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EASA PART FCL AND FOREIGN-REGISTERED AIRCRAFT (FRA)

Update: 8th 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. Derogation

- Article 12 of the FCL regulation provides for a number of “derogations” – mechanisms which permit individual Member States to deviate from or delay the implementation of EU regulations
- One derogation we believe has been commonly applied 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.”
- 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 actions envisaged and related timing”

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)



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“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. Additional notes

- We will update this note as any significant information becomes available, especially in respect of the FRA derogation in states other than the UK
- 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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