COMMISSION IMPLEMENTING REGULATION (EU) 2019/133

of 28 January 2019

amending Regulation (EU) 2015/640 as regards the introduction of new additional airworthiness specifications

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.

([1]) OJ L 212, 22.8.2018, p. 1.
([2]) Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

(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.

Done at Brussels, 28 January 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Annex I is amended as follows:

(1) the table of content is replaced by the following:

'CONTENTS

(2) the following point 26.60 is inserted:

'**26.60 Emergency landing — dynamic conditions**

Operators of large aeroplanes used in commercial air transport of passengers, type-certified on or after 1 January 1958, and for which the individual certificate of airworthiness is first issued on or after 18 February 2021 shall demonstrate for each seat type design approved for occupancy during taxiing, take-off or landing that the occupant is protected when exposed to loads resulting from emergency landing conditions. The demonstration shall be made by one of the following means:

(a) successfully completed dynamic tests;

(b) rational analysis providing equivalent safety, based on dynamic tests of a similar seat type design.

The obligation set out in the first paragraph shall not apply to the following seats:

(a) flight deck crew seats,

(b) seats in low-occupancy aeroplanes involved only in on-demand non-scheduled commercial air transport operations.';

(3) the following point 26.156 is inserted:

'**26.156 Thermal or acoustic insulation materials**

Operators of large aeroplanes used in commercial air transport, type certified on or after 1 January 1958, shall ensure that:

(a) for aeroplanes for which the first individual certificate of airworthiness is issued before 18 February 2021, when new thermal or acoustic insulation materials are installed as replacements on or after 18 February 2021, those new materials have flame propagation resistance characteristics which prevent or reduce the risk of flame propagation in the aeroplane;

(b) for aeroplanes for which the first individual certificate of airworthiness is issued on or after 18 February 2021, thermal and acoustic insulation materials have flame propagation resistance characteristics which prevent or reduce the risk of flame propagation in the aeroplane;

(c) for aeroplanes for which the first individual certificate of airworthiness is issued on or after 18 February 2021 and with a passenger capacity of 20 or more, thermal and acoustic insulation materials (including the means of fastening the materials to the fuselage) installed in the lower half of the aeroplane have flame penetration resistance characteristics which prevent or reduce the risk of flame penetration into the aeroplane after an accident and which ensure survivable conditions in the cabin for a time needed to evacuate the aeroplane.';

(4) the following point 26.170 is inserted:

'**26.170 Fire extinguishers**

Operators of large aeroplanes shall ensure that the following extinguishers do not use halon as an extinguishing agent:

(a) built-in fire extinguishers for each lavatory waste receptacle for towels, paper or waste in large aeroplanes for which the first individual certificate of airworthiness is issued on or after 18 February 2020;

(b) portable fire extinguishers in large aeroplanes for which the first individual certificate of airworthiness is issued on or after 18 May 2019.';

(5) the following Subpart C is added:

'**SUBPART C — LARGE HELICOPTERS**

26.400 Fire extinguishers

Operators of large helicopters shall ensure that the following extinguishers do not use halon as an extinguishing agent:

(a) built-in fire extinguishers for each lavatory waste receptacle for towels, paper or waste in large helicopters for which the individual certificate of airworthiness is first issued on or after 18 February 2020;

(b) portable fire extinguishers in large helicopters for which the individual certificate of airworthiness is first issued on or after 18 May 2019.'