European Union Aviation Safety Agency

Air Operations - General

In the definition of ‘commercial operation’ published in Art. 2 of Regulation (EU) 965/2012 (introduced by the amending Reg. (EU) 2018/1975), what is the meaning of the term “control”?

Answer

Reference: Reg. (EU) 965/2012, Article 2:

‘“commercial operation” shall mean any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator.’

Pursuant to Article 140(2)(a) of Regulation (EU) 2018/1139 (the New Basic Regulation), ‘commercial operation’ shall still be understood as a reference to point (i) of Article 3 of Regulation (EC) No 216/2008. This is a transitional provision until not later than 12 September 2023, when the implementing rules adopted on the basis of Regulations (EC) No 216/2008 and (EC) No 552/2004 shall be adapted to this Regulation. The same definition of ‘commercial operation’ has already been transposed in Article 2 of Reg. (EU) No 965/2012 on air operations and is applicable as of 9 July 2019.

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https://www.easa.europa.eu/en/faq/19129

Would there be a restriction that requires baby bassinets to be removed and stowed during in-flight turbulent weather conditions? Where is it documented?

Answer

Reference: CS-25 (Large Aeroplanes)

Baby bassinets are currently included in a certification process of the particular aircraft in which

they will be installed; baby bassinets are not certified as a separate device and they are not certified for taxi, take-off, landing and turbulent weather conditions. Placards advising on their stowage during taxi, take-off, landing and turbulence are required either at the location where baby bassinets will be fixed to the aircraft structure (e.g. bulkhead) or a clearly visible instruction advising on the same must be in place on the baby bassinet itself.

Because of the standard fixation of the unit, they are not stable during turbulence, they may swing up and down, and therefore they must be stowed during turbulence.

The placarding requirements are related to the general certification requirements on placarding and intended function in accordance with Certifications Specifications and Acceptable Means of Compliance for Large Aeroplanes CS-25 (ED Decision 2012/008/R) and the marking requirements as specified in the approval of the equipment. The applicable reference paragraph is CS 25.1301, 25.1541. There is no specific mention of baby bassinets, however, equipment installed in an aircraft must meet the applicable requirements of the certification basis, the equipment specifications (if available) or aircraft manufacturer specifications (if available), or NAA requirements applicable to the operation of the aircraft.

For any questions on certification matters, do not hesitate to contact EASA Certification directorate.

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https://www.easa.europa.eu/en/faq/19128

What are the essential requirements?

Answer

Reference: Regulation (EU) 2018/1139, Regulation (EU) No 965/2012 on Air Operations

Essential requirements are high-level safety objectives and obligations put on persons and organisations undertaking aviation activities under Regulation (EU) 2018/1139 (the Basic Regulation). Detailed rules are then adopted by the European Commission based on technical advice from EASA to further detail how to achieve these objectives and obligations. For example, the implementing rules for air operations (i.e. Reg. (EU) No 965/2012) have been developed in order to ensure uniform implementation of essential requirements related to air operations.

The Basic Regulation has annexes containing essential requirements for:

- airworthiness (Annex II),

- environmental compatibility related to products (Annex III)
- aircrew (Annex IV),
- air operations (Annex V),
- qualified entities (Annex VI),
- aerodromes (Annex VII),
- ATM/ANS and air traffic controllers (Annex VIII), and
- unmanned aircraft (Annex IX).

The Essential Requirements can be amended by the European Commission where necessary for reasons of technical, operational or scientific developments or evidence.

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What do 'grandfathering', 'transition measure' and 'opt-out' mean?

Answer

Reference: Regulation (EU) No 1178/2011, Regulation (EU) No 965/2012

These terms refer to certain legal concepts used in aviation safety regulations, in particular Reg. (EU) No 1178/2011 on aircrew and Reg. (EU) No 965/2012 on air operations.

'Grandfathering' designates the legal recognition and acceptance of certificates issued on the basis of national legislation by national authorities prior to the entry into force of a specific regulation. For example, in Reg. (EU) No 1178/2011, the conditions for the grandfathering of JAR-compliant and non-JAR-compliant pilot licences and medical certificates are set forth in its Articles 4 and 5. In Reg. (EU) No 965/2012, the conditions for grandfathering of EU-OPS AOCs are set forth in Article 7(1).

