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EASA PART FCL AND FOREIGN-REGISTERED AIRCRAFT (FRA)

Revised: 21st April 2012: PPL/IR Europe Regulatory Working Group

1. Entry into force:

- As of 8th April 2012, EASA Part FCL is now a regulation binding in every EU member state, irrespective of whether their national legislation has been updated or not
- Under this regulation, EU resident operators of FRA need to have EASA pilot qualifications and medicals, or EASA validations of their 3rd country qualifications. JAR-FCL qualifications are compliant with the EASA requirements

2. Derogations

- Article 12 of the Aircrew Regulation (Commission Regulation (EU) No 1178/2011 of 3 November 2011 which contains Part-FCL and Part-MED as annexes) provides for a number of “derogations” – mechanisms which permit individual Member States to deviate from or delay the implementation of EU regulations
- One derogation is that in Article 12.3, which allows States to delay the conversion of pre-JAR national licences until April 2014 (ie. such licences will be EASA compliant for another 2 years, by which time they need to be converted to EASA qualifications)
- The derogation of interest to FRA pilots is that in Article 12.4: “...*Member States may decide not to apply the provisions of this Regulation to pilots holding a licence and associated medical certificate issued by a third country involved in the non-commercial operation of aircraft.....until 8 April 2014.*”
- Additionally, Commission Regulation (EU) No 290/2012 of 30 March 2012 (which contains Part-ARA and Part-ORA on approvals for NAAs and Training Organisations as annexes) adds to Article 12 a “horizontal” derogation that allows Member States to delay adoption Parts FCL, MED, ARA, ORA until 8 April 2013, in effect making no changes to national regulation until then.
- The UK will use the horizontal derogation until 1 July 2012, Switzerland until June 2012. We believe that most other states will use the full 12 months to 8 April 2013 but this is subject to confirmation.
- Note that derogation is an option open to individual States, should they choose to implement it. It is not an “automatic” EU-wide mechanism. Note also the requirement in Article 12.7: “*When a Member State makes use of the provisions of paragraphs 2 to 6 it shall notify the Commission and the Agency. This notification shall describe the reasons for such derogation as well as the programme for implementation containing*



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actions envisaged and related timing”

- The derogations will eventually be published on the [Standardisation pages of the EASA WWW site](#). We understand there is a two-month period for states to notify EASA of the derogations used.

3. Status of the FRA Derogation in the UK

- When the FRA derogation was agreed during the Comitology process (the mechanism whereby Member States review proposed Regulations) in late 2010, our understanding was that the intention was to fully mitigate the impacts of Part FCL on FRA pilots until a Bilateral Treaty could be agreed with the USA.
- In the UK, the CAA have published [AIC W 025/2012](#), which address the position of UK residents (para 3.1) *“Private flights - The UK is deferring the European validation requirements for private operations of aircraft registered in third countries (non-EASA States) until 8 April 2014. Pilots flying non-EASA Member State aircraft privately for a UK-based owner or operator using licences that are valid under the law of the State of Registry of the aircraft may therefore continue to do so under the terms of Articles 61 and 63 of the Air Navigation Order until 7 April 2014. After that date they will require a licence validation in accordance with EU regulations.”*
- From para 1 of Annex III of the FCL regulation, it appears that the FRA derogation is a matter for the state of residency of the FRA operator. For example, an FAA certificate holder resident in the UK may continue to fly an N-registered aircraft throughout the EU until April 2014, on the basis that the UK has applied the derogation and irrespective of whether a particular State they are flying through has applied the derogation itself.
- We are particularly grateful to Mr Cliff Whittaker of the UK CAA for providing clarifying information very recently which leads us to understand that, in essence, the situation in the UK for private flight in respect of 3rd country qualifications and aircraft will not change until April 2014; ie, until this date a UK resident
 - may operate a US registered aircraft on the basis of FAA qualifications for the purpose of private flight throughout Europe
 - may operate a US registered aircraft on the basis of UK qualifications for the purposes of private flight within the UK under the existing provisions of the UK ANO
 - may operate a G-registered aircraft on the basis of US qualifications for the purposes of private flight throughout Europe under the existing provisions of the UK ANO

4. Status of the FRA Derogation in other Member States (at the time of writing, 21 April '12)

- We believe most Member States are likely to apply the “horizontal derogation” until April 2013 and that most/many will also apply the FRA derogation until April 2014. Therefore, it appears unlikely that an FRA pilot resident in an EU state will need to comply with EASA Aircrew Regulation for another 12-24 months
- As mentioned in para 2, the process of Member States notifying EASA of derogations they intend to apply is still underway and we understand that there are another 2 months for this initial process to be completed and that states may notify EASA of their intention to use the FRA derogation during the period of the horizontal derogation.
- However, we would advise that an FRA pilot should assure themselves of the exact position that has been

taken by their state of residence as soon as possible by directly contacting their NAA or through their national AOPA organisation.

Members may comment on and discuss this article in the forum thread titled "[Part FCL and FRA](#)"

It is a pilot's sole and personal responsibility to assure compliance with applicable regulations, through reading authoritative sources.

This note is not such a source, and may not be relied upon or used for any such purpose, nor does it condone or endorse any particular course of action or interpretation of aviation regulations.

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