European Union Aviation Safety Agency

FAQ n.19123

FAQs:

Air Operations - General, Air Operations, Regulations

Question:

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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Link:

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