



Guidelines
for the continued granting of exemptions in
accordance with Article 71 of Regulation (EU)
2018/1139 (The Basic Regulation) to aircrew as per
Regulation (EU) No 1178/2011, Regulation
(EU) 2018/395 and Regulation (EU) 2018/1976

Guidelines in relation to the COVID-19 pandemic

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1. Background

In early 2020, Member States started to make comprehensive use of Article 71(1) of Regulation (EU) 2018/1139 (hereinafter: BR (Basic Regulation)) for issuing exemptions from requirements of Regulation (EU) No 1178/2011 (hereinafter: the Aircrew Regulation), Regulation (EU) 2018/395 (hereinafter: the Balloon Regulation) and Regulation (EU) 2018/1976 (hereinafter: the Sailplane Regulation), after the restrictions and health safety measures resulting from the COVID-19 outbreak had led to significant issues in complying with these requirements, e.g. due to limited accessibility to training facilities.

These exemptions allowed persons subject to these Regulations to deviate from particular requirements for a duration of up to eight months, which is the maximum period allowed under the 'simple' exemption procedure of Article 71(1) BR.

Today, even under the 'new normal', compliance with all applicable training, testing and checking requirements should be sought as far as possible. However, this may still be an issue for those applicants for, as well as holders of licences and associated ratings, privileges and certificates as per the above-mentioned Regulations (hereinafter: pilots) who, with regard to the ongoing development of the pandemic in their Member State, still face significant difficulties in complying with the applicable requirements. For those cases, Member States may consider to extend the exemption regime that was put in place in early 2020, subject to conditions laid down in Article 71(1) BR, including the assessment of the need for continuing the exemptions and ensuring safety, where necessary through the application of appropriate mitigating measures. In this regard, the applicable procedure will be the one set out in:

- (a) Article 71(1) BR, in cases where the total duration of the general exemption granted by Member States in early 2020 and of the subsequent exemptions now being considered does not exceed eight months;
- (b) Article 71(2) BR, in all other cases where the total duration of the general exemption granted by Member States in early 2020 and of the subsequent exemptions now being considered would exceed eight months.

This means that, if a Member State used the EASA exemption templates in early 2020 to their full extent (8-month duration), any subsequent exemption now being considered be notified in accordance with Article 71(2) BR. In this context, EASA wishes to clarify that the general conditions for the use of Article 71 BR, as set out in Article 71(1) BR, are in any case the same, and that it is only the administrative procedure which is different between Article 71(1) and Article 71(2) BR. As regards the duration of any additional exemption arrangements, please refer to Chapter 4 below.

2. Purpose and scope of these Guidelines

In the context of Chapter 1 above, this document provides guidelines for national competent authorities (NCAs) in using Article 71 BR for extending the exemption regime for pilots that still face significant issues when seeking compliance with requirements of the Aircrew Regulation, the Balloon Regulation or the Sailplane Regulation, in the course of the continuing COVID-19 pandemic.

For the continued use of exemptions from requirements of Subpart ORO.FC of Annex III (Part-ORO) to Regulation (EU) No 965/2012, please refer to the specific EASA Guidelines developed for this purpose.¹

3. Introduction

(a) General

For the continued use of Article 71 BR within the scope of these Guidelines and the related notification (via FlexTool) to EASA, Member States may use the EASA Template 2² (as sent to the Aircrew TeB on 26 March 2020 and published on the EASA website in July 2020; hereinafter: EASA Template) as a basis and with adaptations, as described in Chapters 4 – 9 of this document.

(b) Assessment of compliance with the applicable essential requirements

In any case, the following essential requirements laid down in Annex IV BR have to be met when granting an exemption:

- (1) Demonstration and maintenance of theoretical knowledge.

The acquisition and retention of theoretical knowledge must be demonstrated by continuous assessment and checks during training and, where appropriate, by examinations.

- (2) Demonstration and maintenance of practical skill.

An appropriate level of competence in practical skill must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

When a flight simulation training device (FSTD) is used for training, or for demonstration that practical skill is maintained, this FSTD must meet a given level of performance in those areas, which are relevant to completing the related tasks.

- (3) Language proficiency has to be possessed.
- (4) Instruction must be given by appropriately qualified instructors.
- (5) Examinations must be carried out by an appropriately qualified examiner.
- (6) Demonstration of medical fitness to satisfactorily execute their functions.

