

ANNEX I

Draft Annex I to draft Commission Regulation (EU) .../... amending 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

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

1. In Article 2, paragraph (7) is replaced by the following:

‘(7) “Specialised operation” means any operation other than commercial air transport where the aircraft is used for specialised activities such as agriculture, construction, photography, surveying, observation and patrol, aerial advertisement, maintenance check flights.’

2. A new ‘Article 9c — Flight crew requirements for maintenance check flights’ is inserted as follows:

‘Article 9c

Flight crew requirements for maintenance check flights

A pilot having acted, before [*DD.MM.YYYY, the day on which the amending regulation applies*], as pilot-in-command on maintenance check flights, that in accordance with the definition contained in SPO.SPEC.MCF.100 would be categorised as Level A, shall be given credit for the purpose of complying with SPO.SPEC.MCF.115(a)(1). In this case, the operator shall ensure that the pilot-in-command receives a briefing on any differences identified between operating practices established before [*DD.MM.YYYY, the day on which the amending regulation applies*] and on any new obligations stipulated by this Regulation and related procedures established by the operator.’

B. Annex I (Definitions) to Commission Regulation (EU) No 965/2012 is amended as follows:

1. A new definition is inserted in the terms to be used in Annexes II to VIII as follows:

‘(76a) “maintenance check flight (MCF)” means a flight carried out to provide reassurance of the aircraft’s performance or to establish the correct functioning of a system or equipment that cannot be fully established during ground checks:

- (a) as required by the aircraft maintenance manual (AMM) or any other maintenance data issued by a design approval holder being responsible for the continuing airworthiness of the aircraft; or
- (b) after maintenance, as required by the operator or proposed by the continuing airworthiness management organisation; or

- (c) as requested by the maintenance organisation for verification of a successful defect rectification; or
- (d) to assist with fault isolation or troubleshooting.’

C. Annex III (ORGANISATION REQUIREMENTS FOR AIR OPERATIONS [Part-ORO]) to Commission Regulation (EU) No 965/2012 is amended as follows:

1. Point ORO.AOC.125 is replaced by the following:

‘ORO.AOC.125 Non-commercial operations of aircraft listed in the operations specifications by the holder of an AOC

- (a) The holder of an AOC may conduct non-commercial operations with an aircraft otherwise used for commercial air transport operations that is listed in the operations specifications of its AOC, provided that the operator:
 - (1) for maintenance check flights with complex motor-powered aircraft, complies with Annex VIII (Part-SPO), and for maintenance check flights with other-than-complex motor-powered aircraft, complies with Annex VII (Part-NCO);
 - (2) for flights other than maintenance check flights, describes such operations in detail in the operations manual, including:
 - (i) identification of the applicable requirements;
 - (ii) a clear identification of any differences between operating procedures used when conducting commercial air transport and non-commercial operations;
 - (iii) a means of ensuring that all personnel involved in the operation are fully familiar with the associated procedures;
 - (3) for flights other than maintenance check flights, submits the identified differences between the operating procedures referred to in (a)(2)(ii) to the competent authority for prior approval.
- (b) An AOC holder conducting operations referred to in (a) shall not be required to submit a declaration in accordance with this Part.’

D. Annex VII (NON-COMMERCIAL AIR OPERATIONS WITH OTHER-THAN COMPLEX MOTOR-POWERED AIRCRAFT [Part-NCO]) to Commission Regulation (EU) No 965/2012 is amended as follows:

1. A new Section 6 is added to ‘SUBPART E — SPECIFIC REQUIREMENTS’ as follows:

*‘SECTION 6
Maintenance check flights (MCFs)*

NCO.SPEC.MCF.100 Applicability

- (a) This Section shall apply whenever maintenance check flights are intended to be conducted.
- (b) Before conducting maintenance check flights, the operator shall determine the applicable level of the maintenance check flight as follows:
 - (1) Level A maintenance check flights are maintenance check flights for which the use of abnormal or emergency procedures as defined in the aircraft flight manual is expected. Level A maintenance check flights also include operations required to prove the functioning of a backup system or other safety devices.
 - (2) Level B maintenance check flights are maintenance check flights other than Level A.

