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Operators - Exemption under article 14(4) of Basic regulation (EC) No 216/2008

1. Background and summary

Luffartstilsynet (Civil Aviation Authority - Norway), previously in a decision of 24 March 2020, decided that Norwegian operators, under certain conditions, may carry larger quantities of hand disinfection supplies on board the aircraft, as well as carrying out transportation of possible contaminated blood samples.

EASA has requested by email 29 April 2020, a clarification and/or modification on certain elements of the decision. CAA Norway has following the email from EASA reviewed the matter and made a new assessment.

According to the Public Administration Act (forvaltningsloven) section 35 paragraph 5, restrictions on the right to reverse an administrative decision as provided for in the first, second and third paragraphs of section 35 shall not apply when the right to amend is based on another statute, on the administrative decision itself or on general provisions of administrative law.

The decision 24 March 2020 included the following condition:

“This decision has been notified to EASA and the EFTA Surveillance Authority (ESA), which shall evaluate the exception in accordance with the provision of Article 14 (5) of Regulation 216/2008. In case these authorities find that the exception does not comply with the common European rules for civil aviation, CAA Norway may amend or revoke this exemption. This exemption is therefore issued subject to such conditions.”

The decision of 24 March 2020 is in accordance with section 35 paragraph 5, and based on the condition set in the decision, amended. A new decision is given as stated below under points 3 and 5.

The new decision includes an additional condition/mitigating measure for exemption B re. blood samples. Furthermore, it is clarified that the decision also relates to Regulation (EU) No 965/2012 point CAT.GEN.MPA.200. *The clarification and the new condition/mitigating measure is marked by underlined italics.*

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2. Regulations and exempted requirements

Regulation 26 February 2013 no. 219 (BSL A 3-1 - "EASA forskriften") incorporates Basic Regulation (EC) No 216/2008, which contains flexibility provisions in Article 14 (4) in the event of unforeseen circumstances or operational needs of a limited duration, provided that the level of safety is not adversely affected.

This decision relates to:

Regulation (EU) No 965/2012, particularly point SPA.DG.105 and point CAT.GEN.MPA.200.

3. Summary of the exemption

Subject to fulfilling the applicable mitigating conditions as specified in this exemption, all of the following shall apply:

- A. Operators may bring on board an aircraft hand disinfection liquids that in total make up no more than 10 liters. Any one container of liquid must not exceed 0,5 liters. This exemption only apply for liquids that comply with UN1987 alcohol or UN1170 ethanol.

This exemption apply to operators without permission to carry dangerous goods in accordance with SPA.DG.105, and are in accordance with ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (Technical Instructions), that establishes that a state may grant a general approval to their operators to carry solutions containing UN1987 Alcohols, n.o.s. and UN1170 Ethanol solution, on board their aircraft.

- B. Operators may bring on board an aircraft possible COVID-19 contaminated blood samples on domestic flights in Norway

This exemption apply to all operators, also operators without permission to carry dangerous goods in accordance with SPA.DG.105 and CAT.GEN.MPA.200.

4. Justification

The exemption is granted on the basis of Basic Regulation 216/2008 Article 14 (4) in connection to the unforeseen circumstances and operational needs following the Covid-19 situation which has resulted in the need for operators to carry larger quantities of hand disinfection supplies as well as carrying out transportation of possible contaminated blood samples. This in order to facilitate the limitation of infection of the corona virus.

5. Conditions and mitigating measures

The exemption shall have effect from 24 March and no longer than 8 months, however no longer than 17 November 2020 or until the expiry established by the conditions below, unless the exemption is revoked by CAA Norway.

The following conditions and mitigating measures shall apply in order to ensure safety:

- A. For disinfection liquids

The operator must carry out a risk analysis in accordance with its management system. The operator must also make sure that all containers (including spare containers) are securely fastened or stored in order that no spillage or damage to the containers can occur and that there is no risk of a fire. The operator must review and if necessary make any updates to the

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emergency procedures. All crew members must be informed of any changes in the emergency procedures.

B. For blood samples

The operator must make sure that the transportation is in accordance with the preconditions in UN3373 Biological Substance, Category B and that the packaging is in accordance with instruction 650 in ICAO Technical Instructions. *The operator shall put in place appropriate procedures and ensure that all relevant information (e.g. a briefing) is provided to staff involved in the transport, including crew.*

C. For both A) and B), any operator that wants to use the exemption, must notify CAA Norway (Luftfartstilsynet) in advance by email to postmottak@caa.no.

This decision has been notified to EASA and the EFTA Surveillance Authority (ESA), which shall evaluate the exception in accordance with the provision of Article 14 (5) of Regulation 216/2008. In case these authorities find that the exemption does not comply with the common European rules for civil aviation, CAA Norway may amend or revoke this exemption. This exemption is therefore issued subject to such conditions.

6. Right to appeal

Operators have the right to appeal this decision to the Ministry of Transport. An appeal must be sent to CAA-Norway within three weeks from the publication of this decision. You can read more here: <https://luftfartstilsynet.no/om-oss/saksbehandling/> You may also contact CAA-Norway for further information.

Yours sincerely

Wenche Olsen
Department Director

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Head of Section

This document has been electronically validated, thus eliminating the need for a physical signature.