Commission Regulation (EU) No 379/2014 of 7 April 2014 amending Commission Regulation (EU) No 965/2012 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

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

Whereas:

(1) 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.

(2) In accordance with Regulation (EC) No 216/2008 the Commission should adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft. Those rules should primarily take into account the complexity of aircraft, organisations and aircraft operations, as well as the risks associated with the different types of operations.

(3) Commission Regulation (EU) No 965/2012[(2)] establishes implementing rules for commercial air transport operations with aeroplanes and helicopters. Rules for commercial air transport operations with balloons and sailplanes should also be provided in order to comply with the basic principles and applicability of Regulation (EC) No 216/2008. In addition, the specificities of certain commercial operations with aeroplanes and helicopters, starting and ending at the same aerodrome or operating site, need to be appropriately addressed according to their scale and scope and the risk involved.

(4) Commission Regulation (EU) No 800/2013[(3)] amends Regulation (EU) No 965/2012 to include rules for non-commercial operations according to the complexity of aircraft. It is also necessary to amend Regulation (EU) No 965/2012 in order to reflect the current state of the art and to ensure proportionate measures for certain strictly defined activities with other-than-complex aircraft and the organizations involved.

(5) Rules for specialised operations with aeroplanes, helicopters balloons and sailplanes should also be included taking into account the particular aspects of such operations and the risk involved. For reasons of proportionality it would not be appropriate to subject all commercial operators to certification, in particular commercial specialised operators. Although of commercial nature, these operators would be subject to a declaration of capability instead of a certificate. Nevertheless, conditions for certain high risk commercial specialised operations, which endanger third parties on the ground, should be specified in the interest of safety and therefore those operations should be submitted to authorisation.

(6) Regulation (EU) No 965/2012 should therefore be amended accordingly.

(7) In order to ensure a smooth transition and a high level of civil aviation safety in the Union, the implementing measures 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 and the European Joint Aviation Authorities until 30 June 2009, as well as existing legislation pertaining to a specific national environment, should be considered.

(8) It is necessary to provide sufficient time for the aeronautical industry and Member States' administrations to adapt to the new regulatory framework.

(9) The European Aviation Safety Agency prepared draft implementing rules and submitted them as an Opinion to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.

(10) 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 1 is replaced by the following:

Article 1

Subject matter and scope

1 This Regulation lays down detailed rules for air operations with aeroplanes, helicopters, balloons and sailplanes, including ramp inspections of aircraft of operators under the safety oversight of another State when landed at aerodromes located in the territory subject to the provisions of the Treaty.

2 This Regulation also lays down detailed rules on the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates of operators of aircraft referred to in Article 4(1)(b) and (c) of Regulation (EC) No 216/2008 engaged in commercial air transport operation, the privileges and responsibilities

of the holders of certificates as well as conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety.

3 This Regulation also lays down detailed rules on the conditions and procedures for the declaration by, and for the oversight of, operators engaged in commercial specialised operations and non-commercial operation of complex motor-powered aircraft, including non-commercial specialised operations of complex motor-powered aircraft.

4 This Regulation also lays down detailed rules on the conditions under which certain high risk commercial specialised operations shall be subject to authorisation in the interest of safety, and on the conditions for issuing, maintaining, amending, limiting, suspending or revoking the authorisations.

5 This Regulation shall not apply to air operations within the scope of Article 1(2)(a) of Regulation (EC) No 216/2008.

6 This Regulation shall not apply to air operations with tethered balloons and airships as well as tethered balloon flights.;

(2) Article 2 is amended as follows:

(a) in the first paragraph, the following points are added:

(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.

(8) "High risk commercial specialised operation" means any commercial specialised aircraft operation carried out over an area where the safety of third parties on the ground is likely to be endangered in the event of an emergency, or, as determined by the competent authority of the place where the operation is conducted, any commercial specialised aircraft operation that, due to its specific nature and the local environment in which it is conducted, poses a high risk, in particular to third parties on the ground.

(9) "Introductory flight" means any flight against remuneration or other valuable consideration consisting of an air tour of short duration, offered by an approved training organisation or an organisation created with the aim of promoting aerial sport or leisure aviation, for the purpose of attracting new trainees or new members.

(10) "Competition flight" means any flying activity where the aircraft is used in air races or contests, as well as where the aircraft is used to practice for air races or contests and to fly to and from racing or contest events.

