Commission Regulation (EU) 2016/539 of 6 April 2016 amending Regulation (EU) No 1178/2011 as regards pilot training, testing and periodic checking for performance-based navigation (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/539

of 6 April 2016

amending Regulation (EU) No 1178/2011 as regards pilot training, testing and periodic checking for performance-based navigation

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC[(1)], and in particular Article 7(6) thereof,

Whereas:

(1) Commission Regulation (EU) No 1178/2011[(2)] establishes conditions for pilots involved in the operation of certain aircraft, as well as flight simulation training devices, persons and organisations involved in the training, testing and checking of those pilots.

(2) It is necessary to include in that Regulation additional requirements for pilot training, testing and periodic checking for pilots who fly in accordance with performance-based navigation ('PBN') procedures and therefore need PBN privileges endorsed to their instrument rating ('IR'). The PBN endorsement should not create additional administrative burden for the competent authority.

(3) Pilots, holders of an IR, who have obtained on the basis of the applicable requirements of national law or otherwise theoretical knowledge and practical skills in PBN operations, prior to the date of application of this Regulation, should be deemed to have fulfilled the additional requirements, where they can demonstrate to the satisfaction of the competent authority that the knowledge and skills thus obtained are equivalent to those obtained through the courses and trainings required under this Regulation. The competent authorities should base their decisions on the equivalence of such knowledge and skills on objective information and criteria.

(4) Not all pilots, especially in the general aviation, fly in accordance with PBN procedures as, for example, their aircraft or the local aerodrome may lack the appropriate certified equipment for that purpose. Therefore, at present those pilots may not need additional training and checking related to PBN. Considering the rate of deployment of PBN equipment and procedures throughout the Union, this Regulation should provide for

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2016/539. (See end of Document for details)*

a reasonable period of time, after which the additional requirements for pilot training, testing and periodic checking for PBN will become applicable for those pilots.

(5) The period during which Member States may decide not to apply the provisions of Regulation (EU) No 1178/2011 in their territory to pilots holding a licence and associated medical certificate issued by a third country involved in the non-commercial operation of certain aircraft should be extended, because of the ongoing negotiations of the Union with certain third countries aimed at facilitating the conversion of such licences and medical certificates. It should be clarified that, where a Member State takes or has taken such a decision, it should publish that decision in an appropriate manner which allows all parties concerned to take note of it and ensures that the requirements of transparency and legal certainty are fulfilled.

(6) Additional requirements concerning the privileges of flight test pilots should also be included in Regulation (EU) No 1178/2011, in order to allow those pilots to operate an aircraft for certain flights without complying with the requirement to hold the respective class or type rating.

(7) Regulation (EU) No 1178/2011 stipulates that the training course for multi-pilot licences ('MPL') shall only be delivered by an approved training organisation that is part of an air transport operator. In addition, that Regulation stipulates that, unless the holder of an MPL has completed the conversion course of the same operator, he cannot exercise the privileges of the MPL. There are cases where, due to the fault of the operator, some MPL holders cannot complete that operator's conversion course and are consequently not able to work neither for that operator nor for another operator. The restriction on exercising MPL privileges elsewhere puts those MPL holders at a disadvantage without it being justified by safety reasons. Pilots who change operator are required to complete the new operator's conversion course despite the fact that they have taken a conversion course on the previous operator. Moreover, any operator's conversion course must take full account of the level of experience of the pilots joining that operator. It is therefore necessary to remove that restriction. MPL requirements are thus also aligned with the ICAO standards.

(8) Regulation (EU) No 1178/2011 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are based on the opinion[3] issued by the European Aviation Safety Agency in accordance with Article 17(2)(b) and Article 19(1) of Regulation (EC) No 216/2008.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EU) No 1178/2011 is amended as follows:

(1) the following Article 4a is inserted:

Article 4a

Performance-based navigation instrument rating privileges

1 Pilots may only fly in accordance with performance-based navigation ("PBN") procedures after they have been granted PBN privileges as an endorsement to their instrument rating ("IR").

