Commission Implementing Regulation (EU) 2019/1170 of 8 July 2019 amending and correcting Regulation (EC) No 29/2009 laying down requirements on data link services for the single European sky (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1170

of 8 July 2019

amending and correcting Regulation (EC) No 29/2009 laying down requirements on data link services for the single European sky

(Text with EEA relevance)

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 Articles 43 and 44 thereof,

Whereas:

(1) Commission Regulation (EC) No 29/2009[(2)] lays down requirements for the coordinated introduction of data link services based on air-ground point-to-point data communications.

(2) Acknowledging the ongoing data link implementation issues and corrective actions taken and recognising the objective that at least 75 % of the flights should be equipped with data link capability, the criteria for exemptions should be amended. Those criteria should remain effective, without placing an undue economic burden on specific operator categories which contribute significantly less to the overall number of flights. Such categories should include operators of aircraft with Future Air Navigation Systems (FANS) 1/A systems installed, operators of older aircraft, and of aircraft designed to carry 19 passengers or less.

(3) In order to keep the Regulation up to date, references to International Civil Aviation Organisation ('ICAO') Annex 10 amendments in Annex III of the Regulation (EC) No 29/2009 and various clerical corrections should be made.

(4) Commission Implementing Regulation (EU) 2015/310[(3)] amended Article 3 of Regulation (EC) No 29/2009, however that amendment was not well reflected in the corresponding Articles 6 and 8 of Regulation (EC) No 29/2009. This omission should be corrected.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1170. (See end of Document for details)*

(5) Since this Regulation amends the criteria for exemptions under Article 14 of Regulation (EC) No 29/2009, it is appropriate to adapt the terms of the latter Regulation also to Article 127(3) of Regulation (EU) 2018/1139, referred to in Article 44 thereof.

(6) Regulation (EC) No 29/2009 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 127(3) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 29/2009 is amended as follows:

(1) In Article 3, paragraph 3 is replaced by the following:

3. Paragraph 2 shall not apply to:

a aircraft with an individual certificate of airworthiness first issued before 1 January 1995;

b aircraft which have an individual certificate of airworthiness first issued before 31 December 2003 and which will cease operation in the airspace referred to in paragraph 3 of Article 1 before 31 December 2022;

c aircraft with an individual certificate of airworthiness first issued before 1 January 2018 and fitted prior to this date with data link equipment compliant with the requirements of one of the Eurocae documents specified in point 10 of Annex III;

d aircraft which have a certified maximum seating capacity of 19 passengers or less and a maximum certified take-off mass of 45 359 Kg (100 000 lbs) or less and with a first individual certificate of airworthiness issued before 5 February 2020;

e State aircraft;

f aircraft flying in the airspace referred to in paragraph 3 of Article 1 for testing, delivery or for maintenance purposes or with data link constituents temporarily inoperative under conditions specified in the applicable minimum equipment list required by point 1 of Annex III.

(2) in paragraphs 1, 2 and 3 of Article 6, references to Article 3(2) and 3(3) are replaced by references to Article 3(2);

(3) in paragraphs 1, 2 and 3 of Article 8, references to Article 3(5) are replaced by references to Article 3(4);

(4) in Article 14, paragraph 2, ‘Article 5(3) of Regulation (EC) No 549/2004’ is replaced by ‘Article 127(3) of Regulation (EU) 2018/1139’;

(5) in Article 14, paragraph 3 is replaced by the following:

3. The criteria referred to in paragraph 1 shall be the following:

a aircraft types/models combinations, reaching the end of their production life and being produced in limited numbers; and

b aircraft types/models combinations for which re-engineering costs required would be disproportionate due to old design.;

(6) Annex III is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 July 2019.

For the Commission

The President

Jean-Claude JUNCKER