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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, ...  
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Draft

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

**of [...]**

**amending Commission Regulation (EU) No .../.... 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**

Draft

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

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**amending Commission Regulation (EU) No .../.... 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<sup>1</sup>, 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) 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.
- (3) The present Regulation amends Regulation (EU) No .../.... to include particular aspects related to commercial air transport operations with sailplanes and balloons and certain local operations with aeroplanes and helicopters.
- (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 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 States' administrations to adapt to the new regulatory framework.
- (6) The European Aviation Safety 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.
- (7) 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.

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<sup>1</sup> OJ L 79, 13.3.2008, p.1.

HAS ADOPTED THIS REGULATION:

*Article 1*

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

1. In Article 1 paragraph 1, the words ‘commercial air transport operations with aeroplanes and helicopters’ shall be replaced by ‘commercial air transport operations with aeroplanes, helicopters, sailplanes and balloons’.
2. In Article 1, a new paragraph 2 is added:  
‘2. This Regulation also lays down detailed rules for commercial air transport operations starting and ending at the same aerodrome/operating site with Performance class B aeroplanes or non-complex helicopters.’  
The following paragraphs shall be renumbered.
3. In Article 1, the following paragraph is added:  
‘6. This Regulation shall not apply to air operations with tethered balloons and airships as well as tethered balloon flights.’
4. In Article 6, paragraph 1 shall be deleted and all following paragraphs be renumbered.
5. In Article 7, the following paragraph shall be inserted:  
‘3. Paragraph 1 and 2 shall also apply to CAT operations starting and ending at the same aerodrome/operating site with Performance class B aeroplanes or non-complex helicopters.’
6. In Article 8 paragraph 1 point (b) shall be replaced by ‘(b) for CAT helicopter, balloon and sailplane operations, national requirements.’
7. In Article 10, the following paragraph shall be inserted:  
‘5. By way of derogation from the second subparagraph of paragraph 1, Member States may decide not to apply the provisions of Annexes III and IV of Regulation (EU) .../.... to:  
(a) CAT operations starting and ending at the same aerodrome/operating site with Performance class B aeroplanes or non-complex helicopters until [2 years after entry into force of this Regulation]; and  
(b) CAT operations with balloons and sailplanes until [3 years after entry into force of this Regulation].’
8. In Annex I, the following definition is added and all subsequent definitions renumbered:  
‘12. “Balloon empty mass” means the mass determined by weighing the balloon with all the installed equipment as specified in the AFM.’
9. In Annex I, the definition of ‘traffic load’ should be replaced by the following:  
“‘Traffic load’ means the total mass of passengers, baggage, cargo and carry-on specialist equipment and, except for balloons, including any ballast.’
10. In Annex II paragraph ARO.OPS.210 is deleted.
11. In Annex II paragraph ARO.OPS.100, the following paragraph shall be added:

‘(c) The competent authority may determine specific operational limitations. Such limitations shall be documented in the OPSPECS.’

12. In Annex III paragraph ORO.GEN.110 (j) ‘Except for operations with ELA 2 aeroplanes or helicopters taking off and landing at the same aerodrome or operating site, during VFR by day, and for operations with sailplanes and balloons,’ is added at the beginning of the sentence.
13. In Annex III, paragraph ORO.AOC.135, subparagraph (a)(4) is replaced by:  
‘(4) continuing airworthiness if required by Regulation (EC) No 2042/2003.’
14. In Annex III paragraph ORO.AOC.140 ‘Except for operations with ELA 2 aeroplanes or helicopters taking off and landing at the same aerodrome or operating site, during VFR by day, and for operations with sailplanes and balloons,’ is added at the beginning of the first sentence.
15. In Annex III paragraph ORO.MLR.101 ‘Except for operations with ELA 2 aeroplanes or helicopters taking off and landing at the same aerodrome or operating site, during VFR by day, and operations with sailplanes and balloons,’ is added at the beginning of the first sentence.
16. In Annex III paragraph ORO.MLR.115 (b)(4) is replaced by:  
‘(4) notification of special loads, including written information to the commander/pilot-in-command about dangerous goods, if applicable.’
17. In Annex III paragraph ORO.FC.005 is replaced by:  
‘(a) This Subpart establishes requirements to be met by the operator related to flight crew training, experience and qualification and comprises:  
  - (1) Section 1 specifying common requirements applicable to both non-commercial operations of complex motor-powered aircraft and any commercial operation;
  - (2) Section 2 specifying additional requirements applicable to commercial air transport operations, with the exception of those referred to in (b); and
  - (3) Section 3 specifying additional requirements applicable to commercial operations other than commercial air transport.  
(b) Operators carrying out the following commercial air transport operations shall comply with the requirements referred to in (a)(1) and (3):  
  - (1) commercial air transport operations of sailplanes or balloons; or
  - (2) commercial air transport operations of passengers conducted under visual flight rules (VFR) by day, starting and ending at the same aerodrome or operating site and with a maximum duration of 30 minutes, or within a local area specified by the competent authority, with
    - (i) single-engined propeller-driven aeroplanes having a maximum certified take-off mass of 5 700 kg or less and a MOPSC of 5; or
    - (ii) other than complex motor-powered helicopters, single engined, with a MOPSC of 5.’
18. In Annex III paragraph ORO.FC.105(d) is replaced by:  
‘(d) Subparagraph (c) shall not apply in the case of:

- (1) performance class B aeroplanes involved in CAT operations under VFR by day; and
  - (2) CAT operations of passengers conducted under VFR by day, starting and ending at the same aerodrome or operating site and with a maximum duration of 30 minutes, or within a local area specified by the competent authority, with other than complex motor-powered helicopters, single-engined, with a MOPSC of 5.’
19. In Annex III paragraph ORO.FC.330(a) the words ‘or CAT operation’ are added after ‘specialised tasks’.
  20. In Annex III paragraph ORO.CC.100(a) the words ‘Except for balloons,’ are added at the beginning of the last sentence.
  21. In Annex IV Subpart A - General Requirements a new ‘Section 2 – Non motor-powered aircraft’ is inserted, as included in Annex I to this Regulation.
  22. In Annex IV paragraph CAT.OP.MPA.151 subparagraph (b) is renumbered to (c) and a new subparagraph (b) is added:

‘Notwithstanding (a), for operations with ELA2 aeroplanes taking off and landing at the same aerodrome or operating site, during VFR by day, the operator shall specify the minimum final reserve fuel in the OM. This minimum final reserve fuel shall not be less than the amount needed to fly for a period of 45 minutes.’
  23. In Annex IV Subpart B – Operational Procedures a new ‘Section 2 – Non motor-powered aircraft’ is inserted, as included in Annex I to this Regulation.
  24. In Annex IV paragraph CAT.POL.A.310 a new subparagraph (e) is added:

‘(e) The requirements in (a)(3), (a)(4), (a)(5), (b)(2) and (c)(2) shall not be applicable to VFR operations by day.’
  25. In Annex IV Subpart C – Aircraft performance and operating limitations a new ‘Section 4 – Sailplanes’ and ‘Section 5 – Balloons’ are inserted, as included in Annex I to this Regulation.
  26. In Annex IV Subpart D – Instruments, data and equipment a new ‘Section 3 – Sailplanes’ and ‘Section 4 – Balloons’ are inserted, as included in Annex I to this Regulation.

## *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 [the 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, [...]

*For the Commission*

*[...]*

*The President*