¹ Guidelines for handling exemptions from crew training and checking requirements in the field of commercial air transport operations under Article 71 of Regulation (EU) 2018/1139 (The Basic Regulation), published on 19.11.2020.

² https://www.easa.europa.eu/sites/default/files/dfu/aircrew_covid-19_art711_template_2_25.03.2020.docx

4. Exemption notification form – Section ‘Repetitive exemption?’

(a) General

The exemptions should be limited in scope and duration to the extent strictly necessary and should be applied in a non-discriminatory manner.

For the purpose of this document and in the context of applying Article 71 BR, the terms ‘duration of exemption’ on the one hand and ‘extension period’ (e.g. for the extension of the validity period of a particular rating or certificate) on the other hand should be differentiated.

The ‘**duration of the exemption**’ is the time period during which a Member State decides to issue privileges to persons or organisations under its oversight, where the conditions for the issuance of such privileges are not in full compliance with the existing regulatory framework. The duration of the exemption, or the total duration if the Member State grants the same exemption repetitively, is relevant for determining whether EASA has to follow the assessment procedure under Article 71(2) BR. Irrespective of whether EASA has to follow that assessment procedure or not, the conditions for granting the exemptions by Member States laid down in Article 71(1) BR remain the same.

The ‘**extension period**’ is the additional time period that, on the basis of the exemption, is granted to a person or organisation in respect of a particular expiry date. For example, if between March 2020 and November 2020 a Member State decides to grant a six-month extension to class and type rating or operator proficiency check (OPC) validity periods, then the duration of the exemption is eight months (March to November) while the extension period is six months.

In this context, it should be highlighted that there is no specific restriction on the duration of an exemption based on Article 71(2) BR. However, the acceptable duration of any exemption as well as the length of the extension periods (see also paragraph (b) and Chapter 6(b) below) will be dependent on the duration of the related urgent operational needs and the proposed mitigation measures.

(b) Arrangements for the duration of the exemption and the individual extension periods

(1) General

The exemption should be established in the form of a ‘phased approach’, similar to the logic of the ‘4+4-month arrangement’, as shown in the EASA Template. The overall duration of the exemption should last from November 2020 until 31 July 2021. During this time period, any individual extension period should be granted until 31 March 2021 (the agreed ICAO ‘sunset’ date³) or an earlier date, if so necessary on the basis of the limitations specified in Chapter 6(b).

If, in March 2021, the competent authority considers that the reasons for granting the exemptions will, beyond March 2021:

- (i) still apply, (additional) extension periods may be granted up to 31 July 2021, again taking into consideration the limitations specified in Chapter 6(b);

³ For the ICAO sunset date, please see ICAO SL 122, recommendation #12.

- (ii) no longer apply, the exemption should be withdrawn. Such withdrawal must be notified via FlexTool.

To that end, the exemption (notification) should contain the elements specified in the following points:

- (2) In the field 'Repetitive exemption?', the duration should be specified as follows:

Valid from XX/11/2020 to 31/07/2021*

* Adjust as per Member State's individual notification dates.

- (3) In the field 'Summary of the exemption', in the relevant paragraphs (exemption arrangements), all of the following should be considered:

- (i) In the case of validity periods of ratings, privileges and certificates, the relevant paragraph (cf. paragraph (a) of the EASA Template) should:

- (A) start as follows:

[(x)] The validity period or time period (as applicable) of all of the following is extended by four months or until 31 March 2021, whichever is the earlier:

[...]; and

- (B) close with the following text:

If, in March 2021, the competent authority considers that the reasons for granting this Exemption will still apply beyond March 2021, the validity period of the rating, privilege or certificate may be further extended for another period of four months or until 31 July 2021, whichever is the earlier.

- (ii) In the case of recency requirements (LAPL, BPL, SPL, additional ratings), the exemption arrangements specified in paragraphs (b), (c) and (d) of the EASA Template, allowing pilots to consider relevant flight experience gained in additional 8 past months in addition to the time period specified in the applicable recency requirement, can be maintained as follows:

- (A) each paragraph should start with the following text:

Until 31 March 2021, for the application of the following requirements, the time period is extended as follows: [...]; and

- (B) each paragraph should end with the following text:

If, in March 2021, the competent authority considers that the reasons for granting this Exemption will still apply beyond March 2021, the arrangement of this paragraph may be further applied as long as necessary but no later than 31 July 2021.

