Commission Implementing Regulation (EU) 2019/133 of 28 January 2019 amending Regulation (EU) 2015/640 as regards the introduction of new additional airworthiness specifications

COMMISSION IMPLEMENTING REGULATION (EU) 2019/133

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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 repealing Regulation (EC) No 216/2008[(1)], and in particular Article 17(1)(h) thereof,

Whereas:

(1) Commission Regulation (EU) 2015/640[(2)] sets out additional airworthiness requirements for aircraft, the design of which has already been certified. Those additional airworthiness requirements are needed to support continuing airworthiness and safety improvements. This is because when certification specifications ('CS') issued by the European Union Aviation Safety Agency (the 'Agency'), pursuant to Article 76(3) of Regulation (EU) 2018/1139, are updated by the Agency in order to ensure that CS remain fit for purpose, an aircraft, the design of which has already been certified is not required to comply with the updated version of CS when it is produced or while in service.

(2) In order to maintain a high level of aviation safety and environmental requirements in Europe it might therefore be necessary to mandate the compliance of aircraft with additional airworthiness requirements which were not mandated by the Agency at the time of certification of design, because they were not included in the relevant CS at that time. This amendment to Regulation (EU) 2015/640 concerns three evolutions of the CS.

(3) First, in 1989 the Joint Aviation Authorities (JAA) introduced new design standards for the dynamic conditions of passenger and cabin crew seats of large aeroplanes, offering an improved protection of occupants. Those standards aimed at mitigating the risk of injuries or deaths in the event of emergency landing. They were transposed in the Agency's certification specifications for large aeroplanes (CS-25), but they apply only to large aeroplanes of which the certification of the design has been applied for after 1989. Considering that certain large aeroplanes might not comply with those standards, additional airworthiness specifications should be therefore introduced. Having due regard to the nature and risk of operations with large aeroplanes while maintaining a

high uniform level of civil aviation safety in the Union, it is considered proportionate and cost-efficient to introduce those additional airworthiness specifications only to large aeroplanes newly produced on the basis of a design which has already been certified by the Agency. Those additional airworthiness specifications should not apply to flight deck crew seats and seats in low-occupancy aeroplanes involved in on-demand non-scheduled commercial air transport operations because it is not considered proportionate or cost-efficient.

(4) Second, in 2009 the Agency introduced new flammability standards for thermal or acoustic insulation materials improving certain characteristics of the insulation materials installed in the fuselage to resist flame propagation and flame penetration in the certification specifications for large aeroplanes (CS-25 Amendment 6). Those new flammability standards apply only to large aeroplanes of which the certification of the design has been applied for after 2009. Considering that certain large aeroplanes might not comply with those standards, additional airworthiness specifications should be introduced. Having due regard to the nature and risk of operations with large aeroplanes while maintaining a high uniform level of civil aviation safety in the Union, it is considered proportionate and cost-efficient to introduce the additional airworthiness specifications addressing the risk of flame propagation in flight to large aeroplanes newly produced on the basis of a design which has already been certified by the Agency. Those additional airworthiness specifications should also apply to large aeroplanes which are in service when thermal or acoustic insulation materials are replaced. Finally, the additional airworthiness specifications addressing the risk of flame penetration into the aeroplane after an accident should be introduced for large aeroplanes with a passenger capacity of 20 or more and apply only to aeroplanes newly produced on the basis of a design which has already been certified by the Agency.

(5) Third, to gradually mitigate the environmental impact of halon used in the firefighting equipment, the International Civil Aviation Organization (ICAO) has issued new standards by amending ICAO Annex 6 applicable as from 15 December 2011. In order to comply with those standards, additional airworthiness specifications should be introduced to newly produced large aeroplanes and large helicopters the design of which has already been certified by the Agency on the basis of certification specifications which allowed the use of halon as a suitable agent.

(6) Commission Regulation (EU) 2015/640 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are based on opinions issued by the Agency in accordance with Article 76(1) of Regulation (EU) 2018/1139.

(8) 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 (EU) 2015/640 is amended as follows:

(1) Article 2 is amended as follows:

(a) point (b) is replaced by the following:

(b) "large aeroplane" means an aeroplane that has the Certification Specifications for large aeroplanes "CS-25" or equivalent in its certification basis;

(b) the following points (c) and (d) are added:

(c) "large helicopter" means a helicopter that has the Certification Specifications for large rotorcraft "CS-29" or equivalent in its certification basis;

(d) "low-occupancy aeroplane" means an aeroplane that has a maximum operational passenger seating configuration of:

(1) up to and including 19 seats, or;

(2) up to and including one third of the maximum passenger seating capacity of the type-certified aeroplane, as indicated in the aeroplane type-certificate data sheet (TCDS), provided that both of the following conditions are met:

(a) the total number of passenger seats approved for occupancy during taxiing, take-off or landing does not exceed 100 per deck;

(b) the maximum operational passenger seating configuration during taxiing, take-off or landing in any individual zone between pairs of emergency exits (or any dead-end zone) does not exceed one third of the sum of the passenger seat allowances for the emergency exit pairs bounding that zone (using the passenger seat allowance for each emergency exit pairs as defined by the applicable certification basis of the aeroplane). For the purpose of determining compliance with this zonal limitation, in the case of an aeroplane that has deactivated emergency exits, it shall be assumed that all emergency exits are functional.

(2) Annex I (Part-26) is amended in accordance with Annex to this Regulation.

Article 2

Entry into force and application

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.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/133. (See end of Document for details)

Done at Brussels, 28 January 2019.

For the Commission

The President

Jean-Claude JUNCKER