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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, ...
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Draft

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

of [...]

laying down technical requirements and administrative procedures related to non-commercial air operations and amending Commission Regulation (EU) No .../.... laying down detailed rules for air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council

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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/EC¹, and in particular Articles 8(5) thereof,

Whereas:

- (1) Regulation (EC) No 216/2008 aims at establishing and maintaining a high uniform level of civil aviation safety in Europe. That Regulation provides for the means of achieving that objective and other objectives in the field of civil aviation safety.
- (2) Operators and personnel involved in the operation of certain aircraft have to comply with the relevant essential requirements set out in Annex IV to Regulation (EC) No 216/2008. According to that Regulation, unless otherwise determined in the implementing rules, operators engaged in the non-commercial operations of complex motor-powered aircraft shall declare their capability and means of discharging their responsibilities associated with the operation of those aircraft.
- (3) Regulation (EC) No 216/2008 requires the European Commission to adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft. Regulation (EU) No. .../.... established those implementing rules for commercial air transport operations.
- (4) The present Regulation therefore amends Regulation (EU) No. .../.... to include particular aspects related to non-commercial operations.
- (5) In order to ensure a smooth transition and a high level of civil aviation safety in the European Union, implementing rules should reflect the state of the art, including best practices, and scientific and technical progress in the field of air operations. Accordingly, technical requirements and administrative procedures agreed under the auspices of the International Civil Aviation Organisation (hereafter "ICAO") and the European Joint Aviation Authorities (hereafter "JAA") until 30 June 2009 as well as existing legislation pertaining to a specific national environment, should be considered.

¹ OJ L 79, 13.3.2008, p.1.

- (6) It is necessary to provide sufficient time for the aeronautical industry and Member States' administrations to adapt to the new regulatory framework.
- (7) The European Aviation Safety Agency (hereafter "the Agency") prepared draft implementing rules and submitted them as an opinion to the European Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.
- (8) 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.

HAS ADOPTED THIS REGULATION:

Article 1

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

1. In Article 1(1), "and non-commercial operations with aeroplanes, helicopters, balloons and sailplanes" shall be inserted after "commercial air transport operations with aeroplanes and helicopters".
2. In Article 1, paragraph 3 shall be replaced by the following:
"3. This Regulation also lays down detailed rules for non-commercial operations and the conditions and procedures for the declaration by and for the oversight of operators engaged in the non-commercial operation of complex motor-powered aircraft."
3. In Article 1, a new paragraph 4 shall be added:
"4. Other air operations including operations where an aircraft is used to undertake specialised tasks or services shall continue to be conducted in accordance with applicable national legislation until the related implementing rules are adopted and apply."
4. In Article 5(3), the first sentence shall be replaced by the following:
"3. Without prejudice to paragraphs 1, 2, 8, 9, and 10, operators shall also comply with the relevant provisions of Annex V to Regulation (EU) .../.... when operating:"
5. In Article 5(3)(b), "aeroplanes and helicopters" shall be replaced by "aeroplanes, helicopters, balloons and sailplanes".
6. In Article 5, the following three paragraphs shall be added:
"8. Operators of complex motor-powered aeroplanes and helicopters involved in non-commercial operations shall declare their capability and means to discharge their responsibilities associated with the operation of aircraft and operate the aircraft in accordance with the provisions specified in Annex III to Regulation (EU) .../.... and Annex VI as set out in this Regulation.
9. Operators of other-than-complex motor-powered aeroplanes and helicopters as well as balloons and sailplanes involved in non-commercial operations shall operate the aircraft in accordance with the provisions specified in Annex VII as set out in this Regulation.
10. By way of derogation from paragraphs 1., 8. and 9., training organisations approved in accordance with Regulation (EU) .../.... and conducting flight training shall operate:
(a) complex motor-powered aeroplanes and helicopters in accordance with the provisions specified in Annex VI to this Regulation;

- (b) other-than-complex motor-powered aeroplanes and helicopters as well as balloons and sailplanes in accordance with the provisions specified in Annex VII to this Regulation.”
7. In Article 7, the existing paragraph shall be numbered 1. The words “for CAT aeroplane operations” shall be added after “Regulation (EEC) No 3922/91”. A new paragraph 2 shall be added:
- “2. CAT operations with helicopters and non-commercial operations with complex motor-powered aeroplanes and helicopters shall continue to be conducted in accordance with applicable national flight time limitation legislation until the related implementing rules are adopted and apply.”
8. In Article 9(3), the words “paragraph 2” shall be replaced with “paragraphs 2 and 4”.
9. In Article 9 the following paragraph shall be inserted:
- “4. By way of derogation from paragraph 1, Member States may decide not to apply:
- (a) the provisions of Annex III to Regulation (EU) .../.... to non-commercial operations with complex motor-powered aeroplanes and helicopters until [2 years after the entry into force of this Regulation]; and
- (b) the provisions of Annex V, VI and VII to non-commercial operations with aeroplanes, helicopters, sailplanes and balloons until [2 years after the entry into force of this Regulation].”
10. In paragraph 1 of Annex I the following definitions are inserted:
- “‘Approach procedure with vertical guidance (APV) operation’ means an instrument approach which utilises lateral and vertical guidance, but does not meet the requirements established for precision approach and landing operations, with a decision height (DH) not lower than 250 ft and a runway visual range (RVR) of not less than 600 m.
 - ‘Weather-permissible aerodrome’ means an adequate aerodrome where, for the anticipated time of use, weather reports, or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the required aerodrome operating minima, and the runway surface condition reports indicate that a safe landing will be possible.”
11. New Annexes VI and VII as set out in the Annexes to this Regulation shall be inserted.

Article 2

Entry into force

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

It shall apply as from [the day following that of its publication in the Official Journal of the European Union].

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

Done at Brussels, [...]

For the Commission

[...]

The President