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STATUTORY INSTRUMENTS

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**2016 No. 765**

**The Air Navigation Order 2016**

**PART 1**

**Interpretation and categorisation**

**CHAPTER 2**

**Categorisation as public transport or commercial operation**

**Application of Chapter**

**8.** Nothing in this Chapter applies to a flight subject to the EASA Air Operations Regulation.

**Public transport – special rule for associations of persons**

**9.—(1)** A transaction is effected in accordance with this paragraph if, under a transaction effected by or on behalf of a member of an association of persons on the one hand and the association of persons or any member of the association on the other hand, a person is carried in, or is given the right to fly, an aircraft in such circumstances that valuable consideration would be given or promised if the transaction were effected in a different manner.

(2) If a transaction is effected in accordance with paragraph (1) valuable consideration is, for the purposes of this Order, deemed to have been given or promised, notwithstanding any rule of law as to such transactions.

**Public transport – special rule for groups of companies**

**10.—(1)** For the purposes of article 6(2)(b)(i), there is to be disregarded any valuable consideration given or promised for a flight or the purpose of a flight by one company to another company which is—

- (a) its holding company;
- (b) its subsidiary; or
- (c) another subsidiary of the same holding company.

(2) In this article, “holding company” and “subsidiary” have the meanings respectively specified in section 1159 of the Companies Act 2006<sup>(1)</sup>.

**Public transport and commercial operations – exceptions – flying displays**

**11.—(1)** A flight is, for the purposes of Part 4 and Part 5, a non-commercial flight if—

- (a) the flight is of a sort described in paragraph (2); and
- (b) the only valuable consideration for the flight or the purpose of the flight is of a sort described in paragraph (3).

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(1) 2006 c.46.

- (2) A flight is of a sort described in this paragraph if it is—
- (a) wholly or principally for the purpose of taking part in an aircraft race, contest or flying display;
  - (b) for the purpose of positioning the aircraft for such a flight as is specified in sub-paragraph (a) and is made with the intention of carrying out such a flight; or
  - (c) for the purpose of returning after such a flight as is specified in sub-paragraph (a) to a place at which the aircraft is usually based.
- (3) Valuable consideration is of a sort described in this paragraph if it is one or more of the following—
- (a) valuable consideration given or promised to the owner or operator of an aircraft taking part in such a race, contest or flying display where such valuable consideration is not more than the direct costs of the flight and a contribution to the annual costs of the aircraft which contribution bears no greater proportion to the total annual costs of the aircraft than the duration of the flight bears to the annual flying hours of the aircraft; or
  - (b) one or more prizes awarded to the pilot in command of an aircraft taking part in an aircraft race or contest to a value which does not exceed £500 for any one race or contest except with the permission of the CAA granted to the organiser of the race or contest.
- (4) Any prize falling within paragraph (3)(b) is deemed for the purposes of this Order not to constitute remuneration for services as a pilot.

#### **Public transport and commercial operations – exceptions – charity flights**

**12.** A flight is a non-commercial flight if the only valuable consideration given or promised for the flight or the purpose of the flight is one or more of the following—

- (a) valuable consideration given or promised to a registered charity which is not the operator of the aircraft; or
- (b) valuable consideration for which the CAA has otherwise given permission.

#### **Public transport and commercial operations – exceptions – cost sharing**

**13.—(1)** A flight is a non-commercial flight if—

- (a) the only valuable consideration given or promised for the flight or the purpose of the flight is a contribution to the direct costs of the flight otherwise payable by the pilot in command; and
- (b) the criteria in paragraph (2) are satisfied.

(2) The criteria in this paragraph are satisfied if—

- (a) no more than four persons (including the pilot) are carried;
- (b) the proportion which the contribution referred to in paragraph (1)(a) bears to the direct costs is not more than the proportion which the number of persons carried on the flight (excluding the pilot) bears to the number of persons carried (including the pilot);
- (c) no information has been published or advertised before the commencement of the flight other than, in the case of an aircraft operated by a flying club, advertising wholly within the premises of such a flying club a case in which all the persons carried on such a flight who are aged 18 years or over are members of that flying club; and
- (d) no person acting as a pilot is employed as a pilot by, or is a party to a contract for the provision of services as a pilot with, the operator of the aircraft which is being flown.

### **Public transport and commercial operations – exceptions – parachuting**

**14.** A flight is an commercial operation flight if it is a flight in respect of which valuable consideration has been given or promised for the carriage of passengers and which is for the purpose of—

- (a) the dropping of persons by parachute and which is made under and in accordance with the terms of a parachuting permission granted by the CAA under article 90;
- (b) positioning the aircraft for such a flight as is specified in paragraph (a) and which—
  - (i) is made with the intention of carrying out such a flight; and
  - (ii) on which no person is carried who it is not intended to carry on such a flight and who may be carried on such a flight in accordance with the terms of a parachuting permission granted by the CAA under article 90; or
- (c) returning after such a flight as is specified in paragraph (a) to the place at which the persons carried on such a flight are usually based and on which flight no persons are carried other than persons carried on the flight specified in paragraph (a).

### **Public transport – exceptions – introductory flights**

**15.—(1)** This article applies to an introductory flight (as defined in article 2 of the EASA Air Operations Regulation) which meets the criteria and conditions described in article 6(4a)(c) of that Regulation.

(2) A flight to which this article applies—

- (a) is—
  - (i) a commercial flight for the purposes of Part 4; and
  - (ii) a non-commercial flight for all other purposes; and
- (b) must—
  - (i) except when conducted by gliders or balloons, start and end at the same site;
  - (ii) be operated by day and in compliance with the Visual Flight Rules;
  - (iii) be overseen by a person nominated by the relevant organisation mentioned in article 6(4a)(c) of the EASA Air Operations Regulation to be responsible for the safety of those involved; and
  - (iv) comply with any other conditions which may be specified by the CAA.

### **Public transport and commercial operations – exceptions – glider towing**

**16.** A flight for the purpose of glider towing is a non-commercial flight if it meets the criteria and conditions relating to sailplane towing described in article 6(4a)(c) of the EASA Air Operations Regulation.