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Delegations will find attached document D033428/02.

Encl.: D033428/02



Brussels, **XXX**
[...] (2014) **XXX** draft

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

of **XXX**

amending 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

Sterile flight crew compartment

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

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amending 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

Sterile flight crew compartment

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 Article 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 point 8.b of 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) It is necessary to address a safety issue related to flight deck procedures, and in particular the risks linked to errors due to disturbance or distraction of the flight crew during phases of flight where the flight crew must be able to focus on their duties.
- (4) The measures provided for in this Regulation are based on the Opinion² issued by the European Aviation Safety Agency ('the Agency') in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (5) In order to correct an administrative error in a previous amendment to Commission Regulation (EU) 965/2012, it is necessary to replace Article 9a of that Regulation and insert a new Article 9b thereof.
- (6) The number of persons referred to in Article 5(7) of Regulation (EU) No 965/2012 may be exceeded in the case of scientific research or sensational flights, just as in the case of parachute flights. Such number is also not justified by safety reasons. Article

¹ OJ L 79, 13.3.2008, p. 1.

² Opinion No 05/2013 of 10 June 2013 for a Commission Regulation establishing the Implementing Rules for sterile flight deck procedures.

5(7) should therefore be amended so as to adequately regulate all current and future specialised operations.

(7) Regulation (EU) No 965/2012 should therefore be amended accordingly.

(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

Regulation (EU) No 965/2012 is amended as follows:

1. The words 'other-than-complex motor-powered' shall be replaced by 'other-than complex motor-powered' throughout the Regulation and its Annexes.

2. In Article 5 (4), the words 'aeroplanes, helicopters' shall be replaced by 'aeroplanes and helicopters'.

3. In Article 5 (5), point (b) is replaced by the following:

'(b) other aeroplanes and helicopters as well as balloons and sailplanes in accordance with the provisions specified in Annex VII.'

4. In Article 5(7), the second sentence shall be replaced by 'Except for crew members, persons other than those indispensable to the mission shall not be carried on board.'

5. Article 6 is amended as follows:.

(a) In paragraph 2, the first sentence shall be replaced by the following sentence:

'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.'

(b) In paragraph 4a, the word 'aircraft' shall be replaced by 'aeroplanes and helicopters, balloons and sailplanes'.

6. Article 9a is replaced by the following:

"Flight and cabin crew training

Operators shall ensure that flight crew and cabin crew members who are already in operation and have completed training in accordance with Subparts FC and CC of Annex III which did not include the mandatory elements established in the relevant operational suitability data, undertake training covering those mandatory elements not later than 18 December 2017 or two years after the approval of the operational suitability data, whichever is the latest."

7. The following Article 9b is inserted after Article 9a:

"Article 9b

Review

The Agency shall conduct a continuous review of the effectiveness of the provisions concerning flight and duty time limitations and rest requirements contained in Annexes II and III. No later than 18 February 2019 the Agency shall produce a first report on the results of this review.

That review shall involve scientific expertise and shall be based on operational data gathered, with the assistance of Member States, on a long-term basis after the date of application of this Regulation.

The review referred to in paragraph 1 shall assess the impact on aircrew alertness of at least the following:

- duties of more than 13 hours at the most favourable time of the day
- duties of more than 10 hours at less favourable time of the day,
- duties of more than 11 hours for crew members in an unknown state of acclimatisation,
- duties including a high level of sectors (more than 6),
- on-call duties such as standby or reserve followed by flight duties, and
- disruptive schedules.'

8. Annexes I, III, IV, VI and VIII are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth 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
[...]