



Brussels, **XXX**  
[...](2019) **XXX** draft

**Annex IIa to EASA Opinion No 01/2019**

**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of **XXX****

**amending Commission Regulation (EU) 2018/395 as regards balloon pilot licences**

**DRAFT COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of XXX**

**amending Commission Regulation (EU) 2018/395 as regards balloon pilot licences**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 <sup>(1)</sup>, and in particular Articles 23 and 27 thereof,

Whereas:

- (1) The European Commission is to adopt the necessary implementing rules for establishing the requirements for balloon pilot licences in accordance with Regulation (EU) 2018/1139, where such aircraft meet the conditions specified in points (b)(i) and (ii) of Article 2(1) of that Regulation.
- (2) In light of the specific nature of flight crew licensing for balloons, there is a need for dedicated licensing requirements that are laid down in self-standing regulations. Those rules should be based on the general rules for flight crew licensing that are laid down in Commission Regulation (EU) No 1178/2011 <sup>(2)</sup>, but they should be restructured and simplified, so as to ensure that they are proportionate and founded on a risk-based approach, whilst ensuring that balloon pilots are and continue to be competent to carry out their activities and to discharge their responsibilities.
- (3) These new licensing requirements for balloon pilots should be added to Commission Regulation (EU) 2018/395 <sup>(3)</sup>. At the same time, the licensing requirements that are related to balloon pilot licences and are laid down in Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011 should be deleted, and those requirements of Annex I (Part-FCL) that address cross-domain issues, such as crediting provisions between balloon pilot licences and licences for other aircraft categories, should be revised in order to consider the new licensing requirements for balloons.
- (4) Pursuant to Article 12(2a)(3) of Commission Regulation (EU) No 1178/2011, Member States may apply national licensing rules that provide access to basic pilot privileges until 8 April 2020. Some Member States have reported to the European Commission

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<sup>(1)</sup> OJ L 212, 22.8.2018, p. 1.

<sup>(2)</sup> 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 (OJ L 311, 25.11.2011, p. 1).

<sup>(3)</sup> Commission Regulation (EU) 2018/395 of 13 March 2018 laying down detailed rules for the operation of balloons pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 71, 14.3.2018, p. 10).

and the European Union Aviation Safety Agency that, in this context, authorising student pilots to exercise limited privileges without supervision and thereby obtain basic privileges on a step-by-step basis supports the promotion of aerial sports and recreational activities by offering easy and more affordable access to flying. Promoting and enabling such easier access to general aviation is in line with the objectives of the General Aviation Road Map that aims to create a more proportional, flexible and proactive regulatory system <sup>(4)</sup>. For these reasons, Member States should be given the discretion to continue with such modular training routes which should be credited for the issue of a balloon pilot licence (BPL). Member States should be obliged to inform the European Commission and the European Union Aviation Safety Agency if they make use of such authorisations. They should also monitor the use of such authorisations in order to maintain an acceptable level of aviation safety.

- (5) In order to ensure a smooth transition and to avoid as much as possible any disruptions when introducing the new, specific regulatory framework for balloon flight crew licensing laid down in this Regulation, any certificates, authorisations and approvals issued to balloon pilots in accordance with Commission Regulation (EU) No 1178/2011 prior to the date of application of this Regulation should continue to be valid. National balloon pilot licences issued prior to the date of application of this Regulation should be converted into licences, issued in accordance with this Regulation, through conversion reports established by the Member States in consultation with the European Union Aviation Safety Agency.
- (6) Credit should be granted for balloon pilot training that commenced prior to the date of application of this Regulation. As the new balloon pilot training requirements that are introduced with this Regulation are equally or less demanding compared to the so far applicable requirements of Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011, training in accordance with Annex I (Part-FCL) should be fully credited. Credit for training that commenced in accordance with Annex 1 to the Chicago Convention should be determined through credit reports established by the Member States.
- (7) It should be possible for Member States to accept balloon licences that are issued by third countries. Based on the requirements of the so far applicable Article 8 of Commission Regulation (EU) No 1178/2011, the conditions for accepting third-country balloon pilot licences should be laid down.
- (8) The requirements of Annex VI (Part-ARA), Annex VII (Part-ORA) and Annex VIII (Part-DTO) to Commission Regulation (EU) No 1178/2011 should continue to apply to balloon flight crew licensing as, in the context of making the regulatory framework for balloons simpler, lighter and better, there is no need for amendments with regard to these Annexes. Existing training organisations should be given the appropriate time to adapt their training programmes, where necessary, in the context of the simplified training requirements.
- (9) The European Union Aviation Safety Agency has prepared draft implementing rules and submitted them with Opinion No 01/2019 <sup>(5)</sup> to the European Commission in accordance with points (b) and (c) of Article 75(2) and with Article 76(1) of Regulation (EU) 2018/1139.

