

# Notice to Airmen

60. year

Langen, 28. June 2012

**NFL I 161/12**

"Joint Federal Government/federal state principles for granting  
permission to fly unmanned aerial systems in accordance with Section  
16(1)(7) of the Air Traffic Regulations"

Bonn, 01. June 2012

Bundesministerium für Verkehr, Bau und Stadtentwicklung

LR24/6151.5/2

## **Joint Federal Government/federal state principles for granting permission to fly unmanned aerial systems in accordance with Section 16(1)(7) of the Air Traffic Regulations**

### **1. Applicability**

These principles apply to the granting of permission to fly unmanned aerial systems<sup>1</sup> that:

- are operated within the controller's range of vision;
- are not operated exclusively for sporting or recreational purposes;
- do not fly at an altitude of more than 100 metres above ground level;
- have a total mass not exceeding 25 kg.

A differentiation, necessary on a case-by-case basis, between unmanned aerial systems and flying models referred to in Section (1)(9) of the Civil Aviation Act shall be made exclusively on the basis of their purpose: if the device is used for sporting or recreational purposes, the rules governing flying models shall apply. If, on the other hand, operation of the device involves another, especially commercial, purpose (e.g. taking photographs with the aim of selling them), the device shall be deemed to be an unmanned aerial system, the operation of which requires permission under Section 16(1)(7) of the Air Traffic Regulations, irrespective of its weight.

The following information is designed to provide practical guidance to the competent authorities referred to in Section 31(2)(16) of the Civil Aviation Act and to define the framework of action for the granting of permission in accordance with Section 16(1)(7) of the Air Traffic Regulations.

### **2. Procedure for granting permission**

#### **2.1 Granting general permission to fly unmanned aerial systems**

##### 2.1.1 General

General permission to fly unmanned aerial systems without an internal combustion engine and with a **total mass not exceeding 5 kg** can be granted if the device is not operated over:

- gatherings of people;
- scenes of accidents, disaster areas and other sites where the police or other security authorities and organizations are deployed;

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<sup>1</sup> Unmanned aerial systems are defined as unmanned aircraft, including their control station, that are not operated for sporting or recreational purposes (cf. the third sentence of Section 1(2) of the Civil Aviation Act)

- prisons and military installations;
- industrial plants and power stations.

### 2.1.2 Application

An application for the granting of permission must contain the following information:

- In the case of natural persons: name, place and date of birth and address of the applicant.
- In the case of legal persons and commercial enterprises: company headquarters plus name, address and date and place of birth of the legal agent and of all the members of staff authorized by him who are to avail themselves of the permission as controllers. If requested, an extract from the register of associations, register of companies or register of cooperatives shall be submitted as proof of the power to represent the company if this is necessary, in any given case, for considering the granting of permission in accordance with Section 16 of the Air Traffic Regulations.
- Purpose of the operation of the unmanned aerial system.
- Proof of adequate third party insurance cover for personal injury and damage to property, as required by Sections 37(1a) and 43 of the Civil Aviation Act.

If an unmanned aerial system is to be operated on the limited scale described in 2.1.1, it shall not, as a rule, be necessary to test the controller's aptitude or the technical and operational requirements to be met by the system used.

### 2.1.3 Granting general permission

General permission to fly unmanned aerial systems shall be granted by the competent federal state aviation authority. To ensure equal treatment, the standard form at Annex 1 shall be used to give notification of permission. On the basis of what is currently known, it can be assumed that the requirements and constraints stipulated therein are necessary, appropriate and sufficient to ensure that the use of airspace on the limited scale described in 2.1.1 cannot result in any risk to aviation safety or to public security or order.

Differing or additional rules may be included in the notification of permission if special local conditions in the area of responsibility of the authority granting permission or rules under federal state law so require.

### 2.1.4 Time limit and extension

Permission shall be granted for a maximum period of two years. It shall not be extended if the person to whom the permission has been granted has, in the course of the period for

which it was granted, continually or seriously failed to comply with the requirements stipulated in the permission or if there is evidence suggesting that the permission has been improperly used.

#### 2.1.5 Scope

The geographic scope of the general permission shall normally be restricted to the area of responsibility of the authority granting the permission.