2 A pilot shall be granted PBN privileges where he or she fulfils all of the following requirements:

a the pilot has successfully completed a course of theoretical knowledge including PBN, in accordance with FCL.615 of Annex I (Part-FCL);

b the pilot has successfully completed flying training including PBN, in accordance with FCL.615 of Annex I (Part-FCL);

c the pilot has successfully completed either a skill test in accordance with Appendix 7 to Annex I (Part-FCL) or a skill test or a proficiency check in accordance with Appendix 9 of Annex I (Part-FCL).

3 The requirements of paragraph 2(a) and (b) shall be deemed to have been fulfilled where the competent authority considers that the competence acquired, either through training or from familiarity with PBN operations, is equivalent to the competence acquired through the courses referred to in paragraph 2(a) and (b) and the pilot demonstrates such competence to the satisfaction of the examiner at the proficiency check or skill test referred to in paragraph 2(c).

4 A record of the successful demonstration of competency in PBN shall, upon completion of the skill test or the proficiency check referred to in paragraph 2(c), be entered in the pilot's logbook or equivalent record and signed by the examiner who conducted the test or check.

5 IR pilots without PBN privileges may only fly on routes and approaches that do not require PBN privileges and no PBN items shall be required for the renewal of their IR, until 25 August 2020; after that date, PBN privileges shall be required for every IR.;

(2) in Article 10a, the following paragraph 5 is added:

5. Pilot training organisations shall ensure that the IR training course they offer include training for PBN privileges compliant with the requirements of Annex I (Part-FCL) by 25 August 2020 at the latest.;

(3) paragraph 4 of Article 12 is replaced by the following:

4. By way of derogation from paragraph 1, Member States may decide not to apply the provisions of this Regulation until 8 April 2017 to pilots holding a licence and associated medical certificate issued by a third country involved in the non-commercial operation of aircraft as specified in Article 4(1)(b) or (c) of Regulation (EC) No 216/2008. Member States shall make those decisions publicly available.;

(4) Annexes I and VII are amended in accordance with the Annex to this Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2016/539. (See end of Document for details)*

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 8 April 2016.

However, points 1, 2 and 4 of Article 1 shall apply from 25 August 2018, with the exception of point 1(g) of the Annex, which shall apply from 8 April 2016.

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

Done at Brussels, 6 April 2016.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2016/539. (See end of Document for details)*

ANNEX

Annexes I and VII to Regulation (EU) No 1178/2011 are amended as follows:

(1) Annex I is amended as follows:

(a) the following definitions are inserted in FCL.010:

"Angular operation" means an instrument approach operation in which the maximum tolerable error/deviation from the planned track is expressed in terms of deflection of the needles on the Course Deviation Indicator (CDI) or equivalent display in the cockpit.

"Linear operation" means an instrument approach operation in which the maximum tolerable error/deviation from the planned track is expressed in units of length, for instance nautical miles, for cross-track lateral deviation.

"LNAV" means Lateral Navigation.

"LPV" means Localiser Performance with Vertical Guidance.

"Performance-Based Navigation (PBN)" means area navigation based on performance requirements for aircraft operating along an ATS route, on an instrument approach procedure or in a designated airspace.

"RNP APCH" means a PBN specification used for instrument approach operations.

"RNP APCH operation down to LNAV minima" means a 2D instrument approach operation for which the lateral guidance is based on GNSS positioning.

"RNP APCH operation down to LNAV/VNAV minima" means a 3D instrument approach operation for which the lateral guidance is based on GNSS positioning and the vertical guidance is provided either by the Baro VNAV function or by the GNSS positioning including SBAS.

"RNP APCH operation down to LPV minima" means a 3D instrument approach operation for which both lateral and vertical guidance are based on GNSS positioning including SBAS.

"RNP AR APCH" means a navigation specification used for instrument approach operations requiring a specific approval.

"Three-dimensional (3D) instrument approach operation" means an instrument approach operation using both lateral and vertical navigation guidance.

"Two-dimensional (2D) instrument approach operation" means an instrument approach operation using lateral navigation guidance only.

"VNAV" means Vertical Navigation.;

(b) FCL.600.IR is replaced by the following:

Except as provided in FCL.825, operations under IFR on an aeroplane, helicopter, airship or powered-lift aircraft shall only be conducted by holders of:

(a) a PPL, CPL, MPL and ATPL, and