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Notice of Legislative Change

Commission Implementing Regulation (EU) 1185/2016 Amending Implementing Regulation (EU) 923/2012 (SERA)

ICAO Annex 2 (SERA Part A) and the relevant provisions from ICAO Annexes 3 and 11 (SERA Part B) were transposed into Union law by Implementing Regulation (EU) No 923/2012 (SERA).

Commission Implementing Regulation (EU) 2016/1185 expands the scope of SERA by the amending Regulation (EU) 923/2012 with the addition of the provisions of ICAO Annex 10 and ICAO Doc 4444, as well as some changes to existing text of the Regulation. It also supports and complements the Common Requirements established in accordance with Article 8b of Regulation (EC) No 216/2008. In order to ensure consistency of service provision with the actions of pilots and other actors, Regulation (EC) No 730/2006 (Airspace Classification and VFR above FL195) is repealed by the Regulation.

Regulation (EU) 2016/1185 (SERA C), will apply from 12 October 2017; However, the following provisions shall apply from 18 August 2016:

- (1) Article 1(1);
- (2) Article 1(2)(f), (i), (j), (l) and (o);
- (3) Article 1(3);
- (4) Article 2;
- (5) points (1), (2), (3), (4), (5), (6), (8) (12), (13), (15), (16), (19), (21), (22), (26)(b), (26)(c),
- (27) and
- (28) of the Annex.

Below please find an extract from Regulation 2016/1185 detailing the changes which come into effect on the 18th August 2016

Amendments to Regulation (EU) No 923/2012 (SERA)

Article 1 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. This Regulation shall also apply to the competent authorities of the Member States, air navigation service providers, aerodrome operators and ground personnel engaged in aircraft operations.’;

(b) the following paragraph 4 is added: ‘4. This Regulation shall not apply to model aircraft and toy aircraft. However, Member States shall ensure that national rules are established to ensure that model aircraft and toy aircraft are operated in such a manner as to minimise hazards related to civil aviation safety, to persons, property or other aircraft.’.

Article 2 is amended as follows;

(f) point 38 is replaced by the following:

‘38. “alternate aerodrome” means an aerodrome to which an aircraft may proceed when it becomes either impossible or inadvisable to proceed to or to land at the aerodrome of intended landing, where the necessary services and facilities are available, where aircraft performance requirements can be met and which is operational at the expected time of use. Alternate aerodromes include the following:

- (a) take-off alternate: an alternate aerodrome at which an aircraft would be able to land should this become necessary shortly after take-off and it is not possible to use the aerodrome of departure;
- (b) enroute alternate: an alternate aerodrome at which an aircraft would be able to land in the event that a diversion becomes necessary while enroute;
- (c) destination alternate: an alternate aerodrome at which an aircraft would be able to land should it become either impossible or inadvisable to land at the aerodrome of intended landing.’;

(i) the following point 89a is inserted:

‘89a. “instrument approach operation” means an approach and landing using instruments for navigation guidance based on an instrument approach procedure. There are two methods for executing instrument approach operations:

- (a) a two-dimensional (2D) instrument approach operation, using lateral navigation guidance only; and
- (b) a three-dimensional (3D) instrument approach operation, using both lateral and vertical navigation guidance.’;

(j) points (a), (b) and (c) of point 90 are replaced by the following:

- (a) non-precision approach (NPA) procedure. An instrument approach procedure designed for 2D instrument approach operations Type A.
- (b) approach procedure with vertical guidance (APV). A performance-based navigation (PBN) instrument approach procedure designed for 3D instrument approach operations Type A.
- (c) precision approach (PA) procedure. An instrument approach procedure based on navigation systems (ILS, MLS, GLS and SBAS Cat I) designed for 3D instrument approach operations Type A or B;’;

(l) the following points 95a and 95b are inserted:

‘95a. “model aircraft” means an unmanned aircraft, other than toy aircraft, having an operating mass not exceeding limits prescribed by the competent authority, that is capable of sustained flight in the atmosphere and that is used exclusively for display or recreational activities;

95b. “mountainous area” means an area of changing terrain profile where the changes of terrain elevation exceed 900 m (3 000 ft) within a distance of 18,5 km (10,0 NM);’;

(o) the following point 129a is inserted:

‘129a. “toy aircraft” means an unmanned aircraft designed or intended for use, whether or not exclusively, in play by children under 14 years of age;’.

