European Union Aviation Safety Agency

FAQ n.19111

FAQs:

Air Operations - General, Air Operations, Regulations

Question:

What do 'grandfathering', 'transition measure' and 'opt-out' mean?

Answer:

Reference: Regulation (EU) No 1178/2011, Regulation (EU) No 965/2012

These terms refer to certain legal concepts used in aviation safety regulations, in particular Reg. (EU) No 1178/2011 on aircrew and Reg. (EU) No 965/2012 on air operations.

'Grandfathering' designates the legal recognition and acceptance of certificates issued on the basis of national legislation by national authorities prior to the entry into force of a specific regulation. For example, in Reg. (EU) No 1178/2011, the conditions for the grandfathering of JAR-compliant and non-JAR-compliant pilot licences and medical certificates are set forth in its Articles 4 and 5. In Reg. (EU) No 965/2012, the conditions for grandfathering of EU-OPS AOCs are set forth in Article 7(1).

Grandfathering measures are included in the Cover Regulation to assist Member States in the transition from national rules to unified EU rules. In the case of aircrew licensing, provisions on grandfathering consider some national certificates issued in compliance with given regulations and by a certain date as being in compliance with the new Aircrew Regulation (i.e. Reg. (EU) No 1178/2011).

A 'transition measure' is a provision helping the national competent authorities and regulated entities to gradually adapt to the new EU rules. Several examples can be found in the Aircrew Regulation, such as in Article 11c (in relation to the obligation of Member States regarding the transfer of records and certification processes of those organisations for which the Agency is the competent authority) and in Article 4 (1) — the obligation of Member States to adapt grandfathered pilot licences to the new format by a certain date.

The 'opt-out' is a form of transition measure applicable to Member States. Opt-out provisions allowed Member States to decide not to implement an EU regulation or certain provisions thereof for a certain period of time, delaying the date of application of the new regulation (or certain provisions thereof) within that Member State. For example, the opt-out provisions contained in the Aircrew and Air Ops regulations required the Member State to notify the

European Commission and EASA of the 'opt-out', describing the reasons for such derogation and the programme for the phasing out of the opt-out and achieving full implementation of the common requirements.

Read more on opt-in and opt-out.

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