Commission Regulation (EU) 2017/363 of 1 March 2017 amending Regulation (EU) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft

COMMISSION REGULATION (EU) 2017/363

of 1 March 2017

amending Regulation (EU) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft

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[(1)], and in particular Article 8(5) thereof,

Whereas:

(1) Pursuant to Regulation (EC) No 216/2008, the Commission should adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft. Commission Regulation (EU) No 965/2012[(2)] establishes those conditions.

(2) The application of Regulation (EU) No 965/2012 to ferry-flights would lead to a disproportionate administrative burden on the industry and on competent authorities. In order to introduce a more proportionate and risk-based approach to the application of that Regulation, one-off flights carrying no passengers or cargo where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes should be exempted from the application of Regulation (EU) No 965/2012.

(3) The International Civil Aviation Organisation (ICAO) standards and recommended practices, set out in Part I of Annex 6 to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, include provisions for the operation of single-engined turbine aeroplanes at night or in instrument meteorological conditions. Those provisions contain, inter alia, a requirement that, in approving such operations, the State of the operator needs to ensure that certain conditions are complied with, including those relating to installed equipment, engine reliability, engine monitoring, operator procedures and flight crew training. Union law should be aligned with those provisions,

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2017/363. (See end of Document for details)*

by ensuring that commercial air transport operations of single-engined aeroplanes at night or in instrument meteorological conditions are subject to the approval of the competent authority.

(4) That alignment makes the possibility of operating, by means of a derogation, single-engined aeroplanes under the conditions set out in the existing exemptions granted by Member States in accordance with Article 8(2) of Council Regulation (EEC) No 3922/91[(3)], provided for in Article 6(5) of Regulation (EU) No 965/2012, obsolete. That provision should therefore be deleted. Those exemptions for the operation of single-engined aeroplanes, including the conditions set out therein, should be considered to constitute approvals by the competent authority as required under the aligned legal framework for a suitable period after the entry into force of this Regulation, so as to ensure a smooth transition. After that transitional period, it should no longer be possible to rely upon such exemptions, such approvals being required instead. Any relevant changes to the operation of those aeroplanes during that transitional period should continue to be notified.

(5) Operators of commercial specialised operations, as well as operators conducting non-commercial operations with complex motor-powered aircraft or non-commercial specialised operations with complex motor-powered aircraft that do not transport dangerous goods should continue to establish and maintain dangerous goods training programmes, in accordance with Annex III (Part-ORO) to Regulation (EU) No 965/2012. However, in order to introduce a more proportionate and risk-based approach to the application of those rules, the competent authority should no longer be required to approve such training programmes.

(6) Regulation (EU) No 965/2012 should therefore be amended accordingly. In particular, Annex III (Part-ORO) to that Regulation should be amended to adopt a more proportionate and risk-based approach to the approval requirements for dangerous goods training programmes and a new subpart on single-engined turbine aeroplane operations should be added to its Annex V (Part-SPA).

(7) The measures provided for in this Regulation regarding single-engined turbine aeroplanes are based on the opinion[(4)] issued by the European Aviation Safety Agency in accordance with point (b) of Article 17(2) and 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

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

(1) Article 6(3) is replaced by the following:

3. By way of derogation from Article 5 and without prejudice to Regulation (EC) No 216/2008 and Commission Regulation (EU) No 748/2012[(5)] related to the permit to fly, flights related to the introduction or modification of aircraft types

conducted by design or production organisations within the scope of their privileges, as well as flights carrying no passengers or cargo where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes shall be operated under conditions set out in Member States' national law.;

(2) Article 6(5) is replaced by the following:

5. Until 2 September 2017, exemptions granted before 22 March 2017 in accordance with Article 8(2) of Regulation (EEC) No 3922/91, as provided for in Article 6(5) of Regulation (EU) No 965/2012 as applicable before 22 March 2017, shall be considered to constitute approvals referred to in point (a) of CAT.POL.A.300 of Annex IV (Part-CAT). After 2 September 2017, those exemptions shall no longer be valid for the operation of single-engined aeroplanes.

If any change to the operation of those aeroplanes that affects the conditions set out in those exemptions is envisaged between 22 March 2017 and 2 September 2017, that envisaged change shall be notified to the Commission and the Agency before it is implemented. The Commission and the Agency shall assess the envisaged change in accordance with Article 14(5) of Regulation (EC) No 216/2008.;

(3) Annexes II, III, IV and V are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth 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, 1 March 2017.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2017/363. (See end of Document for details)*

ANNEX

Annexes II, III, IV and V to Regulation (EU) No 965/2012 are amended as follows:

(1) in Annex II (Part-ARO), Appendix II is replaced by the following:

‘Appendix II

OPERATIONS SPECIFICATIONS
(subject to the approved conditions in the operations manual)

Issuing authority contact details
Telephone ([1]): _____; Fax _____ ;
Email: _____

AOC ([2]): Operator Name ([3]): Date ([4]): Signature:
Dba Trading Name:
Operations specifications #:

Aircraft model ([5]):
Registration marks ([6]):

Types of operations: Commercial air transport
☐ Passengers ☐ Cargo ☐ Others ([7]): _____

Area of operation ([8]):

Special limitations ([9]):

