

I. GENERAL PROVISIONS

HEAD OF STATE

7064 *Royal Decree-Law 8/2014 of 4 July 2014 approving urgent growth, competitiveness and efficiency measures*

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The serious recession which the Spanish economy has been experiencing since 2008 and which resulted from an accumulation of imbalances in previous years has necessitated the adoption of urgent comprehensive reforms in order to stimulate a return to growth. The reforms in question have been part of an economic policy based on two pillars, namely fiscal consolidation, and structural reforms to stimulate market flexibility and restore the competitiveness of the Spanish economy, which was lost when it joined the euro.

The intensive reform agenda has allowed Spain to recover its competitiveness and thus return to growth and restore market confidence. The significant improvements made in correcting the imbalances are reflected in the trends in the main macroeconomic indicators, which show that Spain has managed to reduce its public deficit, achieve a surplus in its current account and in its funding capacity vis-à-vis the rest of the world, reduce its private indebtedness and curb the increase in prices and employment costs.

In 2014, the favourable economic data allow the conclusion to be drawn that the economic recovery is being consolidated at a steady sustained rhythm. Spain has seen four quarters of growth in its gross domestic product and ten consecutive months of job creation, with data corrected for seasonal and calendar effects, and almost 300,000 jobs have been created.

These positive indicators demonstrate the need to intensify the reforms undertaken in order to promote economic recovery and job creation. These reforms will continue to focus on correcting imbalances and improving competitiveness.

The reforms to improve competitiveness include the Plan for growth, competitiveness and efficiency measures approved by the Cabinet on 6 June 2014, which envisages a package of measures in this connection aimed at fiscal consolidation and designed to stimulate growth, the present and future competitiveness of the economy, and corporate funding.

The present Royal Decree-Law adopts the urgent legislative measures required for the execution of the aforementioned Plan, as well as other measures. All of these measures are designed to increase competitiveness, promote the efficient functioning of the markets and improve funding, and also to improve employability.

The present Royal Decree-Law has three key aims: firstly to promote competitiveness and the efficient functioning of the markets, secondly to improve access to funding, and thirdly to promote employability and employment. Furthermore, certain fiscal reform measures are being developed.

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Scientific and technical progress has contributed in recent years to progress in the aviation sector, allowing the appearance of new airspace users variously referred to as drones, RPAs (*remotely piloted aircraft*) or UAVs (*unmanned aerial vehicles*).

This technological progress has also made possible a substantial reduction in the purchase price of this type of aircraft, allowing an almost indiscriminate proliferation in their use, with the consequent

risks to aviation safety which that entails.

In order to guarantee a gradual transition and a high level of civil aviation safety, it is necessary to establish the specific legal arrangements applicable to such aircraft and to the aerial activities carried out by them. These legislative measures must reflect the current status of the technology but also meet the needs of the industry of the sector promoting their use.

The present provisions lay down the conditions for use of these aircraft in order to carry out technical or scientific work, or – in the words of the European Union legislation – specialised operations, and for production and maintenance test flights, demonstration flights, research programmes into the viability of carrying out certain activities using remotely piloted civil aircraft, and programmes for the development of new products or to demonstrate the safety of specific operations involving technical or scientific work, thereby allowing their immediate application.

These conditions, the application of which will be of a temporary nature, are supplemented by the general arrangements laid down in Law 48/1960 of 21 July 1960 governing air navigation, which is being amended in order to establish the legal framework for the use and operation of remotely piloted civil aircraft, envisaging, in accordance with the provisions of EU legislation on specialised operations, the dual possibility of making the carrying-out of activity subject to prior notification or authorisation.

The specific arrangements for the operation of remotely piloted civil aircraft will be established by means of regulations, in accordance with the status of the technology. Nevertheless, while these regulations are being drawn up, the temporary arrangements laid down in the present provisions will guarantee the operations of the sector with the necessary levels of safety. The arrangements concern only the operation of remotely piloted civil aircraft weighing less than 150 kg and those weighing more than 150 kg which are used to carry out fire-fighting and search and rescue activities, given that in general the remainder are subject to European Union legislation.

The reasons for the extraordinary and urgent need to establish the legal framework applicable to operations of remotely piloted civil aircraft arise from the need to provide a legal framework in safe conditions which will allow the development of a technologically advanced sector with great capacity for growth, in particular taking into account the fact that the current economic context makes it necessary to establish means of diversifying economic activity and stimulating industrial activity, for the benefit of the economy and of employment. It is worth noting for example in this connection that only two years after the regulation of the activity in France, that country already has over 600 companies authorised to operate these aircraft.

