of that time and prior to the notification of fines and penalties provided in Article R.160-1, the Minister responsible for Civil Aviation collects the opinion of the committee referred in Article R.160-3 . The person involved are informed of this referral”

“The Minister's decisions mentioned in Article R.160-1 are notified to the concerned person”

“Fines are recovered as debt of the State not included in the tax and property”

Article 6- It is added to article R. 330-20 two paragraph written as follow:

“6° Either do not meet the obligations in respect of passengers specified by the provisions of Regulation (EC) No 261/2004 of the European Parliament and the Council of 11 February 2004 establishing common rules on compensation and assistance passengers in the event of denied boarding and of cancellation or long delay of flights;”

“7° Either do not meet the obligations to provide statistical information about its traffic under section R. 330-3.”

Article 7- I- In the first paragraph of Article R.330-21, the words "listed in Article L.150-13" are replaced by the words "listed in Article L.330-10"

II- In the second paragraph of Article R.330-21, the words "R.160-13" are deleted

Article 8- In article R.330-22, after the words "not exceed" are inserted the words "by failure noticed,"

Article 9- After Article R.330-22, it added two articles R.330-23 and R.330-24 written as follow:
"Article R.330-23 .- The Committee referred to in Article L.330-10 is issued by the Minister for Civil Aviation, or to the personnel under his authority, by the Minister of Defence.
It mentions the subject of the commission and the geographic constituency in which the commission agent is intended, because of his assignment to report infringement or failure.
"Article.R. 330-24 - Authorized persons in accordance with Article R.330-23 take oath to the high court of their place of work"

Article 10- In article R.160-4, the word "eleven" is replaced by the word "twelve" and the words ", this last consist of two distinct formations" are deleted.

Article 11- In article R.160-5, the words "a member of the General Inspectorate of Civil Aviation and Meteorology" are replaced by the words "a council member General of Roads and Bridges."

Article 12- The article R 160-6 is replaced by the following:
"Article.R. 160-6. - The specialized college whose members are appointed by order of the Minister for Civil Aviation, has four courses, respectively entitled" Aircraft ", " Air Transportation ", " Aircraft Maintenance "and "Passengers, " set up to adjudicate on breaches of the provisions of Books I and III.These courses include six members and an equal number of alternates.
An order of the Minister for Civil Aviation set for each of these formations,with the list of failures, it may contain meeting with the permanent college,
"The "aircraft" formation includes":

"1° Four representatives of air carriers or their professional organizations, including representatives of companies not established in France serving the country, and a representative of the general aviation;"

"2° A representative of airport operators
Three representatives of trade unions representing staff of aviation maintenance activities"

"1° Four representatives of the airline or their professional organizations, including a representative of helicopter operators, and a representative of the general aviation;"

"2° A representative of airports operators"

"The" Aircraft maintenance" formation includes"

1°"Two representatives of trade organizations representing companies employing licensed aircraft maintenance"

2°"A representative of the French aeronautical and sporting federations"

3°"Three representatives of trade unions representing staff of aviation maintenance activities"

"The "passengers" formation includes":

1°"Two representatives of air carriers or their professional organizations, including representatives of companies not established in France serving the country"

2°"A representative of Travel Agents assigned on the proposal of the Minister for Tourism"

3°"A representative of airport operators"

4°"Two representatives of Air Travellers"

Article 13- After the article R.160-7 are enclosed article R.160-7-1:

"Article.R.160-7-1 - The functions of member of the administrative committee of civil aviation are

carried out as gratuitous act. However, members of the committee may be reimbursed for their travel expenses in the conditions for the temporary movement by Decree No. 2006-781 3 July 2006 laying down the conditions and terms of payment of expenses incurred by the temporary movement of civilian personnel of the State.”

Article 14- In Article R.227-1, the words "a member of the General Inspectorate of Civil Aviation and Meteorology" are replaced by the words "a member of the General Board of Roads and Bridges."

Article 15- It is added to Article R.131-6 second paragraph:

“If it relates to the use of aircraft for aerial work, the temporary and special autorisation mentioned in the preceding paragraph is issued by the regional prefect, under the conditions laid down by order of the Minister of civil aviation. ”

Article 16- I.- It is added to Article I of R.330-6 the following paragraph:

“The provisions of I are subject to the provisions of Article R330-19-1”

II.- "Early in the first paragraph I of Article R.330-8 the word" The "is replaced by the words" Subject to the provisions of Article R.330-19-1, the ".

