

Beslut om undantag från regler om giltighetstid för tillstånd, certifikat och intyg på luftfartsområdet

Transportstyrelsens beslut

Transportstyrelsen beslutar att de tillstånd, certifikat och intyg på luftfartsområdet som styrelsen har utfärdat får förlängd giltighetstid på det sätt som framgår av bilagan till detta beslut.

Beslutet får tillämpas av alla personer och organisationer som innehar tillstånd, certifikat eller dylikt som har utfärdats av Transportstyrelsen.

Beslutet gäller längst till och med den 17 november 2020.

Redogörelse för ärendet

Coronaviruset SARS-CoV-2 och sjukdomen covid-19 medför stora påfrestningar för samhället i stort, och inte minst för luftfarten. Det finns genom flexibilitetsbestämmelser i EU:s regler möjlighet att minska dessa påfrestningar något genom att göra det möjligt för organisationer och enskilda att anpassa sin verksamhet efter den nya situationen.

Skäl för beslutet

Enligt flexibilitetsbestämmelser i artikel 71 i förordning (EU) nr 2018/1139¹ finns möjlighet för myndigheten att bevilja undantag för varje fysisk eller juridisk person som omfattas av denna förordning från de krav som är tillämpliga på denna person i enlighet med de delegerade akter eller

¹Europaparlamentets och rådets förordning (EU) 2018/1139 av den 4 juli 2018 om fastställande av gemensamma bestämmelser på det civila luftfartsområdet och inrättande av Europeiska unionens byrå för luftfartssäkerhet, och om ändring av Europaparlamentets och rådets förordningar (EG) nr 2111/2005, (EG) nr 1008/2008, (EU) nr 996/2010, (EU) nr 376/2014 och direktiv 2014/30/EU och 2014/53/EU, samt upphävande av Europaparlamentets och rådets förordningar (EG) nr 552/2014 och (EG) nr 216/2008 och rådets förordning (EEG) nr 392/91.

genomförandeakter som antagits på grundval av det kapitel i händelse av brådskande oförutsedda omständigheter eller brådskande operativa behov som berör dessa fysiska eller juridiska personer om samtliga följande villkor är uppfyllda:

a) Det är omöjligt att på ett adekvat sätt ta hänsyn till dessa omständigheter eller behov i överensstämmelse med de tillämpliga kraven.

b) Säkerhet, miljöskydd och överensstämmelse med de tillämpliga grundläggande kraven säkerställs, vid behov genom tillämpning av kompenserande åtgärder.

c) Medlemsstaten har i möjligaste mån lindrat eventuell snedvridning av marknadsvillkoren som en följd av att undantaget beviljats.

d) Undantaget är vad gäller omfattning och varaktighet begränsat till vad som är absolut nödvändigt och det tillämpas på ett icke-diskriminerande sätt.

Enligt punkt 2 i artikel 71 ska byrån bedöma huruvida de villkor som avses i punkt 1 i denna artikel är uppfyllda och, inom tre månader från dagen för mottagandet av den senaste underrättelse som avses i punkt 1 i denna artikel, utfärda en rekommendation till kommissionen om resultatet av denna bedömning om det undantag som avses i punkt 1 i denna artikel beviljades för en period som överstiger åtta månader i följd.

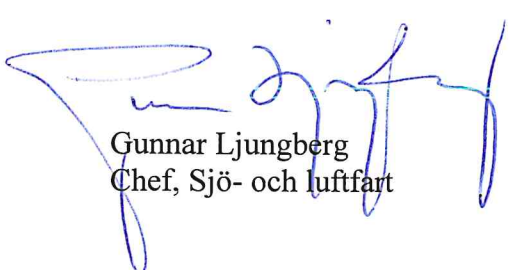
Av bilagan till detta beslut framgår vilka bestämmelser som beslutet gäller, och övriga villkor för tillämpningen av flexibilitetsbestämmelserna.

