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**ANNEX II TO EASA OPINION No 07/2017**

**COMMISSION REGULATION (EU) No .../..**

**of **XXX****

**amending Commission Regulation (EU) No 965/2012 as regards the deletion of air  
operations requirements for sailplanes**

# COMMISSION REGULATION (EU) .../..

of **XXX**

## **amending Commission Regulation (EU) No 965/2012 as regards the deletion of air operations requirements for sailplanes**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC <sup>(1)</sup>, and in particular Article 8(5) thereof,

Whereas:

- (1) Commission Regulation (EU) No 965/2012 <sup>(2)</sup> establishes the conditions for the safety of several types of air operations with different categories of aircraft, including sailplane operations.
- (2) Commission Regulation (EU) .../... <sup>(3)</sup> establishes specific rules for the operation of sailplanes. From the date of application of that Regulation, such operations should no longer be subject to the general rules for air operations laid down in Regulation (EU) No 965/2012. However, the rules in respect of oversight of air operations by the competent authorities of the Member States, set out in Article 3 of Regulation (EU) No 965/2012 and Annex II thereto, should continue to apply with respect to air operations with sailplanes, as those requirements are not specific to any particular air operation activity but apply horizontally in respect of all such activities.
- (3) Regulation (EU) No 965/2012 should therefore be amended accordingly, so as to take account of the new rules applicable to sailplane operations and to clarify the affected provisions of that Regulation where appropriate.
- (4) Considering the close link between them, the date of application of the amendments to Regulation (EU) No 965/2012 set out in this Regulation should be aligned with the date of application of Regulation (EU) .../....
- (5) The Agency prepared draft implementing rules and submitted them as an opinion <sup>(4)</sup> to the Commission in accordance with point (b) of Article 17(2) and Article 19(1) of Regulation (EC) No 216/2008.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

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<sup>(1)</sup> OJ L 79, 19.3.2008, p. 1.

<sup>(2)</sup> Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

<sup>(3)</sup> Commission Regulation (EU) .../... of ... laying down detailed rules for the operation of sailplanes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

<sup>(4)</sup> Opinion No 07/2017 of the European Aviation Safety Agency of 23 August 2017 for a draft Commission Regulation on the revision of the operational rules for sailplanes.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Regulation (EU) No 965/2012**

Commission Regulation (EU) No 965/2012 is amended as follows:

1. Article 1 is amended as follows:
  - (a) paragraphs 1, 2 and 3 are replaced by the following:
    - ‘1. This Regulation lays down detailed rules for air operations with aeroplanes and helicopters, including ramp inspections of aircraft of operators under the safety oversight of another State when landed at aerodromes located in the territory subject to the provisions of the Treaties.
    2. This Regulation also lays down detailed rules on the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates of operators of aircraft referred to in points (b) and (c) of Article 4(1) of Regulation (EC) No 216/2008, except for balloons and sailplanes, engaged in commercial air transport operation, the privileges and responsibilities of the holders of certificates as well as conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety.
    3. This Regulation also lays down detailed rules on the conditions and procedures for the declaration by operators engaged in commercial specialised operations of aeroplanes and helicopters or in non-commercial operation of complex motor-powered aircraft, including non-commercial specialised operations of complex motor-powered aircraft, of their capability and the availability of the means to discharge the responsibilities associated with the operation of aircraft, and for the oversight of such operators.’;
  - (b) paragraph 7 is replaced by the following:
    - ‘7. This Regulation shall not apply to air operations with balloons and sailplanes. However, in respect of such air operations with balloons, other than tethered gas balloons, and sailplanes, the requirements in respect of oversight of Article 3 shall apply.’;
2. Article 2 is amended as follows:
  - ‘(1c) ‘sailplane’ means a heavier-than-air aircraft that is supported in flight by the dynamic reaction of the air against its fixed lifting surfaces, the free flight of which does not depend on an engine;’;
3. Article 5 is amended as follows:
  - (a) paragraph 1 is replaced by the following:
    - ‘1. Operators shall only operate an aeroplane or a helicopter for the purpose of commercial air transport (hereinafter ‘CAT’) operations as specified in Annexes III and IV.’;
  - (b) in paragraph 2, point (b) is replaced by the following:

- ‘(b) aeroplanes and helicopters used for the transport of dangerous goods (DG);’;
  - (c) paragraph 4 is replaced by the following:
    - ‘4. Operators of other-than complex motor-powered aeroplanes and helicopters involved in non-commercial operations, including non-commercial specialised operations, shall operate the aircraft in accordance with the provisions specified in Annex VII.’;
  - (d) in paragraph 5, point (b) is replaced by the following:
    - ‘(b) other aeroplanes and helicopters in accordance with the provisions specified in Annex VII.’;
  - (e) paragraph 6 is replaced by the following:
    - ‘6. Operators shall only operate an aeroplane or a helicopter for the purpose of commercial specialised operations in accordance with the requirements in Annexes III and VIII.’;
- 4. Article 6 is amended as follows:
  - (a) paragraph 3 is replaced by the following:
    - ‘3. By way of derogation from Article 5 of this Regulation and without prejudice to point (a) of Article 5(4) of Regulation (EC) No 216/2008 and to Subpart P of Annex I to Commission Regulation (EU) No 748/2012 <sup>(5)</sup> concerning the permit to fly, the following flights shall continue to be operated under the requirements specified in the national law of the Member State in which the operator has its principal place of business, or, where the operator has no principal place of business, the place where the operator is established or resides:
      - (a) flights related to the introduction or modification of aeroplane or helicopter types conducted by design or production organisations within the scope of their privileges;
      - (b) flights carrying no passengers or cargo where the aeroplane or helicopter is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes.’;
  - (b) in paragraph 4a, the introductory wording is replaced by the following:
    - ‘4a. By way of derogation from Article 5(1) and (6), the following operations with other-than complex motor-powered aeroplanes and helicopters may be conducted in accordance with Annex VII:’;
- 5. In Article 8, paragraphs 3 and 4 are replaced by the following:
  - ‘3. By way of derogation from paragraph 1, CAT operations with helicopters shall comply with the applicable requirements of the national law of the Member State in which the operator has its principal place of business.
  - 4. Non-commercial operations, including non-commercial specialised operations, with complex motor-powered aeroplanes and helicopters, as well as

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<sup>(5)</sup> Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing Rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p.1).

commercial specialised operations with aeroplanes and helicopters shall comply, as regards flight time limitations, with the requirements specified in the national law of the Member State in which the operator has its principal place of business, or, where the operator has no principal place of business, the place where the operator is established or resides.;

6. In Article 10, paragraphs 2, 3, 5(b) and (6) are deleted.
7. Annexes II, III, IV, VII and VIII are amended in accordance with the Annex to this Regulation.

#### *Article 2*

#### **Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 8 April 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*

*The President*

[...]