Specific approvals:	Yes	No	Specification ([10])	Remarks
Dangerous goods	☐	☐		
Low visibility operations Take-off Approach and landing	☐	☐	CAT ([11]) … RVR ([12]): m DA/H: ft RVR: m	
RVSM ([13]) ☐ N/A	☐	☐		
ETOPS ([14]) ☐ N/A	☐	☐	Maximum diversion time ([15]): min.	
Complex navigation specifications for PBN operations ([16])	☐	☐		([17])
Minimum navigation performance specification	☐	☐		
Operations of single-engined turbine aeroplane at night or in IMC (SET-IMC)	☐	☐	([18])	
Helicopter operations with the aid of night vision imaging systems	☐	☐		
Helicopter hoist operations	☐	☐		
Helicopter emergency medical service operations	☐	☐		
Helicopter offshore operations	☐	☐		
Cabin crew training ([19])	☐	☐		
Issue of CC attestation ([20])	☐	☐		
Continuing airworthiness	☐	☐	([21])	
Others ([22])				

(1) Telephone and fax contact details of the competent authority, including the country code. Email to be provided if available.
(2) Insertion of associated air operator certificate (AOC) number.
(3) Insertion of the operator's registered name and the operator's trading name, if different. Insert "Dba" before the trading name (for "Doing business as").
(4) Issue date of the operations specifications (dd-mm-yyyy) and signature of the competent authority representative.
(5) Insertion of ICAO designation of the aircraft make, model and series, or master series, if a series has been designated (e.g. Boeing-737-3K2 or Boeing-777-232).
(6) Either the registration marks are listed in the operations specifications or in the operations manual. In the latter case, the related operations specifications must make a reference to the related page in the operation manual. In case not all specific approvals apply to the aircraft model, the registration marks of the aircraft may be entered in the remark column to the related specific approval.
(7) Other type of transportation to be specified (e.g. emergency medical service).
(8) Listing of geographical area(s) of authorised operation (by geographical coordinates or specific routes, flight information region or national or regional boundaries).
(9) Listing of applicable special limitations (e.g. VFR only, Day only, etc.).
(10) List in this column the most permissive criteria for each approval or the approval type (with appropriate criteria).
(11) Insertion of applicable precision approach category: LTS CAT I, CAT II, OTS CAT II, CAT IIIA, CAT IIIB or CAT IIIC. Insertion of minimum runway visual range (RVR) in meters and decision height (DH) in feet. One line is used per listed approach category.
(12) Insertion of approved minimum take-off RVR in metres. One line per approval may be used if different approvals are granted.
(13) Not applicable (N/A) box may be checked only if the aircraft maximum ceiling is below FL290.
(14) Extended range operations (ETOPS) currently applies only to two-engined aircraft. Therefore, the not applicable (N/A) box may be checked if the aircraft model has more or less than two engines.
(15) The threshold distance may also be listed (in NM), as well as the engine type.
(16) Performance-based navigation (PBN): one line is used for each complex PBN specific approval (e.g. RNP AR APCH), with appropriate limitations listed in the "Specifications" and/or "Remarks" columns. Procedure-specific approvals of specific RNP AR APCH procedures may be listed in the operations specifications or in the operations manual. In the latter case, the related operations specifications must have a reference to the related page in the operations manual.
(17) Specify if the specific approval is limited to certain runway ends and/or aerodromes.
(18) Insertion of the particular airframe/engine combination.
(19) Approval to conduct the training course and examination to be completed by applicants for a cabin crew attestation as specified in Annex V (Part-CC) to Regulation (EU) No 1178/2011.
(20) Approval to issue cabin crew attestations as specified in Annex V (Part-CC) to Regulation (EU) No 1178/2011.
(21) The name of the person/organisation responsible for ensuring that the continuing airworthiness of the aircraft is maintained and a reference to the regulation that requires the work, i.e. Subpart G of Annex I (Part-M) to Regulation (EU) No 1321/2014.
(22) Other approvals or data may be entered here, using one line (or one multi-line block) per authorisation (e.g. short landing operations, steep approach operations, helicopter operations to/from a public interest site, helicopter operations over a hostile environment located outside a congested area, helicopter operations without a safe forced landing capability, operations with increased bank angles, maximum distance from an adequate aerodrome for two-engined aeroplanes without an ETOPS approval, aircraft used for non-commercial operations).

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(2) Annex III (Part-ORO) is amended as follows:

(a) in point ORO.GEN.110, points (j) and (k) are replaced by the following:

(j) The operator shall establish and maintain dangerous goods training programmes for personnel as required by the technical instructions. Such training programmes shall be commensurate with the responsibilities of personnel. Training programmes of operators performing CAT, whether they transport dangerous goods or not, and of operators conducting operations other than CAT referred to in points (b), (c) and (d) of point ORO.GEN.005 that transport dangerous goods shall be subject to review and approval by the competent authority.

(k) Notwithstanding point (j), operators conducting commercial operations with the following aircraft shall ensure that the flight crew has received an appropriate dangerous goods training or briefing, to enable them to recognise undeclared dangerous goods brought on-board by passengers or as cargo:

(1) a sailplane;

(2) a balloon;

(3) a single-engined propeller-driven aeroplane having a maximum certified take-off mass of 5 700 kg or less and a MOPSC of 5 or less operated in a flight taking off and