NCO.SPEC.MCF.105 Operational limitations

- (a) By way of derogation from NCO.GEN.105(a)(4), a maintenance check flight may be conducted with an aircraft that has been released to service with incomplete maintenance in accordance with M.A.801(g) or 145.A.50(e) of Commission Regulation (EU) No 1321/2014.
- (b) By way of derogation from NCO.IDE.A.105, NCO.IDE.H.105, NCO.IDE.S.105 or NCO.IDE.B.105, the pilot-in-command may conduct a flight with items of equipment or functions required for the flight inoperative or missing if those items or functions have been identified in the checklist referred to in NCO.SPEC.MCF.110.

NCO.SPEC.MCF.110 Checklist and safety briefing

- (a) The checklist referred to in NCO.SPEC.105 shall be updated as needed before each maintenance check flight and shall consider the operating procedures that are planned to be followed during the particular maintenance check flight.
- (b) By way of derogation from NCO.SPEC.125, a safety briefing of the task specialist shall be required before each maintenance check flight.

NCO.SPEC.MCF.120 Flight crew requirements

The operator shall select adequate flight crew considering the aircraft complexity and the level of the maintenance check flight.

NCO.SPEC.MCF.125 Crew composition and persons on board

- (a) The pilot-in-command shall identify the need for additional crew and/or task specialists before each intended maintenance check flight, taking into consideration the expected workload and the risk assessment.
- (b) The pilot-in-command shall not allow persons on board other than those required by paragraph (a) during Level A maintenance check flights.

NCO.SPEC.MCF.130 Simulated abnormal or emergency procedures in flight

By way of derogation from NCO.SPEC.145, a maintenance check flight, when a task specialist is on board, may simulate abnormal or emergency procedures in flight only if required to meet the intention of the flight and only if identified in the check list or operating procedures.

NCO.SPEC.MCF.140 Systems and equipment

When a maintenance check flight is intended to check the proper functioning of a system or equipment, this system or equipment shall be identified as potentially unreliable, and appropriate mitigation measures shall be agreed prior to the flight in order to minimise risks to flight safety.

E. Annex VIII (SPECIALISED OPERATIONS [Part-SPO]) to Commission Regulation (EU) No 965/2012 is amended as follows:

1. A new Section 5 is added to ‘SUBPART E — SPECIFIC REQUIREMENTS’ as follows:

*‘SECTION 5
Maintenance check flights (MCFs)*

SPO.SPEC.MCF.100 Applicability

- (a) This Section shall apply whenever maintenance check flights are intended to be conducted.
- (b) Before conducting maintenance check flights, the operator shall determine the applicable level of the maintenance check flight as follows:

- (1) Level A maintenance check flights are flights where the use of abnormal or emergency procedures as defined in the aircraft flight manual is expected or where it is required to prove the functioning of a backup system or other safety devices.
- (2) Level B maintenance check flights are maintenance check flights other than Level A.

SPO.SPEC.MCF.105 Flight programme for Level A maintenance check flights

Before conducting a Level A maintenance check flight with a complex motor-powered aircraft, the operator shall develop and document a flight programme.

SPO.SPEC.MCF.110 Maintenance check flight manual for Level A maintenance check flights

Operators intending to conduct Level A maintenance check flights shall:

- (a) describe these operations and associated procedures in the operations manual referred to in ORO.MLR.100 or in a dedicated maintenance check flight manual;
- (b) update the manual when necessary;
- (c) inform all affected personnel of the manual and of its changes that are relevant to their duties;
- (d) provide the competent authority with the manual and its updates.