III.- "In the last paragraph of Article R.330-12, the words" mentioned in article R.330-1 "are replaced by the words" which issued it."

Article 17.- Article R.330-19 is modified as follows:

The words "and permission to operate air services mentioned in Articles L.330-1 and L.330-2 are issued, suspended or withdrawn" are substituted by the words "is issued, turned into temporary license suspended and withdrawn. "

The words "and, where appropriate, corporate headquarters"are deleted.

The words "or if its annual turnover exceeds an amount equivalent to 3 million Ecu” is replaced by the word "international".

The second paragraph is deleted.

In the last paragraph, the words "turned into temporary license"are added between the words "delivered" and "suspended".

Article 18- After the Article R.330-19 is added an article R.330-19-1 as follows:

"The prefect of the region responsible for issuing the operating license for an air carrier referred to in Article R.330-19 allows to the carrier the permission to operate air services provided by Article L.330-2 ,and use an aircraft registered abroad under Article R.330-4, as well as that provided in Article R.330-9”.

"The programs of airline operations mentioned in article R.330-19 are subject to a deposit or an approval of the prefect of the region under the conditions laid down by order of the Minister responsible for the civil aviation "

Article 19.- At B of Title II of the Annex to Decree No. 97-1198 of December 19, 1997 referred to above, the list of measures taken by the Minister of Civil Aviation under the Code of Civil Aviation is modified and supplemented as follows:

1	And temporary special permit granted to foreign aircraft to	Article R.131-6
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	operate over the French territory, except when it relates to the use of aircraft for aerial work.	
2	Administrative sanctions taken after consulting the Administrative Commission of Civil Aviation.	Articles R.160-1, R.330-20 et R.330-22
3	Issuance, conversion to temporary license, suspension and revocation of license to operate air carrier, except for enterprises operating only aircraft with a maximum takeoff weight of less than 10 tons and a capacity of less than 20 seats and does not operate scheduled international services.	Article R.330-1
4	Prior approval programs operating air services from, to or within the national territory, except for air carriers operating exclusively French aircraft with a maximum takeoff weight of less than 10 tons or a capacity less than 20 seats and does not operate scheduled international services.	Article R.330-8
6	Authorization for carriers holding a license issued by France, to operate a foreign registered aircraft or air services from, to or within the national territory, as part of trade agreements under which the contracting carrier is not the actual carrier, except for enterprises operating only aircraft with a maximum takeoff weight of less than 10 tonnes with a capacity of less than 20 seats and does not operator scheduled international services.	Article R.330-4 et R.330-9
7	Allocate, renewal or revocation of authorization to operate within certain services or international (non EU) for carriers based in France, except for enterprises operating only aircraft with a maximum takeoff weight of less than 10 tons or capacity of less than 20sièges and does not operate scheduled international services.	Article R.330-6
22	Appointment of a coordinator for the allocation of slots at a coordinated airport or on a schedules facilitator on a facilitated airport zone. Appointment of Coordination Committee	Article R.221-12
25	Issuance of the license aircraft maintenance	Article R.133-17
26	Issuance of the qualification for the exercise of functions providing flight information service and alert	Article R.133-18

Article.20- The provisions of Article R.131-6 are applicable to the territorial Mayotte.For the provisions of this section to the territorial collectivity of St. Pierre and Miquelon and the departmental unit of Mayotte, the words "prefect of the region" are replaced by the word "prefect". Subject to the preceding paragraph, the provisions of this Decree are not apply to the departmental unit of Mayotte and the territorial collectivity of Saint Pierre and Miquelon.

Article 21.- Sections 12 and R.160-12- R.160-13 of the Code of Civil Aviation are abrogated.

Article 22.- Minister of Defense, the Minister of Transport, equipment, tourism and sea and the Minister of Overseas Territories are responsible, each in his case, of the execution of this Decree, which will be published in the 'journal officiel' of the French Republic.

Paris, May 14, 2007.

DOMINIQUE DE VILLEPIN

By the prime minister

The minister of transport, equipment, tourism and sea,

DOMINIQUE PERBEN

The minister of defense
MICHELE ALLIOT-MARIE