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<sup>(4)</sup> <https://www.easa.europa.eu/easa-and-you/general-aviation/general-aviation-road-map>

<sup>(5)</sup> <https://www.easa.europa.eu/document-library/opinions>

- (10) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 127 of Regulation 2018/1139,

HAS ADOPTED THIS REGULATION:

*Article 1*

Commission Regulation (EU) 2018/395 is amended as follows:

- (1) the title of Commission Regulation (EU) 2018/395 is replaced by the following:

‘Commission Regulation (EU) 2018/395 of 13 March 2018 laying down detailed rules for the operation of as well as the flight crew licensing for balloons pursuant to Regulation (EU) 2018/1139’;

- (2) in Article 1, paragraph 1 is replaced by the following:

‘1. This Regulation lays down detailed rules for air operations with balloons as well as for issuing and maintaining pilot licences and associated ratings, privileges and certificates for balloons, where such aircraft meet the conditions laid down in points (b)(i) and (ii) of Article (2)(1) of Regulation (EU) 2018/1139.’;

- (3) Article 2 is amended as follows:

- (a) the introductory sentence is replaced by the following:

‘For the purpose of this Regulations, the following definitions and, unless terms are defined otherwise in this Article, the definitions of Article 2 of Commission Regulation (EU) No 1178/2011 apply.’

- (b) the following point (7a) is inserted:

‘(7a) “commercial operation” means any operation of a balloon, in return for remuneration or other valuable consideration, which is available for the public or, when not made available to the public, is performed under a contract between an operator and a customer, where the latter has no control over the operator;’;

- (c) point (10) is replaced by the following:

‘(10) “introductory flight” means any air operation, against remuneration or other valuable consideration, that consists of an air tour of short duration for the purpose of attracting new trainees or new members, performed either by a training organisation referred to in Article 10a of Commission Regulation (EU) No 1178/2011 <sup>(6)</sup> or by an organisation established with the aim of promoting aerial sport or leisure aviation;’;

- (d) point (12) is replaced by the following:

‘(12) “dry lease agreement” means an agreement between undertakings pursuant to which the balloon is operated under the responsibility of the lessee;’;

- (e) the following points (13) to (15) are added:

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<sup>(6)</sup> 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 (OJ L 311, 25.11.2011, p. 1).

- (13) “national licence” means a pilot licence issued by a Member State in accordance with national legislation before the date of application of Annex III (Part-BFCL) to this Regulation or of Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011;
- (14) “Part-BFCL licence” means a flight crew licence which complies with the requirements of Annex III (Part-BFCL) to this Regulation;
- (15) “conversion report” means a report on the basis of which a licence may be converted into a Part-BFCL licence;’;
- (4) Article 3 is amended as follows:
- (a) in paragraph (2), the first subparagraph is replaced by the following:
- ‘2. In accordance with point (a) of Article 30(1) of Regulation (EU) 2018/1139 operators of balloons shall engage in commercial operations only after having declared to the competent authority their capacity and means to discharge the responsibilities associated with the operation of the balloon.’;
- (b) in paragraph (2), the second subparagraph is deleted;
- (c) in paragraph (2), the introductory sentence of the third subparagraph is replaced by the following:
- ‘The first subparagraph shall not apply to the following operations with balloons:’;
- (d) in paragraph (2), points (c) and (d) are replaced by the following:
- ‘(c) introductory flights with four individuals or less, including the pilot, and flights for the purposes of parachute dropping, performed either by a training organisation that has its principal place of business in a Member State and referred to in Article 10a of Regulation (EU) No 1178/2011, or by an organisation created for the purposes of promoting aerial sport or leisure aviation, provided that the organisation operates the balloon on the basis of either ownership or a dry lease agreement, that the flight does not generate profits distributed outside the organisation and that such flights represent only a marginal activity of the organisation;
- (d) training flights performed by a training organisation referred to in Article 10a of Regulation (EU) No 1178/2011 and has its principal place of business in a Member State.’;
- (5) after Article 3, the following Articles 3a to 3e are inserted:

*‘Article 3a*

**Pilot licences and medical certification**

1. Without prejudice to Article 3d of this Regulation, pilots of aircraft referred to in Article 1(1) shall comply with the technical requirements and administrative procedures laid down in Annex III (Part-BFCL) to this Regulation and in Annex IV (Part-MED) to Commission Regulation (EU) No 1178/2011.
2. As an exception to the privileges of the holders of licences as defined in Annex III (Part-BFCL) to this Regulation, holders of such licences may carry out flights

referred to in Article 3(2)(a) to (d) without complying with point BFCL.215 of Annex III (Part-BFCL) to this Regulation.

3. A Member State may authorise student pilots who follow a BPL training course to exercise limited privileges without supervision before they meet all the requirements that are necessary for the issue of a BPL in accordance with Annex III (Part-BFCL) to this Regulation, subject to the following conditions:
  - (a) the scope of the privileges granted shall be based on a safety risk assessment carried out by the Member State, taking into account the extent of training necessary for the intended level of pilot competence to be achieved;
  - (b) the privileges shall be limited to the following:
    - (i) the whole or part of the national territory of the authorising Member State; and
    - (ii) balloons that are registered in the authorising Member State;
  - (c) the holder of such an authorisation who applies for the issue of a balloon pilot licence (BPL) shall receive credits for training conducted under the authorisation on the basis of a recommendation from an approved training organisation (ATO) or a declared training organisation (DTO);
  - (d) the Member State shall submit reports and safety risk assessments to the European Commission and the European Union Aviation Safety Agency every 3 years;
  - (e) the Member State shall monitor the use of authorisations issued under this paragraph to ensure an acceptable level of aviation safety and take appropriate action in case of identifying an increased safety risk or any safety concerns.