However, general permission granted in accordance with these principles shall be recognized by the aviation authorities of the other federal states (with the exception of Baden-Württemberg, Berlin, Bremen, Hamburg and Rhineland-Palatinate) for their area of responsibility if the controller of an unmanned aerial system, when submitting his application, presents a general permit issued by another aviation authority. Differing or additional rules may be included in the recognition if special or local conditions in the area of responsibility of the authority recognizing the permission or rules under federal state law so require.

In the case of such recognition, the authority recognizing the permission shall be responsible for oversight in accordance with Section 31(2)(17) of the Civil Aviation Act.

## 2.2 Granting specific permission to fly unmanned aerial systems

### 2.2.1

For the flying of unmanned aerial systems with an **internal combustion engine** or a **total mass exceeding 5 kg** or where the planned flight entails a significant potential risk, especially over gatherings of people, densely populated areas, disaster areas, prisons, industrial plants, power stations, military installations or the like, the competent federal state authority shall only grant permission on a case-by-case basis, in accordance with Section 16(4) of the Air Traffic Regulations.

## 2.3. Consideration of data privacy aspects

The first sentence of Section 16(4) of the Air Traffic Regulations, as amended by the Fourteenth Civil Aviation (Amendment) Act, states that henceforth, when general and specific permission is granted, a check must be made to determine whether data privacy requirements have been complied with.

The new version of the first sentence of Section 16(4) of the Air Traffic Regulations reads:

“Permission shall be granted if the intended uses cannot result in any risk to aviation safety or to public security or order and, **especially in the case of subsection 1(7), do not infringe the provisions governing data privacy.**”

This means that if, when the application is being considered, it is ascertained that the intended use(s) infringe data privacy provisions, permission will be refused.

**Standard notification form used by the federal states  
for granting general permission to fly unmanned aerial systems with a total mass not  
exceeding 5 kg**

General permission to fly unmanned aerial systems in [federal state]

Application of [date]

In accordance with Section 16(1)(7) and Section 16(4) of the Air Traffic Regulations, the  
[name of the aviation authority] grants the following

General Permission

to launch unmanned aerial systems.

I.

Controller: [Name(s)]

Scope of permission: Operation of an unmanned aerial system with a total mass not  
exceeding 5 kg and without an internal combustion engine up to a  
maximum altitude of 100 m above ground level (AGL)

Operation of the unmanned aerial system over gatherings of  
people, scenes of accidents, disaster areas and other sites where  
the police or other security authorities and organizations are  
deployed is not permitted. This also applies to operation over  
prisons, industrial plants, energy generation and distribution plants  
and military installations unless these bodies have given their  
explicit consent.

Purpose: [Precisely defined purpose]

Geographic scope: [Area of responsibility of the authority granting permission]

Operating hours: Daily from sunrise to sunset (SR to SS)

Period of validity: The permission is valid until [date]

## II.

Right of revocation and right to give other instructions

1. Permission is granted subject to the proviso that it can be revoked at any time (paragraph (1) of the first sentence of Section 49(2) of the Administrative Procedures Act).

Revocation shall be considered in the following cases, in particular:

- facts subsequently become known which, if they had been known at the time, would have resulted in permission not being granted;
  - changes in law or in fact subsequently occur that result in facts on the basis of which the authority would not have granted permission if they had existed at the time the permission was granted;
  - operation of the system is resulting in disruption or impairment of public security or order and this cannot be prevented by means of appropriate ancillary provisions;
  - there is repeated or serious non-compliance with the requirements of this permission or other rules and regulations.
2. The ancillary provisions issued with the notification shall be complied with. The right is reserved to stipulate further ancillary provisions or constraints in the interests of aviation safety or to maintain public security or order.

## III.

Ancillary provisions

1. Take-offs and landings may only be performed with the consent of the property owner or rightholder in any given case.
2. Within built-up areas, the competent law enforcement agency/police station shall be informed in advance. Within nature conservation areas, use may only be made of this permission if operation of the unmanned aerial system is not prohibited by the Conservation Area Regulations or is not subject to a ban with permit reservation. In all cases, the competent nature conservation authority shall be informed in a timely manner before the operation.
3. The unmanned aerial system may be controlled only by the person named as the "controller" in the permit.
4. The unmanned aerial system shall be operated in such a manner that public security and order, especially persons and property, are neither endangered nor disturbed.