SPO.SPEC.MCF.115 Flight crew requirements for Level A maintenance check flights

- (a) The operator shall select adequate flight crew considering the aircraft complexity and the level of the maintenance check flight. In particular, when selecting the flight crew for a Level A maintenance check flight with a complex motor-powered aircraft, the operator shall ensure that the pilot-in-command:
 - (1) has followed a training course in accordance with SPO.SPEC.MCF.120; if the training has been conducted in a simulator, the pilot should conduct at least one Level A maintenance check flight as pilot monitoring or observer before flying as pilot-in-command on a Level A maintenance check flight; and
 - (2) has completed on aircraft of the same aircraft category as the aircraft to be flown a minimum of 1 000 flight hours, of which at least 400 hours as pilot-in-command in complex motor-powered aircraft and at least 50 hours on the particular aircraft type.
 - (3) Notwithstanding (2), if the operator introduces a new aircraft type to its operation and has assessed the pilot's qualifications in accordance with an

established assessment procedure, the operator may select a pilot having less than 50 hours experience with the particular aircraft type.

- (b) Pilots holding a flight test rating in accordance with Commission Regulation (EU) No 1178/2011 shall be fully credited towards the training course requirements stipulated in (a)(1) above, provided that the pilots holding a flight test rating have obtained the required initial and recurrent crew resource management training in accordance with ORO.FC.115 and 215.
- (c) The pilot-in-command shall not perform a Level A maintenance check flight on a complex motor-powered aircraft unless they have carried out a Level A maintenance check flight within the preceding 36 months.
- (d) Recency as pilot-in-command on a Level A maintenance check flight is regained after performing a Level A maintenance check flight as observer or pilot monitoring, or after acting as pilot-in-command in a Level A maintenance check flight in a simulator.

SPO.SPEC.MCF.120 Flight crew training course for Level A maintenance check flights

- (a) Training courses required for Level A maintenance check flights shall be conducted in accordance with a detailed syllabus.
- (b) The flight instruction for the training course shall be conducted:
 - (1) in a simulator which, for training purposes, adequately reflects the reaction of the aircraft and its systems to the checks being conducted; or
 - (2) during a flight in an aircraft demonstrating maintenance check flight techniques.
- (c) A training course followed on one aircraft category is considered valid for all aircraft types of that category.
- (d) When considering the aircraft used for the training and the aircraft to be flown during the maintenance check flight, the operator shall specify whether differences or familiarisation training is required and the contents of such a training.

SPO.SPEC.MCF.125 Crew composition and persons on board

- (a) The operator shall have procedures to identify the need for additional task specialists before each intended maintenance check flight.
- (b) For Level A maintenance check flights, the operator shall define in its manual the policy for other persons on board.
- (c) For Level A maintenance check flights, a task specialist or additional pilot is required in the flight crew compartment to assist the flight crew, unless the aircraft configuration does not permit it or the operator can justify, considering

the workload of the flight crew based on the flight programme, that the flight crew does not require additional assistance.

SPO.SPEC.MCF.130 Simulated abnormal or emergency procedures in flight

By way of derogation from SPO.OP.185, a task specialist may be on board a Level A maintenance check flight if they are required in order to meet the intention of the flight and shall be identified in the flight programme.

SPO.SPEC.MCF.135 Flight time limitations and rest requirements

Operators subject to Subpart FTL of Annex III (Part-ORO) shall apply its provisions when assigning crew members to maintenance check flights.

SPO.SPEC.MCF.140 Systems and equipment

When a maintenance check flight is intended to check the proper functioning of a system or equipment, this system or equipment shall be identified as potentially unreliable, and appropriate mitigation measures shall be agreed prior to the flight in order to minimise risks to flight safety.

SPO.SPEC.MCF.145 Cockpit voice recorder, flight data recorder and data link recording requirements for AOC holders

If the aircraft is otherwise used for commercial air transport operations, the provisions for cockpit voice recorders (CVR), flight data recorders (FDR) and data link recorders (DLR) of Annex IV (Part-CAT) shall apply.

ANNEX II

Draft Annex II to draft Commission Regulation (EU) .../... amending 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

Commission Regulation (EU) No 748/2012 is amended as follows:

1. In Annex I (Part 21), in paragraph (a) of point 21.A.701 of ‘SUBPART P — PERMIT TO FLY’, subparagraph 16 is added as follows:

‘21.A.701 Scope

(...)

16. flying an aircraft for troubleshooting purposes or to check the functioning of one or more systems, parts or appliances after maintenance.

(...)