



Brussels, **XXX**
[...] (2017) **XXX** draft

ANNEX I TO EASA OPINION No 07/2017

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

of **XXX**

**laying down detailed rules for the operation of sailplanes pursuant to Regulation (EC)
No 216/2008 of the European Parliament and of the Council**

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laying down detailed rules for the operation of sailplanes 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 Article 8(5) thereof,

Whereas:

- (1) The Commission is to adopt the necessary implementing rules for establishing the conditions for the safe operation of sailplanes in accordance with Regulation (EC) No 216/2008, where such aircraft meet the conditions specified in points (b) and (c) of Article 4(1) of that Regulation.
- (2) In light of the specific nature of operations with sailplanes, there is a need for dedicated operational rules, laid down in a self-standing regulation. Those rules should be based on the general rules for air operations laid down in Commission Regulation (EU) No 965/2012 ⁽²⁾, but they should be restructured and simplified, so as to ensure that they are proportionate and founded on a risk-based approach, whilst ensuring that sailplane operations are carried out safely.
- (3) The specific rules for air operations with sailplanes should not extend, however, to the requirements in respect of oversight of air operations by the competent authorities of the Member States, as those requirements are not specific to any particular air operation activity but apply horizontally in respect of all such activities. As regards oversight, the requirements laid down in Article 3 of Regulation (EU) No 965/2012 and Annex II to that Regulation should therefore continue to apply also with respect to air operations with sailplanes.
- (4) In the interest of safety and with a view to ensuring compliance with the essential requirements laid down in Annex IV to Regulation (EC) No 216/2008, all operators of sailplanes covered by this Regulation, with the exception of design or production organisations performing certain operations, shall be subject to a set of basic requirements.
- (5) Taking into account the less complex nature of commercial operations with sailplanes as compared to other forms of commercial aviation, it is appropriate to replace the requirement of a certificate for commercial operations set out in Article 8(2) of Regulation (EC) No 216/2008 by a requirement to make a prior declaration to the

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ 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 (OJ L 296, 25.10.2012, p. 1).

competent authority and to lay down the detailed rules for making such declarations, but not to introduce other additional requirements for commercial operations.

- (6) However, considering the comparatively low level of complexity and in light of a risk-based approach, operators engaged in certain commercial operations with sailplanes should be exempted from the requirement of making a prior declaration.
- (7) In order to ensure a smooth transition and to give all parties concerned sufficient time to prepare for the application of that new regime, this Regulation should only apply from an appropriate later date.
- (8) The Agency prepared draft implementing rules and submitted them as an opinion ⁽³⁾ to the Commission in accordance with point (b) of Article 17(2) and Article 19(1) of Regulation (EC) No 216/2008.
- (9) 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

Subject matter and scope

This Regulation lays down detailed rules for air operations with sailplanes, where such aircraft meet the conditions laid down in points (b) and (c) of Article 4(1) of Regulation (EC) No 216/2008.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) ‘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;
- (b) ‘competition flight’ means any air operation with a sailplane performed for the purposes of participating in air races or contests, including practising for such operation and flying to and from air races or contests;
- (c) ‘flying display’ means any air operation with a sailplane performed for the purposes of providing an exhibition or entertainment at an advertised event open to the public, including practising for such operation and flying to and from the advertised event;
- (d) ‘introductory flight’ means any air 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 approved in accordance with Commission Regulation (EU) No 1178/2011 ⁽⁴⁾ or by an organisation created with the aim of promoting aerial sport or leisure aviation;

⁽³⁾ Opinion No 07/2017 of the European Aviation Safety Agency of 23 August 2017 for a draft Commission Regulation on the revision of the operational rules for sailplanes.

⁽⁴⁾ Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

- (e) ‘principal place of business’ means the head office or registered office of the operator of the sailplane within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised.
- (f) ‘dry lease agreement’ means an agreement between undertakings pursuant to which the sailplane is operated under the responsibility of the lessee.

Article 3

Air operations

1. Operators of sailplanes involved in non-commercial and in commercial operations shall operate the sailplanes in accordance with the provisions specified in Annex II.

However, the first subparagraph shall not apply to design or production organisations which are compliant with Articles 8 and 9, respectively, of Commission Regulation (EU) No 748/2012 ⁽⁵⁾ and which operate the sailplane, within the scope of their privileges, for the purposes of the introduction or modification of sailplane types.

2. By way of derogation from Article 8(2) of Regulation (EC) No 216/2008, the requirement of certification laid down therein shall not apply to operators engaged in commercial operations with sailplanes.

Those operators shall only be entitled to engage in such commercial operations after having declared to the competent authority their capacity and means to discharge the responsibilities associated with the operation of the sailplane.

However, the second subparagraph shall not apply to operators engaged in the following operations with sailplanes:

- (a) cost-shared operations, provided that the direct costs of the flight of the sailplane and a proportionate part of the annual costs incurred for the storage, insurance and maintenance of the sailplane are shared by the individuals on board;
- (b) competition flights or flying displays, provided that the remuneration or any other valuable consideration for such flights is limited to the recovery of the direct costs of the flight of the sailplane and a proportionate part of the annual costs incurred for the storage, insurance and maintenance of the sailplane and that any prizes gained do not exceed the value specified by the competent authority;
- (c) introductory flights, flights for the purposes of parachute dropping, sailplane towing or aerobatic flights performed either by a training organisation which has its principal place of business in a Member State and which has been approved in accordance with Regulation (EU) No 1178/2011, or by an organisation created for the purposes of promoting aerial sport or leisure aviation, provided that the organisation operates the sailplane on the basis of either ownership or a dry lease agreement, that the flight does not generate profits distributed outside of the organisation and that such flights represent only a marginal activity of the organisation;

⁽⁵⁾ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p.1).

- (d) training flights, performed by a training organisation which has its principal place of business in a Member State and which has been approved in accordance with Regulation (EU) No 1178/2011.

Article 4

Entry into force and application

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

It shall apply from 8 April 2020.

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

Done at Brussels,

For the Commission

The President

[...]