Transportstyrelsen bedömer att det föreligger både brådskande oförutsedda omständigheter och brådskande operativa behov. Vidare är vår bedömning att det i flera fall kommer bli omöjligt att bedriva verksamhet inom luftfartsområdet på ett normalt sätt med tanke på den smittspridning som nu pågår. Det finns således skäl för att tillämpa de ovan nämnda flexibilitetsbestämmelserna.

För närvarande är det inte möjligt att förutse hur länge de exceptionella omständigheterna kommer att pågå. I det läget bedömer Transportstyrelsen att tillämpningen av flexibilitetsbestämmelserna bör ha den längsta varaktighet som en EU-medlemsstat själv kan besluta om, åtta månader. Det ställningstagandet kan komma att omprövas om situationen förändras.

En förutsättning för detta beslut är att flygsäkerheten bibehålls genom att organisationer och personer vidtar de kompenserande åtgärder som bedöms nödvändiga.

Beslut i detta ärende har fattats av avdelningschefen Gunnar Ljungberg. I den slutliga handläggningen av ärendet deltog enhetschefen Anna Törnqvist, sektionschefen Karin Österlin, juristen Johnny Andersson och flyginspektören Toni Reuterstrand, den senare föredragande.



Gunnar Ljungberg
Chef, Sjö- och luftfart

Bilaga till beslut om undantag i ärende TSL 2020-2365 (EASA Exemption notification)

<p>* Exempted requirementsⁱ</p>	<p>Regulation (EU) No 1178/2011, particularly:</p> <ul style="list-style-type: none"> - points FCL.025, FCL.055, FCL.060, FCL.140.A, FCL.140.H, FCL.130.S, FCL.140.S, FCL.130.B, FCL.140.B, FCL.220.S, FCL.230.S, FCL.220.B, FCL.230.B, FCL.625, FCL.725, FCL.740, FCL.735.A, FCL.735.H, FCL.805, FCL.810, FCL.815, FCL.825, FCL.830, FCL.815, FCL.940 and FCL.1025 of as well as point (1) of Section H of Appendix 3 to Annex I (Part-FCL) - points MED.A.045 and MED.D.030 of Annex IV (Part-MED) <p>Regulation (EU) 2018/395¹, particularly points BFCL.135, BFCL.160, BFCL.200, BFCL.215 and BFCL.360 of Annex III (Part-BFCL)</p> <p>Regulation (EU) 2018/1976², particularly points BFCL.135, SFCL.155, SFCL.160, SFCL.205, SFCL.215 and SFCL.360 of Annex III (Part-SFCL)</p>
<p>* Summary of the exemptionⁱⁱ</p>	<p>Subject to fulfilling the applicable mitigating conditions as specified in this Exemption (see field “Summary of mitigations”), with regard to applicants for as well as holders of licences, ratings, privileges, endorsements and certificates issued by The Swedish Transport Agency in accordance with Regulation (EU) No 1178/2011, including associated medical certificates, all of the following shall apply:</p> <p>(a) The time period of all of the following is extended as follows:</p> <p>(1) by 4 months or until the end of the application of this Exemption, whichever period of time is shorter, in the case of validity periods of all of the following:</p> <ul style="list-style-type: none"> (i) class ratings, type ratings and instrument ratings endorsed in Part-FCL pilot licences the holders of which are not involved in the operation of aircraft representing those classes and types within an organisation for which Annex III (Part-ORO) to Regulation (EU) No 965/2012 is applicable³; (ii) mountain ratings; (iii) Part-MED medical certificates;

¹ Exemptions to Regulation (EU) 2018/395 are relevant only if Part-BFCL applies.

² Exemptions to Regulation (EU) 2018/1976 are relevant only if Part-SFCL applies.

³ Clarification: Point (a)(1)(i) applies to holders of Part-FCL licences who are involved in CAT operation by third country operators.