#### *Article 3b*

##### **Existing pilot licences and national medical certificates**

1. Part-FCL licences for balloons and associated privileges, ratings and certificates issued by a Member State before the date of application of this Regulation shall be deemed to have been issued in accordance with this Regulation. When a Member State reissues licences for administrative reasons or upon application by licence holders, the Member State shall replace these licences with licences that comply with the format laid down in Annex VI (Part-ARA) to Commission Regulation (EU) No 1178/2011.
2. When a Member State reissues licences and associated privileges, ratings and certificates in accordance with paragraph 1, the Member State shall, as applicable:
  - (a) transfer all privileges endorsed so far in Part-FCL licences to the new licence format;
  - (b) convert the privileges for tethered flight or commercial operation associated with a Part-FCL licence into a tethered flight rating or a commercial operation rating in accordance with the provisions of Annex III (Part-BFCL) to this Regulation; and
  - (c) endorse the expiry date of a flight instructor certificate associated with a Part-FCL licence into the pilot's logbook or issue an equivalent document.

After that date, those pilots shall exercise instructor privileges only when they comply with point BFCL.460 of Annex III (Part-BFCL) to this Regulation.

3. Holders of national licences for balloons issued by a Member State before the date of application of Annex III (Part-BFCL) to this Regulation shall be allowed to continue to exercise the privileges of their licences until 8 April 2021. By that date, these licences shall have been converted into Part-BFCL licences and associated ratings, privileges and certificates in accordance with the elements laid down in a conversion report that complies with the requirements of Article 4(4) and (5) of Commission Regulation (EU) No 1178/2011.
4. National pilot medical certificates associated with a licence as specified in paragraph 2 above and issued by a Member State before the date of application of Annex III (Part-BFCL) to this Regulation shall remain valid until the date of their next revalidation or until 8 April 2021, whichever is the earlier. The revalidation of these medical certificates shall comply with the requirements of Annex IV (Part-MED) to Commission Regulation (EU) No 1178/2011.

#### *Article 3c*

#### **Credit for training that commenced prior to the date of application of this Regulation**

1. In respect of issuing Part-BFCL licences and associated privileges, ratings or certificates in accordance with Annex III (Part-BFCL) to this Regulation, training that commenced prior to the date of application of this Regulation in accordance with Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011 shall be deemed to have commenced in accordance with this Regulation.
2. Training that commenced prior to the date of application of this Regulation or of Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011, in accordance with Annex 1 to the Chicago Convention, shall be given credit for the purposes of issuing Part-BFCL licences on the basis of a credit report established by the Member State in consultation with the European Union Aviation Safety Agency.
3. The credit report shall describe the scope of the training, indicate for which requirements of Part-BFCL credit is given and, if applicable, which requirements applicants need to comply with in order to be issued with a Part-BFCL licence. It shall include copies of all the documents that are necessary to demonstrate the scope of the training, as well as copies of the national regulations and procedures in accordance with which the training was commenced.

#### *Article 3d*

#### **Conditions for the acceptance of licences issued by third countries**

1. Without prejudice to international agreements concluded between the European Union and a third country in accordance with point (a) of Article 68(1) of Regulation (EU) 2018/1139 covering balloon pilot licensing, Member States may accept third-country balloon licences and associated ratings, privileges or

certificates, as well as associated medical certificates issued by or on behalf of third countries, in accordance with the provisions of Annex III to Commission Regulation (EU) No 1178/2011.

2. Applicants for a Part-BFCL licence who already hold at least an equivalent licence, rating, privilege or certificate issued in accordance with Annex 1 to the Chicago Convention by a third country shall comply with all the requirements of Annex III (Part-BFCL) to this Regulation, except that the course duration, the number of lessons and the specific training hours may be reduced.
3. The credit given to the applicant shall be determined by the Member State to which the pilot applies on the basis of a recommendation from an ATO or a DTO for balloons.

#### *Article 3e*

##### **Training organisations**

1. Training organisations for pilot licences referred to in Article 1(1) shall comply with the requirements of Article 10a of Commission Regulation (EU) No 1178/2011.
  2. Training organisations referred to in paragraph 1 which hold an approval issued in accordance with Annex VII (Part-ORA) to Commission Regulation (EU) No 1178/2011 or have submitted a declaration in accordance with Annex VIII (Part-DTO) to Commission Regulation (EU) No 1178/2011 before the date of application of this Regulation shall adapt their training programmes, where necessary, by 8 April 2021 at the latest.’;
- (6) Annex I (Part-DEF) is amended in accordance with Annex I to this Regulation;
- (7) Annex II (Part-BOP) is amended in accordance with Annex II to this Regulation;
- (8) Annex III (Part-BFCL) is added as set out in Annex III to this Regulation.

#### *Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 8 April 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
*[...]*