There is also an extraordinary and urgent need to establish this legal framework in order to enhance the competitiveness of Spanish industry, putting it on an equal footing with those of our neighbouring States which have already regulated the sector or are in the process of doing so.

In addition, because of the extraordinary and urgent need, it is obligatory to provide a sector which lacks specific provisions with a legal framework. Consequently, it is necessary to guarantee the safety of air operations and of persons and property overflown.

There is therefore an extremely urgent need to establish a legal framework which will allow these aircraft to be operated safely and under the control of the *Agencia Estatal de Seguridad Aérea* [State Aviation Safety Agency], thereby averting any safety risks which might cause aviation accidents or incidents.

[...]

For reasons of legal safety, it is stipulated that the procedures governing authorisation of air operations, use of airspace and special operations are covered by the exception, provided for in Article 43.1 of Law 30/1992 of 26 November 1992 governing the legal arrangements of the administrations and of the common administrative procedure, to the rule whereby failure by the administration to reply denotes tacit approval, owing to the overriding need in the public interest to

preserve aviation safety. For the same reasons, authorisations of operations and activities carried out by remotely piloted aircraft are excluded from this rule.

The reasons for the extraordinary and urgent need to amend Law 21/2003 of 7 July 2003 are the need to immediately bring national legislation into line with Community Single European Sky legislation, in particular taking into account any delay in this process and the need to avoid infringement proceedings as a result of any such delay, and also to respond to the aviation safety requirements generated by recurrent irresponsible conduct in the vicinity of airports which could jeopardise the safety, regularity and continuity of operations. For aviation safety reasons, there is also an extraordinary and urgent need to establish a procedure whereby failure by the administration to reply denotes tacit refusal with regard to the authorisation of activities carried out by remotely piloted aircraft, such authorisations being limited to activities entailing special risks, and to air operations and the use of airspace, in particular taking into account the fact that such authorisations, in accordance with the Community legislation laying down the common rules of the air and operational provisions regarding services and procedures in air navigation, are generally issued in the case of non-standard operations or use.

[...]

Section 6. Remotely piloted civil aircraft

Article 50 Operation of remotely piloted civil aircraft

1. Until the entry into force of the regulations provided for in paragraph 2 of the second final provision, operations of remotely piloted civil aircraft shall be subject to the present provisions.

Compliance with the present provisions shall not exempt the operator, who shall in any event be the person responsible for the aircraft and the operation, from complying with the remainder of the legislation applicable, in particular with regard to use of the radio spectrum, data protection or the taking of aerial photographs, nor from his/her liability for any loss, damage or injury caused by the operation of the aircraft.

2. Remotely piloted civil aircraft having a maximum take-off weight of more than 25 kg shall be entered in the aircraft register and have an airworthiness certificate. Remotely piloted civil aircraft having a maximum take-off weight equal to or less than 25 kg shall be exempt from these requirements.

Furthermore, all remotely piloted civil aircraft shall have affixed to their structure an identification plate, indicating in clearly legible and indelible form the identification of the aircraft, by means of the specific designation and, where applicable, a serial number, and the name of the operating company and the information required in order to contact it.

3. Aerial activities for the purpose of technical or scientific work carried out by remotely piloted civil aircraft may be performed in daylight and in visual meteorological conditions subject to the following requirements:

a) Remotely piloted aircraft having a maximum take-off weight of less than 2 kg may be operated only in zones away from built-up areas in towns, villages or inhabited places, and away from open-air assemblies of persons, in uncontrolled airspace, beyond the visual range of the pilot, within the radio transmission range of the control station, and at a height above the ground of not more than 400 ft (120 m), provided that [the operators] have means of determining the position of the aircraft. The performance of flights shall be subject to the issuing of a NOTAM by the aeronautical information service provider, at the request of the duly authorised operator, in order to inform other airspace users in the area in which the flight is to be performed about the operation.

b) Remotely piloted aircraft having a maximum take-off weight which does not exceed 25 kg may be operated only in zones away from built-up areas in towns, villages or inhabited places, and away from open-air assemblies of persons, in uncontrolled airspace, within visual range of the pilot,

at a distance of not more than 500 m and a height above the ground of not more than 400 ft (120 m).

c) Remotely piloted civil aircraft having a maximum take-off weight which is more than 25 kg but does not exceed 150 kg and those having a maximum take-off weight equal to or more than 150 kg which are used to carry out fire-fighting or search and rescue activities may be operated, subject to the conditions and limitations laid down in their certificate of airworthiness issued by the *Agencia Estatal de Seguridad Aérea*, only in uncontrolled airspace.

d) The operations provided for above shall also be subject to the following requirements:

1. The operator must have documentation providing a description of the aircraft which will be used, including a definition of their configuration and of their specifications and performance.

