# 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

## 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

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) and 10(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 that Member States, in addition to their oversight of certificates that they have issued, conduct investigations, including ramp inspections, and shall take any measure, including the grounding of aircraft, to prevent the continuation of an infringement.

(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) 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.

(5) It is necessary to provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework and to recognise under certain conditions the validity of certificates issued before this Regulation applies.

(6) As this Regulation constitutes an implementing measure referred to in Articles 8(5) and 10(5) of Regulation (EC) No 216/2008, Annex III to Council Regulation (EEC) No

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3922/91[(2)] and Directive 2004/36/EC of the European Parliament and of the Council[(3)] shall be considered repealed in accordance with Article 69(3) and 69(5) of Regulation (EC) No 216/2008. However, Annex III should remain in place temporarily until the transitional periods foreseen in this Regulation have expired and for those areas for which no implementing measures have yet been adopted. Similarly, Directive 2004/36/EC should remain applicable temporarily until the transitional periods foreseen in this Regulation have expired.

(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:

## *[F1 Article 1*

## Subject matter and scope

**[**F2 1 This Regulation lays down detailed rules for air operations with aeroplanes and helicopters, 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 Treaties.

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 points (b)(i) and (ii) of Article 2(1) of Regulation (EU) 2018/1139, except for balloons and sailplanes, 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 operators engaged in commercial specialised operations of aeroplanes and helicopters or in non-commercial operation of complex motor-powered aircraft, including non-commercial specialised operations of complex motor-powered aircraft, of their capability and the availability of the means to discharge the responsibilities associated with the operation of aircraft, and for the oversight of such operators.**]**

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.

**[**F3 6 This Regulation shall not apply to air operations with airships.**]**

**[**F2 7 This Regulation shall not apply to air operations with balloons and sailplanes. However, in respect of such air operations with balloons, other than tethered gas balloons, and sailplanes, the requirements in respect of oversight of Article 3 shall apply.**]]**

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**Textual Amendments**

**F1** Substituted by 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.

**F2** Substituted by Commission Implementing Regulation (EU) 2018/1975 of 14 December 2018 amending Regulation (EU) No 965/2012 as regards air operations requirements for sailplanes and electronic flight bags.

**F3** Substituted by Commission Regulation (EU) 2018/394 of 13 March 2018 amending Regulation (EU) No 965/2012 as regards the deletion of air operations requirements for balloons.

*Article 2*

**Definitions**

For the purposes of this Regulation:

(1) **[**F2‘aeroplane’ means an engine-driven fixed-wing aircraft heavier than air that is supported in flight by the dynamic reaction of the air against its wings;

(1a) ‘helicopter’ means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes;

(1b) ‘balloon’ means a manned lighter-than-air aircraft which is not power-driven and sustains flight through the use of either a lighter-than-air gas or an airborne heater, including gas balloons, hot-air balloons, mixed balloons and, although power-driven, hot-air airships;**]**

(1c) **[**F4‘sailplane’ means a heavier-than-air aircraft that is supported in flight by the dynamic reaction of the air against its fixed lifting surfaces, the free flight of which does not depend on an engine;

(1d) ‘commercial operation’ means any operation of an aircraft, in return for remuneration or other valuable consideration, which is available for the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator;

(1e) ‘tethered gas balloon’ means a gas balloon with a tether system that continuously anchors the balloon to a fixed point during operation;**]**

(2) ‘performance class B aeroplanes’ means aeroplanes powered by propeller engines with a maximum operational passenger seating configuration of nine or less and a maximum take-off mass of 5 700 kg or less;

(3) ‘public interest site (PIS)’ means a site used exclusively for operations in the public interest;

(4) ‘operation in performance class 1’ means an operation that, in the event of failure of the critical engine, the helicopter is able to land within the rejected take-off distance available or safely continue the flight to an appropriate landing area, depending on when the failure occurs**[**F5;**]**

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(5) '**[**[F6]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**[**[F1];**]]**

(6) **[**[F7]'air taxi operation' means, for the purpose of flight time and duty time limitations, a non-scheduled on demand commercial air transport operation with an aeroplane with a maximum operational passenger seating configuration ('MOPSC') of 19 or less;**]**

(7) **[**[F8]**[**[F9]'specialised operation' means any operation, other than commercial air transport operation, where the aircraft is used for specialised activities such as agriculture, construction, photography, surveying, observation and patrol, aerial advertisement, maintenance check flights;**]**

(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) '**[**[F2]introductory flight' means any operation against remuneration or other valuable consideration consisting of an air tour of short duration for the purpose of attracting new trainees or new members, performed either by a training organisation referred to in Article 10a of Commission Regulation (EU) No 1178/2011[(4)] or by an organisation created with the aim of promoting aerial sport or leisure aviation;**]**

(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.**]**

Additional definitions are laid down in Annex I for the purposes of Annexes II to**[**[F1]VIII**]**.

**Textual Amendments**

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**F2** Substituted by Commission Implementing Regulation (EU) 2018/1975 of 14 December 2018 amending Regulation (EU) No 965/2012 as regards air operations requirements for sailplanes and electronic flight bags.

**F4** Inserted by Commission Implementing Regulation (EU) 2018/1975 of 14 December 2018 amending Regulation (EU) No 965/2012 as regards air operations requirements for sailplanes and electronic flight bags.

**F5** Substituted by 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).

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**F6** Inserted by 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).

**F7** Inserted by Commission Regulation (EU) No 83/2014 of 29 January 2014 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.

**F8** Inserted by 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.

**F9** Substituted by Commission Implementing Regulation (EU) 2019/1384 of 24 July 2019 amending Regulations (EU) No 965/2012 and (EU) No 1321/2014 as regards the use of aircraft listed on an air operator certificate for non-commercial operations and specialised operations, the establishment of operational requirements for the conduct of maintenance check flights, the establishment of rules on non-commercial operations with reduced cabin crew on board and introducing editorial updates concerning air operations requirements (Text with EEA relevance).

*Article 3*

**Oversight capabilities**

1 Member States shall designate one or more entities as the competent authority within that Member State with the necessary powers and allocated responsibilities for the certification and oversight of persons and organisations subject to Regulation (EC) No 216/2008 and its implementing rules.

**[**[F10]The administration and management systems of the competent authorities of the Member States and of the Agency shall comply with the requirements specified in Annex II.**]**

2 If a Member State designates more than one entity as competent authority:

a the areas of competence of each competent authority shall be clearly defined in terms of responsibilities and geographic limitation; and

b coordination shall be established between those entities to ensure effective oversight of all organisations and persons subject to Regulation (EC) No 216/2008 and its implementing rules within their respective remits.

3 Member States shall ensure that the competent authority(ies) has(ve) the necessary capability to ensure the oversight of all persons and organisations covered by their oversight programme, including sufficient resources to fulfil the requirements of this Regulation.

4 Member States shall ensure that competent authority personnel do not perform oversight activities when there is evidence that this could result directly or indirectly in a conflict of interest, in particular when relating to family or financial interest.

5 Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered to perform at least the following tasks:

a examine the records, data, procedures and any other material relevant to the execution of the certification and/or oversight task;

b take copies of or extracts from such records, data, procedures and other material;

c ask for an oral explanation on site;