(11) "Flying display" means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public, including where the aircraft is used to practice for a flying display and to fly to and from the advertised event.;

(b) in the second paragraph, 'VII' is replaced by 'VIII';

(3) Article 5 is amended as follows:

(a) the following paragraph 1a is inserted:

1a. Operators engaged in CAT operations starting and ending at the same aerodrome/operating site with Performance class B aeroplanes or non-complex helicopters shall comply with the relevant provisions of Annexes III and IV.;

(b) paragraphs 3, 4 and 5 are replaced by the following:

3. 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 and Annex VI. Such operators when engaged in non-commercial specialised operations shall operate the aircraft in accordance with the provisions specified in Annex III and VIII instead.

4 Operators of other-than-complex motor-powered aeroplanes, and helicopters, as well as balloons and sailplanes, involved in non-commercial operations, including non-commercial specialised operations, shall operate the aircraft in accordance with the provisions specified in Annex VII.

5 Training organisations having their principal place of business in a Member State and approved in accordance with Regulation (EU) No 1178/2011 when conducting flight training into, within or out of the Union shall operate:

a complex motor-powered aeroplanes and helicopters in accordance with the provisions specified in Annex VI;

b other-than-complex motor-powered aeroplanes and helicopters as well as balloons and sailplanes in accordance with the provisions specified in Annex VII.;

(c) the following paragraphs 6 and 7 are added:

6. Operators shall only operate an aircraft for the purpose of commercial specialised operations as specified in Annexes III and VIII.

7 Flights taking place immediately before, during or immediately after specialised operations and directly connected to those operations shall be operated in accordance with paragraphs 3, 4 and 6, as applicable. Except for parachute operations, no more than six persons indispensable to the mission, excluding crew members, shall be carried on board.;

(4) Article 6 is amended as follows:

(a) paragraph 1 is deleted;

(b) the following paragraph 4a is inserted:

4a. By way of derogation from Article 5(1) and (6), the following operations with other-than-complex motor-powered aircraft may be conducted in accordance with Annex VII:

a cost-shared flights by private individuals, on the condition that the direct cost is shared by all the occupants of the aircraft, pilot included and the number of persons sharing the direct costs is limited to six;

b competition flights or flying displays, on the condition that the remuneration or any valuable consideration given for such flights is limited to recovery of direct costs and a proportionate contribution to annual costs, as well as prizes of no more than a value specified by the competent authority;

c introductory flights, parachute dropping, sailplane towing or aerobatic flights performed either by a training organisation having its principal place of business in a Member State and approved in accordance with Regulation (EU) No 1178/2011, or by an organisation created with the aim of promoting aerial sport or leisure aviation, on the condition that the aircraft is operated by the organisation on the basis of ownership or dry lease, that the flight does not generate profits distributed outside of the organisation, and that whenever non-members of the organisation are involved, such flights represent only a marginal activity of the organisation.;

(5) Article 8 is amended as follows:

(a) paragraph 3 is replaced by the following:

3. CAT operations with helicopters, CAT operations with balloons and CAT operations with sailplanes shall comply with national requirements.;

(b) the following paragraph 4 is added:

4. Non-commercial operations, including non-commercial specialised operations, with complex motor-powered aeroplanes and helicopters, as well as commercial specialised operations with aeroplanes, helicopters, balloons and sailplanes shall continue to be conducted in accordance with applicable national flight time limitation legislation until the related implementing rules are adopted and apply.;

(6) in Article 10, paragraph 3 is amended as follows:

(a) in point (a) the word ‘Annex III’ is replaced by ‘Annexes II and III’;

(b) in point (b) the words ‘Annex V, VI and VII’ are replaced by ‘Annexes II, V, VI and VII’;

(7) in Article 10, the following paragraphs 4, 5, 6 and 7 are added:

4. By way of derogation from the second subparagraph of paragraph 1, Member States may decide not to apply the provisions of Annexes II, III, VII and VIII to specialised operations until 21 April 2017.

5 By way of derogation from the second subparagraph of paragraph 1, Member States may decide not to apply the provisions of Annexes II, III and IV to:

a CAT operations starting and ending at the same aerodrome/operating site with Performance class B aeroplanes or non-complex helicopters until 21 April 2017; and

b CAT operations with balloons and sailplanes until 21 April 2017.

6 When a Member State makes use of the derogation provided for in paragraph 5 point (a), the following rules shall apply: