Commission Regulation (EU) No 800/2013 of 14 August 2013 amending 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 (Text with EEA relevance)

COMMISSION REGULATION (EU) No 800/2013

of 14 August 2013

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(Text with EEA relevance)

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 Articles 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) Regulation (EC) No 216/2008 requires, unless otherwise determined in the implementing rules, that operators engaged in the non-commercial operations of complex motor-powered aircraft shall declare their capability and means of discharging their responsibilities associated with the operation of those aircraft.

(3) 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.

(4) The present Regulation amends Commission Regulation (EU) No 965/2012[(2)] to include particular aspects related to non-commercial operations.

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 800/2013. (See end of Document for details)*

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

(7) 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.

(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) in Article 1(1), 'and non-commercial operations with aeroplanes, helicopters, balloons and sailplanes' shall be inserted after 'commercial air transport operations with aeroplanes and helicopters';

(2) in Article 1, paragraph 3 shall be renumbered to paragraph 5 and the following new paragraphs 3 and 4 shall be added:

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

4 Other air operations including operations where an aircraft is used to undertake specialised tasks or services shall continue to be conducted in accordance with applicable national legislation until the related implementing rules are adopted and apply.;

(3) in Article 2:

(a) a new point 5 to the first paragraph shall be added:

(5) "performance-based navigation (PBN)" means area navigation based on performance requirements for aircraft operating along an ATS route, on an instrument approach procedure or in a designated airspace.;

(b) in the second paragraph 'V' shall be replaced by 'VII';

(4) in Article 5(2), the word 'CAT' shall be deleted from the first sentence;

(5) in Article 5(2)(b), 'aeroplanes and helicopters' shall be replaced by 'aeroplanes, helicopters, balloons and sailplanes';

(6) in Article 5, the following three paragraphs shall be added:

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.

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

5 By way of derogation from paragraphs 1, 3 and 4, training organisations having their principle place of business in a Member State and approved in accordance with Commission Regulation (EU) No 290/2012[(3)] 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.;

(7) in Article 6, a new paragraph 7 shall be added:

7. By way of derogation from SPA.PBN.100 PBN of Annex V non-commercial operations with other-than-complex motor-powered aeroplanes in designated airspace, on routes or in accordance with procedures where performance-based navigation (PBN) specification are established shall continue to be operated under the conditions set out in Member States' national law until the related implementing rules are adopted and apply.;

(8) Article 8 is amended as follows:

(a) the existing paragraph shall be numbered 1;

(b) in point (a), the words 'for aeroplanes' shall be replaced by 'for CAT aeroplane operations';

(c) in point (b), the words 'for helicopters' shall be replaced by 'for helicopter CAT operations';

(d) a new paragraph 2 shall be added:

2. Non-commercial operations with complex motor-powered aeroplanes and helicopters shall continue to be conducted in accordance with applicable national flight time limitation legislation until the related implementing rules are adopted and apply.;

(9) in Article 10 the following paragraph shall be inserted:

3. By way of derogation from the second subparagraph of paragraph 1, Member States may decide not to apply:

a the provisions of Annex III to non-commercial operations with complex motor-powered aeroplanes and helicopters until 25 August 2016; and

b the provisions of Annex V, VI and VII to non-commercial operations with aeroplanes, helicopters, sailplanes and balloons until 25 August 2016.;

(10) in Annex I, the title shall be changed to 'Definitions for terms used in Annexes II-VII'. The following new definitions shall be inserted according to an alphabetical order and the existing definitions shall be respectively renumbered:

(11) "approach procedure with vertical guidance (APV) operation" means an instrument approach which utilises lateral and vertical guidance, but does not meet the requirements established for precision approach and landing

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operations, with a decision height (DH) not lower than 250 ft and a runway visual range (RVR) of not less than 600 m.

