Regulation (EU) 2019/494 of the European Parliament and of the Council of 25 March 2019 on certain aspects of aviation safety with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (Text with EEA relevance)

REGULATION (EU) 2019/494 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 March 2019

on certain aspects of aviation safety with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, namely from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) The principal objective of Regulation (EU) 2018/1139 of the European Parliament and of the Council[(3)] is to establish and maintain a high and uniform level of aviation safety in the Union. For that purpose, a system of certificates has been established for various aviation activities, in order to achieve the required safety levels and to enable the necessary verifications and the mutual acceptance of certificates issued.

(3) In the area of aviation safety, the impact of the withdrawal of the United Kingdom from the Union on certificates and approvals can be remedied by many stakeholders through various measures. Those measures include the transfer to a civil aviation authority of one of the remaining 27 Member States, or applying, before the withdrawal date, for a certificate issued by the European Union Aviation Safety Agency (‘the Agency’), taking

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/494 of the European Parliament and of the Council. (See end of Document for details)*

effect from that date only and hence conditional upon the United Kingdom having become a third country.

(4) However, unlike in other areas of Union law, there are some specific instances where it is not possible to obtain a certificate from another Member State or from the Agency because, from the withdrawal date, the United Kingdom will resume, for its jurisdiction, the role as 'State of design' under the Convention on International Civil Aviation. The United Kingdom, in turn, can only issue certificates in that new role once it has assumed it, namely once Union law ceases to apply to the United Kingdom following its withdrawal from the Union.

(5) It is therefore necessary to set up a temporary mechanism to extend the validity of certain aviation safety certificates, in order to allow the operators concerned, and the Agency, sufficient time to issue the necessary certificates under Article 68 of Regulation (EU) 2018/1139 to take account of the United Kingdom's status as a third country.

(6) The duration of such extension of the validity of certificates should be limited to what is strictly necessary in order to deal with the United Kingdom's departure from the Union's aviation safety system.

(7) In order to allow for additional time, where necessary, for the certificates under Article 68 of Regulation (EU) 2018/1139 to be issued to the operators concerned, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of further extending the period of validity of the certificates referred to in Section I of the Annex to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(4)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(8) Moreover, unlike in most other areas of Union law regarding goods, the invalidity of certificates has an impact not on the placing on the market but on the actual use of aviation products, parts and appliances in the Union, for example when installing parts and appliances on an Union aircraft operating in the Union. Such use of aviation products in the Union should not be impacted by the withdrawal of the United Kingdom.

(9) In the Union's aviation safety system, the training of pilots and mechanics is tightly regulated and training modules are harmonised. Persons taking part in a training module in one Member State cannot always change, in the course of that training, to another Member State. That particular situation should be taken into account in the Union contingency measures.

(10) The provisions of this Regulation should enter into force as a matter of urgency and should apply, in principle, from the day following that on which the Treaties cease to apply to the United Kingdom, unless a withdrawal agreement concluded with the

United Kingdom has entered into force by that date. However, in order to allow for the necessary administrative procedures to be conducted as early as possible, certain provisions should apply from the entry into force of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 This Regulation lays down specific provisions, in view of the withdrawal of the United Kingdom of Great Britain and Northern Ireland ('the United Kingdom') from the European Union, for certain aviation safety certificates issued under Regulation (EC) No 216/2008 of the European Parliament and of the Council[(5)] or Regulation (EU) 2018/1139 to natural and legal persons having their principal place of business in the United Kingdom and for certain situations regarding aviation training.

2 This Regulation shall apply to the certificates listed in the Annex to this Regulation, which are valid on the day preceding the date of application of this Regulation and which have been issued by:

a the European Union Aviation Safety Agency ('the Agency') to natural or legal persons having their principal place of business in the United Kingdom, as set out in Section 1 of the Annex; or

b natural or legal persons certified by the competent authorities of the United Kingdom as set out in Section 2 of the Annex.

3 In addition to the certificates listed in paragraph 2, this Regulation shall apply to the training modules referred to in Article 5.

Article 2

Definitions

For the purposes of this Regulation, the corresponding definitions of Regulation (EU) 2018/1139 and the delegated and implementing acts adopted under that Regulation and under Regulation (EC) No 216/2008 shall apply.

Article 3

Certificates referred to in point (a) of Article 1(2)

The certificates referred to in point (a) of Article 1(2) shall remain valid for the period of nine months from the date of application of this Regulation.

Where additional time is necessary for the certificates referred to in Article 68 of Regulation (EU) 2018/1139 to be issued to the operators concerned, the Commission may extend the period of validity referred to in the first paragraph of this Article by means of delegated acts.

Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

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As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Article 4

Certificates referred to in point (b) of Article 1(2)

The certificates referred to in point (b) of Article 1(2), concerning the use of products, parts and appliances shall remain valid.

Article 5

Carryover of training modules

By way of derogation from Commission Regulations (EU) No 1178/2011[(6)] and (EU) No 1321/2014[(7)], the competent authorities of the Member States or the Agency, as applicable, shall take account of the examinations taken in training organisations that are subject to oversight by the competent authority of the United Kingdom but which have not yet led to the issuance of the license prior to the date of application referred to in the second subparagraph of Article 10(2) of this Regulation, as if they had been taken with a training organisation subject to the oversight of the competent authority of a Member State.

Article 6

Rules and obligations regarding certificates governed by Articles 3 or 4

1 Certificates governed by Articles 3 or 4 of this Regulation are subject to the rules applicable to them in accordance with Regulation (EU) 2018/1139 and the implementing and delegated acts adopted by virtue of it or of Regulation (EC) No 216/2008. The Agency shall have the powers established in Regulation (EU) 2018/1139 and in the implementing and delegated acts adopted under that Regulation and under Regulation (EC) No 216/2008 with regard to entities having their principal place of business in a third country.

2 At the request of the Agency, the holders of the certificates referred to in Article 3 and the issuers of certificates referred to in Article 4 shall deliver copies of all audit reports, findings and corrective action plans relevant to the certificates which have been issued during the three years previous to the request. Where such documents have not been delivered within the time limits laid down by the Agency in its request, the Agency may withdraw the benefit acquired pursuant to Article 3 or Article 4, as applicable.

3 Holders of certificates referred to in Article 3 and the issuers of certificates referred to in Article 4 of this Regulation shall inform the Agency without delay of any actions by the authorities of the United Kingdom, which might conflict with their obligations under this Regulation or Regulation (EU) 2018/1139.