Grandfathering measures are included in the Cover Regulation to assist Member States in the transition from national rules to unified EU rules. In the case of aircrew licensing, provisions on grandfathering consider some national certificates issued in compliance with given regulations and by a certain date as being in compliance with the new Aircrew Regulation (i.e. Reg. (EU) No 1178/2011).

A 'transition measure' is a provision helping the national competent authorities and regulated entities to gradually adapt to the new EU rules. Several examples can be found in the Aircrew Regulation, such as in Article 11c (in relation to the obligation of Member States regarding the transfer of records and certification processes of those organisations for which the Agency is

the competent authority) and in Article 4 (1) — the obligation of Member States to adapt grandfathered pilot licences to the new format by a certain date.

The 'opt-out' is a form of transition measure applicable to Member States. Opt-out provisions allowed Member States to decide not to implement an EU regulation or certain provisions thereof for a certain period of time, delaying the date of application of the new regulation (or certain provisions thereof) within that Member State. For example, the opt-out provisions contained in the Aircrew and Air Ops regulations required the Member State to notify the European Commission and EASA of the 'opt-out', describing the reasons for such derogation and the programme for the phasing out of the opt-out and achieving full implementation of the common requirements.

Read more on opt-in and opt-out.

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What is the difference between 'entry into force' and 'date of applicability' in the Cover Regulations?

Answer

Many Commission Regulations adopted in EASA domains contain two different dates, usually under the heading “entry into force”. The example below is from Regulation (EU) No 965/2012 on air operations:

Article 10
Entry into force
1. This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.
It shall apply from 28 October 2012.

The entry into force of an EU regulation represents the date when the regulation has legal existence in the EU legal order and in the national legal order of each Member State.

It is common practice that the regulation enters into force 20 days after its publication in the Official Journal of the EU. That is the case when the legislator simply uses the expression “This Regulation enters into force on the 20th day after its publication in the Official Journal of the European Union.” Shorter periods are also used, as was the case in the example above.

Sometimes the date of entry into force is also the date of applicability of a regulation, meaning that from the date when it enters into force, the regulation is also applicable; it can be fully invoked by its addressees and is fully enforceable.

However, due to the complexity of the domains that are regulated, a period of time may be needed between the date the regulation enters into force, i.e. it legally exists, and the date it can actually be applied, i.e. the date when it is enforceable and the legal rights and obligations can be effectively exercised.

This period of time (vacatio legis) is deliberately introduced for Member States, competent authorities, operators, organisations, licence holders and any other addressees or beneficiaries of the regulations to prepare their systems, processes, procedures, documentation, etc. for compliance with the new rules.

Vacatio legis is also a period given for the addressees of the regulation to adjust to the upcoming rights and obligations and take the necessary measures to benefit from the legal effects of the regulation, namely for the purposes of mutual recognition of certificates and approvals in the aviation internal market.

In those cases, it is common practice of the legislator to establish two different dates under the article on entry into force. One date establishes the legal existence of the act (**entry into force**); the second date establishes the date when it becomes applicable (**applicability**).

The date of applicability therefore represents the date from which the regulation can produce rights and obligations on the addressees and can be directly enforced towards the courts, administrations, national governments, etc. This means that before the date of applicability, obligations or privileges can neither be exercised nor enforced.

The same understanding is shared by the Legal Service of the Commission, which has also clarified in EASA Committee that the privileges provided for in a regulation can only be exercised as of the applicability date chosen by the legislator. Persons subject to the relevant regulation (including national aviation authorities) may prepare themselves for such an effective date (adapting their procedures and practices), but can neither enjoy the privileges nor enforce the obligations.

Legal consequences

This means that Member States cannot start delivering authorisations, approvals, certificates, etc. issued in accordance with the new regulations and at the same time producing all the legal effects of the regulation from the date of entry into force of the regulation, **but only from the date of its applicability**. However, during the gap period existing between the date of entry into force and the date of applicability, Member States and competent authorities can prepare the process towards the issuance of such authorisations, approvals, and any other certificates

in accordance with the new provisions.