(43) "ELA1 aircraft" means the following manned European Light Aircraft:

(a) an aeroplane with a Maximum Take-off Mass (MTOM) of 1 200 kg or less that is not classified as complex motor-powered aircraft;

(b) a sailplane or powered sailplane of 1 200 kg MTOM or less;

(c) a balloon with a maximum design lifting gas or hot air volume of not more than 3 400 m^3 for hot air balloons, 1 050 m^3 for gas balloons, 300 m^3 for tethered gas balloons.';

(44) "ELA2 aircraft" means the following manned European Light Aircraft:

(a) an aeroplane with a Maximum Take-off Mass (MTOM) of 2 000 kg or less that is not classified as complex motor-powered aircraft;

(b) a sailplane or powered sailplane of 2 000 kg MTOM or less;

(c) a balloon;

(d) a Very Light Rotorcraft with a MTOM not exceeding 600 kg which is of a simple design, designed to carry not more than two occupants, not powered by turbine and/or rocket engines; restricted to VFR day operations.';

(126) "weather-permissible aerodrome" means an adequate aerodrome where, for the anticipated time of use, weather reports, or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the required aerodrome operating minima, and the runway surface condition reports indicate that a safe landing will be possible;'.;

(11) in Annex II, ARO.GEN.200(c), 'or making declarations to' shall be inserted after 'certified by';

(12) in Annex II, ARO.GEN.220(a), the following new points shall be inserted and the rest shall be respectively renumbered:

(5) declaration processes and continuing oversight of declared organisations;

(8) oversight of operations of other-than-complex motor-powered aircraft by non-commercial operators;';

(13) in Annex II, ARO.GEN.220(b), 'and declarations it received' shall be added in the end;

(14) in Annex II, the text of ARO.GEN.300(a) shall be replaced by the following:

(a) The competent authority shall verify:

(1) compliance with the requirements applicable to organisations prior to the issue of an organisation certificate or approval, as applicable;

(2) continued compliance with the applicable requirements of organisations it has certified or from whom it received a declaration;

(3) continued compliance with the applicable requirements of non-commercial operators of other-than-complex motor-powered aircraft; and

(4) implementation of appropriate safety measures mandated by the competent authority as defined in ARO.GEN.135(c) and (d).;

(15) in Annex II, ARO.GEN.305, points (d) and (e) shall become respectively (e) and (f) and a new (d) shall be inserted:

(d) For organisations declaring their activity to the competent authority, the oversight programme shall be developed taking into account the specific nature of the organisation, the complexity of its activities and the results of past oversight activities and shall be based on the assessment of associated risks. It shall include audits and inspections, including ramp and unannounced inspections, as appropriate;.

(16) in Annex II, a new ARO.GEN.345 shall be inserted after ARO.GEN.330:
ARO.GEN.345 Declaration — organisations

(a) Upon receiving a declaration from an organisation carrying out or intending to carry out activities for which a declaration is required, the competent authority shall verify that the declaration contains all the information required by Part-ORO and shall acknowledge receipt of the declaration to the organisation.

(b) If the declaration does not contain the required information, or contains information that indicates non-compliance with applicable requirements, the competent authority shall notify the organisation about the non-compliance and request further information. If deemed necessary the competent authority shall carry out an inspection of the organisation. If the non-compliance is confirmed, the competent authority shall take action as defined in ARO.GEN.350.;

(17) in Annex II, ARO.GEN.350(b) and (c), ‘or with the content of a declaration’ shall be inserted after ‘certificate’;

(18) in Annex II, ARO.GEN.350(e), ‘or declaring its activity to’ shall be inserted after ‘certified by’;

(19) in Annex II, the text of ARO.OPS.200(b) shall be replaced by the following:

(b) When satisfied that the operator has demonstrated compliance with the applicable requirements, the competent authority shall issue or amend the approval. The approval shall be specified in:

(1) the operations specifications, as established in Appendix II, for commercial air transport operations; or

(2) the list of specific approvals, as established in Appendix V, for non-commercial operations.;

(20) in Annex II, a new Appendix V entitled ‘List of specific approvals’ as set out in Annex I to this Regulation shall be inserted;

(21) in Annex III, ORO.GEN.005, ‘or non-commercial operations with complex motor-powered aircraft’ shall be added in the end;

(22) in Annex III, ORO.GEN.105, ‘or declaration’ shall be inserted after ‘certification’;