



Miscellaneous

No: 1228

Regulation (EU) No. 1178/2011 Annex III

Publication date: 27 June 2017

General Exemption E 4474

Exemption from the Requirement for Holders of FAA Pilot Licences with FAA Class 3 Medicals Exercising Private Licence Privileges to Comply with the Conversion and Validation Requirements of Annex III to Commission Regulation (EU) No. 1178/2011 as Amended

- 1) The Civil Aviation Authority ('the CAA'), on behalf of the United Kingdom and pursuant to article 14(4) of Regulation (EC) No. 216/2008 exempts all holders of FAA pilot licences operating aircraft subject to Article 4(1)(b) or (c) of that Regulation from the requirements of Annex III (4)(d) to Commission Regulation (EU) No. 1178/2011, subject to the conditions stated at paragraph 2 and the terms stated at paragraph 3.
- 2) This exemption precludes the need for the holders of FAA certificates exercising private licence privileges to complete UK Part-FCL conversion or validation of their certificates in accordance with Commission Regulation (EU) 1178/2011, Annex III, as above, subject to the conditions stated at Annex 1. These conditions reflect requirements that may apply in the UK following conclusion of the bi-lateral aviation safety agreement (BASA) currently under negotiation between the EU and USA.
- 3) This exemption is effective from the date of signature until 8 April 2019 or until superseded by any bilateral aviation safety agreement concluded between the EU and the USA in the interim, unless revoked prior.

P Clarke

for the Civil Aviation Authority

27 June 2017

Explanatory Note:

Against the background of the negotiations between the EU and the US on the extension of the bi-lateral aviation safety agreement (BASA) to the area of FCL and in order to bridge the gap until the entry into force of this agreement, the opt-out provision in Article 12(4) of Regulation (EU) No. 1178/2011 was put in place, with a validity period ending on 8 April 2017. This allowed pilots holding a licence and associated medical certificate issued by a Third Country (TC) involved in the non-commercial operation of aircraft as specified in Article 4(1)(b) or (c) of Regulation (EC) No. 216/2008 to continue to exercise their privileges until the bi-lateral aviation safety agreement (BASA) came into effect.

As the opt-out period foreseen in Article 12(4) of Regulation (EU) No. 1078/2011 ended on 8 April 2017 and the BASA was still not in force, the European Commission has initiated the amendment of the legislation to extend the opt-out provision but this will not take effect until the autumn.

The Aircrew Regulation is therefore now directly applicable to Third Country Licence Holders. Under Article 3 they are required to hold a Part-FCL licence. Under Article 8 they may meet the requirements of Article 3 by converting their Third Country Licences in accordance with Annex III.

Although UK exemption E4433 enables FAA licence holders to fly using FAA Class 2 medicals, it has since become clear that the Class 2 FAA medical is more akin to an EASA Class 1 and that the FAA Class 3 medical is the closer equivalent to an ICAO Class 2, which is the minimum medical expected for the purposes of recognizing Third Country Licences in Annex III (4) (d) of Part-FCL. It is also clear that the general exemption made available by EASA, with the European Commission's agreement, permits FAA licence holders intending to fly non-commercially, using private FAA licence privileges, to continue to do so using Class 3 FAA medical certificates. UK medical opinion indicates that such Class 3 FAA medicals are broadly equivalent to ICAO Class 2 medicals.

Imposing the FAA Class 2 standard on pilots in the UK who have operated safely in Europe for many years on the basis of FAA Class 3 medicals would be disproportionate, in that many other member states continue to permit use of the FAA Class 3 medical as satisfactory, pending conclusion of the terms that will apply following eventual successful conclusion of BASA negotiations.

The proposal is therefore that FAA licence holders should be permitted an exemption from the requirement stated at Part-FCL Annex III (4)(d), until the BASA is agreed and brought into effect. Given the significant UK presence of pilots seeking to use FAA licences, with around 643 N-registered aircraft based in the UK, there is therefore an operational need of limited duration to avoid potential for unwarranted additional costs and disruption to ongoing aircraft operation that might result from the de facto requirement that FAA licence holders exercising non-commercial private licence privileges should effectively be required to obtain a level of FAA medical more usually associated with commercial operations in the FAA system. This would be inappropriate and disproportionate whilst the BASA's terms await final agreement.

This is based upon the following:

1. The FAA Class 3 medical has been the widespread, normal requirement for private, non-commercial aircraft operation in the USA for many years.
2. The use of the FAA Class 3 will restrict the individual when operating G registered aircraft to operate Day Visual Flight Rules only, but permitting them to continue to operate within their licence privileges when operating N registered aircraft only.