2. An operator's operating manual must be available, laying down the operating procedures.

3. An aeronautical safety study must have been carried out into the operation or operations, establishing that the aircraft can be operated safely. This study may be general or specific to a geographical area or particular type of operation and must take into account the basic specifications of the aircraft to be used and of its/their equipment and systems;

4. The test flights required to demonstrate that the operation concerned can be safely performed must have been carried out with satisfactory results.

5. A maintenance programme must have been drawn up for the aircraft, in line with the manufacturer's recommendations.

6. The aircraft must be remotely piloted by pilots who meet the requirements laid down in the present provisions.

7. The operators of remotely piloted civil aircraft will be required to have an insurance policy or provide other financial guarantees to cover third party liability in respect of any loss, damage or injury during and caused by the performance of the flight, in accordance with the limits of liability laid down in Royal Decree 37/2001 of 19 July 2001 updating the levels of compensation for loss, damage or injury, as provided for in Law 48/1960 of 21 July 1960 governing air navigation, for aircraft having a maximum take-off weight of less than 20 kg. In addition, in the case of aircraft having a maximum take-off weight of more than 20 kg, the limit of liability laid down in Regulation (EC) No 785/2004 of the European Parliament and the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators shall apply.

8. Appropriate measures must be taken to protect the aircraft from unlawful interference during operations, including deliberate interference with the radio link, and the necessary procedures must be drawn up in order to prevent unauthorised access of staff to the control station and storage location of the aircraft.

9. The necessary additional measures must be taken to ensure the safety of the operation and to protect persons and property overflown.

10. The operation must be carried out at a distance of least 8 km from any airport or aerodrome, or, in the case of flights covered by paragraph 3.a), if the infrastructure provides for instrument flight procedures, at a minimum distance of 15 km from its reference point. In all other cases and in the circumstances envisaged in this sub-paragraph, the appropriate coordination arrangements must be made with the said aerodromes or airports. The coordination carried out must be documented, and the operator shall be obliged to retain such documentation for the purposes of the *Agencia Estatal de Seguridad Aérea*.

4. In addition, the following types of flight may be performed by remotely piloted civil aircraft, in daylight and in visual meteorological conditions, in uncontrolled airspace, within visual range of the

pilot, or alternatively in airspace segregated for the purpose and in all cases in zones away from built-up areas in towns, villages or inhabited places, and away from open-air assemblies of persons:

- a) production and maintenance test flights performed by manufacturers or maintenance organisations;
- b) demonstration flights not open to the public intended for closed groups of people participating in a specific event or for potential clients of a manufacturer or operator;
- c) flights for national or European research programmes, to demonstrate the viability of performing specific activities using remotely piloted civil aircraft;
- d) development flights in order to refine the techniques and procedures for carrying out a specific activity using remotely piloted civil aircraft before the activity is put into operation;
- e) R&D flights performed by the manufacturer for the development of new products;
- f) test flights required to demonstrate that the activities requested pursuant to paragraph 3 can be safely carried out.

The performance of such flights shall also require compliance with requirements laid down in 3.d).1, 3, 6, 7, 8, 9 and 10, and also the definition of a safety zone in relation to the zone in which the flight is performed.

If the operation is to be performed by an operator who is not subject to oversight by the *Agencia Estatal de Seguridad Aérea*, the operator must have authorisation from the aeronautical authority of his/her country of origin to carry out the activity in question and provide the *Agencia Estatal de Seguridad Aérea* with proof that the requirements of that authority are at least equivalent to those laid down in that paragraph.

