

Explanatory Statement

Civil Aviation Safety Regulations 1998

Prescription of aircraft and ratings — CASR Part 61 (Edition 5) Instrument 2018

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Under paragraph 98 (5A) (a) of the Act, such regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft.

Part 61 of the *Civil Aviation Safety Regulations 1998* (**CASR**) contains regulations for flight crew licensing, including the various requirements for flight crew licences, ratings and endorsements. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft and whether, in such cases, differences training is required if privileges are to be exercised in a variant.

Under subsection 33 (3) of the *Acts Interpretation Act 1901* (the **AI Act**), where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

Prescription of aircraft and ratings — CASR Part 61 (Edition 5) Instrument 2018 (the **instrument**) prescribes the variants, differences training requirements, flight review requirements and type ratings for specified aircraft types for the purpose of relevant provisions in Part 61 of CASR. It also prescribes the flight training and flight review requirements for the exercise of the privileges of specified class ratings.

Fundamental concepts in the operation of Part 61 of CASR

The rationale behind Part 61 of CASR is that a pilot may be authorised to fly a particular type of aircraft only if the pilot has undertaken sufficient training and an assessment has been made to confirm that the pilot is competent in operating that type of aircraft. In addition, a pilot must periodically undergo a review (a flight review) of the pilot's continued competence operating the aircraft if the pilot wishes to continue flying that type of aircraft.

Within the range of available aircraft types, some can be grouped together and treated in a common way under Part 61 of CASR. Thus, undertaking training and being assessed to operate 1 type of aircraft may satisfy the training requirements for a number of other types of aircraft if they have similar characteristics and performance. Also undertaking a flight review in 1 type of aircraft may satisfy the flight review requirements for a number of other types of aircraft.

Most single-engine aeroplanes are grouped together in this way into the single-engine aeroplane class rating. If a pilot completes appropriate training and is assessed as competent flying a particular type that is identified within that single-engine aeroplane

class, the pilot does not need to undertake further training and assessment to fly other similar types within the class rating.

However, many types of aircraft are sufficiently complex or different from other types as to warrant a pilot undertaking type-specific training to be authorised to fly these types. These aircraft are identified as type-rated aircraft. Aircraft that are certificated to be flown by more than 1 pilot are examples of type-rated aircraft.

Before flying an aircraft, a pilot must be competent in operating the particular aircraft. Consequently, even if pilots are qualified to fly single-engine aeroplanes covered by the class rating, before flying a different type within the class rating, pilots must make sure that they are competent to fly the new type, which may have different systems, performance and handling characteristics to the type of aircraft they flew when qualifying for the class rating.

Nevertheless, some aircraft that are designated as type-rated aircraft are sufficiently similar in their characteristics to other aircraft covered by the relevant class rating as to warrant recognition of ongoing competency checks (flight reviews) done in the type-rated aircraft for the purposes of the class rating flight review.

There will be aircraft that have been included within a class, although they are sufficiently complex or have performance characteristics that warrant initial type-specific training and a flight review. Once the pilot has completed that initial type-specific training and the flight review, the competency of the pilot to fly the aircraft in the future can effectively be managed as a class-rated aircraft.

Several regulations in Part 61 of CASR provide for a legislative instrument to prescribe the types of aircraft for which some of the concessions mentioned above apply.

Regulation 61.050 — multi-engine aeroplanes included in single-engine aeroplane class

Under regulation 61.050 of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe aeroplanes that are included in the single-engine aeroplane class. Regulation 61.020 (2) of CASR includes multi-engine centre-line thrust aeroplanes as types of aeroplanes that are covered by a single-engine class. In addition, the definition of a *multi-engine aeroplane* under regulation 61.010 of CASR excludes a multi-engine centre-line thrust aeroplane. A person operating such an aeroplane under the authority of a single-engine aeroplane class rating is also required to hold a multi-engine centre-line thrust design feature endorsement under subregulation 61.380 (2) of CASR.

Aircraft referred to by regulation 61.050 are aircraft that would otherwise be included in the multi-engine aeroplane class rating or type rating. These aircraft are sufficiently like single-engine aeroplanes in their performance and handling characteristics that they can be safely flown under the authority of a single-engine aeroplane class rating.

CASA has reserved its prescription of multi-engine aeroplanes that are to be included in the single-engine aeroplane class because no relevant aircraft have been identified at the time of making the instrument.

Regulation 61.055 — type ratings and variants for multi-crew aircraft

Under subregulation 61.055 (1) of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe for multi-crew aircraft:

- (a) the type ratings that may be granted for multi-crew operations; and

- (b) the aircraft models that are variants of each other; and
- (c) in relation to each variant — the variants for which differences training is required; and
- (d) the type ratings for which the flight review requirements may be met by completion of a single flight review; and
- (e) the type ratings for which the instrument proficiency check requirements may be met by completion of a single instrument proficiency check.