- (iii) At the end of field 'Summary exemptions', the following text should be added:

If, in March 2021, the competent authority considers that the reasons for granting this Exemption no longer apply, this Exemption will be withdrawn.

5. Exemption notification form – Section ‘Exempted requirements’

- (a) NCAs should carefully assess the situation in their Member State and determine for which of the requirements, as listed in the EASA Template, it is still necessary to grant exemptions. The continuous granting of exemptions may be considered for some or all of the following:

Annex I (Part-FCL) to the Aircrew Regulation	Annex III (Part-BFCL) to the Balloon Regulation	Annex III (Part-SFCL) to the Sailplane Regulation
<u>Annex I (Part-FCL), points:</u>	<u>Annex III (Part-BFCL), points:</u>	<u>Annex III (Part-SFCL), points:</u>
<ul style="list-style-type: none"> • FCL.025 • FCL.055 • 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 • FCL.1025 • Appendix 3, Section H, point 1 	<ul style="list-style-type: none"> • BFCL.135 • BFCL.160 • BFCL.200 • BFCL.215 • BFCL.360 	<ul style="list-style-type: none"> • SFCL.135 • SFCL.155 • SFCL.160 • SFCL.205 • SFCL.215 • SFCL.360
<u>Annex IV (Part-MED), points:</u> <ul style="list-style-type: none"> • MED.A.045** • MED.C.030** • MED.D.030 		

* In case of continued application under EASA Article 71 BR Templates 3a and 3b, as shared with the Aircrew TeB on 22 April 2020 and published on the EASA website.

** Only in the cases specified in point (b) of this Chapter.

- (b) In general, the continued use of Article 71 for extending the validity periods of aero-medical certificates (point MED.A.045 of Annex IV (Part-MED) to the Aircrew Regulation) is not supported by EASA.

However, Member States may consider using Article 71 BR for granting exemptions from Part-MED requirements in the following cases:

- (1) Pilots who are currently staying and exercising their privileges in a third country and also hold an ICAO-compliant aero-medical certificate issued by that third country may face difficulties to travel to the EU or to the nearest Part-MED aero-medical examiner for the purpose of revalidating their Part-MED aero-medical certificate.

In such cases, the Member States may extend the validity period of the Part-MED aero-medical certificates in accordance with all of the following:

- (i) the cumulative extension period shall not exceed eight months (see Chapter 6(b));
- (ii) in any case, the extension period should end on 31 March 2021 or equal the end of the validity period of the third-country aero-medical certificate, whichever is the earlier.

Member States should only grant such exemptions on the basis of third-country aero-medical certificates which are not subject to COVID-19-induced deviations from ICAO aero-medical standards.

- (2) Pilots and holders of cabin crew attestations as per Annex V (Part-CC) to the Aircrew Regulation may not be able to undergo the necessary aero-medical examinations due to a general inaccessibility of aero-medical examiners, OHMPs (where applicable) and aero-medical centres in their Member State.

In such cases, the Member States may extend the validity period of the Part-MED aero-medical certificates or the cabin crew medical report in accordance with Chapters 4(b) and 6(b) of this document.

Exemptions in accordance with points (1) or (2) above should be granted only with a condition that will oblige pilots and/or cabin crew attestation holders to undergo regular aero-medical examinations as soon as such examinations are possible.

6. Exemption notification form – Section ‘Summary of the exemption’

(a) General

Based on the scope of the exemption (list of requirements subject to the exemption), NCAs should use the text as shown in the EASA Template. However, the ‘4+4-month’ arrangement should be re-arranged as described in Chapter 4(b) of this document.

(b) Cumulative extension time period for an individual pilot

As a general principle, EASA does not recommend extending the validity period of individual ratings, privileges and certificates by more than the following cumulative time periods, considering both the initial exemption in early 2020 and any subsequent exemption:

- (1) 12 months, in the case of the validity period of an instructor, examiner and aero-medical examiner certificate;
- (2) 8 months, in all other cases.

This should be ensured by adding the following additional paragraph in the field “Summary of the exemption”:

([x]) When a person already made use of a particular exemption arrangement under the general exemption granted by [Name of MS/NCA] (reference: [reference to notification of initial exemption]) and the additional time period granted in respect of the applicable requirement:

- (1) in the case of the validity period of an instructor, examiner or aero-medical examiner certificate:
 - (i) was less than twelve months, then that time period and the additional time period granted to that person under this exemption shall cumulatively not exceed twelve months;*
 - (ii) was twelve months, then this exemption shall not be applied to that person;**
- (2) in all other cases:
 - (i) was less than eight months, then that time period and the additional time period granted to that person under this exemption shall cumulatively not exceed eight months;*
 - (ii) was eight months, then this exemption shall not be applied to that person.**

Any deviation from this approach should be carefully evaluated by the NCA as regards the impact on safety.