5. Pilots must provide proof of compliance with the following requirements:

- a) They must hold a pilot's licence of any kind, including an ultralight pilot's licence, which has been issued in accordance with the legislation in force, or have held such a licence in the last five years and not have had it taken away by virtue of any disciplinary proceedings; or
- b) they must provide conclusive proof that they have the theoretical knowledge required to obtain a pilot's or ultralight pilot's licence; or
- c) in the case of aircraft having a maximum take-off weight which does not exceed 25 kg, they must have the following:
 - 1. in order to operate the aircraft within the visual range of the pilot: a basic certificate to operate remotely piloted civil aircraft, issued by an approved training organisation, in accordance with Annex VII to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew, attesting to the fact that they have sufficient theoretical knowledge of the following: aeronautical legislation, general (generic and specific) knowledge of aircraft, performance of the aircraft, meteorology, navigation and interpretation of charts, operational procedures, communications, and human factors for remotely piloted aircraft;
 - 2. in order to operate the aircraft beyond the visual range of the pilot: an advanced certificate to operate remotely piloted civil aircraft, issued by an approved training organisation, in accordance with Annex VII to Commission Regulation (EU) No 1178/2011 of 3 November 2011, attesting to the fact that, in addition to the theoretical knowledge referred to in point 1, they have a knowledge of air traffic services and advanced communications;

d) in addition to complying with the requirements of b) and c), pilots must provide proof of the following:

1. they must be eighteen years of age;
2. pilots who operate aircraft having a maximum take-off weight of up to 25 kg must as a minimum requirement hold a medical certificate in line with the provisions of paragraph MED.B.095 of Annex IV, Part-MED, to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, in relation to medical certificates for the light aircraft pilot licence (LAPL);
3. pilots who operate aircraft having a maximum take-off weight of more than 25 kg must as a minimum requirement hold a Class 2 medical certificate in line with the requirements laid down in Section 2, Subpart B of Annex IV, Part-MED, to Commission Regulation (EU) No 1178/2011, issued by an authorised aero-medical examiner or aero-medical centre;

e) in addition, they must also have a document proving that they have sufficient knowledge of the aircraft and its systems, and of how to pilot it, which has been issued by the operator, by the manufacturer of the aircraft or a training organisation authorised by the manufacturer, or by an approved training organisation. Under no circumstances may this document have been issued by the pilot requesting authorisation.

6. The *Agencia Estatal de Seguridad Aérea* shall be notified of the carrying-out of activities as provided for in paragraphs 3 and 4 by aircraft having a maximum take-off weight equal to or less than 25 kg at least five days prior to commencement of the operation. The aforementioned notification shall contain the following information:

- a) data allowing identification of the operator, of the aircraft which are to be used in the operation, of the pilots who will be performing it, and of the conditions whereby all of these prove compliance with requirements laid down in paragraph 5;
- b) a description of the aircraft concerned, including a definition of their configuration and of their specifications and performance;
- c) the type of technical or scientific work to be carried out, or alternatively the flights to be performed and their profiles, and also the characteristics of the operation;
- d) the conditions and limitations to be applied to the operation or flight in order to ensure safety.

In addition to the above-mentioned notification, the operator shall submit a liability statement to the effect that he/she undertakes to comply with all of the requirements laid down in the present provisions for carrying out the notified activities or operations, that he/she has the documentation to prove this, and that he/she will continue to comply with these requirements during the period in which the activity will be carried out. In addition to this liability statement, the operator shall submit the operating manual, the aeronautical safety study and the documentation proving that he/she has taken out the mandatory insurance required by paragraph 3.d).2, 3 and 7 and by paragraph 4. Where the prior notification refers to operations as provided for in paragraph 3, the operator shall, in addition to the aforementioned documentation, also submit the maintenance programme and proof that the test flights have been performed with satisfactory results as referred to in 3.d).4 and 5.

The *Agencia Estatal de Seguridad Aérea* shall be informed of any amendment to the notification at least five days prior to the implementation of such amendment, and shall be sent an updated version of the liability statement, and, where appropriate, the additional supporting documentation stipulated in this paragraph.

The *Agencia Estatal de Seguridad Aérea* shall be obliged to issue an acknowledgement of receipt

within five days of receipt of the documentation, which must at the very least state the activities for the execution of which the notification or the amendment thereto gave authorisation.

7. The carrying-out of the activities provided for in paragraphs 3 and 4 by aircraft having a maximum take-off weight of more than 25 kg, and any amendment to the conditions governing the carrying-out of those activities or to the authorised requirements, shall be subject to the prior authorisation of the *Agencia Estatal de Seguridad Aérea*, in accordance with the provisions of this paragraph.