Under subregulation 61.055 (2) of CASR, for paragraph 98 (5A) (a) of the Act, if 2 or more aircraft models are variants of each other, CASA may, by legislative instrument, prescribe that the models are no longer variants of each other if satisfied that:

- (a) the complexity of 1 of the models' systems; or
- (b) a difference in their performance or handling characteristics;

requires the provision of additional flight training to enable a person to pilot an aircraft of that model safely.

Aircraft referred to by regulation 61.055 are aircraft that are operated by 2 pilots and require initial and ongoing type-specific training and competency checking. These aircraft are sufficiently complex, or their performance or handling characteristics are such, that additional training of the pilots is warranted to enable them to pilot these aircraft safely.

Aircraft types can have variants within each type, and the characteristics of the variants can differ (for example, in such areas as operating systems, size or performance). In some cases, the variant differences are such that additional training of the pilots is warranted to enable them to pilot variants of the original aircraft type. However, there will be variants that are sufficiently similar that additional training and competency checking is not warranted, and completing a proficiency check or a flight review in 1 variant meets the proficiency check or flight review requirements applicable to the other variants of that type.

Regulation 61.060 — type ratings for single-pilot aircraft

Under subregulation 61.060 (1) of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe the following:

- (a) for a type of aircraft that is certificated for single-pilot operation — whether a single-pilot type rating is required;
- (b) for aircraft for which single-pilot type ratings are required:
 - (i) the type ratings that may be granted for single-pilot operation; and
 - (ii) the aircraft models that are variants of each other; and
 - (iii) in relation to each variant — the variants for which differences training is required;
- (c) the type ratings for which the flight review requirements may be met by completion of a single flight review;
- (d) the type ratings for which the instrument proficiency check requirements may be met by completion of a single instrument proficiency check.

Under subregulation 61.060 (2) of CASR, CASA may prescribe that a single-pilot type rating is required for an aircraft only if satisfied that:

- (a) the complexity of the aircraft's systems; or

(b) its performance or handling characteristics;
requires the provision of additional flight training to enable a person to pilot an aircraft of that type safely.

Aircraft referred to by regulation 61.060 are aircraft that may be operated by 1 pilot and require initial and ongoing type-specific training and competency checking. These aircraft are sufficiently complex, or their performance or handling characteristics are such, that additional training of the pilots is warranted to enable them to pilot these aircraft safely.

Aircraft types can have variants within each type, and the characteristics of the variants can differ (for example, in such areas as operating systems, size or performance). In some cases, the variant differences are such that additional training of the pilots is warranted to enable them to pilot these variants of the original aircraft type.

In other cases, variants are sufficiently similar that additional training and competency checking is not warranted, and completing a proficiency check or a flight review in 1 variant meets the proficiency check or flight review requirements applicable to the other variants of that type.

Regulation 61.061 — types of aircraft where a flight review for a pilot type rating meets flight review requirements for a class rating

Under regulation 61.061 of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by instrument, prescribe types of aircraft for which the conduct of a flight review or instrument proficiency check for a pilot type rating meets the flight review requirements for a class rating.

Aircraft referred to by regulation 61.061 are identified as being sufficiently complex, or have performance or handling characteristics, that warrant initial and ongoing type-specific training and competency checking requirements that must be satisfied before pilots are authorised to fly these types of aircraft. However, conducting a flight review or proficiency check in such an aircraft is regarded as being sufficient to ensure the pilot is also competent operating similar aircraft covered by the class rating and, therefore, would be acceptable for the purposes of a relevant class rating flight review. The aircraft type has sufficient commonality with aircraft included in a relevant class rating that justifies this recognition.

CASA has prescribed types of multi-engine aeroplanes for this purpose, while reserving its prescription of types of single-engine helicopters on this matter.

Regulation 61.062 — types of aircraft with additional limitations on class ratings

Under regulation 61.062 of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by instrument, prescribe types of aircraft for which flight training and a flight review are required under regulation 61.747 for the exercise of the privileges of a class rating. Under subregulation 61.747 (1), the holder of an aircraft class rating may, subject to other requirements, exercise the privileges of the class rating in an aircraft type prescribed under regulation 61.062.

Aircraft referred to by regulation 61.062 are identified as being sufficiently complex or have performance or handling characteristics that warrant initial type-specific training and a flight review in the specific type.

However, these types are not so different that ongoing training and competency checking needs to be type-specific. In these cases, the pilot only needs to complete initial type-specific training along with a flight review, rather than a flight test, as the means of assessing the pilot's competence in operating that type of aircraft. Thereafter, a flight review in any other aircraft in the same class satisfies the flight review requirements to fly that type of aircraft.