3. The EASA general exemption recently made available to Member States effectively permits this level of FAA medical as sufficient for private, non-commercial operation, in that it does not specify a higher requirement. Therefore, the associated level of safety is accepted as equivalent to Part-FCL Annex III requirements by EASA.
4. According to the differences filed with ICAO, the FAA Class 3 is broadly equivalent to an ICAO Class 2 medical, the main difference being the absence of an ECG testing requirement.
5. Statistical comparison of UK AAIB accident and incident rates relating to UK-based G- and N-registered aircraft confirms that rates applicable to N-registered aircraft compare favourably to the G-registered ones. The safety record during the period since introduction of the Aircrew Regulation among pilots flying using either EU Class 2 or FAA Class 3 certificates in the UK is broadly equivalent. EU Class 2 and FAA Class 3 medicals therefore appear to be broadly equivalent in safety terms.

Annex 1 : FAA Exemption conditions

Text extracted from the draft BASA document

2.1 Conditions to be satisfied by holders of FAA pilot licences seeking to operate under the general exemption from the need to comply with Annex III of Regulation (EU) 1178/2011 validation and conversion requirements.

2.1.1 Language proficiency

- (a) An applicant must demonstrate or provide evidence that he/she has acquired language proficiency in accordance with FCL.055 unless the applicant holds an 'English proficient' endorsement on his/her FAA pilot certificate. The 'English proficient' endorsement is deemed to be equal to English language proficiency level 4 according to Part-FCL.
- (b) If the applicant wishes to have English language proficiency level 5 or 6 endorsed on his/her licence under Part-FCL, he/she needs to follow the method of language assessment established by the EU NAA in accordance with FCL.055.

2.1.2 Medical fitness

- (a) The applicant shall either meet the relevant EU medical requirements stipulated in Commission Regulation (EU) No 1178/2011 for the privileges sought by them or hold an FAA Class I, II or III medical, to take full advantage of this exemption. However, applicants with a FAA Class III medical, may operate Day, Visual Flight Rules only when operating G registered aircraft, or in compliance with the privileges permitted by the FAA Airman Certificate when operating N- registered aircraft.

2.1.3 Theoretical knowledge

The applicant must demonstrate to a Part-FCL examiner that he/she has acquired theoretical knowledge of Part-FCL 'Air law and ATC procedures' at a level appropriate to the privileges of the licence and ratings privileges they intend to exercise.

2.1.4 Licence Confirmation

- (a) Upon receiving an application from an FAA certificate holder, the UK CAA must request and receive a licence confirmation from the FAA to ensure that the FAA licence is authentic, valid, and that there is no current investigation of the airman's certificate, no suspension or revocation of the certificate. The request will be sent to Civil Aviation Registry (AFS-700).
- (b) The applicant must provide proof of the existing FAA licence (or photocopy) to the UK CAA.

2.1.5 Verifying FAA pilot currency

- (a) The applicant will provide a logbook(s) or other written documentation to the UK CAA to demonstrate his/her currency for the FAA pilot certificate which is held.
- (a) If necessary, the UK CAA may delegate the task of confirmation of pilot currency. In such cases the applicant is to be informed of the procedure to be followed.
- (c) If unable to verify an applicant's currency through the documentation that is provided by the applicant, the UK CAA may consult FAA's General Aviation and Commercial Division (AFS-800) via email or by phone.
- (d) All FAA pilots are considered to have fulfilled U.S. currency requirements for a pilot certificate if the terms of 14 CFR §61.56 have been met. The documentation that will typically be provided will be one or multiple documents consisting of the following:
 - (i) A pilot logbook endorsement;
 - (ii) An FAA pilot certificate with a date of initial issuance within the previous 24 calendar months;
 - (iii) An FAA flight instructor certificate with a date of issuance (Block X on the pilot certificate) within the previous 24 calendar months (utilized for meeting the ground requirement only);
 - (iv) An employment record of an active FAA air carrier pilot;
 - (v) A record of a pilot proficiency check or practical test conducted by the U.S. Armed Forces for a certificate, rating or operational privilege. If needed, verification of such documentation may be obtained by contacting AFS-800.
 - (vi) An employment record of an inactive FAA air carrier pilot within the previous 24 calendar months; or
 - (vii) A document stating that the applicant has satisfactorily accomplished one or more phases of an FAA-sponsored pilot proficiency award program (the FAA WINGS program) within the previous 24 calendar months.