	<p>(2) until the end of the application of this Exemption, in the case of validity periods or time periods, as applicable, of all of the following:</p> <ul style="list-style-type: none"> (i) Part-FCL instructor and examiner certificates; (ii) language proficiency endorsements as per point FCL.055 of Part-FCL; (iii) Part-MED aeromedical examiner certificates; (iv) recommendations for taking theoretical knowledge examinations, issued by a DTO or by an ATO in accordance with point FCL.025(a)(3) of Part-FCL, point BFCL.135(b)(3) of Part-BFCL and point SFCL.135(b)(3) of Part-SFCL; (v) theoretical knowledge examinations for the purpose of licence issue as per points (c)(1) and (c)(2) of point FCL.025 of Part-FCL, point BFCL.135(d) of Part-BFCL and point SFCL.135(d) of Part-SFCL; (vi) the time periods specified in point FCL.725(c) of Part-FCL with regard to all of the following: <ul style="list-style-type: none"> (A) the time period between the commencement of the type rating training course and the pass of the skill test; (B) the time period between the pass of the skill test and the application for the issue of the class or type rating; (vii) the time period specified in all of the following, provided that the regular time period ended during the application period of this Exemption: <ul style="list-style-type: none"> (A) point FCL.735.A(b); (B) point FCL.735.H(b); (C) point (1) of Section H of Appendix 3 to Part-FCL; (D) points (a)(1) and (b)(2) of point FCL.810; (E) point FCL.815(b); (F) point FCL.825(c); <p>(3) in the case of the time period specified in point FCL.025 (b) (2) of Part-FCL, point BFCL.135(c) (2) of Part-BFCL and point SFCL.135(c)(2), that time period is extended by the time period that equals the time period during which an applicant was unable to access theoretical knowledge examinations for the reasons specified in this Exemption (see field “Reasons for granting it”).</p> <p>If, towards the end of the period specified in point (1), the competent authority considers that the reasons for granting this Exemption still apply, the validity period of the rating or certificate may be further extended for another period of up to 4 months or the end of the application of this Exemption, whichever date comes first.</p> <p>(b) For the application of all of the following requirements of Part-FCL, the time period is extended as follows:</p>
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	<ul style="list-style-type: none"> (1) to the last 300 days, in the case of point FCL.060(a) (balloon pilot recency for commercial air transport and the carriage of passengers); (2) to the last 2 years and 8 months, in the case of point FCL.140.A(a) (LAPL(A) recency); (3) to the last 20 months, in the case of point FCL.140.H (LAPL(H) recency); (4) to the last 32 months, in the case of all of the following: <ul style="list-style-type: none"> (i) points FCL.130.S(c) and FCL.220.S (sailplane launching methods); (ii) points (a) and (b)(1) of point FCL.140.S as well as point FCL.230.S (sailplane pilot recency); (iii) points FCL.130.B(c) and FCL.220.B (recency for tethered balloon flight); (iv) points FCL.140.B and FCL.230.B(a) (balloon pilot recency) (v) point FCL.805(e) (towing rating recency); (vi) point FCL.830(d) (sailplane cloud flying recency). <p>(c) For the application of all of the following recency requirements of Part-BFCL, the time period is extended as follows:</p> <ul style="list-style-type: none"> (1) to the last 30 months, in the case of all of the following: <ul style="list-style-type: none"> (i) points (a)(1)(i), (a)(2) and (f)(1) of point BFCL.160 (balloon pilot recency); (ii) point BFCL.215(d)(2) (commercial operation rating recency); (2) to the last 56 months, in the case