Regulation 61.063 — types of single-engine helicopters for flight reviews

Under regulation 61.063 of CASR, for paragraph 98 (5A) (a) of the Act, CASA may, by instrument, prescribe types of single-engine helicopters that may be used to conduct flight reviews for other types of single-engine helicopters.

Aircraft referred to by regulation 61.063 are identified as being sufficiently complex or have performance characteristics that warrant initial and ongoing type-specific training and checking requirements that must be satisfied before pilots are authorised to fly these types of aircraft. However, conducting a flight review in such an aircraft is regarded as acceptable for the purposes of the other listed single-engine helicopter types.

CASA has reserved its prescription of single-engine type-rated helicopters that may be used to conduct flight reviews for other single-engine helicopters.

Instrument

For the purposes of the relevant provisions mentioned above, the instrument prescribes the variants, differences training requirements, flight review requirements and type ratings for specified aircraft types. It also prescribes flight training and flight review requirements for class ratings.

Except for matters reserved, sections 4 to 27 of the instrument are machinery provisions designed to make the schedules take effect in accordance with their terms. As such, the machinery provisions are technical provisions describing the steps to be taken to locate, and the locations of, the various prescriptions set out for the purposes of the instrument. There are 15 schedules – of which 7 are reserved – that contain the relevant prescriptions and are listed by number and title, as follows:

- | | |
|------------|--|
| Schedule 1 | Multi-engine aeroplanes included in the single-engine aeroplane class — RESERVED |
| Schedule 2 | Multi-crew pilot aeroplane type ratings, variants and differences training |
| Schedule 3 | Multi-crew pilot helicopter type ratings, variants and differences training |
| Schedule 4 | Multi-crew type ratings for which flight review or instrument proficiency check met by a single flight review — RESERVED |
| Schedule 5 | Multi-crew type ratings for which instrument proficiency check met by a single instrument proficiency check — RESERVED |
| Schedule 6 | Single-pilot type-rated aeroplanes, type ratings, variants and differences training |
| Schedule 7 | Single-pilot type-rated helicopters, type ratings, variants and differences training |

- Schedule 8 Single-pilot type ratings for which flight review met by a single flight review — RESERVED
- Schedule 9 Single-pilot type ratings for which instrument proficiency check met by a single instrument proficiency check — RESERVED
- Schedule 10 Types of multi-engine aeroplanes for which the conduct of a flight review for a pilot rating meets the flight review requirements for the multi-engine aeroplane class rating
- Schedule 11 Types of single-engine helicopters for which the conduct of a flight review for a pilot rating meets the flight review requirements for the single-engine helicopter class rating — RESERVED
- Schedule 12 Types of single-engine aeroplanes for which flight training and flight review are required for exercising the privileges of the single-engine aeroplane class rating
- Schedule 13 Types of multi-engine aeroplanes for which flight training and flight review are required for exercising the privileges of the multi-engine aeroplane class rating
- Schedule 14 Types of single-engine helicopters for which flight training and flight review are required for exercising the privileges of the single-engine helicopter class rating
- Schedule 15 Types of single-engine helicopters that may be used for flight reviews for other types of single-engine helicopters — RESERVED.

The instrument repeals and replaces instrument *Prescription of aircraft and ratings — CASR Part 61 (Edition 4) (Edition 4)*, in accordance with subsection 33 (3) of the AI Act.

Changes from Edition 4

It is anticipated that the Textron Aviation Inc C525B-CJ3+ and C680A Latitude and the Pilatus PC-24 will soon be added to the Australian Civil Aircraft Register (*ACAR*).

Consistently with the European Aviation Safety Agency (*EASA*), CASA has determined that the holder of a C525 type rating is only required to complete a course of differences training to pilot the C525B-CJ3+ aircraft. Consequently, the C525B-CJ3+ has been added as a new variant of aircraft included under the existing C525 type rating in Schedules 2 and 6 of this instrument

Similarly, CASA has also determined that the differences between the new C680A Latitude and the existing C680 Sovereign+ variants are not sufficient to require completion of a course of approved training. Consequently, the C680A Latitude has been included with the C680 Sovereign+ variant in Schedule 2 of the instrument. Therefore, pilots who have previously completed training for the C680 Sovereign+ and are seeking to fly the new C680A Latitude are not required to complete a course of differences training. However, pilots who hold a C680 type rating and have not completed training for the C680 Sovereign+ must complete a course of differences training.

The Pilatus PC-24 is a single-pilot certificated multi-engine turbo-jet powered aeroplane with a maximum take-off weight in excess of 5 700 kg. Consistently with the approach taken by EASA and the Federal Aviation Administration of the United States of

America (*FAA*) for such aircraft, CASA has prescribed a new rating to be added to Schedule 6.

