Commission Delegated Regulation (EU) 2020/1058 of 27 April 2020 amending Delegated Regulation (EU) 2019/945 as regards the introduction of two new unmanned aircraft systems classes

COMMISSION DELEGATED REGULATION (EU) 2020/1058

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amending Delegated Regulation (EU) 2019/945 as regards the introduction of two new unmanned aircraft systems classes

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 58 and Article 61 thereof,

Whereas:

(1) The unmanned aircraft systems ('UAS'), the operation of which presents a low risk and for which the UAS operator is allowed to submit a declaration based on the standard scenario listed in Appendix 1 to the Annex to Commission Implementing Regulation (EU) 2019/947[(2)] should not be subject to standard aeronautical compliance procedures. The possibility to establish Union harmonisation legislation as referred to in paragraph 6 of Article 56 of Regulation (EU) 2018/1139 should be used for those UAS. Therefore, it is necessary to set out requirements that address the risks posed by the operation of those UAS, taking full account of other applicable Union harmonisation legislation. As a result, two new different classes of UAS should be created, characterised by different sets of requirements addressing different risks. Consequently, Chapter II of Commission Delegated Regulation (EU) 2019/945[(3)] should cover these new classes.

(2) UAS to be used under standard scenarios defined in Appendix 1 to the Annex of Implementing Regulation (EU) 2019/947 should meet product requirements defined in Chapter II of Delegated Regulation (EU) 2019/945 and therefore should be removed from the scope of Chapter III.

(3) Those requirements should comply with the essential requirements provided for in Article 55 of Regulation (EU) 2018/1139, in particular as regards the specific features and functionalities necessary to mitigate risks pertaining to the safety of the flight, privacy, and protection of personal data, security or the environment, arising from the operation of those UAS.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1058. (See end of Document for details)*

(4) Where manufacturers place UAS on the market with the intention of making them available for operations under the rules and conditions applicable to the 'open' category or under an operational declaration and therefore affix a class identification label on it, they should ensure the compliance of the UAS with the requirements of that class. Equally, where manufacturers place on the market accessories kits transforming a class C3 UAS into a C5, they should ensure compliance of the UAS fitted with the accessories kits with all the requirements of class C5.

(5) In order to support the remote identification as one of the necessary elements for the functioning of U-space system under development, all UAS operated in the specific category should be equipped with a remote identification system.

(6) Those UAS operated in the specific category and that are not required to register in accordance with Article 14 of Implementing Regulation (EU) 2019/947, should have a unique serial number, unless they are privately built.

(7) The measures provided for in this Regulation are based on Opinion No 05/2019[(4)] issued by the European Union Aviation Safety Agency (EASA) in accordance with Article 76(1) of Regulation (EU) 2018/1139.

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2019/945

Delegated Regulation (EU) 2019/945 is amended as follows:

(1) in Article 1, paragraph 2 is replaced by the following.

2. It also establishes rules on making UAS and accessories kit and remote identification add-ons available on the market and on their free movement in the Union.;

(2) in Article 2, paragraphs 1 and 2 of are replaced by the following.

1. Chapter II of this Regulation applies to the following products:
   a UAS intended to be operated under the rules and conditions applicable to the 'open' category of UAS operations or to operational declarations under the 'specific' category of UAS operations pursuant to Regulation (EU) 2019/947, except privately built UAS, and bearing a class identification label as set out in Parts 1 to 5, 16 and 17 of the Annex to this Regulation indicating to which of the seven UAS classes referred to in Implementing Regulation (EU) 2019/947 it belongs;
   b class C5 accessories kits as set out in Part 16;
   c remote identification add-ons as set out in Part 6 of the Annex to this Regulation.

2 Chapter III of this Regulation applies to UAS operated under the rules and conditions applicable to the 'certified' and 'specific' categories of UAS operations pursuant to Implementing Regulation (EU) 2019/947 except when conducted under a declaration.;

(3) In Article 3, the following points (38), (39) and (40) are added:

(38) 'command unit' ('CU') means the equipment or system of equipment to control unmanned aircraft remotely as defined in point 32 of Article 3 of Regulation (EU) 2018/1139 which supports the control or the monitoring of the unmanned aircraft during any phase of flight, with the exception of any infrastructure supporting the command and control (C2) link service;

(39) 'C2 link service' means a communication service supplied by a third party, providing command and control between the unmanned aircraft and the CU;'

(40) 'night' means the hours between the end of evening civil twilight and the beginning of morning civil twilight as defined in Implementing Regulation (EU) No 923/2012.[(5)]

(4) the title of Chapter II is replaced by the following:

UAS intended to be operated in the 'open' category or in the 'specific' category under operational declaration, accessories kits bearing a class identification label and remote identification add-ons

(5) in Article 4, paragraph 1 is replaced by the following:

1. The products referred to in paragraph 1 of Article 2 shall meet the requirements set out in Parts 1 to 6, 16 and 17 of the Annex.;

(6) in Article 5, the following paragraph 3 is added:

3. Paragraphs 1 to 4 of Article 4 of Regulation (EU) 2019/1020 of the European Parliament and of the Council shall apply as from 16 July 2021.;

(7) in Article 6, paragraph 1 is replaced by the following:

1. When placing their product on the Union market, manufacturers shall ensure that it has been designed and manufactured in compliance with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex.;

(8) in Article 6, paragraph 2 is replaced by the following:

2. Manufacturers shall draw up the technical documentation provided for in Article 17 and carry out the relevant conformity assessment procedure referred to in Article 13 or have it outsourced.

Where compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex has been demonstrated by that conformity assessment procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.;

(9) in Article 6, paragraph 5 is replaced by the following:

5. Manufacturers of UAS shall ensure that the UA bears a type within the meaning of Decision 768/2008/EC and a unique serial number allowing for its identification, and if applicable, compliant with the requirements defined in the corresponding Parts 2 to 4, 16 and 17 of the Annex. Manufacturers of class C5 accessories kits shall ensure that the kits bears a type and a unique serial number allowing for their identification. Manufacturers of remote identification add-ons shall ensure that the remote identification add-on bears a type and a unique serial number allowing for their identification and compliant with the requirements defined in Part

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6 of the Annex. In all cases, manufacturers shall ensure that a unique serial number is also affixed to the EU declaration of conformity or to the simplified EU declaration of conformity referred to in Article 14.;

(10) in Article 6, paragraph 7 is replaced by the following:

7. Manufacturers shall ensure that the product is accompanied by the manufacturers' instructions and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. Such manufacturers' instructions and information notice, as well as any labelling, shall be clear, understandable and legible.;

(11) in Article 6, the following paragraph 11 is added:

11. When placing on the market a class C5 or C6 UAS or a class C5 add-on, manufacturers shall inform the market surveillance authority of the MS of their principal place of business.;

(12) in Article 8, the second subparagraph of paragraph 2 is replaced by the following:

Where an importer considers or has reasons to believe that a product is not in conformity with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex, they shall not place the product on the market until it has been brought into conformity. Furthermore, where the product presents a risk for the health and safety of consumers and third parties, the importer shall inform the manufacturer and the competent national authorities to that effect.;

(13) In Article 8, paragraph 4 is replaced by the following:

4. Importers shall ensure that the product is accompanied by the manufacturers' instructions and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. That manufacturers' instructions and information notice, as well as any labelling, shall be clear, understandable and legible.;

(14) in Article 8, the following paragraph 10 is added:

'10 When placing on the market a class C5 or C6 UAS or a class C5 add-on, importers shall inform the market surveillance authority of the MS of their principal place of business.';

(15) in Article 9 the two first subparagraphs of paragraph 2 are replaced by the following:

2. Before making a product available on the market, distributors shall verify that the product bears the CE marking and, when applicable, the UA class identification label and the indication of the sound power level, is accompanied by the documents referred to in paragraphs 7 and 8 of Article 6 and that the manufacturer and the importer have complied with the requirements set out in paragraphs 5 and 6 of Article 6 and in paragraph 3 of Article 8.

Distributors shall ensure that the product is accompanied by the manufacturers' instructions and information notice required by Parts 1 to 6, 16 and 17 of the Annex in a language which can be easily understood by consumers and other end users, as determined by the Member State concerned. Those manufacturers' instructions and information notice, as well as any labelling, shall be clear, understandable and legible.;

(16) Article 12 is replaced by the following:

> A product which is in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Parts 1 to 6, 16 and 17 of the Annex.;

(17) in Article 13, paragraph 1 is replaced by the following:

1. The manufacturer shall perform a conformity assessment of the product using one of the following procedures with a view to establishing its compliance with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex. The conformity assessment shall take into account all intended and foreseeable operating conditions.;

(18) in Article 13, point (a) of paragraph 2 of is replaced by the following:

> (a) internal production control as set out in Part 7 of the Annex, when assessing the compliance of a product with the requirements set out in Parts 1, 5, 6, 16 or 17 of the Annex, subject to the condition that the manufacturer has applied harmonised standards, the references of which have been published in the *Official Journal of the European Union*, for all the requirements for which such standards exist;;

(19) in Article 14, paragraph 1 is replaced by the following:

1. The EU declaration of conformity referred to in paragraph 8 of Article 6 shall state that compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex has been demonstrated and, for UAS, identify its class.;

(20) in Article 16, paragraph 2 is replaced by the following:

2. The UA class identification label shall be affixed visibly, legibly and indelibly to the UA or, when relevant, to each accessories of a class C5 accessories kit, and its packaging and shall be at least 5 mm high. The affixing to a product of markings, signs or inscriptions which are likely to mislead third parties regarding the meaning or form of the class identification label shall be prohibited.;

(21) in Article 17, paragraph 1 is replaced by the following:

1. The technical documentation shall contain all relevant data and details of the means used by the manufacturer to ensure that the product complies with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex. It shall, at least, contain the elements set out in Part 10 of the Annex.;

(22) in Article 17, paragraph 4 is replaced by the following:

4. Where the technical documentation does not comply with paragraphs 1, 2 or 3 of this Article, the market surveillance authority may ask the manufacturer or the importer to have a test performed by a body acceptable to the market surveillance authority at the expense of the manufacturer or the importer within a specified period in order to verify compliance of the product with the requirements set out in Parts 1 to 6, 16 and 17 of the Annex which applies to it.;

(23) in Article 30, paragraph 3 of is replaced by the following:

3. Where a notified body finds that the requirements set out in Parts 1 to 6, 16 and 17 of the Annex or in corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require the manufacturer