of all of the following: <ul style="list-style-type: none"> (i) point BFCL.160(a)(1)(ii) (balloon pilot recency); (ii) point BFCL.200(d) (recency for tethered balloon flight); (3) to the last 300 days, in the case of point BFCL.215(d)(1) (commercial operation rating recency); (4) to the last 3 years and 8 months, in the case of point BFCL.360(a)(1) (balloon instructor recency). <p>(d) For the application of all of the following recency requirements of Part-SFCL, the time period is extended as follows:</p> <ul style="list-style-type: none"> (1) to the last 2 years and 8 months, in the case of all of the following: <ul style="list-style-type: none"> (i) point SFCL.155(c) (sailplane launching methods); (ii) point SFCL.205(f) (sailplane towing or banner towing rating); (iii) point SFCL.215(e) (sailplane cloud flying rating); (2) to the last 30 months, in the case of points (a) and (b) of point SFCL.160 (sailplane pilot recency). (3) to the last 3 years and 8 months, in the case of point SFCL.360(a)(1) (sailplane instructor recency).
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	(e) In the case of point FCL.060(c)(1), the 120-day period is extended to 180 days under the same conditions as specified in that point. ⁴
* Reasons for granting it ⁱⁱⁱ (select as applicable)	<p><input checked="" type="checkbox"/> Unforeseeable circumstances</p> <p>The COVID-19 outbreak has resulted in drastic travel restrictions and closure of borders between a majority of States.</p> <ul style="list-style-type: none"> • Holders of Part-FCL pilot licences who are required to perform their licence proficiency check (LPC) to revalidate the validity period of their class ratings, type ratings, instrument and mountain ratings are not able to timely reach or gain access to aircraft or flight simulation training devices (FSTDs) to complete the necessary flights, training and checking. Additionally, these pilots are not able to timely get access to an examination for maintaining their language proficiency. This would result in expiry of their ratings and the language proficiency endorsement. • Holders of LAPLs, BPLs, SPLs as well as of mountain ratings or sailplane cloud flying ratings are not able to maintain recent experience related to their privileges. • Holders of Part-FCL instructor and examiner certificates who are required to perform an assessment of competence to revalidate their instructor or examiner privileges in order to continue to exercise their training and checking privileges are not able to timely reach or gain access to aircraft or FSTDs to complete the necessary assessment of competence. This would result in expiry of said certificate. • Holders of Part-MED medical certificates who are required to undergo a recurrent medical examination to revalidate their medical certificate to continue to exercise their licence or certificate privileges are not able to timely reach or gain access to an aeromedical examiner (AME) or aeromedical centre (AeMC) to complete the necessary medical examination. In addition, in many cases medical examiners have been reassigned to support the COVID-19 outbreak in their State. This would result in expiry of said certificates. • Holders of aeromedical examiner certificates as per (Part-MED) to Regulation 1178/2011 who are required to perform medical examinations of the applicants for a medical certificate in order to revalidate their relevant AME privileges are not able to timely reach or gain access to their competent authorities. This would result in expiry of said certificates. • Applicants for the issue of a licence or an instrument rating are not able to timely reach the competent authority to complete theoretical knowledge examinations within the time periods

