Commission Implementing Regulation (EU) 2020/358 of 4 March 2020 amending Implementing Regulation (EU) 2018/1976 as regards sailplane pilot licences (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/358

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amending Implementing Regulation (EU) 2018/1976 as regards sailplane pilot licences

(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 23, 27 and 31 thereof,

Whereas:

(1) The Commission is to adopt the necessary implementing rules for establishing the requirements for sailplane pilot licences in accordance with Regulation (EU) 2018/1139, where such aircraft meet the conditions specified in points (b)(i) and (ii) of Article 2(1) of that Regulation.

(2) In light of the specific nature of flight crew licensing for sailplanes, dedicated licensing requirements laid down in stand-alone regulations are necessary. Those requirements should be based on the general rules for flight crew licensing that are laid down in Commission Regulation (EU) No 1178/2011[(2)]. However, they should be restructured and simplified, in order to ensure that they are proportionate and founded on a risk-based approach, whilst ensuring that sailplane pilots are and continue to be competent to carry out their activities and discharge their responsibilities. Corresponding editorial update should also be made to the sailplane operations rules to take account of the shift of licensing rules from Regulation (EU) No 1178/2011 to Commission Implementing Regulation (EU) 2018/1976[(3)].

(3) Pursuant to Article 12(2a)(3) of Regulation (EU) No 1178/2011, Member States may continue to apply national licensing rules that provide access to basic pilot privileges until 8 April 2020. Some Member States have reported to the Commission and the European Union Aviation Safety Agency (‘EASA’) that, in that context, continuation of those national licencing rules, whereby student pilots are allowed to exercise limited privileges without supervision and obtain basic privileges on a step-by-step

basis, supports the promotion of aerial sports and recreational activities due to easy and more affordable access to flying. Promoting and enabling such easier access to general aviation is in line with objectives of EASA's General Aviation Road Map that aims to create a more proportional, flexible and proactive regulatory system[(4)]. For those reasons, Member States should be given the discretion to continue with those national licensing rules in accordance with the principles introduced in Commission Implementing Regulation (EU) 2019/430[(5)], for the purpose of issuing sailplane pilot licences ('SPL'). However, Member States should inform the Commission and the EASA whenever they make use of such authorisations. The Member States should also monitor the use of such authorisations in order to maintain an acceptable level of aviation safety.

(4) In order to ensure a smooth transition, any certificates, authorisations and approvals issued to sailplane pilots in accordance with Regulation (EU) No 1178/2011 prior to the date of application of this Regulation should continue to be valid. National sailplane pilot licences issued prior to the date of application of this Regulation should be converted into licences issued in accordance with this Regulation, through conversion reports established by the competent authorities of Member States in consultation with the EASA.

(5) Sailplane pilot trainings that commenced in accordance with Annex I (Part-FCL) to Regulation (EU) No 1178/2011 prior to the date of application of this Regulation should be fully credited because they provide equal or even broader scope of training requirements than those introduced by this Regulation. Training that commenced prior to the date of application of this Regulation in accordance with Annex 1 to the Chicago Convention should be credited on the basis of credit reports established by the Member States.

(6) Existing training organisations should be given the appropriate time to adapt their training programmes, where necessary, in the context of the simplified training requirements.

(7) The measures provided for in this Regulation are based on Opinion No 01/2019[(6)] of the EASA in accordance with points (b) and (c) of Article 75(2) and 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 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2018/1976 is amended as follows:

(1) the title is replaced by the following:

> Commission Implementing Regulation (EU) 2018/1976 of 14 December 2018 laying down detailed rules for the operation of sailplanes as well as for the flight crew licensing for sailplanes pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council;

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

1. This Regulation lays down detailed rules for air operations with sailplanes as well as for issuing and maintaining pilot licences and associated ratings, privileges and certificates for sailplanes, where such aircraft meet the conditions laid down in points (b)(i) and (ii) of Article 2(1) of Regulation (EU) 2018/1139.;

(3) Article 2 is amended as follows:

(a) the introductory sentence is replaced by the following:

For the purposes of this Regulation, the following definitions and, unless terms are defined otherwise in this Article, the definitions of Article 2 of Regulation (EU) No 1178/2011 apply:;

(b) point (10) is replaced by the following:

(10) ‘‘dry lease agreement’’ means an agreement between undertakings pursuant to which the sailplane is operated under the responsibility of the lessee;;

(c) the following points (11) to (13) are added:

(11) ‘‘national licence’’ means a pilot licence issued by a Member State in accordance with national legislation before the date of application of Annex III (Part-SFCL) to this Regulation or of Annex I (Part-FCL) to Regulation (EU) No 1178/2011;

(12) ‘‘Part-SFCL licence’’ means a flight crew licence which complies with the requirements of Annex III (Part-SFCL) to this Regulation;

(13) ‘‘conversion report’’ means a report on the basis of which a licence may be converted into a Part-SFCL licence;;

(4) the following Articles 3a to 3d are inserted after Article 3:

Article 3a

Pilot licences and medical certification

1 Without prejudice to Commission Delegated Regulation (EU)[7], pilots of aircraft referred to in Article 1(1) of this Regulation shall comply with the technical requirements and administrative procedures laid down in Annex III (Part-SFCL) to this Regulation and in Annex IV (Part-MED) to Regulation (EU) No 1178/2011.

