Commission Regulation (EU) 2015/140 of 29 January 2015 amending Regulation (EU) No 965/2012 as regards sterile flight crew compartment and correcting that Regulation

COMMISSION REGULATION (EU) 2015/140

of 29 January 2015

amending Regulation (EU) No 965/2012 as regards sterile flight crew compartment and correcting that Regulation

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC[(1)], and in particular Article 8(5) thereof,

Whereas:

(1) Operators and personnel involved in the operation of certain aircraft have to comply with the relevant essential requirements set out in point 8.b of Annex IV to Regulation (EC) No 216/2008.

(2) Commission Regulation (EU) No 965/2012[(2)] establishes conditions for the safe operation of aircraft.

(3) In order to address the risks linked to potential errors resulting from the disturbance or distraction of flight crew during certain phases of flight, operators should be required to ensure that crew members are not required to perform any activities during critical phases of flight other than those required for the safe operation of the aircraft.

(4) Regulation (EU) No 965/2012 imposes a limit on the number of persons who may be carried on board during specialised operations. However, that limit is not justified by safety reasons. Article 5(7) should therefore be adapted.

(5) Commission Regulation (EU) No 71/2014[(3)] inserted an Article 9a into Regulation (EU) No 965/2012. Commission Regulation (EU) No 83/2014[(4)] subsequently inserted a second Article 9a, which should actually have been numbered Article 9b. In the interests of clarity and legal certainty, that Article 9a as inserted by Regulation (EU) No 83/2014 should be replaced and correctly numbered.

(6) For reasons of legal certainty, and to ensure coherence with the terms used in Regulation (EC) No 216/2008, it is necessary, in certain languages, to correct certain terms used in Regulation (EU) No 965/2012.

(7) Regulation (EU) No 965/2012 should therefore be amended and corrected accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/140. (See end of Document for details)*

(8) The measures provided for in this Regulation are based on the opinion[5] issued by the European Aviation Safety Agency in accordance with Article 17(2)(b) and Article 19(1) of Regulation (EC) No 216/2008.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 965/2012 is amended as follows:

(1) Article 5 is amended as follows:

(a) paragraph 4 is replaced by the following:

4. Operators of other-than complex motor-powered aeroplanes and helicopters, as well as balloons and sailplanes, involved in non-commercial operations, including non-commercial specialised operations, shall operate the aircraft in accordance with the provisions specified in Annex VII.;

(b) in paragraph 5, point (b) is replaced by the following:

(b) other aeroplanes and helicopters as well as balloons and sailplanes in accordance with the provisions specified in Annex VII.;

(c) in paragraph 7, the second sentence is replaced by the following:

'Except for crew members, persons other than those indispensable to the mission shall not be carried on board.'.

(2) Article 6 is amended as follows:

(a) in paragraph 2, the first sentence is replaced by the following:

2. By way of derogation from Article 5(1), aircraft referred to in Article 4(5) of Regulation (EC) No 216/2008 shall, in the case of aeroplanes, be operated under the conditions set out in Commission Decision C(2009) 7633 of 14 October 2009 when used in CAT operations.;

(b) in paragraph 4a, the introductory wording is replaced by the following:

4a. By way of derogation from Article 5(1) and (6), the following operations with other-than complex motor-powered aeroplanes and helicopters, balloons and sailplanes may be conducted in accordance with Annex VII:.

(3) Article 9a as inserted by Regulation (EU) No 83/2014 is replaced by the following:

Article 9b

Review

The Agency shall conduct a continuous review of the effectiveness of the provisions concerning flight and duty time limitations and rest requirements contained in

Annexes II and III. No later than 18 February 2019 the Agency shall produce a first report on the results of this review.

That review shall involve scientific expertise and shall be based on operational data gathered, with the assistance of Member States, on a long-term basis after the date of application of this Regulation.

The review shall assess the impact of at least the following on the alertness of aircrew:

(a) duties of more than 13 hours at the most favourable times of the day;

(b) duties of more than 10 hours at less favourable times of the day;

(c) duties of more than 11 hours for crew members in an unknown state of acclimatisation;

(d) duties including a high level of sectors (more than 6);

(e) on-call duties such as standby or reserve followed by flight duties; and

(f) disruptive schedules..

(4) Annexes I, III, IV, VI and VIII are amended in accordance with the Annex I to this Regulation.

Article 2

Regulation (EU) No 965/2012 is corrected as follows:

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

7. By way of derogation from SPA.PBN.100 PBN of Annex V non-commercial operations with other-than complex motor-powered aeroplanes in designated airspace, on routes or in accordance with procedures where performance-based navigation (PBN) specifications are established shall continue to be operated under the conditions set out in Member States' national law until the related implementing rules are adopted and apply..

(2) Annexes II, III, IV, VII and VIII are corrected as set out in Annex II to this Regulation.

Article 3

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

However point (3) of Article 1 shall apply from 18 February 2016.

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

Done at Brussels, 29 January 2015.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2015/140. (See end of Document for details)*

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ANNEX I

Annexes I, III, IV, VI and VIII to Regulation (EU) No 965/2012 are amended as follows:

(1) In Annex I the following point (109a) is inserted:

(109a) "Sterile flight crew compartment" means any period of time when the flight crew members are not disturbed or distracted, except for matters critical to the safe operation of the aircraft or the safety of the occupants;.

(2) In Annex III (PART-ORO):

(a) in ORO.GEN.110, point (f) is replaced by the following:

(f) The operator shall establish procedures and instructions for the safe operation of each aircraft type, containing ground staff and crew member duties and responsibilities, for all types of operation on the ground and in flight. Those procedures and instructions shall not require crew members to perform any activities during critical phases of flight other than those required for the safe operation of the aircraft. Procedures and instructions for a sterile flight crew compartment shall also be included.;

(b) in ORO.MLR.105, point (a) is replaced by the following:

(a) A minimum equipment list (MEL) shall be established as specified under point 8.a.3 of Annex IV to Regulation (EC) No 216/2008, based on the relevant master minimum equipment list (MMEL) as defined in the data established in accordance with Regulation (EU) No 748/2012. If an MMEL has not been established as part of the operational suitability data, the MEL may be based on the relevant MMEL accepted by the State of Operator or Registry as applicable..

(3) In Annex IV (PART-CAT) the following point is inserted:

CAT.GEN.MPA.124 Taxiing of aircraft

The operator shall establish procedures for taxiing of aircraft in order to ensure safe operation and in order to enhance runway safety..

(4) In Annex VI (PART-NCC) the following point is inserted:

NCC.GEN.119 Taxiing of aircraft

The operator shall establish procedures for taxiing to ensure safe operation and to enhance runway safety..

(5) In Annex VIII (PART-SPO) the following point is inserted:

SPO.GEN.119 Taxiing of aircraft

The operator shall establish procedures for taxiing of aircraft in order to ensure safe operation and in order to enhance runway safety..

ANNEX II

Annexes II, III, IV, VII and VIII to Regulation (EU) No 965/2012 are corrected as follows: