

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

Article 6

Derogations

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^{F2} By way of derogation from Article 5(1), aircraft referred to in Article 4(5) of Regulation (EC) No 216/2008 shall, in the case of aeroplanes, be operated under the conditions set out in Commission Decision C(2009) 7633 of 14 October 2009 when used in CAT operations. Any change to the operation that affects the conditions set out in that Decision shall be notified to the Commission and the European Aviation Safety Agency (hereinafter ‘the Agency’) before the change is implemented.]

A Member State, other than an addressee of Decision C(2009)7633, which intends to use the derogation provided for in that Decision shall notify its intention to the Commission and the Agency before the derogation is implemented. The Commission and the Agency shall assess to what extent the change or the intended use deviates from the conditions of Decision C(2009)7633 or impacts on the initial safety assessment performed in the context of that Decision. If the assessment shows that the change or the intended use does not correspond to the initial safety assessment done for Decision C(2009)7633, the Member State concerned shall submit a new derogation request in accordance with Article 14(6) of Regulation (EC) No 216/2008.

^{F3} By way of derogation from Article 5 and without prejudice to Regulation (EC) No 216/2008 and Commission Regulation (EU) No 748/2012⁽¹⁾ related to the permit to fly, flights related to the introduction or modification of aircraft types conducted by design or production organisations within the scope of their privileges, as well as flights carrying no passengers or cargo where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes shall be operated under conditions set out in Member States' national law.]

^{F4} Notwithstanding Article 5, Member States may, until 30 June 2018, continue to require a specific approval and additional requirements regarding operational procedures, equipment, crew qualification and training for CAT helicopter offshore operations in accordance with their national law. Member States shall notify the Commission and the Agency of the additional requirements being applied to such specific approvals. Those requirements shall not be less restrictive than those of Annexes III and IV.]

^{F5}^{F2}4a By way of derogation from Article 5(1) and (6), the following operations with other-than complex motor-powered aeroplanes and helicopters, balloons and sailplanes may be conducted in accordance with Annex VII:]

- a cost-shared flights by private individuals, on the condition that the direct cost is shared by all the occupants of the aircraft, pilot included and the number of persons sharing the direct costs is limited to six;
- b competition flights or flying displays, on the condition that the remuneration or any valuable consideration given for such flights is limited to recovery of direct costs and

Status: Point in time view as at 22/03/2017. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) No 965/2012, Article 6. (See end of Document for details)

- a proportionate contribution to annual costs, as well as prizes of no more than a value specified by the competent authority;
- c introductory flights, parachute dropping, sailplane towing or aerobatic flights performed either by a training organisation having its principal place of business in a Member State and approved in accordance with Regulation (EU) No 1178/2011, or by an organisation created with the aim of promoting aerial sport or leisure aviation, on the condition that the aircraft is operated by the organisation on the basis of ownership or dry lease, that the flight does not generate profits distributed outside of the organisation, and that whenever non-members of the organisation are involved, such flights represent only a marginal activity of the organisation.]

[^{F35} Until 2 September 2017, exemptions granted before 22 March 2017 in accordance with Article 8(2) of Regulation (EEC) No 3922/91, as provided for in Article 6(5) of Regulation (EU) No 965/2012 as applicable before 22 March 2017, shall be considered to constitute approvals referred to in point (a) of CAT.POL.A.300 of Annex IV (Part-CAT). After 2 September 2017, those exemptions shall no longer be valid for the operation of single-engined aeroplanes.

If any change to the operation of those aeroplanes that affects the conditions set out in those exemptions is envisaged between 22 March 2017 and 2 September 2017, that envisaged change shall be notified to the Commission and the Agency before it is implemented. The Commission and the Agency shall assess the envisaged change in accordance with Article 14(5) of Regulation (EC) No 216/2008.]

6 Existing helicopter operations to/from a public interest site (PIS) may be conducted in derogation to CAT.POL.H.225 of Annex IV whenever the size of the PIS, the obstacle environment or the helicopter does not permit compliance with the requirements for operation in performance class 1. Such operations shall be conducted under conditions determined by Member States. Member States shall notify the Commission and the Agency of the conditions being applied.

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[^{F78} By way of derogation from the first sentence of Article 5(3), operators of complex motor-powered aeroplanes with a maximum certificated take-off mass (MCTOM) at or below 5 700 kg, equipped with turboprop engines, involved in non-commercial operations, shall operate those aircraft only in accordance with Annex VII.

9 By way of derogation from Article 5(5)(a), training organisations shall, when conducting flight training on complex motor-powered aeroplanes with a maximum certificated take-off mass (MCTOM) at or below 5 700 kg, equipped with turboprop engines, operate those aircraft in accordance with Annex VII.]

Textual Amendments

- F1** Deleted 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 Regulation \(EU\) 2015/140 of 29 January 2015 amending Regulation \(EU\) No 965/2012 as regards sterile flight crew compartment and correcting that Regulation.](#)
- F3** Substituted by [Commission Regulation \(EU\) 2017/363 of 1 March 2017 amending Regulation \(EU\) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods](#)

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- training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft.
- F4** Substituted by Commission Regulation (EU) 2016/1199 of 22 July 2016 amending Regulation (EU) No 965/2012 as regards operational approval of performance-based navigation, certification and oversight of data services providers and helicopter offshore operations, and correcting that Regulation.
- F5** 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.
- F6** Deleted by Commission Regulation (EU) 2016/1199 of 22 July 2016 amending Regulation (EU) No 965/2012 as regards operational approval of performance-based navigation, certification and oversight of data services providers and helicopter offshore operations, and correcting that Regulation.
- F7** Inserted by Commission Regulation (EU) 2016/1199 of 22 July 2016 amending Regulation (EU) No 965/2012 as regards operational approval of performance-based navigation, certification and oversight of data services providers and helicopter offshore operations, and correcting that Regulation.

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- (1) [^{F3}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).]

Textual Amendments

- F3** Substituted by [Commission Regulation \(EU\) 2017/363 of 1 March 2017 amending Regulation \(EU\) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft.](#)

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Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EU) No 965/2012, Article 6.