In addition, during the period of vacatio legis, an option that Member States and competent authorities can consider, in order to avoid issuing certificates on the last day before the date of applicability, is to issue the new certificates in accordance with the new regulation while clearly indicating in those certificates that they are only valid as of a certain date that would coincide with the date of applicability of the regulation on the basis of which those certificates are issued. This means that those new certificates may be issued, but are not yet effective and cannot be mutually recognised among Member States until the common date of applicability established by the regulation. Until they become effective, licence holders, organisations and operators should still retain and use the certificates already issued under the previous regime. Competent authorities are only obliged to accept the new certificates once the regulation has become applicable.

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Link:
https://www.easa.europa.eu/en/faq/19112

When will the new rules on air operations be applicable?

Answer

Reference: Regulation (EU) No 965/2012 on Air Operations and its amendments

Regulation (EU) No 965/2012 entered into force on 28 October 2012.

Article 10 of the Air OPS Regulation includes an opt-out provision allowing Member States to postpone the applicability of Annexes I to V until 28 October 2014. This means that entire Annexes and/or specific parts of the Annexes will not be applicable if a Member States chooses to opt-out. The Agency has published an overview of the opt-out period applied by Member States here.

The amendments to the Regulation (EU) No 965/2012 have different applicability dates:

- Commission Regulation (EU) No 800/2013 on non-commercial operation became applicable on 25 August 2013 and the opt-out period is 3 years.
- Commission Regulation (EU) No 71/2014 on operational suitability data was published on 27 January 2014; it entered into force on the twentieth day following that of its publication and must be applied not later than 18 December 2017 or two years after the approval of the operational suitability data, whichever is the latest.
- Commission Regulation (EU) No 83/2014 on flight and duty time limitations and rest

requirements was published on 29 January 2014, entered into force on the twentieth day following that of its publication and shall apply from 18 February 2016 and from 17 Feb 2017 for ORO.FTL.205(e).

Once the Implementing Rules have been adopted, it is still possible that transition measures defer their applicability to a later date. Therefore, the exact date of applicability of each requirement will depend on the transition measures adopted by the European Commission. Until the date the new Implementing Rules apply, Member States' national rules and EU-OPS remain in force.

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What is the comitology procedure?

Answer

Please refer to the information provided by the European Commission oncomitology.

More information

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Link:
https://www.easa.europa.eu/en/faq/19114

Why can't I find EU-OPS on the EASA website?

Answer

Reference: Regulation (EU) No 965/2012 on Air Operations, associated Decisions (AMC/GM)

EU-OPS was the basis for the creation of Regulation (EU) No 965/2012 on air operations, which is the currently applicable regulation in the field of air operations with aeroplanes and helicopters.

EU-OPS is published in the Official Journal of the EU asRegulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane.

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https://www.easa.europa.eu/en/faq/19116

What is the status of 'Implementing Rules', 'Acceptable Means of Compliance' (AMC), ‘Certification Specifications’ (CS), Alternative Means of Compliance (AltMOC), 'Guidance Material' (GM), ‘Special Conditions’ and 'Frequently Asked Questions'(FAQ)?

Answer

Implementing rules (IRs) are binding in their entirety and used to specify a high and uniform level of safety and uniform conformity and compliance. They detail how to comply with the essential requirements of the Basic Regulation and regulate the subject matters included in its scope. The IRs are adopted by the European Commission in the form of Regulations. EU law is directly applicable (full part of Member States' legal order).

Detailed implementation aspects are included as Certification Specifications (CS) or Acceptable Means of Compliance (AMC).

Acceptable Means of Compliance (AMC) are non-binding. The AMC serves as a means by which the requirements contained in the Basic Regulation and the IRs can be met. The AMC illustrate a means, but not the only means, by which a requirement of an implementing rule can be met. Satisfactory demonstration of compliance using a published AMC shall provide for presumption of compliance with the related requirement; it is a way to facilitate certification tasks for the applicant and the competent authority. However, NAAs and organisations may decide to show compliance with the requirements using other means. Both NAAs and the organisations may propose alternative means of compliance (AltMoCs). ‘Alternative Means of Compliance’ are those that propose an alternative to an existing AMC. Those AltMoC proposals must be accompanied by evidence of their ability to meet the intent of the IR. Use of an existing AMC gives the user the benefit of compliance with the IR.

