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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, ...
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Draft

COMMISSION REGULATION (EU) No .../...

of [...]

laying down technical requirements and administrative procedures related to non-commercial air operations and amending Commission Regulation (EU) No .../.... laying down detailed rules for 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/EC¹, and in particular Articles 8(5) thereof,

Whereas:

- (1) Regulation (EC) No 216/2008 aims at establishing and maintaining a high uniform level of civil aviation safety in Europe. That Regulation provides for the means of achieving that objective and other objectives in the field of civil aviation safety.
- (2) 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. According to that Regulation, unless otherwise determined in the implementing rules, operators engaged in commercial operations shall demonstrate their capability and means of discharging the responsibilities associated with their privileges. These capabilities and means shall be recognised through the issuance of a certificate. The privileges granted to the operator and the scope of the operations shall be specified in the certificate. In addition, unless otherwise determined in the implementing rules, 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) Regulation (EC) No 216/2008 requires the European Commission to adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft. Regulation (EU) No. .../.... established those implementing rules for commercial air transport operations.
- (4) The present Regulation therefore amends Regulation (EU) No. .../.... to include particular aspects related to commercial and non-commercial specialised operations and commercial air transport operations by balloons and sailplanes.
- (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

¹ OJ L 79, 13.3.2008, p.1.

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 (hereafter "ICAO") and the European Joint Aviation Authorities (hereafter "JAA") until 30 June 2009, as well as existing legislation pertaining to a specific national environment, should be considered.

- (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 (hereafter "the Agency") prepared draft implementing rules and submitted them as an opinion to the European 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

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

1. In Article 1(2), "commercial air transport operations" shall be replaced by "commercial air operations".
2. In Article 6(1), "aeroplanes and helicopters" shall be replaced by "aeroplanes, helicopters, balloons and sailplanes".
3. In Article 6(6), "Annex VIII" shall be replaced by "Annex III and VIII, as applicable".
4. In Article 6(9), "7. and 8." shall be replaced by "7., 8., 10., 11. and 12.".
5. In Article 6, the following three paragraphs shall be added:
"10. Operators of aeroplanes, helicopters, balloons and sailplanes shall only operate an aircraft for the purpose of commercial specialised operations as specified in Annex III and VIII to this Regulation.
11. Operators of complex motor-powered aircraft shall only operate an aircraft for the purpose of non-commercial specialised operations as specified in Annex III and VIII to this Regulation.
12. Operators of other than complex motor-powered aircraft shall only operate an aircraft for the purpose of non-commercial specialised operations as specified in VIII to this Regulation.
6. In Article 11(2) the following paragraphs are inserted:
"(g) the provisions of Annex III and IV of Regulation (EU) .../.... to commercial air transport operations with balloons and sailplanes until 8 April 2015;
(h) the provisions of Annex III of Regulation (EU) .../.... to commercial specialised operations and non-commercial specialised operations of complex motor-powered aircraft until 8 April 2015; and
(i) the provisions of Annex VIII to all specialised operations until 8 April 2015."
7. In paragraph 1 of Annex I the following definitions are inserted:

- ‘Competition flight’ means any flight during which an aircraft may not necessarily comply with the Rules of the Air and normal air traffic control rules, which is performed during an organised event and which requires consideration of one or more of the following:
 - o the issue of special procedures;
 - o the level of an 'air traffic service' to be provided.
- ‘Flying display’ means any flight performed for the purpose of providing an exhibition or entertainment at an organised event.
- ‘HEC class A operation’ means a human external cargo operation in which the external load cannot move freely, cannot be jettisoned and does not extend below the landing gear.
- ‘HEC class B operation’ means a human external cargo operation in which the external load is jettisonable and is lifted free of land or water during helicopter operation.
- ‘HEC class C operation’ means a human external cargo operation in which the external load is jettisonable and remains in contact with land or water during the helicopter operation.
- ‘Human external cargo (HEC)’ means a person/persons that at some point in the operation is/are carried external to the helicopter.
- ‘Task specialist’ means a person assigned by the operator or a third party, or acting as an undertaking, who:
 - o performs tasks on the ground directly associated with a specialised task; or
 - o performs specialised tasks on board or from the aircraft.

8. New Annex VIII as set out in the Annex to this Regulation is inserted.

Article 2

Entry into force

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

It shall apply as from 8 April 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the Commission

[...]

The President