Commission Regulation (EU) No 290/2012 of 30 March 2012 amending Regulation (EU) No 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council

COMMISSION REGULATION (EU) No 290/2012

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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(6), 8(5) and 10(5) thereof,

Whereas:

(1) Commission Regulation (EU) No 1178/2011[(2)] lays down detailed rules for certain pilots' licences and for the conversion of national pilots' licences and of national flight engineers' licences into pilots' licences, as well as the conditions for the acceptance of licences from third countries. Rules for pilots' medical certificates, the conditions for the conversion of national medical certificates and the certification of aero-medical examiners are also set out in that Regulation. In addition, Regulation (EU) No 1178/2011 includes provisions on medical fitness of the cabin crew.

(2) According to Regulation (EC) No 216/2008, pilot training organisations and aero-medical centres are to hold a certificate. The certificate is to be issued upon fulfilment of certain technical and administrative requirements. Rules on the administration and management system of these organisations should therefore be provided for.

(3) Flight simulation training devices used for pilot training, testing and checking are to be certified against a set of technical criteria. Those technical requirements and administrative procedures should therefore be provided for.

(4) According to Regulation (EC) No 216/2008, cabin crew are to be continuously fit and competent to exercise their assigned safety duties. Those involved in commercial operations are to hold an attestation as initially set out in Annex III, Subpart O, point (d) of OPS 1.1005 to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation[(3)]. Rules on cabin crew qualifications and related attestations should therefore be provided for.

(5) Oversight capabilities of competent authorities are not provided for in Regulation (EU) No 1178/2011. This Regulation therefore amends Regulation (EU) No 1178/2011 to include administration and management system of competent authorities and organisations. In accordance with Regulation (EC) No 216/2008, rules on an information network between the Member States, the Commission and the Agency should also be included in Regulation (EU) No 1178/2011.

(6) It is necessary to provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework and to recognise under certain conditions the validity of certificates, including attestations of safety training, issued before this Regulation applies.

(7) In order to ensure a smooth transition and a high uniform level of civil aviation safety in the Union, implementing measures should reflect the state of the art, including best practices, and scientific and technical progress in the field of aircrew training. Accordingly, Regulation (EEC) No 3922/91 as well as technical requirements and administrative procedures agreed by the International Civil Aviation Organisation ('ICAO') and the Joint Aviation Authorities until 30 June 2009, and existing legislation pertaining to a specific national environment, should be considered.

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

(9) The measures specified in Annex III to Regulation (EEC) No 3922/91 for the attestation of safety training of cabin crew are deleted in accordance with Article 69(3) of Regulation (EC) No 216/2008. The measures adopted by this Regulation are to be regarded as the corresponding measures.

(10) The European Aviation Safety Agency ('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.

(11) 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

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

(1) in Article 1, the following points are added:

6. the conditions for issuing, maintaining, amending, limiting, suspending or revoking cabin crew attestations, as well as the privileges and responsibilities of the holders of cabin crew attestations;

7. the conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates of pilot training organisations and of aero-medical centres involved in the qualification and aero-medical assessment of civil aviation aircrew;

8. the requirements for the certification of flight simulation training devices and for organisations operating and using those devices;

9. the requirements for the administration and management system to be fulfilled by the Member States, the Agency and the organisations in relation with the rules referred to in points 1 to 8.;

(2) in Article 2, the following points (11), (12) and (13) are added:

(11) "Cabin crew member" means an appropriately qualified crew member, other than a flight crew or technical crew member, who is assigned by an operator to perform duties related to the safety of passengers and flight during operations;

(12) "Aircrew" means flight crew and cabin crew;

(13) "JAR-compliant certificate, approval or organisation" means the certificate or approval issued or recognised or the organisation certified, approved, registered or recognised, in accordance with the national legislation reflecting JAR and procedures, by a Member State having implemented the relevant JAR and having been recommended for mutual recognition within the Joint Aviation Authorities' system in relation to such JAR.;

(3) in Article 4(1):

— the expression '8 April 2012' is replaced by 'this Regulation applies';

— the expression '8 April 2017' is replaced by '8 April 2018';

(4) the following Articles 10a, 10b and 10c are inserted:

Article 10a

Pilot training organisations

1 Pilot training organisations shall comply with the technical requirements and administrative procedures laid down in Annexes VI and VII and shall be certified.

2 Pilot training organisations holding JAR-compliant certificates issued or recognised by a Member State before this Regulation applies shall be deemed to hold a certificate issued in accordance with this Regulation.