Read more on the difference between AMC and AltMoC.

Certification Specifications (CS) are non-binding technical standards adopted by EASA to meet the essential requirements of the Basic Regulation. CSs are used to establish the certification basis (CB) as described below. Should an aerodrome operator not meet the recommendation of the CS, they may propose an Equivalent Level of Safety (ELOS) that demonstrates how they meet the intent of the CS. As part of an agreed CB, the CS become binding on an individual basis to the applicant.

Special Conditions (SC) are non-binding special detailed technical specifications determined by the NAA for an aerodrome if the certification specifications established by EASA are not adequate or are inappropriate to ensure conformity of the aerodrome with the essential requirements of Annex VII to the Basic Regulation. Such inadequacy or inappropriateness may be due to:

- the design features of the aerodrome; or
- where experience in the operation of that or other aerodromes, having similar design features, has shown that safety may be compromised.

SCs, like CSs, become binding on an individual basis to the applicant as part of an agreed CB.

Guidance Material (GM) is non-binding explanatory and interpretation material on how to achieve the requirements contained in the Basic Regulation, the IRs, the AMCs and the CSs. It contains information, including examples, to assist the user in the correct understanding and application of the Basic Regulation, its IRs, AMCs and the CSs.

Frequently Asked Questions: FAQs are published on the EASA website and cover a wide range of material. Although the information contained in the FAQs is a summary of existing law or procedures, it may contain the results of a more complex interpretation of IR or other rules of law. In such cases there is always an internal quality consultation within the Agency prior to the publication of the FAQ on the website. The EASA FAQs are necessary to share information and enable to get a common understanding.

The FAQs are not additional GM.

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https://www.easa.europa.eu/en/faq/19117

Does Reg. (EU) No 965/2012 on air operations also apply to non-commercial operations?

Answer

References: Regulation (EU) No 965/2012 on air operations as amended by Regulation (EU) No 800/2013; Reg. (EC) No 216/2008

Yes, non-commercial operations with aeroplanes and helicopters are covered by Reg. (EU) No 965/2012 on air operations. The applicable rules are determined by the complexity of the aircraft being used: Annex VI (Part–NCC) applies to non-commercial operations with complex

motor-powered aircraft) and Annex VII (Part–NCO) applies to non-commercial operations with other-than-complex motor-powered aircraft.

The definition of complex motor-powered aircraft is found in Article 3 of Reg. (EC) No 216/2008. Pursuant to Article 140(2)(a) of Regulation (EU) 2018/1139 (the New Basic Regulation), ‘complex motor-powered aircraft’ shall still be understood as a reference to point (j) of Article 3 of Regulation (EC) No 216/2008. This is a transitional provision until not later than 12 September 2023, when the implementing rules adopted on the basis of Regulations (EC) No 216/2008 and (EC) No 552/2004 shall be adapted to this Regulation. The definition is as follows:

“complex motor-powered aircraft' shall mean:

(i) an aeroplane:

- with a maximum certificated take-off mass exceeding 5 700 kg, or
- certificated for a maximum passenger seating configuration of more than nineteen, or
- certificated for operation with a minimum crew of at least two pilots, or
- equipped with (a) turbojet engine(s) or more than one turboprop engine, or

(ii) a helicopter certificated:

- for a maximum take-off mass exceeding 3 175 kg, or
- for a maximum passenger seating configuration of more than nine, or
- for operation with a minimum crew of at least two pilots,

or

(iii) a tilt rotor aircraft”.

The definition for 'commercial operation' is in Article 2 of Regulation (EU) No 965/2012:

“(1)(d) 'commercial operation' means any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and customer, where the latter has no control over the operator”.

Training flights fall under either Part-NCC or Part-NCO, depending on the complexity of the aircraft used for the non-commercial operations.