⁴ Clarification: Point (e) regarding the measures in the context of point FCL.060(c) generally apply to all Part-FCL licence holders, including pilots involved in operation in accordance with Part-ORO.

	<p>specified in points (a)(3) and (b)(2) of point FCL.025 of Part-FCL.</p> <ul style="list-style-type: none"> • After completion of theoretical knowledge examinations, applicants for the issue of a licence or an instrument rating are not able to access training facilities and training aircraft or FSTDs in order continue with practical training within the time periods specified in point FCL.025(c)(1) of Part-FCL. • Applicants for a class or a type rating are not able to access training facilities as well as training aircraft or FSTDs in order to comply with the second subparagraph of point FCL.725(c) of Part-FCL. <p><input checked="" type="checkbox"/> Urgent operational needs</p> <p>As a result of the extreme operational and resource constraints caused by the COVID-19 outbreak, it is needed to apply this exemption to holders of European licences, ratings, endorsement and certificates when the Swedish Transport Agency is informed about the said circumstances, either by the holder of the licence, rating, endorsement or certificate or by the training organisation of the applicant(s), as applicable. This Exemption aims to reduce the severity of the disruptions and consequent negative impacts on general aviation.</p>
<p>* Summary of Mitigating measures, if any ^{iv}</p>	<p>A) Safety:</p> <p>(1) Holders of class ratings, type ratings, instrument ratings, mountain ratings or language proficiency endorsements benefiting from point (a) of this exemption (see field "Summary of the exemption") shall comply with all of the following:</p> <ul style="list-style-type: none"> (a) they shall hold a valid relevant rating and, if applicable, a valid language proficiency endorsement; (b) they shall, during the application period of this Exemption, have received a briefing from an instructor who holds relevant instructional privileges in order to refresh the required level of theoretical knowledge to safely operate the applicable class or type and to safely carry out the relevant manoeuvres and procedures, as applicable. That briefing shall include class – or type – specific abnormal and emergency procedures, as appropriate. <p>(2) Upon successful completion of the briefing as per point (b), the new expiry date of the relevant rating and, if applicable, the language proficiency endorsement, shall be indicated in one of the following methods:</p>

	<p>(a) it shall be endorsed in the licence of the pilot by one of the following:</p> <ul style="list-style-type: none"> (i) the Swedish Transport Agency; (ii) an instructor acting in accordance with point FCL.945; (iii) an examiner acting in accordance with point FCL.1030; <p>(b) it shall be endorsed by the Swedish Transport Agency in an attachment to the licence of the pilot.</p> <p>(3) Instructors and examiner certificate holders benefiting from point (a) of this exemption (see field "Summary of the exemption") shall hold a valid instructor and, if applicable, a valid examiner certificate. The new expiry date of the certificate shall be endorsed in the licence or certificate of the pilot, either by the Swedish Transport Agency or a (senior) examiner acting in accordance with point FCL.1030, as applicable.</p> <p>(4) Applicants for a licence, rating or certificate benefiting from point (a)(2)(vii) of this exemption (see field "Summary of the exemption") shall have received additional training, if deemed necessary by the ATO or the DTO, in consultation with the Swedish Transport Agency.</p> <p>(5) Holders of licences as per Part-FCL, Part-BFCL and Part-SFCL benefitting from point (b), (c) or (d) of this Exemption (see field "Summary of the exemption") shall, during the application period of this Exemption, have received a briefing from an instructor who holds relevant instructional privileges in order to refresh the required level of theoretical knowledge to safely operate the applicable aircraft and to carry out the relevant manoeuvres and procedures, as applicable. That briefing shall include specific abnormal and emergency procedures, as appropriate to the category, class and type of aircraft as well as to the relevant kind of privileges, as applicable.</p> <p>(6) Part-MED medical certificate holders benefitting from this exemption shall hold a valid medical certificate without limitations, except visual ones.</p> <p>(7) Part-MED aero-medical examiner certificate holders benefiting from this exemption shall hold a valid aero-medical examiner certificate.</p>
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	<p>B) Environment: The circumstances and needs addressed by the exemption do not have an impact on environment.</p> <p>C) Market distortion: Due to the exceptional circumstances affecting all EU Member States, and given its limited duration, the exemption does not have a distorting effect on the market conditions.</p> <p>D) Essential requirements: Not applicable.</p>
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ⁱ Refer to Implementing Act or Delegated Act, specifying the point, paragraph, alinea, etc...

ⁱⁱ The description of the exemption should allow the Agency to provide a recommendation and demonstrate compliance with essential requirements.

Note: In the case where the change/repair is handled by an approved Design Organisation, brief description of the change/repair shall allow the experts to evaluate the technical status of the change/repair and to assess if the exemption complies with the general safety objectives of the Basic Regulation.

ⁱⁱⁱ Please describe the unforeseeable circumstance or the urgent operational need or both.

^{iv} Please indicate the mitigation measures taken, if any, for ensuring:

- Safety, environmental protection;
- Market distortion;
- Essential requirements.