If, in particular cases, a cumulative extension period exceeding eight or twelve months, as applicable, is granted, additional and/or amplified mitigation measures will be required.

7. Exemption notification form – Section ‘Reasons for granting it’

In addition to the text of the EASA Template, NCAs should explain why the continued use of Article 71 BR is necessary with regard to the particular situation in their Member State. When doing so, all of the following should be considered:

- (a) The continued applicability of mandatory health safety measures, including related travel restrictions, imposed by health authorities of the Member State (physical distancing) as well as the closure of borders may result in the impossibility for pilots to meet instructors/examiners for the purpose of required training or check flights. In such cases, the continued use of Article 71 BR is deemed justified (urgent operational need).
- (b) The sole obligation of quarantine (e.g. in case of the need to travel to/from a training facility) does not automatically justify an exemption as per Article 71(2) BR.

8. Exemption notification form – Section ‘Mitigating measures’

(a) General

As already explained in Chapter 6(b) of this document, an individual pilot should not benefit from an exemption for a cumulative time period (e.g. additional validity period of a rating) of more than eight or twelve months, as applicable. As long as this is the case, the mitigating measures specified in the EASA Template for the different scenarios are deemed sufficient. In cases where NCAs intend to grant exemptions with a cumulative individual extension period that exceeds eight or twelve months, as applicable, additional and/or amplified mitigating measures will be necessary in order to ensure an equivalent level of safety.

(b) Availability and accessibility of FSTD

Applications for exemptions from FSTD training are based on two reasons, the availability and the accessibility of the FSTD (see definitions in point FCL.010 and the requirements in Section A point (1) of Appendix 9 to Part-FCL).

In case of confirmed unavailability of any adequate FFS, the following options should be considered:

1. the use of an FFS that is qualified by a third country and has similar FSTD technical specification as the European PRDs, provided that negative transfer of training is avoided;
2. the use of an FTD or FNPT.

Note 1: In the case of single-pilot aeroplanes and helicopters, the use of FSTDs other than FFS, in combination with the aircraft, is foreseen in Section A point (1) of Appendix 9 to Part-FCL for cases where an FFS is not available/accessible. For this purpose, an exemption as per Article 71 BR is not necessary.

Note 2: In the case of multi-pilot aircraft, FSTDs other than FFS may be used only to the extent to which appropriate mitigating measures are put in place to avoid negative transfer of training.

9. Additional arrangements and information to be included in exemption notifications

(a) Exemptions which include any of the following arrangements should be notified through separate notifications and with standard text as specified in paragraph (b) below:

- (1) extension of validity periods of aero-medical certificates and cabin crew medical reports in accordance with Chapter 5(b);
- (2) granting of extension periods of more than 12 months, in the case of instructor, examiner and aero-medical examiner certificates, or more than 8 months, in all other cases, in accordance with Chapter 6(b).

(b) NCAs should use the following standard text for the respective parts of exemption notifications (FlexTool) as per the scope of these Guidelines, as this will help EASA with processing these notifications:

- (1) Title^(v):

- (i) general:
COVID-19 / 2W: Extension of validity periods and other time periods for aircrew;
 - (ii) in the case specified in point (a)(1) above:
COVID-19 / 2W: Extension of validity periods of aero-medical certificates and cabin crew medical reports;
 - (iii) in the case specified in point (a)(2) above:
COVID-19 / 2W: Extension of validity periods and other time periods for aircrew for more than 8 or 12 months.
- (2) Domain^(vi):
ACW;
- (3) Type of operation^(xii):
N/A;
- (4) Concerned entity(ies) – Organisation, operator, aerodrome or person whom the exemption is granted to^(xiv):
- (i) general and in the case specified in point (a)(2) above:
Holders of licences, ratings, privileges, endorsements and certificates issued by [NCA] in accordance with the Regulations specified above in the field “Exempted requirements;
 - (ii) in the case specified in point (a)(1) above:
Holders of aero-medical certificates and cabin crew medical reports.
- (c) NCAs are invited to contact EASA prior to granting an exemption which does not follow these Guidelines, for clarification and coordination purposes.