In such case the privileges of these organisations shall be limited to the privileges included in the approval issued by the Member State.

Without prejudice to Article 2, pilot training organisations shall adapt their management system, training programmes, procedures and manuals to be compliant with Annex VII by 8 April 2014 at the latest.

3 JAR-compliant training organisations registered in a Member State before this Regulation applies shall be allowed to provide training for a JAR-compliant private pilot licence (PPL).

4 Member States shall replace the certificates referred to in the first subparagraph of paragraph 2 with certificates complying with the format laid down in Annex VI by 8 April 2017 at the latest.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 290/2012. (See end of Document for details)*

Article 10b

Flight simulation training devices

1 Flight simulation training devices (FSTDs) used for pilot training, testing and checking, with the exception of developmental training devices used for flight test training, shall comply with the technical requirements and administrative procedures laid down in Annexes VI and VII and shall be qualified.

2 JAR-compliant FSTD qualification certificates issued or recognised before this Regulation applies shall be deemed to have been issued in accordance with this Regulation.

3 Member States shall replace the certificates referred to in paragraph 2 with qualification certificates complying with the format laid down in Annex VI by 8 April 2017 at the latest.

Article 10c

Aero-medical centres

1 Aero-medical centres shall comply with the technical requirements and administrative procedures laid down in Annexes VI and VII and shall be certified.

2 JAR-compliant aero-medical centre approvals issued or recognised by a Member State before this Regulation applies shall be deemed to have been issued in accordance with this Regulation.

Aero-medical centres shall adapt their management system, training programmes, procedures and manuals to be compliant with Annex VII by 8 April 2014 at the latest.

3 Member States shall replace aero-medical centres' approvals referred to in the first subparagraph of paragraph 2 with certificates complying with the format laid down in Annex VI by 8 April 2017 at the latest.;

(5) the following Articles 11a, 11b and 11c are inserted:

Article 11a

Cabin crew qualifications and related attestations

1 Cabin crew members involved in commercial operation of aircraft referred to in Article 4(1)(b) and (c) of Regulation (EC) No 216/2008 shall be qualified and hold the related attestation in accordance with the technical requirements and administrative procedures laid down in Annexes V and VI.

2 Cabin crew members holding, before this Regulation applies, an attestation of safety training issued in accordance with Regulation (EEC) No 3922/91 ("EU-OPS"):

a shall be deemed to be compliant with this Regulation if they comply with the applicable training, checking and recency requirements of EU-OPS; or

b if they do not comply with the applicable training, checking and recency requirements of EU-OPS, they shall complete all required training and checking before being deemed to be compliant with this Regulation; or

c if they have not operated in commercial operations by aeroplanes for more than 5 years, they shall complete the initial training course and shall pass the related examination as required in Annex V before being deemed to be compliant with this Regulation.

3 The attestations of safety training issued in accordance with EU-OPS shall be replaced with cabin crew attestations complying with the format laid down in Annex VI by 8 April 2017 at the latest.

4 Cabin crew members involved in commercial operations of helicopters on the date of application of this Regulation:

a shall be deemed to be compliant with the initial training requirements of Annex V if they comply with the applicable training, checking and recency provisions of the JARs for commercial air transportation by helicopters; or

b if they do not comply with the applicable training, checking and recency requirements of the JARs for commercial air transportation by helicopters, they shall complete all relevant training and checking required to operate on helicopter(s), except the initial training, before being deemed to be compliant with this Regulation; or

c if they have not operated in commercial operations by helicopters for more than 5 years, they shall complete the initial training course and shall pass the related examination as required in Annex V before being deemed to be compliant with this Regulation.

5 Without prejudice to Article 2, cabin crew attestations complying with the format laid down in Annex VI shall be issued to all cabin crew members involved in commercial operations by helicopters by 8 April 2013 at the latest.

Article 11b

Oversight capabilities

1 Member States shall designate one or more entities as the competent authority within that Member State with the necessary powers and allocated responsibilities for the certification and oversight of persons and organisations subject to Regulation (EC) No 216/2008 and its implementing rules.

2 If a Member State designates more than one entity as competent authority:

a the areas of competence of each competent authority shall be clearly defined in terms of responsibilities and geographic limitation;

b coordination shall be established between those entities to ensure effective oversight of all organisations and persons subject to Regulation (EC) No 216/2008 and its implementing rules within their respective remits.

3 Member States shall ensure that the competent authority(ies) has/have the necessary capability to ensure the oversight of all persons and organisations covered by their oversight programme, including sufficient resources to fulfil the requirements of this Regulation.