

Title:	Opinion and Instruction Document Air Operations – Helicopter Emergency Medical Services (HEMS) Night Operations
Package Number	Task 0138
Headline Purpose:	To ensure an acceptable level of safety is maintained for Helicopter Emergency Medical Services (HEMS) night operations by consolidating in UK law the necessary standards previously introduced by the CAA under a Safety and Operational Directive.
Proposed action:	Amend Commission Regulation (EU) No. 965/2012 as retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2018 (“ UK Regulation (EU) No. 965/2012 ”), Annex V, Sub-Part J, adding Part SPA.HEMS.105, extending the current operational requirements to include night operations and amending Parts SPA.HEMS.110 and SPA.HEMS.130.

Objective

The objective of this proposed amendment to [UK Regulation \(EU\) No. 965/2012](#) (the Air Operations Regulation) is to ensure the acceptable levels of safety that have been established for HEMS night operations can be maintained by consolidating in legislation the standards first introduced by the CAA under a Safety and Operational Directive in July 2012 (subsequently updated in October 2012 and October 2014) and which remain in force to the present day. Amending [UK Regulation \(EU\) No. 965/2012](#) to include these requirements will allow the CAA to withdraw the Safety and Operational Directive.

Background

In 2011, when approached by several HEMS operators to extend their operations into night flying, the CAA identified [UK Regulation \(EU\) No. 965/2012](#) did not contain suitable requirements for ensuring that the acceptable levels of safety associated with landings and take-offs from ad hoc HEMS operating sites could be maintained. Consequently, and working with the industry, enhanced requirements were set out in a CAA Safety Directive (SD) (current [Safety Directive SD-2014/003](#)) mandating the use of night vision imaging systems (NVIS) and specific safety management objectives. The CAA proposed that these requirements be incorporated into the Air Operations Regulation, but the rulemaking task was delayed by the European Aviation Safety Agency (‘EASA’) due to other priorities. Now that the UK has left the EU, the CAA proposes the consolidation of the requirement in legislation and that the long-standing Operational Directive/Safety Directive (OD/SD) be revoked. The affected operators have been equipped and approved to operate HEMS at night since 2012 in accordance with the current SD. Consequently, by incorporating the requirements set out in the OD/SD into Annex V (Part-SPA.HEMS) of [UK Regulation \(EU\) No. 965/2012](#), the SD can be revoked with no operational impact on affected operators, including no economic impact or additional training requirements.

What legal powers are being used to achieve the change?

Article 31(1)(a) and 62(14) of Regulation (EU) 2018/1139 as retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2018 (“[the UK Basic Regulation](#)”).

Consequence of not making these legislative changes

The principal objective of the UK Basic Regulation is to establish and maintain a high level of civil aviation safety. One way of achieving this objective is the development of technical and operational standards, applied consistently across the regulated sector, that are contained within the implementing regulations rather than set out in periodic CAA safety notices or directives that are not designed to deliver this objective in the long term. The CAA has therefore determined that it is appropriate for the necessary extant requirements for HEMS operations at night to form part of [UK Regulation \(EU\) No. 965/2012](#).

Affected Law (and, if Applicable, UK AMC)

What is the existing UK legal framework which is relevant here?	UK Regulation (EU) No. 965/2012, Annex V, Sub-Part J, Helicopter Emergency Medical Services
Identify the law that the CAA proposes be changed	<p><u>Add Part:</u></p> <p>SPA.HEMS.105 Night operations to HEMS operating sites.</p> <p><u>Amend Parts:</u></p> <p>SPA.HEMS.110 Equipment requirements for HEMS operations;</p> <p>SPA.HEMS.130 Crew requirements.</p>
Are any consequential amendments needed to other pieces of law?	No
If the change proposed is to retained EU Implementing Rules made under the UK Basic Regulation is there any UK Acceptable Means of Compliance (“AMC”), Guidance Material (“GM”) or Certification Specification (“CS”) that will be changed/newly adopted as a consequence?	Yes. Relevant AMC/GM will be required to support the regulation changes and will be developed and presented accordingly. These will be developed from the content of SD-2014/003
Does this proposal relate to an international treaty obligation (e.g. an ICAO SARP)?	No
Is a consultation required	The requirements of the night HEMS Safety Directive were originally developed with industry and have been in force for 10 years. The adoption transfers the mandatory requirements into the rule allowing the SD to be revoked. Therefore, it is considered unnecessary to conduct a full consultation. Affected operators will be made aware of the changes to be made to UK Regulation (EU) No. 965/2012 and the revocation of the OD/SD.
Is an Impact Assessment under the Better Regulation Framework necessary?	An Impact Assessment is not necessary. As the affected operators have been required to comply with the OD/SD since 2011, it is not anticipated that there will be any financial impact for them other than those associated with updates to manuals etc.
When is it intended that these provisions should be brought into force?	As soon as practicable.
Has an SI “slot” been agreed with DfT?	November 2022
Will there be any criminal offences?	The Department for Transport is considering whether to seek a legislative opportunity to take powers for the Secretary of State to make a breach of requirements of retained EU legislation in the field of civil aviation an offence. If such powers are agreed by Parliament in the future, then consideration will be given to whether any additional criminal offences would be appropriate.

If so, is a Justice Impact Test required?	If the power to impose criminal sanctions is granted, the question of a Justice Impact Test will be considered by the CAA in collaboration with the Department for Transport.
What is the intended extent of the provision?	The UK
Are there any devolved issues?	No
Are any transitional provisions needed?	No

Suggested Changes to existing wording of Law

These proposals are published for information purposes only. It should be noted that the amendments set out in this section constitute the CAA's initial opinion on possible amendments to the relevant legislation. While it is anticipated that any amendments ultimately enacted will broadly reflect the CAA's proposals, all amendments to legislation are subject to an iterative legislation drafting process by Government lawyers. The proposals set out below may therefore not be the final wording in the UK law.

Amend [UK Regulation \(EU\) No. 965/2012](#) as follows:

ADD

1. SPA.HEMS.105 Night operations to HEMS operating sites

Night operations to HEMS operating sites shall only be conducted when the CAA approved HEMS operator holds, and operates under the terms of an NVIS approval issued to the operator in accordance with SPA.NVIS.100.

AMEND

2. SPA.HEMS.110 Equipment requirements for HEMS operations

- (a) The installation of all helicopter dedicated medical equipment, any subsequent modifications to it and, where appropriate, its operation shall be approved in accordance with Regulation (EU) No. 748/2012.
- (b) For night operations, the helicopter shall be equipped with a suitable means of illumination to enable the flight crew to:
 - (1) identify the landing area whilst in flight, to determine the landing direction, to make a safe approach and landing or to go around when operating at a site without suitable ground and obstruction lighting; and
 - (2) make a safe take-off.

3. SPA.HEMS.130 Crew requirements

- (a) in point SPA.HEMS.130(e)(2)(ii), after "pilot", insert "with a valid instrument rating and current Operator Proficiency Check,".