

CIVIL AVIATION DIRECTORATE

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This notice is intended to provide information to operators of other than complex motor powered aeroplanes and helicopters, as well as balloons and sailplanes, involved in non-commercial operations, including non-commercial specialised operations.

The Regulation

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 states:

Article 5 (4): Operators of other-than complex motor-powered aeroplanes and helicopters, as well as balloons and sailplanes, involved in non-commercial operations, including non-commercial specialised operations, shall operate the aircraft in accordance with the provisions specified in Annex VII.

Article 10: In Malta the provisions of Annex VII to Commission Regulation (EU) No 965/2012 to non-commercial operations with aeroplanes, helicopters, sailplanes and balloons come into force on 25 August 2016.

Article 2: ‘specialised operation’ means any operation other than commercial air transport where the aircraft is used for specialised activities such as agriculture, construction, photography, surveying, observation and patrol, aerial advertisement;

Article 2: ‘introductory flight’ means any flight against remuneration or other valuable consideration consisting of an air tour of short duration, offered by an approved training organisation or an organisation created with the aim of promoting aerial sport or leisure aviation, for the purpose of attracting new trainees or new members;

Article 2: ‘competition flight’ means any flying activity where the aircraft is used in air races or contests, as well as where the aircraft is used to practice for air races or contests and to fly to and from racing or contest events;

Article 2: ‘flying display’ means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public, including where the aircraft is used to practice for a flying display and to fly to and from the advertised event.

Article 6 (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 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.

Article 5(5). Training organisations having their principal place of business in a Member State and approved in accordance with Regulation (EU) No 1178/2011 when conducting flight training into, within or out of the Union shall operate:

- (a) complex motor-powered aeroplanes and helicopters in accordance with the provisions specified in Annex VI;
- (b) other aeroplanes and helicopters as well as balloons and sailplanes in accordance with the provisions specified in Annex VII.

GM2 Article 6.4a(a)(b): ‘Direct cost’ means the cost directly incurred in relation to a flight, e.g. fuel, airfield charges, rental fee for an aircraft. There is no element of profit.

GM3 Article 6.4(a);(b): ‘Annual cost’ means the cost of keeping, maintaining and operating the aircraft over a period of one calendar year. There is no element of profit.

GM1 Article 6.4a(c): An ‘organisation created with the aim of promoting aerial sport or leisure aviation’ means a non-profit organisation, established under applicable national law for the sole purpose of gathering persons sharing the same interest in general aviation to fly for pleasure or to conduct parachute jumping. The organisation should have aircraft available.

ANNEX VII: Non-Commercial Air Operations with Other-Than Complex Motor-Powered Aircraft [PART-NCO] NCO.GEN.100 Competent authority:

- (a) The competent authority shall be the authority designated by the Member State where the aircraft is registered.
- (b) If the aircraft is registered in a third country, the competent authority shall be the authority designated by the Member State where the operator is established or residing.

ARO.OPS.300 Introductory flights: The competent authority may establish additional conditions for introductory flights carried out in accordance with Part-NCO in the territory of the Member State. Such conditions shall ensure safe operations and be proportionate.

GM1 ARO.OPS.300 Introductory flights: **ADDITIONAL CONDITIONS:** For introductory flights carried out in the territory of the Member State, the competent authority may establish additional conditions such as defined area of the operation, time period during which such operations are to be conducted, safety risk assessments to be accomplished, aircraft to be used, specific operating procedures, notification requirements, maximum distance flown, pilot qualification, maximum number of passengers on-board, further restrictions on the maximum take-off mass.

In Malta the Civil Aviation Directorate has issued the requirements for the conduct of trial flights – PEL Notice 40 issued on the Transport Malta website www.transport.gov.mt > Aviation > Personnel Licensing

GM2 Article 6.4a(c): The term ‘marginal activity’ should be understood as representing a very minor part of the overall activity of an organisation, mainly for the purpose of promoting itself or attracting new students or members. An organisation intending to offer such flights as regular business activity is not considered to meet the condition of marginal activity. Also, flights organised with the sole intent to generate income for the organisation, are not considered to be a marginal activity.

AMC1 ARO.OPS.300 Introductory flights: **MARGINAL ACTIVITY:** The competent authority should publish criteria specifying to which extent it considers an activity marginal and how this is being overseen.

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In Malta marginal activity is considered not to exceed 10% of the total flights. The organisation has to keep a record of all such flights.

Requirements for Training Organisations having their principal place of business in Malta

Training organisations having their principle place of business in Malta and operating other than complex motor-powered aeroplanes are required to complete a Part-NCO compliance checklist prepared by the Civil Aviation Directorate and submit this to the Flight Operations Inspectorate Unit.

Link to Part-NCO Compliance Checklists: <http://www.transport.gov.mt/aviation/aircraft-flight-standards> > **Non Commercial Other than Complex (NCO) > Compliance Checklist & Statement - Annex VII - Part NCO - Issue 2**

Part-NCO can be downloaded from the EASA website <https://www.easa.europa.eu/regulations> > **Air Operations**

For all operators to which Part-NCO applies

Note: Operator means any legal or natural person, operating or proposing to operate one or more aircraft.

Operators of other-than complex motor-powered aeroplanes and helicopters, as well as balloons and sailplanes, involved in non-commercial operations, including non-commercial specialised operations, have to comply with the provisions specified in Annex VII.

The Civil Aviation Directorate will be carrying out risk based oversight including unannounced inspections not only on training organisations but on aircraft registered in Malta or aircraft registered in a third country where the operator is residing or established in Malta.

It is recommended that operators, including those which are not training organisations or AOC holders, also use the Part-NCO compliance checklist to ensure that they are compliant with the regulation.

Personnel Licensing Section