Article 4 is amended as follows:

(a) in paragraph 1, the introductory phrase is replaced by the following:

‘1.The competent authorities may, either on their own initiative or based on applications by the entities concerned, grant exemptions to individual entities or to categories of entities from any of the requirements of this Regulation for the following activities of public interest and for the training necessary to carry out those activities safely:’;

(b) in paragraph 3, the following subparagraph is inserted at the end of that paragraph:

‘This Article shall also be without prejudice to helicopter operating minima contained in the specific approvals granted by the competent authority, pursuant to Annex V to Commission Regulation (EU) No 965/2012 (*).

The ANNEX is amended as follows

- (1) point SERA.2001 is replaced by the following:
‘SERA.2001Subject Without prejudice to SERA.1001 above, this annex addresses, in accordance with Article 1, in particular airspace users and aircraft:
 - (a) operating into, within or out of the Union; (b) bearing the nationality and registration marks of a Member State of the Union, and operating in any airspace to the extent that they do not conflict with the rules published by the State having jurisdiction over the territory overflown. This annex addresses also the actions of the Competent Authorities of the Member States, Air Navigation Service Providers (ANSP), aerodrome operators and the relevant ground personnel engaged in aircraft operations.’;

- (2) point SERA.3215(a) is amended as follows:
 - (a) point (2) is replaced by the following:
‘(2) except for balloons, navigation lights intended to indicate the relative path of the aircraft to an observer. Other lights shall not be displayed if they are likely to be mistaken for these lights.’;

 - (b) point (3) is deleted;

- (3) in point SERA.4001(d), the introductory phrase is replaced by the following:
‘Unless a shorter period of time has been prescribed by the competent authority for domestic VFR flights, a flight plan for any flight planned to operate across international borders or to be provided with air traffic control service or air traffic advisory service shall be submitted at least 60 minutes before departure, or, if submitted during flight, at a time which will ensure its receipt by the appropriate ATS unit at least 10 minutes before the aircraft is estimated to reach.’;

- (4) in point SERA.5001, Table S5-1, the footnote (***) to the table, point (b) is replaced by the following:
‘(b) helicopters may be permitted to operate in less than 1 500 m but not less than 800 m flight visibility, if manoeuvred at a speed that will give adequate opportunity to observe other traffic or any obstacles in time to avoid collision.’;

- (5) point SERA.5005 is amended as follows:
 - (a) point (c) is amended as follows:
 - (i) points (3)(ii) and (3)(iii) are replaced by the following:
‘(ii) the reduced flight visibility provisions specified in Table S5-1(a) and (b) shall not apply; (iii) in airspace classes B, C, D, E, F and G, at and below 900 m (3 000 ft) AMSL or 300 m (1 000 ft) above terrain, whichever is the higher, the pilot shall maintain continuous sight of the surface; and’;
 - (ii) point (3)(iv) is deleted;
 - (iii) point (3)(v) is replaced by the following: ‘(v) for mountainous area, higher VMC visibility and distance from cloud minima may be prescribed by the competent authority.’;
 - (iv) point (4) is deleted;

 - (b) point (d) is replaced by the following:

‘(d) VFR flights shall not be operated: (1) at transonic and supersonic speeds unless authorised by the competent authority; (2) above FL 195. Exceptions to this requirement are the following: (i) an airspace reservation has been established, where practical, by the Member States, in which VFR flights may be allowed; or (ii) airspace up to and including flight level 285, when VFR traffic in that airspace has been authorised by the responsible ATS unit in accordance with the authorisation procedures established by the Member States and published in the relevant aeronautical information publication.’;

