



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 115 of 24 August 2016

**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. 30, adopted during its sitting of 10 August 2016;
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

1. After Article 21 of Law no. 125 of 29 July 2014 and subsequent amendments the following Article 21-bis shall be added:

*“Art. 21-bis
(Limitation of liability and indemnity)*

1. The Authority and its employees, including those performing services on behalf of the Authority under Article 16, as well as delegates and designated persons under Article 18, shall not be liable for any damages resulting from acts or omissions related to the performance of the functions and duties assigned to them under this Law, regulations or directives issued pursuant thereto, except in cases where such acts or omissions are committed intentionally or with gross negligence.”.

Art. 2

1. Paragraph 4-bis of Article 38 of Law no. 125 of 29 July 2014, introduced by Article 12 of Delegated Decree no. 153 of 13 October 2015, shall be replaced by the following:

“4-bis. The property deed to register aircraft shall consist of the following:

- 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 title under which the aircraft was previously registered in the aircraft register of origin if the applicant for registration is the last registered owner under the cancellation certificate issued by such register;
- d) a simple copy of the title indicated in letter c), together with a specific certified statement from the owner attesting to the validity of the title.

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. 3

1. Article 38, paragraph 3, letter c), number 4) of Law no. 125 of 29 July 2014 shall be replaced by the following:

“4) a company or trust incorporated under San Marino law.”.

Art. 4

1. After Article 38 of Law no. 125 of 29 July 2014 and subsequent amendments the following Article 38-bis shall be added:

“Art. 38-bis
(*Aircraft operator*)

1. An aircraft operator is the person who operates the aircraft. The operator shall be required to provide for the equipping and provisioning of the aircraft. The operator shall also have the power to appoint and remove the pilot-in-command or to establish his powers within the limits imposed by the legislation in force.

2. The owner of the aircraft, or the lessee in case of financial leasing contracts, shall be the operator of the aircraft, unless otherwise indicated in the forms provided for by the Authority.

3. The operator shall be responsible for the management of the aircraft, the facts pertaining to the crew and the obligations entered into by the pilot-in-command of the aircraft. However, the operator shall not be responsible for compliance by the pilot-in-command with assistance and rescue obligations and with other obligations relative to the expedition or imposed by the rules to the pilot-in-command as head of the expedition.

4. The owner of the aircraft, the lessor under a financial leasing contract or under a dry lease agreement and the subject financing the aircraft shall not be liable for the operation of the aircraft, unless they have performed any activity related to such exercise.

5. The operator shall be liable, jointly and severally, with the person who operates the aircraft without his consent, in case he has not exercised due diligence to prevent such operation.

Art. 5

1. After Article 38 of Law no. 125 of 29 July 2014 and subsequent amendments the following Article 38-ter shall be added:

“Art. 38-ter
(*Law of the State of aircraft registry*)

1. The ownership and other security interests on aircraft, advertising forms of acts of grant, transfer and termination of such rights shall be governed by the law of the State of registry, subject to the application of the Cape Town Convention of 16 November 2001 on International Interests in Mobile Equipment and its Aircraft Protocol.

Art. 6

1. Paragraph 3 of Article 40 of Law no. 125 of 29 July 2014 and subsequent amendments shall be replaced by the following:
“3. Recorded security interests shall continue to be public until cancellation of recording in the cases and forms envisaged by law.”.

Art. 7

1. Paragraph 4 of Article 59 of Law no. 125 of 29 July 2014 and subsequent amendments shall be replaced by the following:
“4. In the cases referred to in letters a), b), d), e), f) and q), 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.”.

Art. 8

1. After paragraph 9 of Article 59 of Law n. 125 of 29 July 2014 and subsequent amendments, the following paragraph 9-bis shall be added:
“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 aircraft pilot-in-command sanctioned;
- c) refuse the fulfilment of 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;
- d) prohibit the use of aircraft belonging to the fleet operated by the operator sanctioned.

These powers may also be exercised cumulatively.”.

Art. 9

1. The accreditation body of the Republic of San Marino (National Accreditation Institute of San Marino - NAISM) is hereby established. It shall be in charge of certifying the technical activities related to type-approval of vehicles and parts thereof.

2. The accreditation body “NAISM” is established at the Civil Aviation and Maritime Navigation Authority and consists of:
- The Director General of the Civil Aviation and Maritime Navigation Authority;
 - the Director General or his delegate of the Vehicle Registration and Transportation Office;
 - the Representative of the Technical Service designated.
3. The NAISM autonomously verifies compliance of the following bodies with international standards:
1. inspection bodies;
 2. certification bodies;
 3. testing laboratories;
 4. calibration centres.

Done at Our Residence, on 24 August 2016/1715 since the Foundation of the Republic.

THE CAPTAINS REGENT
Gian Nicola Berti - Massimo Andrea Ugolini

THE MINISTER OF
INTERNAL AFFAIRS
Gian Carlo Venturini