In addition, Part-SPA applies to any operation requiring a specific approval (e.g. low visibility operations, transport of dangerous goods, performance-based navigation and more).

Finally, Annexes II (Part-ARO) and III (Part-ORO) contain the authority requirements and respectively the organisation requirements. Annex III applies to operators of complex motor-

powered aircraft, both commercial and non-commercial.

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https://www.easa.europa.eu/en/faq/19123

I am not familiar with the Air ops rules' structure. Which parts apply to which operators?

Answer

Reference: Regulation (EU) No 965/2012 on Air Operations and the associated Decisions

This is determined by the nature of your flight, and in the case of non-commercial operations, by the type of aircraft used. The following diagram indicates under which requirements your flight should be operating.

<table>
<tr><td rowspan="4">Commercial operations</td><td rowspan="2">Commercial air transport (CAT) operations</td><td colspan="2">Technical rules: Part-CAT</td></tr>
<tr><td colspan="2">Operator rules: Part-ORO</td></tr>
<tr><td rowspan="2">Specialised operations (aerial work)</td><td colspan="2">Technical rules: Part-SPO</td></tr>
<tr><td colspan="2">Operator rules: Part-ORO</td></tr>
<tr><td rowspan="4">Non-commercial operations</td><td rowspan="2">Non-commercial operations other than SPO (e.g. business/corporate flights, leisure flights, private flights, training flights)</td><td>With CMPA:</td><td>Technical rules: Part-NCC
Operator rules: Part-ORO</td></tr>
<tr><td>With Ot-CMPA:</td><td>Technical rules: Part-NCO</td></tr>
<tr><td rowspan="2">Specialised operations (aerial work)</td><td>With CMPA:</td><td>Technical rules: Part-SPO
Operator rules: Part-ORO</td></tr>
<tr><td>With Ot-CMPA</td><td>Technical rules: Part-NCO</td></tr>
</table>

Part-SPA (specific approvals) applies to all types of operations, as the case may be.

CMPA = complex motor-powered aircraft

Ot-CMPA = other-than complex motor-powered aircraft

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https://www.easa.europa.eu/en/faq/19124

How can I find out where a rule from EU-OPS / JAR-OPS 3 has been transposed in the new Regulation (EU) 965/2012 on Air Operations and its amendments, as well as its associated EASA Decisions, and if any changes have been introduced?

Answer

Reference: Regulation (EU) No 965/2012 on Air Operations, associated Decisions (AMC/GM)

The Agency has published a cross-reference table to assist industry in transitioning to the new rules. This table contains detailed information on the transposition of EU-OPS / JAR-OPS 3 provisions (both Section 1 and Section 2 - for aeroplanes, TGL 44) into the new Implementing Rules (IR), Acceptable Means of Compliance (AMC) and Guidance Material (GM):

- new rule reference and rule title;
- old rule reference and rule title;
- indication of any differences to EU-OPS / JAR-OPS 3 provisions by stating “No change”, “Amended”, “New” or “Not transposed”; and
- short description of the differences, if any, between the old and new rules.

With this cross-reference table one can analyse in detail where and how the old provisions have been transposed into the new regulatory framework.

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Link:

https://www.easa.europa.eu/en/faq/19125

Which operational requirements (EU/EASA Parts) apply to flight activities carried out by an aircraft designer or aircraft manufacturer?

Answer

Reference: Regulation (EU) No 965/2012 on Air Operations

At the present stage no EU operational requirements exist for flights related to design and production activities ("manufacturer flights"). Instead these flights are regulated under national law. This is laid down in Paragraph 3 of Article 6 of Regulation (EU) No 965/2012 as follows:

"By way of derogation from Article 5 of this Regulation and without prejudice to point (b) of Article 18(2) of Regulation (EU) 2018/1139 and to Subpart P of Annex I to Commission Regulation (EU) No 748/2012 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; (…)"

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https://www.easa.europa.eu/en/faq/19127

Where can I find a list of alternative means of compliance that have been adopted by operators and NAAs in the EU?

Answer

In the Information on Alternative Means of Compliance notified to the Agency page there is a list with all the AltMoCs adopted by the Member States.

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https://www.easa.europa.eu/en/faq/97716