2 As an exception to the privileges of the holders of licences as defined in Annex III (Part-SFCL) to this Regulation, holders of such licences may carry out flights referred to in points (a) to (d) of Article 3(2) without complying with point SFCL.115(a)(3) of Annex III (Part-SFCL) to this Regulation.

3 A Member State may authorise student pilots who follow a sailplane pilot licence (‘SPL’) training course to exercise limited privileges without supervision before they meet all the requirements that are necessary for the issue of an SPL in accordance with Annex III (Part-SFCL) to this Regulation, subject to all of the following conditions:

a the scope of the privileges granted shall be based on a safety risk assessment carried out by the Member State, taking into account the extent of training necessary for the intended level of pilot competence to be achieved;

b the privileges shall be limited to the following:

(i) the whole or part of the national territory of the authorising Member State; and

(ii) sailplanes that are registered in the authorising Member State;

c the holder of an authorisation who applies for the issue of an SPL shall receive credits for training conducted on the basis of a recommendation from an approved training organisation ('ATO') or a declared training organisation ('DTO');

d the Member State shall submit reports and safety risk assessments to the Commission and the European Union Aviation Safety Agency ('EASA') every 3 years;

e the Member State shall monitor the use of authorisations issued under this paragraph to ensure an acceptable level of aviation safety and take appropriate action in case of identifying an increased safety risk or any safety concerns.

Article 3b

Existing pilot licences and national medical certificates

1 Part-FCL licences for sailplanes and associated privileges, ratings and certificates issued by a Member State before the date of application of this Regulation shall be deemed to have been issued in accordance with this Regulation. Member States shall replace those licences with licences that comply with the format laid down in Annex VI (Part-ARA) to Regulation (EU) No 1178/2011 when they reissue licences for administrative reasons or upon a request of licence holders.

2 When a Member State reissues licences and associated privileges, ratings and certificates in accordance with paragraph 1, the Member State shall, as applicable:

a transfer all privileges endorsed so far in Part-FCL licences to the new licence format;

b convert aerobatic ratings issued in accordance with point FCL.800 of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 into advanced aerobatic privileges in accordance with point SFCL.200(c) of Annex III (Part-SFCL) to this Regulation;

c endorse the expiry date of a flight instructor certificate associated with a Part-FCL licence into the pilot's logbook or issue an equivalent document. After that expiry date, pilots shall exercise instructor privileges only when they comply with point SFCL.360 of Annex III (Part-SFCL) to this Regulation.

3 Holders of national licences for sailplanes issued by a Member State before the date of application of Annex III (Part-SFCL) to this Regulation shall be allowed to continue to exercise the privileges of their licences until 8 April 2021. By that date, Member States shall convert those licences into Part-SFCL licences and associated ratings, privileges and certificates in accordance with the elements laid down in a conversion report that complies with the requirements of Article 4(4) and (5) of Regulation (EU) No 1178/2011.

4 National pilot medical certificates associated with a licence as specified in paragraph 2 of this Article and issued by a Member State before the date of application of Annex III (Part-SFCL) to this Regulation shall remain valid until the date of their next revalidation or until 8 April 2021, whichever is the earliest. The revalidation of such medical certificates shall comply with the requirements of Annex IV (Part-MED) to Regulation (EU) No 1178/2011.

Article 3c

Credit for training that commenced prior to the date of application of this Regulation

1 In respect of issuing Part-SFCL licences and associated privileges, ratings or certificates in accordance with Annex III (Part-SFCL) to this Regulation, training that commenced prior to the date of application of this Regulation in accordance with Annex I (Part-FCL) to Regulation (EU) No 1178/2011 shall be deemed to comply with the requirements of this Regulation.

2 Training that commenced prior to the date of application of this Regulation or of Annex I (Part-FCL) to Regulation (EU) No 1178/2011, in accordance with Annex 1 to the Chicago Convention, shall be credited for the purposes of issuing Part-SFCL licences on the basis of a credit report established by the Member State in consultation with the EASA.

3 The credit report referred to in paragraph 2 shall describe the scope of the training, indicate for which requirements of Part-SFCL credit is given and, if applicable, which requirements applicants need to comply with in order to be issued with a Part-SFCL licence. It shall include copies of all the documents necessary to attest the scope of the training, as well as copies of the national regulations and procedures in accordance with which the training was initiated.

Article 3d

Training organisations

1 Training organisations for obtaining the pilot licences referred to in Article 1(1) of this Regulation shall comply with the requirements of Article 10a of Regulation (EU) No 1178/2011.

2 Training organisations referred to in paragraph 1 which hold an approval issued in accordance with Annex VII (Part-ORA) to Regulation (EU) No 1178/2011 or have submitted a declaration in accordance with Annex VIII (Part-DTO) to Regulation (EU) No 1178/2011 before the date of application of this Regulation shall adapt their training programmes, where necessary, by 8 April 2021 at the latest.;

(5) Annex I (Part-DEF) is amended in accordance with Annex I to this Regulation;

(6) Annex II (Part-SAO) is amended in accordance with Annex II to this Regulation

(7) Annex III (Part-SFCL) is added as set out in Annex III to this Regulation.