5. The take-off and landing site shall be cordoned off to prevent any risk to third parties.
6. An unmanned aerial system may be operated only under the conditions and within the operating limits set out in the manufacturer's operating instructions or user manual and only within the controller's range of vision.<sup>2</sup> Automatic/autonomous operation (e.g. using GPS waypoint navigation) is only permitted if the controller can intervene manually and in real time at any time with the help of radio remote control.
7. When the unmanned aerial system is being operated, an adequate safety distance must be maintained from third parties and from public transport infrastructure, high-tension power lines and other obstacles. When estimating an adequate distance, the controller shall ensure that any impairment and risk is ruled out.
8. When preparing for operation, the controller shall obtain all the essential information on the local circumstances, the meteorological conditions and airspace conditions (uncontrolled/controlled airspace, distance from airports/airfields/glider sites, air traffic control installations, et al.) prevailing at the time of the flight and determine an emergency procedure, adapted to the operation, to be followed in the event of a radio communications failure.

To appraise aviation-specific aspects, the latest aeronautical charts and manuals published by the air traffic control organizations and the most recent VFR bulletin shall be used.

9. When unmanned aerial systems are being operated, a lookout shall be kept for other air traffic. An unmanned aerial system shall always give way to manned aircraft. Operation is not permitted, or shall be immediately discontinued, in areas where federal police, federal state police or emergency service helicopters are operating. The commencement or resumption of the operation of unmanned aerial systems within 1.5 km of such a location shall only be allowed with the approval of the on-scene commander.
10. Only radio equipment (telemetry equipment) that complies with the provisions governing such equipment may be used. The provisions and orders issued by the Federal Network Agency governing this equipment shall be observed.

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<sup>2</sup> Operation is deemed to be outside the controller's range of vision if the unmanned aerial system can no longer be seen or clearly made out without special optical aids (cf. the second sentence of Section 15a(3) of the Air Traffic Regulations.



11. At the first sign of radio interference, operation shall be immediately discontinued and/or the predetermined emergency procedure shall be initiated.
12. The holder of the permit shall keep a record (log book) of the flights of unmanned aerial systems with the following information:
  - name of the controller;
  - data and time;
  - place of flight (with precise details);
  - date of flight;
  - number of take-offs and landings;
  - total flying time;
  - events, incidents, operational irregularities.

The records shall be saved for two years and presented to the issuing authority if requested to do so.

13. Accidents involving injury to persons or serious damage to property, as well as other disruption – whether minor or not – associated with the exercise of this permission shall be reported without delay to the authority that granted permission.
14. For the settlement of claims resulting from personal injury or damage to property, third party insurance cover must be taken out in accordance with the provisions of Sections 37(1a) and 43 of the Civil Aviation Act in conjunction with Section 101 ff of the Regulations on Certification and Licensing in Aviation.
15. The controller shall carry the general permit, or a certified copy thereof, with him when operating the unmanned aerial system and produce it if requested to do so.
16. The operation of unmanned aerial systems within 1.5 kilometres from the perimeter of aerodromes (with the exception of airports, see III(17) and on aerodromes shall require the consent of the aviation supervision office or the aerodrome flight information service.
17. Before unmanned aerial systems are operated inside controlled airspace, air traffic control clearance shall be obtained from the competent air traffic control unit in accordance with Section 16 of the Air Traffic Regulations.

IV.

Notes

1. The unmanned aerial system must not be used to invade the spatial/physical sphere of the life of third parties (e.g. right to privacy, copyright).
2. The permission shall not be a substitute for other public or private law approvals, authorizations or licences required by other statutory provisions, unless this is provided for by law, and shall not provide an exemption from compliance with the requirements and other provisions that have to be observed by parties engaged in air traffic.
3. Infringements of the ancillary provisions of this notification may be dealt with as an administrative offence unless they carry a penalty under other provisions.
4. The authority that granted permission is entitled to check whether the conditions that were met when the permission was granted still exist and whether flights are being operated properly. To this end, it may demand the necessary information, carry out inspections and, if appropriate, stipulate further ancillary provisions.
5. If, for the operation of the unmanned aerial system, there is to be a deviation from this permission, an application for a separate permit shall be submitted to the issuing authority in a timely manner.

Reasons

I.

Facts

II.

Legal justification

Costs

[...]

Legal remedies available:

Yours sincerely,

Enclosures