(6) point SERA.5010 is replaced by the following: ‘Special VFR flights may be authorised to operate within a control zone, subject to an ATC clearance. Except when permitted by the competent authority for helicopters in special cases such as, but not limited to, police, medical, search and rescue operations and fire-fighting flights, the following additional conditions shall be applied: (a) such special VFR flights may be conducted during day only, unless otherwise permitted by the competent authority; (b) by the pilot: (1) clear of cloud and with the surface in sight; (2) the flight visibility is not less than 1 500 m or, for helicopters, not less than 800 m; (3) fly at a speed of 140 kts IAS or less to give adequate opportunity to observe other traffic and any obstacles in time to avoid a collision; and (c) an air traffic control unit shall not issue a special VFR clearance to aircraft to take off or land at an aerodrome within a control zone, or enter the aerodrome traffic zone or aerodrome traffic circuit when the reported meteorological conditions at that aerodrome are below the following minima: (1) the ground visibility is less than 1 500 m or, for helicopters, less than 800 m; (2) the ceiling is less than 180 m (600 ft).’;

(8) point SERA.6001 is replaced by the following: ‘**SERA.6001 Classification of airspaces**

(a) Member States shall designate airspace in accordance with the following airspace classification and in accordance with Appendix 4:

(1) *Class A.* IFR flights only are permitted. All flights are provided with air traffic control service and are separated from each other. Continuous air-ground voice communications are required for all flights. All flights shall be subject to ATC clearance.

(2) *Class B.* IFR and VFR flights are permitted. All flights are provided with air traffic control service and are separated from each other. Continuous air-ground voice communications are required for all flights. All flights shall be subject to ATC clearance.

(3) *Class C.* IFR and VFR flights are permitted. All flights are provided with air traffic control service and IFR flights are separated from other IFR flights and from VFR flights. VFR flights are separated from IFR flights and receive traffic information in respect of other VFR flights and traffic avoidance advice on request. Continuous air-ground voice communications are required for all flights. For VFR flights a speed limitation of 250 kts indicated airspeed (IAS) applies below 3 050 m (10 000 ft) AMSL, except where approved by the competent authority for aircraft types, which for technical or safety reasons, cannot maintain this speed. All flights shall be subject to ATC clearance.

(4) *Class D.* IFR and VFR flights are permitted and all flights are provided with air traffic control service. IFR flights are separated from other IFR flights, receive traffic information in respect of VFR flights and traffic avoidance advice on request. VFR flights receive traffic information in respect of all other flights and traffic avoidance advice on request. Continuous air-ground voice communications are required for all

flights and a speed limitation of 250 kts IAS applies to all flights below 3 050 m (10 000 ft) AMSL, except where approved by the competent authority for aircraft types, which for technical or safety reasons, cannot maintain this speed. All flights shall be subject to ATC clearance.

(5) *Class E.* IFR and VFR flights are permitted. IFR flights are provided with air traffic control service and are separated from other IFR flights. All flights receive traffic information, as far as is practical. Continuous air-ground voice communications are required for IFR flights. A speed limitation of 250 kts IAS applies to all flights below 3 050 m (10 000 ft) AMSL, except where approved by the competent authority for aircraft types, which for technical or safety reasons cannot maintain this speed. All IFR flights shall be subject to ATC clearance. Class E shall not be used for control zones.

(6) *Class F.* IFR and VFR flights are permitted. All participating IFR flights receive an air traffic advisory service and all flights receive flight information service if requested. Continuous air-ground voice communications are required for IFR flights participating in the advisory service and all IFR flights shall be capable of establishing air-ground voice communications. A speed limitation of 250 kts IAS applies to all flights below 3 050 m (10 000 ft) AMSL, except where approved by the competent authority for aircraft types, which for technical or safety reasons cannot maintain this speed. ATC clearance is not required.

(7) *Class G.* IFR and VFR flights are permitted and receive flight information service if requested. All IFR flights shall be capable of establishing air-ground voice communications. A speed limitation of 250 kts IAS applies to all flights below 3 050 m (10 000 ft) AMSL, except where approved by the competent authority for aircraft types, which for technical or safety reasons cannot maintain this speed. ATC clearance is not required.

(8) Implementation of Class F shall be considered as a temporary measure until such time as it can be replaced by an alternative classification.

