Commission Regulation (EU) No 245/2014 of 13 March 2014 amending Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew (Text with EEA relevance)

COMMISSION REGULATION (EU) No 245/2014

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(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 Articles 7(5) and 7(6),

Whereas:

(1) Commission Regulation (EU) No 1178/2011[(2)] lays down the technical and administrative procedures related to civil aviation aircrew.

(2) Some Member States have found that certain requirements of Regulation (EU) No 1178/2011 place an undue and disproportionate administrative or economic burden on themselves or on stakeholders and have requested derogations from certain requirements in accordance with Article 14(6) of Regulation (EC) No 216/2008.

(3) The derogation requests have been analysed by the European Aviation Safety Agency, which in turn have resulted in a recommendation to the Commission to adopt certain derogations.

(4) A number of editorial errors leading to unintended implementation difficulties have also been identified in Commission Regulation (EU) No 1178/2011 by Member States.

(5) Therefore, the existing requirements should be amended in order to introduce the derogations that have a clear rulemaking effect and to correct editorial errors.

(6) Further, Commission Regulation (EU) No 1178/2011 contains in Annex I (Part-FCL) requirements for training and checking towards an instrument rating (IR). These requirements for the IR were based on the former JAR-FCL requirements, and a need for their review has been identified.

(7) Therefore, additional requirements for the qualification to fly in instrument meteorological conditions and specific requirements for sailplane cloud flying operations should be introduced.

(8) In order to ensure that instrument training or experience gained before the application of this Regulation may be taken into account for the purpose of obtaining these ratings, the conditions for crediting this training, or the instrument experience gained should be laid down.

(9) It should be possible for Member States to give credit for the instrument experience of a third-country rating holder if a level of safety equivalent to that specified by Regulation (EC) No 216/2008 can be guaranteed. Conditions for recognising this experience should also be laid down.

(10) In order to ensure a smooth transition and a high uniform level of civil aviation safety in the European Union, implementing measures should reflect the state of the art, including best practices, and scientific and technical progress in the field of pilot training. Accordingly, technical requirements and administrative procedures agreed by the International Civil Aviation Organization (ICAO) and the already developed requirements in Annex I (Part-FCL) to Regulation (EU) No 1178/2011 as well as the existing national legislation, pertaining to a specific national environment, should be considered and reflected by this set of rules taking into account the specific needs of General Aviation pilots in Europe.

(11) The Agency prepared draft Implementing Rules and submitted them as an Opinion to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.

(12) Member States that have established a national system for authorising pilots to fly in Instrument Meteorological Conditions (IMC) with limited privileges restricted to the national airspace of the Member State, and that can provide evidence that the system is safe and that there is a specific local need, should be allowed to continue to issue such authorisations for a limited period, subject to the fulfilment of certain conditions.

(13) Commission Regulation (EU) 965/2012[(3)] allows certain flights such as cost-sharing flights and introductory flights to be performed in accordance with the rules applicable to non-commercial operations of non-complex aircraft. There is, therefore, a need to ensure that the privileges of pilots established in Regulation (EU) 1178/2011 are consistent with this approach.

(14) Therefore, it should be allowed to have flights of those categories identified in Regulation (EU) 965/2012 to be piloted by PPL, SPL, BPL or LAPL holders.

(15) The measures provided for in this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee established by Article 65 of Regulation (EC) No 216/2008

(16) Regulation (EU) No 1178/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) Article 3 is replaced by the following:

Article 3

Pilot licensing and medical certification

1 Without prejudice to Article 8 of this Regulation, pilots of aircraft referred to in Article 4(1)(b) and (c) and Article 4(5) of Regulation (EC) No 216/2008 shall comply with the technical requirements and administrative procedures laid down in Annex I and Annex IV to this Regulation.

2 Notwithstanding the privileges of the holders of licences as defined in Annex I to this Regulation, holders of pilot licences issued in accordance with Subpart B or C of Annex I to this Regulation may carry out flights referred to in Article 6(4a) of Regulation (EU) No 965/2012. This is without prejudice to compliance with any additional requirements for the carriage of passengers or the development of commercial operations defined in Subparts B or C of Annex I to this Regulation.

(2) In Article 4, the following paragraph 8 is added:

8. Until 8 April 2019, a Member State may issue an authorisation to a pilot to exercise specified limited privileges to fly aeroplanes under instrument flight rules before the pilot complies with all of the requirements necessary for the issue of an instrument rating in accordance with this Regulation, subject to the following conditions:

a the Member State shall only issue these authorisations when justified by a specific local need which cannot be met by the ratings established under this Regulation;

b the scope of the privileges granted by the authorisation 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;

c the privileges of the authorisation shall be limited to the airspace of the Member State's national territory or parts of it;

d the authorisation shall be issued to applicants having completed appropriate training with qualified instructors and demonstrated the required competencies to a qualified examiner, as determined by the Member State;

e the Member State shall inform the Commission, EASA and the other Member States of the specificities of this authorisation, including its justification and safety risk assessment.

f the Member State shall monitor the activities associated with the authorisation to ensure an acceptable level of safety and take appropriate action in case of identifying an increased risk or any safety concerns;

g the Member State shall carry out a review of the safety aspects of the implementation of the authorisation and submit a report to the Commission by 8 April 2017 at the latest.

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 245/2014. (See end of Document for details)*

4. By way of derogation from paragraph 1, Member States may decide not to apply the provisions of the Regulation to pilots holding a licence and associated medical certificate issued by a third country involved in the non-commercial operation of aircraft specified in Article 4(1)(b) or (c) of Regulation (EC) No 216/2008 until 8 April 2015.

(4) Annexes I, II, III and VI are amended in accordance with the Annexes to this Regulation.

Article 2

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, 13 March 2014.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 245/2014. (See end of Document for details)*

ANNEX I

Annex I (Part-FCL) to Regulation (EU) No 1178/2011 is amended as follows:

(1) The title of FCL.015 is replaced by the following:
FCL.015 Application and issue, revalidation and renewal of licences, ratings and certificates

(2) FCL.020 is replaced by the following:
FCL.020 Student pilot

(a) A student pilot shall not fly solo unless authorised to do so and supervised by a flight instructor.

(b) Before his/her first solo flight, a student pilot shall be at least:

(1) in the case of aeroplanes, helicopters and airships: 16 years of age;

(2) in the case of sailplanes and balloons: 14 years of age.

(3) FCL.025 is amended as follows:

(a) the title is replaced by the following:
FCL.025 Theoretical knowledge examinations for the issue of licences and ratings

(b) in point (a) paragraphs (1) and (2) are replaced by the following:

(1) Applicants shall take the entire set of theoretical knowledge examinations for a specific licence or rating under the responsibility of one Member State.

(2) Applicants shall only take the theoretical knowledge examination when recommended by the approved training organisation (ATO) responsible for their training, once they have completed the appropriate elements of the training course of theoretical knowledge instruction to a satisfactory standard.

(c) point (b) is amended as follows:

(i) paragraph (1) is replaced by the following:

(1) A pass in a theoretical knowledge examination paper will be awarded to an applicant achieving at least 75 % of the marks allocated to that paper. There is no penalty marking.

(ii) paragraph 3 and the second subparagraph of point (b) are replaced by the following:

(3) If an applicant has failed to pass one of the theoretical knowledge examination papers within 4 attempts, or has failed to pass all papers within either 6 sittings or the period mentioned in paragraph (2), he/she shall re-take the complete set of examination papers.

Before re-taking the theoretical knowledge examinations, the applicant shall undertake further training at an ATO. The extent