

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 303/14/COL

of 15 July 2014

authorising Norway to derogate from certain common aviation safety rules pursuant to Article 14(6) of the Act referred to at point 66n of Annex XIII to the Agreement on the European Economic Area (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, as amended) [2015/1945]

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to Article 14(6) and (7) of the Act referred to at point 66n of Annex XIII to the EEA Agreement, as adapted by EEA Joint Committee Decision No 163/2011 of 19 December 2011,

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, as amended;

and to point FCL.740.A of Annex I to the Act referred to at point 66ne of Annex XIII to the EEA Agreement, as adapted by EEA Joint Committee Decision No 146/2013 of 15 July 2013,

Commission Regulation (EU) No 1178/2011 of 3 November 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 as amended;

both as adapted to the EEA Agreement by Protocol 1 thereto,

Having regard to the opinion of the EFTA Transport Committee delivered on 28 March 2014.

Whereas:

- (1) Norway has requested to apply a certain derogation from the common aviation safety rules contained in the rules implementing Regulation (EC) No 216/2008.
- (2) Pursuant to Article 14(7) of that Regulation, as adapted, the EFTA Surveillance Authority has assessed the need for, and the level of protection emerging from, the derogation requested, based on a recommendation from the European Aviation Safety Agency. The Authority concludes that the variation will provide for a level of protection equivalent to the one attained by the application of the common aviation safety rules, provided that certain conditions are met. The assessment of the derogation, and the conditions attached to its application, are described in the Annex to this decision authorising the derogation.
- (3) Pursuant to Article 14(7) of Regulation (EC) No 216/2008 as adapted, a derogation granted to one Member State shall be notified to all Member States, which shall also be entitled to apply that derogation.

- (4) Pursuant to Article 1 of EEA Joint Committee Decision No 163/2011 of 19 December 2011 and point 3 letters (a) and (e) of its Annex, the term 'Member State(s)' is to be understood to include, in addition to its meaning in the Regulation, the EFTA States; and the European Commission shall communicate the information on such decision received from the EFTA Surveillance Authority to the EU Member States.
- (5) This decision should therefore be notified to all EFTA States, and to the European Commission for communication to the EU Member States.
- (6) The description of the derogation, as well as the conditions attached to it, should be such as to enable other Member States within the meaning of Regulation (EC) No 216/2008, as adapted, to apply that measure when they are in the same situation, without requiring further approval from the EFTA Surveillance Authority, or the Commission, as the case may be. Nevertheless, Member States within the meaning of Regulation (EC) No 216/2008, as adapted, should notify the application of derogations, as they may have effects outside that State.
- (7) The measures provided for in this Decision are in accordance with the opinion of the EFTA Transport Committee,

HAS ADOPTED THIS DECISION:

Article 1

Norway may derogate from the requirements in point FCL.740.A of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 as amended, as specified in the Annex to this Decision.

Article 2

All Member States within the meaning of Regulation (EC) No 216/2008, as adapted, shall be entitled to apply the same measures referred to in Article 1, as specified in the Annex to this Decision, and subject to the notification obligation set out in Article 14(6) of Regulation (EC) No 216/2008, as adapted.

Article 3

The Decision is addressed to Norway. It is authentic in the English language.

Article 4

This Decision shall be notified to Iceland, Liechtenstein, Norway and to the European Commission.

Done at Brussels, 15 July 2014.

For the EFTA Surveillance Authority

Helga JÓNSDÓTTIR
College Member

Xavier LEWIS
Director

ANNEX

**DEROGATION BY THE KINGDOM OF NORWAY FROM COMMISSION REGULATION (EU) No 1178/2011 ⁽¹⁾
WITH RESPECT TO SPECIFIED FLIGHT HOURS FOR CERTAIN CLASS RATINGS****1. DESCRIPTION OF THE REQUEST**

Point FCL.740.A(b) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 reads:

‘(b) Revalidation of single-pilot single-engine class ratings.

- (1) Single-engine piston aeroplane class ratings and TMG ratings. For revalidation of single-pilot single-engine piston aeroplane class ratings or TMG class ratings the applicant shall:
 - (i) within the 3 months preceding the expiry date of the rating, pass a proficiency check in the relevant class in accordance with Appendix 9 to this Part with an examiner; or
 - (ii) within the 12 months preceding the expiry date of the rating, complete 12 hours of flight time in the relevant class, including:
 - 6 hours as PIC,
 - 12 take-offs and 12 landings, and
 - a training flight of at least 1 hour with a flight instructor (FI) or a class rating instructor (CRI). Applicants shall be exempted from this flight if they have passed a class or type rating proficiency check or skill test in any other class or type of aeroplane.
- (2) When applicants hold both a single-engine piston aeroplane-land class rating and a TMG rating, they may complete the requirements of (1) in either class, and achieve revalidation of both ratings.
- (3) Single-pilot single-engine turbo-prop aeroplanes. For revalidation of single-engine turbo-prop class ratings applicants shall pass a proficiency check on the relevant class in accordance with Appendix 9 to this Part with an examiner, within the 3 months preceding the expiry date of the rating.’