(b) The designation of the airspace classification shall be appropriate to the needs of the Member States, except that all airspace above FL 195 shall be classified as Class C airspace.’;

(12) point SERA.8020(a)(3) is replaced by the following: ‘(3) Deviation from the requirements in point (1) shall be notified to the appropriate ATS unit.’;

(13) point SERA.8020(b)(3) is replaced by the following:

‘(3) Change in time estimate: if the time estimate for the next applicable reporting point, flight information region boundary or destination aerodrome, whichever comes first, is found to be in error in excess of 2 minutes from that notified to ATS or such other period of time as prescribed by the competent authority, a revised estimated time shall be notified as soon as possible to the appropriate ATS unit.’;

(15) point SERA.8035(b) is replaced by the following:

‘(b) The Member States shall comply with the appropriate provisions on communication failures as have been adopted under the Chicago Convention. The Commission shall take the necessary measures for the transposition of those provisions into Union law so as to establish common European procedures on communication failures by 31 December 2017 at the latest.’;

(16) point SERA.9010 is amended as follows: (a) points (b)(12) and (b)(13) are replaced by the following:

‘(12) surface wind direction (in degrees magnetic) and speed, including significant variations and, if surface wind sensors related specifically to the sections of runway(s) in use are available and the information is required by aircraft operators, the indication of the runway and the section of the runway to which the information refers;

(13) visibility and, when applicable, RVR (*) and, if visibility/RVR sensors related specifically to the sections of runway(s) in use are available and the information is required by operators, the indication of the runway and the section of the runway to which the information refers; (*)These elements are replaced by the term ‘CAVOK’

when the following conditions occur simultaneously at the time of observation: (a) visibility: 10 km or more, and the lowest visibility not reported; (b) no cloud of operational significance; and (c) no weather of significance to aviation.’; (b) points

(c)(12) and (c)(13) are replaced by the following: ‘(12) surface wind direction (in degrees magnetic) and speed, including significant variations and, if surface wind sensors related specifically to the sections of runway(s) in use are available and the information is required by aircraft operators, the indication of the runway and the section of the runway to which the information refers;

(13) visibility and, when applicable, RVR (*) and, if visibility/RVR sensors related specifically to the sections of runway(s) in use are available and the information is required by operators, the indication of the runway and the section of the runway to which the information refers;

(*)These elements are replaced by the term ‘CAVOK’ when the following conditions occur simultaneously at the time of observation: (a) visibility: 10 km or more, and the lowest visibility not reported; (b) no cloud of operational significance; and (c) no weather of significance to aviation.’; (c) points

(d)(11) and (d)(12) are replaced by the following: ‘(11) surface wind direction (in degrees magnetic) and speed, including significant variations and, if surface wind sensors related specifically to the sections of runway(s) in use are available and the information is required by aircraft operators, the indication of the runway and the section of the runway to which the information refers;

(12) visibility and, when applicable RVR (*) and, if visibility/RVR sensors related specifically to the sections of runway(s) in use are available and the information is required by operators, the indication of the runway and the section of the runway to which the information refers; (*)These elements are replaced by the term ‘CAVOK’

when the following conditions occur simultaneously at the time of observation: (a) visibility: 10 km or more, and the lowest visibility not reported; (b) no cloud of operational significance; and (c) no weather of significance to aviation.’;

(19) point SERA.11010 is amended as follows: (a) the title is replaced by the following:

‘**SERA.11010 Strayed or unidentified aircraft**’; (b) point (a)(3)(i) is replaced by the following:

‘(i) advise the aircraft of its position and the corrective action to be taken. This advice shall be immediately provided when the ATS unit is aware that there is a possibility of interception or other hazard to the safety of the aircraft; and’;

(21) the following point SERA.11014 is inserted: ‘**SERA.11014 ACAS resolution advisory (RA)**

(a) ACAS II shall be used during flight, except as provided in the minimum equipment list specified in Commission Regulation (EU) No 965/2012 (*) in a mode that enables RA indications to be produced for the flight crew when undue proximity to another aircraft is detected. This shall not apply if inhibition of RA indication mode (using

traffic advisory (TA) indication only or equivalent) is called for by an abnormal procedure or due to performance-limiting conditions.

