

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/587

of 29 April 2020

amending Implementing Regulation (EU) No 1206/2011 laying down requirements on aircraft identification for surveillance for the single European sky and Implementing Regulation (EU) No 1207/2011 laying down requirements for the performance and the interoperability of surveillance 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 point (a) of Article 44(1) thereof,

Whereas:

- (1) In order to ensure safe and efficient operations of aircraft, aerodromes, air traffic management, air navigation and of the European air traffic management network, it is necessary to provide for certain improvements to the operating rules related to the use of airspace, aircraft equipment and air traffic management and air navigation services systems and their constituents required for the use of airspace. New and updated safety-related interoperability requirements should therefore be set out in Commission Implementing Regulation (EU) No 1206/2011 ⁽²⁾ and Commission Implementing Regulation (EU) No 1207/2011 ⁽³⁾.
- (2) Taking into account the experiences from the ongoing implementation of airborne surveillance capability and the capability of the ground systems to process data, effective and timely installation of aircraft equipment is necessary to enable the full surveillance chain to achieve the expected benefits within the established deadlines. The criteria for exemptions from the requirements to equip aircraft should be amended to provide clarity as to which aircraft are to be equipped and which ones are to benefit of an exemption from those requirements. At the same time, the overall number of aircraft equipped should remain effective and should not impose an undue economic burden.
- (3) A significant number of equipped aircraft is already certified in line with the international standard for airborne parts and appliances for the surveillance systems, corresponding to Annex 10 to the Chicago Convention, Volume IV, Third Edition, including all amendments up to No 77. That standard is fully compatible with the anticipated surveillance systems. Mandating the use of the standard corresponding to Annex 10 to the Chicago Convention, Volume IV, Fourth Edition including all amendments up to No 85 as currently provided in Annex II to

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23).

⁽³⁾ Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).

Implementing Regulation (EU) No 1207/2011 would impose an undue economic burden. Therefore, the standard corresponding to Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77 should be considered as the minimum requirement. Therefore, the minimum technical standards to which aircraft operators are to comply laid down in Implementing Regulation (EU) No 1207/2011 should be amended.

- (4) State aircraft operating as general air traffic should be equipped with serviceable secondary surveillance radar transponders in line with the requirements applicable to civil aircraft laid out in points (a) and (c) of Article 5(5) of Implementing Regulation (EU) No 1207/2011. The procedures and conditions related to state aircraft that cannot be equipped with serviceable secondary surveillance radar transponders should remain those laid out in Article 8 of Implementing Regulation (EU) No 1207/2011.
- (5) The requirements for the formal arrangements on transferring surveillance data between air navigation service providers should be amended to reflect existing data distribution scenarios to facilitate exchange of surveillance data and to avoid excessive onerous constraints on the delivering provider.
- (6) In order to ensure the effectiveness of State aircraft operations, the ability of the European ATM system to ensure that those State aircraft engaged in sensitive operations and training are able to operate with the assignment of discrete SSR codes should be established and therefore Implementing Regulation (EU) No 1206/2011 should be amended accordingly.
- (7) The outbreak of the pandemic of Covid-19 virus and the resulting impact on the aviation sector has led to unforeseeable obstacles for aircraft operators to pursue their activities to bring the aircraft in compliance with certain requirements of Implementing Regulation (EU) No 1207/2011. As a result, the deadline for aircraft operators laid out in Article 5(5), Article 8(1) and Article 8(2) of Implementing Regulation (EU) No 1207/2011 should be postponed to 7 December 2020, and Implementing Regulation (EU) No 1207/2011 should be amended accordingly.
- (8) Implementing Regulation (EU) No 1206/2011 and Implementing Regulation (EU) No 1207/2011 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 127(1) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Implementing Regulation (EU) No 1206/2011 is amended in accordance with Annex I to this Regulation.

Article 2

Implementing Regulation (EU) No 1207/2011 is amended as follows:

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

‘2. This Regulation shall apply to all flights operating as general air traffic in accordance with instrument flight rules within the Single European Sky airspace with the exception of Article 7(3) and 7(4) which shall apply to all flights operating as general air traffic’;
- (2) in Article 4, paragraph 4 is deleted;
- (3) in Article 5, paragraphs 5 and 6 are replaced by the following:

‘5. By 7 December 2020 operators shall ensure that:

 - (a) aircraft operating flights referred to in Article 2(2) are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
 - (i) they have the capabilities set out in Part A of Annex II;
 - (ii) they have the continuity sufficient to avoid presenting an operational risk;

- (b) aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 7 June 1995, are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
- (i) they have the capabilities set out in Parts A and B of Annex II;
 - (ii) they have the continuity sufficient to avoid presenting an operational risk;
- (c) fixed wing aircraft with a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operating flights referred to in Article 2(2), with an individual certificate of airworthiness first issued on or after 7 June 1995, are equipped with serviceable secondary surveillance radar transponders that comply with the following conditions:
- (i) they have the capabilities set out in Parts A, B and C of Annex II;
 - (ii) they have the continuity sufficient to avoid presenting an operational risk.

Points (b) and (c) of the first subparagraph shall not apply to aircraft that operate within the Single European Sky airspace and that belong to one of the following categories:

- (i) they are being flown to undergo maintenance;
- (ii) they are being flown for export;
- (iii) their operations will be ceased by 31 October 2025.

Operators of aircraft with a first certificate of airworthiness issued before 7 December 2020 shall comply by 7 June 2023 with the requirements set out in points (b) and (c) of the first subparagraph, subject to the following conditions:

- (i) they have established before 7 December 2020 a retrofit programme demonstrating compliance with points (b) and (c) of the first subparagraph;
- (ii) those aircraft have not benefitted from any Union funding granted to bring such aircraft in compliance with the requirements set out in points (b) and (c) of the first subparagraph.