This instrument also introduces changes in column 2 of Schedule 2 to the name of the Textron Aviation Inc Citation III, VI, VII and X, Sovereign and Sovereign+ by adding the corresponding type rating as a prefix to the name of the models. These changes update the names of these models in accordance with the manufacturer's designation.

The instrument also omits:

- the Commonwealth Aircraft Corporation CAC CA-27 and North American F86 (known as the *Sabre*) from Schedule 12; and
- the Gloster Meteor (*Meteor*), English Electric B57 Canberra (*Canberra*), Lockheed 414 Hudson (*Hudson*) and Lockheed PV-1 Ventura (*Ventura*) from Schedule 13.

Currently, there are 2 Sabres, 1 Meteor, 1 Hudson and 1 Canberra operating in Australia. There is no Ventura operating in Australia. Those aircraft are limited category aircraft operating under Part 132 of CASR and under the administration of The Australian Warbirds Association Ltd (AWAL). It is not possible to conduct flight training or flight reviews in these aircraft as they are either single seat aircraft or only have one set of flight controls. The purpose of the removal of these aircraft from Schedules 12 and 13 is to allow a suitably qualified pilot to operate the aircraft without the requirement to undertake training and a flight review in the aircraft, which is not possible. Therefore, it removes an unintended consequence of the introduction of Part 61 of CASR. The pilot will still be required to meet the general competency requirements under regulation 61.385 of CASR and the general operational requirements and limitations in Part 132 of CASR.

Legislation Act 2003 (the LA)

Under paragraph 98 (5A) (a) of the Act, CASA may issue instruments in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if expressed to apply in relation to a class of persons or aircraft.

Under regulation 61.055 of CASR, CASA's prescription of type ratings and aircraft model variants for multi-crew aircraft is made by legislative instrument. Similarly, under regulation 61.060 of CASR, CASA's prescription of aircraft types that require a single-pilot type rating, and the prescription of the type ratings that may be granted for single-pilot operation, is made by legislative instrument.

The various prescriptions made by the instrument apply to classes of persons and aircraft. The instrument also prescribes type ratings and aircraft model variants for multi-crew aircraft and single-pilot aircraft under regulations 61.055 and 61.060 of CASR. Therefore, the instrument is a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

The changes to Schedules 2 and 6 made by this instrument have been made to support the introduction of new models and variants of aircraft by Australian operators that are anticipated to seek registration of the aircraft on the ACAR. New type ratings are added so that pilots can be authorised to operate those new types of aircraft. The changes have been made taking into account the approach taken by the FAA and EASA to these aircraft.

The changes to Schedules 12 and 13 made by this instrument were requested by AWAL, which is an administering authority for the types of aircraft affected by this instrument.

In these circumstances, CASA believes that no further consultation is appropriate or necessary.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) was prepared by CASA for the regulations that constitute the head of power for the instrument. The RIS was assessed as adequate by OBPR (OBPR ID: 2777) and applies for the purpose of the instrument.

Furthermore, in the context of the changes to Schedules 2 and 6 from Edition 4, contained in the instrument, the changes are covered by a standing agreement between CASA and OBPR, under which a RIS is not required for amendments to CASR Part 61 to add additional aircraft for the purpose of pilot type ratings (OBPR ID: 14507).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at **Attachment 1**.

Making and commencement

The instrument has been made by a delegate of CASA, relying on the power of delegation under subregulation 11.260 (1) of CASR.

The instrument commences on the day of registration.

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

Prescription of aircraft and ratings — CASR Part 61 (Edition 5) Instrument 2018

The legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The legislative instrument prescribes different types of aircraft for relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998*. Part 61 contains regulations for flight crew licensing, including the various requirements for flight crew licences, ratings and endorsements. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft, and whether in such cases, differences training is required if privileges are safely to be exercised in a variant. These requirements are consistent with Australia's obligations of conformity to the Chicago Convention on International Civil Aviation, its Protocols and Annexes.

Compared to the previous edition of this instrument, a new aircraft type and 2 new variants of existing models are being added to the list of type rating and variants in anticipation of those aircraft commencing operations in Australia. Also, 5 types of aircraft with a single control seat are being removed from provisions requiring flight training and a flight review as such operations are not possible in those aircraft.

Human rights implications

To the extent that certain aircraft are or are not prescribed, it might be said that the right to work, equality and non-discrimination under the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights (ICESCR) are engaged for pilots of such aircraft, as they cannot access some of the flight review and proficiency check concessions that the legislative instrument might otherwise provide. However, such differential treatment arises from the requirements of aviation safety for the particular types of specialised aircraft involved, and is consistent with honouring the safety obligations imposed by the *Civil Aviation Act 1988*.

Conclusion

The legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. To the extent that it may also limit human rights, those limitations are reasonable and proportionate in the interests of aviation safety.

Civil Aviation Safety Authority