

COMMISSION IMPLEMENTING REGULATION (EU) 2023/217**of 1 February 2023****correcting Regulation (EU) No 965/2012, as regards some inconsistencies in requirements introduced by Implementing Regulation (EU) 2019/1387, and Regulations (EU) 2021/1296 and (EU) 2021/2237**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular Article 31 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2021/2237 ⁽²⁾ amended point ORO.FC.146 of Annex III (Part-ORO) to Commission Regulation (EU) No 965/2012 ⁽³⁾. The reference in point ORO.FC.146(f)(2) to point ORO.FC.005(b)(2) needs to be replaced by the reference to point ORO.FC.005(b)(1), which is the point relevant for aeroplane operations.
- (2) In amending points CAT.POL.A.230 and CAT.POL.A.235 of Annex IV (Part-CAT) to Regulation (EU) No 965/2012, Commission Implementing Regulation (EU) 2019/1387 ⁽⁴⁾ introduced a mistake regarding the dispatching of aeroplanes. The requirements in points CAT.POL.A.230(e) and CAT.POL.A.235(e) should be applied cumulatively, not alternatively.
- (3) Commission Implementing Regulation (EU) 2021/1296 ⁽⁵⁾ introduced amendments to point CAT.OP.MPA.150 of Annex IV (Part-CAT) to Regulation (EU) No 965/2012. Those amendments have inadvertently not been accompanied by consequential amendments to points CAT.POL.A.215 and CAT.POL.A.415 in that Annex. As a result, the relevant legal reference is erroneous and that error should be corrected.
- (4) Implementing Regulation (EU) 2021/1296 amended as well point SPO.POL.110 of Annex VIII (Part-SPO) to Regulation (EU) No 965/2012, by replacing points (a), (b) and (c) of that point. However, the amendment also deleted former points (d) and (e), which was not the intention. Therefore, former points (d) and (e) of SPO.POL.110 should be reintroduced with effect from the date of application of Regulation (EU) 2021/1296, namely from 30 October 2022.
- (5) Regulation (EU) No 965/2012 should therefore be corrected accordingly.
- (6) The requirements laid down in this Regulation are in accordance with the opinion of the Committee for the application of common safety rules in the field of civil aviation,

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2021/2237 of 15 December 2021 amending Regulation (EU) No 965/2012 as regards the requirements for all-weather operations and for flight crew training and checking (OJ L 450, 16.12.2021, p. 21).

⁽³⁾ 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).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/1387 of 1 August 2019 amending Regulation (EU) No 965/2012 as regards requirements for aeroplane landing performance calculations and the standards for assessing the runway surface conditions, update on certain aircraft safety equipment and requirements and operations without holding an extended range operational approval (OJ L 229, 5.9.2019, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) 2021/1296 of 4 August 2021 amending and correcting Regulation (EU) No 965/2012 as regards the requirements for fuel/energy planning and management, and as regards requirements on support programmes and psychological assessment of flight crew, as well as testing of psychoactive substances (OJ L 282, 5.8.2021, p. 5).

HAS ADOPTED THIS REGULATION:

Article 1

Annexes III (Part-ORO), IV (Part-CAT), and VIII (Part-SPO) to Regulation (EU) No 965/2012 are corrected 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*.

Point 3 of the Annex shall apply from 30 October 2022.

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

Done at Brussels, 1 February 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes III, IV and VIII to Regulation (EU) No 965/2012 are corrected as follows:

- (1) in point ORO.FC.146(f) of Annex III (Part-ORO), point (2) is replaced by the following:
‘(2) CAT operations of aeroplanes meeting the criteria defined in point ORO.FC.005(b)(1).’;
- (2) Annex IV (Part-CAT) is corrected as follows:
 - (a) in point CAT.POL.A.215(c), point (3) is replaced by the following:
‘(3) fuel jettisoning is permitted to an extent consistent with reaching the aerodrome where the aeroplane is assumed to land after engine failure with the required fuel reserves in accordance with point CAT.OP.MPA.181, appropriate for an alternate aerodrome, if a safe procedure is used.’;
 - (b) in point CAT.POL.A.230, point (e) is replaced by the following:
‘(e) For dispatching the aeroplane, the aeroplane shall:
 - (1) land on the most favourable runway, in still air; and
 - (2) land on the runway most likely to be assigned, considering the probable wind speed and direction, the ground-handling characteristics of the aeroplane and other conditions such as landing aids and terrain.’;
 - (c) in point CAT.POL.A.235, point (e) is replaced by the following:
‘(e) For dispatching the aeroplane, the aeroplane shall:
 - (1) land on the most favourable runway, in still air; and
 - (2) land on the runway most likely to be assigned, considering the probable wind speed and direction, the ground-handling characteristics of the aeroplane and other conditions such as landing aids and terrain.’;
 - (d) in point CAT.POL.A.415, point (e) is replaced by the following:
‘(e) Fuel jettisoning is permitted to an extent consistent with reaching the aerodrome where the aeroplane is assumed to land after engine failure with the required fuel reserves in accordance with point CAT.OP.MPA.181, appropriate for an alternate aerodrome, if a safe procedure is used.’;
- (3) in point SPO.POL.110 of Annex VIII (Part-SPO), the following points (d) and (e) are added, amending:
 - ‘(d) The pilot-in-command shall ensure the following:
 - (1) the loading of the aircraft is performed under the supervision of qualified personnel;
 - (2) traffic load is consistent with the data used for the calculation of the aircraft mass and balance.
 - (e) The operator shall specify, in the operations manual, the principles and methods involved in the loading and in the mass and balance system, which are in conformity with the requirements set out in points (a) to (d). That system shall cover all types of intended operations.’.