By letter dated 6 December 2013, the Government of the Kingdom of Norway (‘Norway’) notified the EFTA Surveillance Authority (‘the Authority’) and the European Aviation Safety Agency (‘the Agency’) of its intention to derogate from this provision of Regulation (EU) No 1178/2011 on the basis of Article 14(6) of Regulation (EC) No 216/2008 as amended ⁽²⁾.

2. ASSESSMENT OF THE REQUEST**2.1. Need**

The Authority considers it appropriate to allow cross crediting of some of the specified flight time in aeroplanes that fall under single-engine piston aeroplane (‘SEP’) land and sea class ratings toward revalidating both ratings ‘by experience’. Regulation (EU) No 1178/2011 does not address this situation nor does it provide clarity for pilots of amphibious aeroplanes, which creates an unnecessary burden on the license holders.

2.2. Equivalence of the level of protection

Norway gave the following reasons to demonstrate the need to derogate from the rule concerned: Flying an aeroplane that is powered by a single-piston engine requires pilots to have a valid (SEP) class rating included in their Part-FCL license. Part-FCL makes provisions for two SEP class ratings. The SEP (land) rating for landplanes (with wheeled or ski under carriage) and SEP (sea) rating for seaplanes (with a hull or floats). Part-FCL makes no

⁽¹⁾ The Act mentioned at point 66ne of Annex XIII to the EEA Agreement (Commission Regulation (EU) No 1178/2011 of 3 November 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 as amended) as adapted to the EEA Agreement by Protocol 1 thereto.

⁽²⁾ The Act referred to at point 66n of Annex XIII to the EEA Agreement (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, as amended) as adapted to the EEA Agreement by Protocol 1 thereto.

specific provision for amphibious aeroplanes (which can change configuration in flight to operate from land or water). Furthermore, a pilot who wishes to revalidate the privileges of any of the SEP class ratings must comply with FCL.740.A(b) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011.

In addition, Norway submitted that it is already accepted that an amphibious aeroplane may be used to revalidate both of the ratings by operating it as a landplane and as a seaplane to satisfy the requirements. For an amphibian the characteristics of the aeroplane for the en-route flying hours will be identical. It is only the taxiing, take-off and landing/aligning phases that are different. The provisions of FCL.740.A(b)(2) already recognize that experience gained in aeroplanes in either SEP(land) or TMG classes may be used to revalidate both the SEP and TMG class ratings. The requirements should reflect what is common and what is different between the classes.

The Agency, having reviewed the derogation request, concurred that to require a pilot with both of the class ratings to complete all of the flying experience requirements set out in FCL.740.A(b) in both landplanes and seaplanes is not necessary and places an unreasonable burden on the license holder.

The Agency furthermore noted that on-going rulemaking task FCL.002 has already proposed to amend the provision of FCL.740A(b) to include provisions for the revalidation by experience in case of pilots holding both SEP (land) and SEP (sea).

Accordingly, the Agency concluded in its recommendation for the application of Article 14(6) of Regulation (EC) No 216/2008 that the level of protection will be maintained with the Norwegian proposal.

3. DESCRIPTION OF THE DEROGATION

The proposed derogation from the provisions of point FCL.740.A(b) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011, is intended to allow pilots in command hours in one class to be credited with five of the six hours to the other.

Thus, the provisions of FCL.740.A(b)(3) of Annex I (Part-FCL) to Regulation (EU) No 1178/2011 shall apply with the following subparagraph:

- ‘(3) When an applicant holds both a single-engine piston aeroplane land class rating and a single engine piston aeroplane sea class rating, they may comply with the requirements of FCL.740(b)(1)(ii) to revalidate both ratings by completing, within the 12 months preceding the expiry date of the rating, 12 hours of flight time in a single engine piston aeroplanes, including:
- 6 hours as pilot in command in single engine piston aeroplanes of which at least 1 hour shall be in a landplane or in an amphibian operated as a landplane and at least 1 hour shall be in a seaplane or in an amphibian operated as a seaplane; and
 - 12 take-offs and landings on land and 12 take-offs and landings on water; and
 - a training flight of at least 1 hour with a flight instructor (FI) or a class rating instructor (CRI). This training flight may be completed in a single engine piston aeroplane, seaplane or amphibian. Applicants shall be exempted from this flight if they have passed a class or type rating proficiency check or skill test or assessment of competence in any other class or type of aeroplane.’

4. CONDITIONS ATTACHED TO THE APPLICATION OF THE DEROGATION

This derogation applies to holders of licenses issued in accordance with Annex I (Part-FCL) to Regulation (EU) No 1178/2011.

5. GENERAL APPLICABILITY OF THE DEROGATION

All EFTA States may apply this derogation provided that the conditions described in point 4 are met.
