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

[F1COMMISSION 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]

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 Article 31 thereof,

Whereas:

(1) The Commission is to adopt the necessary implementing rules for establishing the conditions for the safe operation of sailplanes 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 operations with sailplanes, there is a need for dedicated operational rules, laid down in a self-standing regulation. Those rules should be based on the general rules for air operations laid down in Commission Regulation (EU) No 965/2012[(2)], but they should be restructured and simplified, so as to ensure that they are proportionate and founded on a risk-based approach, whilst ensuring that sailplane operations are carried out safely.

(3) As regards oversight of persons and organisations, the requirements laid down in Article 3 of Regulation (EU) No 965/2012 and Annex II to that Regulation should continue to apply with respect to air operations with sailplanes.

(4) In the interest of safety and with a view to ensuring compliance with the essential requirements laid down in Annex V to Regulation (EU) 2018/1139, all operators of sailplanes covered by this Regulation, with the exception of design or production organisations performing certain operations, should be subject to a set of basic requirements.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1976. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Taking into account the less complex nature and smaller scale of commercial operations with sailplanes as compared to other forms of commercial aviation and following a risk-based approach, it is appropriate for commercial operations with sailplanes to only require a prior declaration to the competent authority, as set out in point (a) of Article 30(1) of Regulation (EU) 2018/1139. This Regulation lays down the detailed rules for making such declarations.

(6) Considering the specific nature of certain operations and following a risk-based approach it is appropriate to exempt certain operations with sailplanes from the requirement of a prior declaration.

(7) In order to ensure a smooth transition and to give all parties concerned sufficient time to prepare for the application of that new regime, this Regulation should only apply six months after entry into force.

(8) The European Union Aviation Safety Agency prepared draft implementing rules and submitted them as an opinion[3] to the Commission in accordance with points (b) and (c) of Article 75(2) and Article 76(1) of Regulation (EU) 2018/1139.

(9) 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:

Textual Amendments

F1 Substituted by 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).

Article 1

Subject matter and scope

[F1 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.**]**

Textual Amendments

F1 Substituted by 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).

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1976. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 2

Definitions

[[F1]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:**]**

(1) ‘sailplane’ means a heavier-than-air aircraft that is supported in flight by the dynamic reaction of the air against its fixed lifting surfaces, the free flight of which does not depend on an engine;

(2) ‘engine’ means a device used or intended to be used for powered sailplane propulsion;

(3) ‘powered sailplane’ means a sailplane equipped with one or more engines having, with engine(s) inoperative, the characteristics of a sailplane;

(4) ‘commercial operation’ means any operation of a sailplane, in return for remuneration or other valuable consideration, which is available for the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator;

(5) ‘competition flight’ means any air operation with a sailplane performed for the purposes of participating in air races or contests, including practising for such operation and flying to and from air races or contests;

(6) ‘flying display’ means any air operation with a sailplane performed for the purposes of providing an exhibition or entertainment at an advertised event open to the public, including practising for such operation and flying to and from the advertised event;

(7) ‘introductory flight’ means any air operation with a sailplane against remuneration or other valuable consideration consisting of an air tour of short duration for the purpose of attracting new trainees or new members, performed either by a training organisation referred to in Article 10a of Commission Regulation (EU) No 1178/2011[4] or by an organisation created with the aim of promoting aerial sport or leisure aviation;

(8) ‘aerobatic flight’ means an intentional manoeuvre involving an abrupt change in a sailplane's attitude, an abnormal attitude or abnormal acceleration, not necessary for normal flight or for instruction for licences, certificates or ratings other than the aerobatic rating;

(9) ‘principal place of business’ means the head office or registered office of an operator of a sailplane within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised;

(10) **[**[F1]‘dry lease agreement’ means an agreement between undertakings pursuant to which the sailplane is operated under the responsibility of the lessee;**]**

(11) **[**[F2]‘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;

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1976. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(13) 'conversion report' means a report on the basis of which a licence may be converted into a Part-SFCL licence.**]**

Textual Amendments

F1 Substituted by 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).

F2 Inserted by 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).

Article 3

Air operations

1 Operators of sailplanes shall operate the sailplanes in accordance with the requirements set out in Annex II.

The first subparagraph shall not apply to design or production organisations which comply with Articles 8 and 9, respectively, of Commission Regulation (EU) No 748/2012[(5)] and which operate the sailplane, within the scope of their privileges, for the purposes of the introduction or modification of sailplane types.

2 In accordance with point (a) of Article 30(1) of Regulation (EU) 2018/1139 operators of sailplanes shall engage in commercial operations only after having declared to the competent authority their capacity and means to discharge the responsibilities associated with the operation of the sailplane.

The first subparagraph shall not apply to the following operations with sailplanes:

a cost-shared operations, provided that the direct costs of the flight of the sailplane and a proportionate part of the annual costs incurred for the storage, insurance and maintenance of the sailplane are shared by the individuals on board;

b competition flights or flying displays, provided that the remuneration or any other valuable consideration for such flights is limited to the recovery of the direct costs of the flight of the sailplane and a proportionate part of the annual costs incurred for the storage, insurance and maintenance of the sailplane and that any prizes gained do not exceed the value specified by the competent authority;

c introductory flights, flights for the purposes of parachute dropping, sailplane towing or aerobatic flights performed either by a training organisation having its principal place of business in a Member State and referred to in Article 10a of Regulation (EU) No 1178/2011, or by an organisation created for the purposes of promoting aerial sport or leisure aviation, provided that the organisation operates the sailplane on the basis of either ownership or a dry lease agreement, that the flight does not generate profits distributed outside of the organisation and that such flights represent only a marginal activity of the organisation;

d training flights, performed by a training organisation having its principal place of business in a Member State and referred to in Article 10a of Regulation (EU) No 1178/2011.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1976. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[F2 Article 3a

Pilot licences and medical certification

1 Without prejudice to Commission Delegated Regulation (EU)[6], 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.

Textual Amendments

F2 Inserted by 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).

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