Requests for authorisation and amendments thereto shall contain at least the information required in the case of prior notification as provided for in the previous paragraph and shall be accompanied by the liability statement and full documentation required in that paragraph

8. Prior notification or authorisation of the carrying-out of technical or scientific work as provided for in paragraph 3, and any amendments thereto, shall allow the activity to be carried out for an indefinite period, in the case of operations subject to prior notification once the period of five days referred to in paragraph 6 has expired, subject in all cases to compliance with the set requirements and as long as such compliance is maintained.

Prior notification or authorisation of the performance of flights as provided for in paragraph 4, and any amendments thereto, shall cover only the performance of those flights which have been authorised or notified, as applicable, with the prior notice referred to in paragraph 6, and subject in all cases to compliance with the set requirements and as long as such compliance is maintained.

Operators authorised in accordance with the present provisions to carry out aerial activities as referred to in paragraph 3 may, under their own responsibility, perform flights which are not in line with the conditions and limitations provided for in paragraphs 3 and 4 in situations involving serious risk, catastrophe or public calamity, and in order to protect and assist persons and property in the cases in which such situations arise, where so required by the authorities responsible for the management of such situations.

9. The legal arrangements to which the operation of remotely piloted civil aircraft is subject shall be established by means of regulations in circumstances other than those envisaged in the present Royal Decree-Law.

10. By decision of the Director of the *Agencia Estatal de Seguridad Aérea*, acceptable means of compliance may be determined, the observance of which demonstrates compliance with requirements laid down in the present provisions.

Section 7. Other air navigation and aviation safety reforms

Article 51 *Amendment of Law 48/1960 of 21 July 1960 governing air navigation*

Law 48/1960 of 21 July 1960 governing air navigation shall be amended as follows:

1. Article 11 shall read as follows:

"Article 11.

Aircraft shall be deemed to mean:

a) any construction suitable for the transportation of persons or property capable of moving in the atmosphere thanks to reactions with the air, irrespective of whether or not they are lighter than air and whether or not they have engines;

b) any remotely piloted machine which can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface."

2. Article 150 shall read as follows:

"Article 150

1. Private transport aircraft belonging to companies, those belonging to flying schools, those used for technical or scientific work, and those used for tourism or sport shall be subject to the provisions of the present law, insofar as they are applicable, subject to the exceptions set out below:

1. No public service for the transportation by air of persons or property may be provided, whether or not remunerated.

2. They may use sites other than aerodromes officially open to traffic subject to authorisation from the *Agencia Estatal de Seguridad Aérea*.

2. Remotely piloted civil aircraft, irrespective of the purpose for which they are intended, except for those used solely for recreational or sports purposes, shall also be subject to the provisions of the present law and its implementing measures, insofar as they are applicable. Such aircraft shall not be obliged to use authorised airport infrastructures, other than in the circumstances in which this is expressly specified in specific legislation."

3. The first paragraph of Article 151 shall read as follows:

"Aerial activities carried out for the purposes of the previous article, except for those involving tourism or sport, shall be subject to prior notification of or authorisation from the *Agencia Estatal de Seguridad Aérea*, with a view to ensuring the safety of aeronautical operations and of third parties, in cases in which the nature of these operations or the environment or circumstances in which they are carried out entail special risks for such operations or third parties, and shall be subject to inspection under the terms laid down in the legislation in force."

4. A new third transitional provision shall be inserted, to read as follows:

"Third transitional provision *Transitional arrangements with regard to authorisations*

Until the specific legislation governing prior notification as provided for in Article 151 enters into force, prior notification of the *Agencia Estatal de Seguridad Aérea* shall be required for the carrying-out of the activities provided for in that provision."

[...]

Article 53 *Amendment of Law 21/2003 of 7 July 2003 governing air safety*

[...]

8. A new nineteenth additional provision shall be inserted, to read as follows:

"Nineteenth additional provision. *Failure by the administration to reply denotes tacit refusal*

1. For overriding reasons in the public interest in relation to aviation safety, the exception provided for in Article 43.1 of Law 30/1992 governing the legal arrangements of the public administrations and of the common administrative procedure shall be deemed to include the procedures for authorisation of air operations and use of airspace and for special operations.

2. For overriding reasons in the public interest in relation to safety, if the deadline for notification of the decision in procedures for authorisation of operations and activities carried out by remotely piloted aircraft expires without any express decision having been taken, the requested authorisation shall be deemed to have been refused in the absence of a reply from the administration."