(b) In the event of an ACAS RA, pilots shall: (1) respond immediately by following the RA, as indicated, unless doing so would jeopardise the safety of the aircraft; (2) follow the RA even if there is a conflict between the RA and an ATC instruction to manoeuvre; (3) not manoeuvre in the opposite sense to an RA; (4) as soon as possible, as permitted by flight crew workload, notify the appropriate ATC unit of any RA which requires a deviation from the current ATC instruction or clearance; (5) promptly comply with any modified RAs; (6) limit the alterations of the flight path to the minimum extent necessary to comply with the RAs; (7) promptly return to the terms of the ATC instruction or clearance when the conflict is resolved; and (8) notify ATC when returning to the current clearance.

(c) When a pilot reports an ACAS RA, the controller shall not attempt to modify the aircraft flight path until the pilot reports "CLEAR OF CONFLICT".

(d) Once an aircraft departs from its ATC clearance or instruction in compliance with an RA, or a pilot reports an RA, the controller ceases to be responsible for providing separation between that aircraft and any other aircraft affected as a direct consequence of the manoeuvre induced by the RA. The controller shall resume responsibility for providing separation to all the affected aircraft when: (1) the controller acknowledges a report from the flight crew that the aircraft has resumed the current clearance; or (2) the controller acknowledges a report from the flight crew that the aircraft is resuming the current clearance and issues an alternative clearance which is acknowledged by the flight crew.

(*) 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).';

(22) in point SERA.11015(e), Table S11-3 is amended as follows:

(a) the text in the cell 'Meaning' corresponding to phrase 'WILCO', is replaced by the following: 'Understood, will comply';


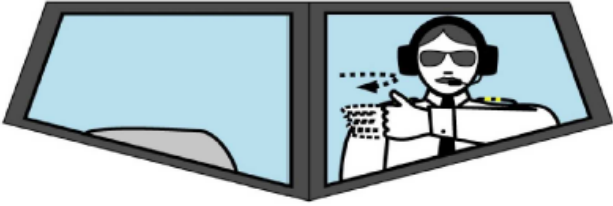



(b) in the cell below the phrase 'WILCO', the phrase 'Will comply' is deleted;

(26) Appendix 1 is amended as follows

(b) in point 3.2.4.1, the text is replaced by the following:

'3.2.4.1. Crosses of a single contrasting colour, white on runways and yellow on taxiways (Figure A1-6), displayed horizontally on runways and taxiways or parts thereof indicate an area unfit for movement of aircraft.';

(c) points 4.2.1.1, 4.2.1.2 and 4.2.1.3 are replaced by the following illustration:

	<p>(a) Brakes engaged: raise arm and hand, with fingers extended, horizontally in front of face, then clench fist.</p>
	<p>(b) Brakes released: raise arm, with fist clenched, horizontally in front of face, then extend fingers.</p>
	<p>(c) Insert chocks: arms extended, palms outwards, move hands inwards to cross in front of face.</p>
	<p>(d) Remove chocks: hands crossed in front of face, palms outwards, move arms outwards.</p>
	<p>(e) Ready to start engine(s): Raise the appropriate number of fingers on one hand indicating the number of the engine to be started.';</p>

(27) in Appendix 2, point 5.1.3 is replaced by the following:

‘5.1.3. Any changes in the pre-launch information notified in accordance with point 5.1.2 shall be forwarded to the ATS unit concerned not less than 6 hours before the estimated time of launch, or in the case of solar or cosmic disturbance investigations involving a critical time element, not less than 30 minutes before the estimated time of the commencement of the operation.’;

(28) in Appendix 4, the table is amended as follows:

(a) in column ‘Service provided’, in the cell for airspace class C, VFR type of flight, point (2) is replaced by the following:

‘(2) Air traffic control service, VFR/VFR traffic information (and traffic avoidance advice on request)’;

(b) in column ‘Service provided’, in the cell for airspace class D, the text concerning VFR type of flight is replaced by the following:

‘Air traffic control service, IFR/VFR and VFR/VFR traffic information (and traffic avoidance advice on request)’;

End.