For aircraft where the capability of the transponders to comply with the requirements of points (b) and (c) of the first subparagraph is temporarily inoperative, operators shall be entitled to operate that aircraft in the Single European Sky airspace for a maximum of 3 consecutive days.

6. Operators shall ensure that aircraft equipped in accordance with paragraph 5 and having a maximum certified take-off mass exceeding 5 700 kg or having a maximum cruising true airspeed capability greater than 250 knots, operate with antenna diversity, with a minimum performance as prescribed in paragraph 3.1.2.10.4 of Annex 10 to the Chicago Convention, Volume IV, Third Edition, including all amendments up to No 77.;

- (4) in Article 5, paragraph 7 is deleted;
- (5) in Article 6, paragraph 2 is deleted;
- (6) in Article 7, paragraph 2 is deleted;
- (7) in Article 7, paragraph 3 is replaced by the following:

‘3. Member States shall ensure that the assignment of 24-bit ICAO aircraft addresses to aircraft equipped with a Mode S transponder complies with Chapter 9 and its appendix of Annex 10 to the Chicago Convention, Volume III, Second Edition including all amendments up to No 90.’;

- (8) in Article 8, paragraphs 1 and 2 are replaced by the following:

‘1. Member States shall ensure that, by 7 December 2020 at the latest, State aircraft comply with point (a) of Article 5(5).

2. Member States shall ensure that, by 7 December 2020 at the latest, transport-type State aircraft comply with point (c) of Article 5(5).’;

- (9) in Article 8, the following paragraph 8 is inserted:

‘8. For State aircraft where the capability of the transponders to comply with the requirements of paragraphs 1 and 2 is temporarily inoperative, Member States shall be entitled to allow the operation of that aircraft in the Single European Sky airspace for a maximum of 3 consecutive days.’;

- (10) Article 14 is deleted;

(11) the following Article 14a is inserted:

Article 14a

Flight Plans

Operators of non-equipped State aircraft communicated as per Article 8(3) and operators of aircraft not equipped in accordance with Article 5(5) operating within the Single European Sky airspace, shall include the indicators SUR/EUADSBX or SUR/EUEHSX or SUR/EUELSX or a combination thereof, in Item 18 of the flight plan.;

(12) Annex II is amended in accordance with Annex II to this Regulation;

(13) Annex IV is amended in accordance with Annex III 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*.

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

Done at Brussels, 29 April 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Point 3 of Annex II to Implementing Regulation (EU) No 1206/2011 is amended as follows:

(1) point (c) is replaced by the following:

‘(c) an aircraft which is eligible for the assignment of the conspicuity code established in accordance with point (c) of Article 4(6) exits or is otherwise diverted outside the airspace volume referred to in point (1);’;

(2) the following point (d) is added:

‘(d) State aircraft engaged on nationally sensitive operations or training, that require security and confidentiality.’.

ANNEX II

Annex II to Implementing Regulation (EU) No 1207/2011 is amended as follows:

(1) Part A is amended as follows:

(a) point 1 is replaced by the following:

‘1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 meeting the performance and functionality criteria of Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77.’;

(b) point 5 is replaced by the following:

‘5. The data items referred to in point 4 shall only be transmitted by the transponder via the Mode S protocol. The aircraft and equipment certification process shall cover the transmission of those data items.’;

(c) point 6 is deleted;

(2) Part B is amended as follows:

(a) point 1 is replaced by the following:

‘1. The minimum capability for the secondary surveillance transponder shall be Mode S Level 2 meeting the performance and functionality criteria of Annex 10 to the Chicago Convention, Volume IV, Third Edition including all amendments up to No 77.’;

(b) point 15 is replaced by the following:

‘15. Except for military reserved formats, the data items referred to in point 14 shall only be transmitted by the transponder via the extended squitter ADS-B protocol. The aircraft and equipment certification process shall cover the transmission of these data items.’;

(c) point 16 is deleted;

(3) Part C is amended as follows:

(a) in point 2, the introductory phrase is replaced by the following:

‘2. The following data items, where available on a digital bus, shall be transmitted by the transponder as requested by the ground-based surveillance chain, via the Mode S protocol and in accordance with the formats specified in ICAO document 9871 (2nd edition)’;

(b) point 4 is replaced by the following:

‘4. The data items referred to in point 3 shall only be transmitted by the transponder via the Mode S protocol. The aircraft and equipment certification process shall cover the transmission of these data items.’.

ANNEX III

Annex IV to Implementing Regulation (EU) No 1207/2011 is replaced by the following:

'ANNEX IV

Requirements for the establishment of formal arrangements referred to in Article 5(2)

Formal arrangements between air navigation service providers for the exchange or provision of surveillance data shall include the following minimum content:

- (a) the parties to the arrangements;
 - (b) the period of validity of the arrangements;
 - (c) the scope of the surveillance data;
 - (d) the sources of the surveillance data;
 - (e) the exchange format of the surveillance data;
 - (f) the service delivery point of the surveillance data;
 - (g) agreed service levels in terms of the following:
 - surveillance data performance as established by Article 4(3)
 - procedures in case of unserviceability;
 - (h) change management procedures;
 - (i) reporting arrangements with respect to performance and availability including unforeseen outage;
 - (j) management and coordination arrangements;
 - (k) ground-based surveillance chain safeguarding and notification arrangements.
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