

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA 15/21 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2021

Purpose

The purpose of *CASA 15/21 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2019* (the **instrument**) is to correct a drafting error in cross-referencing.

Legislation

Section 98 of the *Civil Aviation Act 1988* (the **Act**) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made the *Civil Aviation Safety Regulations 1998* (**CASR**).

Regulation 11.068 of CASR allows the Civil Aviation Safety Authority (**CASA**), for subsection 98 (5A) of the Act, to issue a legislative instrument that imposes a condition relating to a matter mentioned in that subsection on a specified class of authorisations. Authorisations include flight crew licences, ratings and endorsements.

Under subsection 33 (3) of the *Acts Interpretation Act 1901* (the **AIA**), 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.

Overview of instrument

In accordance with subsection 33 (3) of AIA, the instrument amends *CASA 09/19 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Instrument 2019* (**CASA 09/19**). CASA 09/19 imposes conditions on the flight crew licences of pilots who engage in **community service flights** (defined in section 6 of that instrument). Section 10 of CASA 09/19 sets out the operational and notification requirements for pilots, including that a pilot, in addition to requirements under CASR relating to logbooks, record that a flight is a community service flight in a personal logbook.

The amending instrument changes nothing of substance other than correcting an error appearing in section 10 which refers to regulation 61.350 of CASR (the logbook requirements for flight engineers) rather than regulation 61.345 (the logbook requirements for pilots), which had been the intention. The condition requires the holder of a flight crew licence not to pilot an aircraft operated for a community service flight unless the flight is recorded as such in the logbook. It is clear the obligations prescribed by the instrument are imposed on pilot licence holders and not flight engineers. A flight engineer would not be present on the type of aircraft used for a community service flight and would not be piloting an aircraft.

Content of instrument

Section 1 provides the citation for the instrument.

Section 2 commences the instrument on the day after it is registered.

Section 3 is a machinery provision for the amendment in Schedule 1 to have effect.

Schedule 1 sets out a single amendment, being that the reference in paragraph 10 (d) of CASA 09/19 to regulation “61.350” is omitted and regulation “61.345” is inserted.

Legislation Act 2003 (the LA)

Paragraph 10 (1) (d) of the LA provides that an instrument will be a legislative instrument if it includes a provision that amends or repeals another legislative instrument. Conditions imposed under regulation 11.068, which is what CASA 09/19 does, are required to be done by legislative instrument. The amending instrument is also, therefore, a legislative instrument and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

The instrument corrects an obvious drafting error (described above). On this basis, CASA is satisfied that no further consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA.

Office of Best Practice Regulation (OBPR)

OBPR has assessed that a Regulation Impact Statement was not required for the conditions applying to community service flights (OBPR ID: 24818).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

Making and commencement

The instrument has been made by the Acting Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument commences on the day after it is registered and will be automatically repealed in accordance with section 48A of the LA.

Statement of Compatibility with Human Rights

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

CASA 15/21 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2021

This 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 instrument amends *CASA 09/19 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Instrument 2019 (CASA 09/19)* to correct a cross-referencing error appearing in section 10. CASA 09/19 imposes conditions on the flight crew licences of pilots who engage in *community service flights* (defined in section 6 of that instrument).

Section 10 of CASA 09/19 sets out the operational and notification requirements for pilots, including that a pilot, in addition to requirements under CASR relating to logbooks, record that a flight is a community service flight in a personal logbook. The amending instrument changes nothing of substance other than correcting an error appearing in section 10 which refers to regulation 61.350 of CASR (the logbook requirements for flight engineers) rather than regulation 61.345 (the logbook requirements for pilots), which had been the intention.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority