

Explanatory Statement

Civil Aviation Safety Regulations 1998

Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021

Purpose

Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021 (the **instrument**) prescribes the variants, differences training requirements, flight review requirements and type ratings for specified aircraft types for the purposes of relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998* (**CASR**). It also prescribes the flight training and flight review requirements for the exercise of the privileges of class ratings to pilot aircraft prescribed by the Civil Aviation Safety Authority (**CASA**).

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 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.

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 or proficiency check) 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 one 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 or proficiency check in one type of aircraft may satisfy the flight review or proficiency check 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. Before flying such an aircraft, a pilot must complete appropriate training as required by regulation 61.385 of CASR.

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 continued competency of the pilot to operate such aircraft in the future can be demonstrated in any aircraft covered by the class rating.

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. Under subregulation 61.020 (2) of CASR, the single-engine aeroplane class also includes multi-engine centre-line thrust aeroplanes. (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 one 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 one 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.

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.

Background

Background to inclusion of Boeing 737-8 and 737-9 model aircraft (the B737 MAX aircraft) in Schedule 2

Following 2 fatal air crashes involving Boeing 737-8 aircraft, namely the Lion Air Flight JT610 in October 2018 and the Ethiopian Airlines Flight ET302 in March 2019, CASA decided in March 2019 that all operations of the B737 MAX aircraft should be prohibited from conducting operations in Australia as a precaution. On 29 March 2019, CASA issued instrument *CASA 21/19 — Temporary Prohibition of Operations (Boeing 737 MAX Aircraft) Direction 2019* to give effect to this prohibition. The prohibition, with certain later qualifications, was continued under 2 further legislative instruments, the second of which was repealed by *CASA 16/21 — Temporary Prohibition of Operations (Boeing 737 MAX Aircraft) Direction Repeal Instrument 2021* in February 2021 after CASA was satisfied that the operation of the B737 MAX no longer posed an unacceptable risk to the safety of air navigation. This decision was based on several initiatives and recommendations by the Federal Aviation Administration of the USA (the *FAA*) (as the national airworthiness authority for the State of Design of the aircraft), including design changes to the aircraft and flight crew training requirements for crew operating the aircraft.

The B737-8 model aircraft was first added as a variant to Schedule 2 in *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 5) Instrument 2018* but was removed in Edition 7. Following the outcome of a review of the B737-8 aircraft certification (entitled the *Joint Authorities Technical Review* commissioned by the FAA) revised pilot training requirements were determined by the FAA, the European Union Aviation Safety Agency (*EASA*) and Transport Canada. Based on these requirements, CASA has determined that the B737 MAX aircraft do not require a new type rating, but rather they can operate under the existing B737-300 to 900 rating. However, in order to operate the newly listed variants, pilots who hold that type rating will be required to complete a course of differences training conducted by a Part 142 operator, consistent with requirements of the other foreign national aviation authorities that have certified the variants.

Background to other amendments since Edition 7

The other amendments made in the instrument are of an administrative or clarifying nature or as a result of change of ownership of, or marketing changes to, aircraft models or to enable the issue of a type rating for a new aircraft type or model. These updates reflect entries for aircraft that have been or are shortly anticipated to be added to, or deleted from, the Australian Civil Aircraft Register (the *Register*).

Content of instrument

For the purposes of the legislative 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.

Section 1 gives the instrument its name and provides that the instrument commences on the day after it is registered.

Section 2 repeals instrument *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 7) (Edition 7)*, in accordance with subsection 33 (3) of the AI Act.

Section 3 contains definitions of terms used in the instrument, including a number of abbreviations.

Section 5 prescribes type ratings for multi-crew aeroplane models under paragraph 61.055 (1) (a) of CASR.

Section 6 prescribes type ratings for multi-crew helicopters under paragraph 61.055 (1) (a) of CASR.

Section 7 prescribes variants for multi-crew aeroplanes under paragraph 61.055 (1) (b) of CASR.

Section 8 prescribes variants for multi-crew helicopters under paragraph 61.055 (1) (b) of CASR.

Section 9 prescribes, for paragraph 61.055 (1) (c) of CASR, differences training that is required for a person to exercise the privileges of a multi-crew aeroplane type rating in a

variant that is different from the variant for which the person first received the type rating.

Section 10 prescribes, for paragraph 61.055 (1) (c) of CASR, the differences training that is required for a person to exercise the privileges of a multi-crew helicopter type rating in a variant that is different from the variant for which the person first received the type rating.

Section 13 prescribes single-pilot type ratings for aeroplanes under paragraph 61.060 (1) (a) of CASR.

Section 14 prescribes single-pilot type ratings for helicopters under paragraph 61.060 (1) (a) of CASR.

Section 15 prescribes type ratings for single-pilot aeroplanes under subparagraph 61.060 (1) (b) (i) of CASR.

Section 16 prescribes type ratings for single-pilot helicopters under subparagraph 61.060 (1) (b) (i) of CASR.

Section 17 prescribes variants of single-pilot aeroplane models that still have the same type rating for subparagraph 61.060 (1) (b) (ii) of CASR.

Section 18 prescribes variants of single-pilot helicopter models that still have the same type rating for subparagraph 61.060 (1) (b) (ii) of CASR.

Section 19 prescribes, for subparagraph 61.060 (1) (b) (iii) of CASR, differences training that is required for a person to exercise the privileges of a single-pilot aeroplane rating in a variant that is different from the variant for which the person first received the type rating.

Section 20 prescribes, for subparagraph 61.060 (1) (b) (iii) of CASR, differences training that is required for a person to exercise the privileges of a single-pilot helicopter rating in a variant that is different from the variant for which the person first received the type rating.

Section 23 prescribes, for regulation 61.061 of CASR, 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.

Section 24 prescribes, for regulation 61.062 of CASR, 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.

Section 25 prescribes, for regulation 61.062 of CASR, 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.

Section 26 prescribes, for regulation 61.062 of CASR, 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.

The provisions described above devolve the detail of prescribed matters to the Schedules (described below).

Schedules 2, 3, 6 and 7 set out models and variants of type ratings, and whether differences training is required. Schedule 2 is made for sections 5, 7 and 9; Schedule 3 for sections 6, 8 and 10; Schedule 6 for sections 13, 15, 17 and 19; and Schedule 7 for sections 14, 16, 18 and 20. Schedules 10, 12, 13 and 14 list the detail of types and models of aircraft for the purposes of subsection 23.1, and sections 24, 25 and 26.

Sections 4, 11, 12, 21, 22, subsection 23.2 and section 27 are placeholder provisions that are reserved. (The related Schedules 1, 4, 5, 8, 9, 11 and 15 are also reserved.)

The Schedules are 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.

Changes since Edition 7

The instrument repeals and replaces Edition 7.

The amendments since Edition 7 include the addition, substitution or deletion of aircraft models or variants for various type certificate holders, including the addition, for The Boeing Company (*Boeing*), of the B737 MAX aircraft and all of the aircraft for which McDonnell Douglas was previously the type certificate holder, the addition of Bombardier BD-100 (Challenger 300/350), the transfer to De Havilland – Canada (from Bombardier Inc) of the DHC-8 100 to 400 series and the transfer to MHI RJ Aviation ULC (from Bombardier) of CRJ and Challenger variants. New multi-crew helicopter models or variants have been added for Airbus Helicopters Aerospatiale Eurocopter or EADS (*Airbus (multi-crew)*). New model descriptors are included for ex-military variants of the civil certified S-70 variants for Sikorsky. Two single-pilot aeroplane variants have been added for Pilatus Aircraft Ltd (*Pilatus*). Single-pilot helicopter models or variants have been added for Airbus Helicopters Aerospatiale Eurocopter Kawasaki (*Airbus (single-pilot)*).

Two new definitions of abbreviations have been added for the new Pilatus variants. There have been minor changes of an editorial nature to the descriptions of models or variants. These changes have had no consequences for the relevant ratings or their training requirements.

Details of the amendments are set out below.

Section 3 — Interpretation

Two new abbreviations are added to subsection 3.1, namely *AYT* which stands for auto yaw trim and *TF* which stands for tactile feedback. These abbreviations are used in the descriptions of 2 new variants of the Pilatus PC-24 listed in Schedule 6 that are fitted with those systems.

Schedule 2 — Multi-crew pilot aeroplane type ratings, variants and differences training

The B737-8 and B737-9 series have been added to Schedule 2 for Boeing. These variants will be covered by the B737-300 to 900 type rating. As mentioned above, the B737-8 series was first added as a variant to Schedule 2 in 2018. However, following the international grounding of that variant, the entry was removed from the instrument. Revised flight crew training requirements have been determined by the FAA, EASA and Transport Canada. Based on these requirements, CASA has determined that in order to operate the aircraft, pilots who hold that type rating will be required to complete a course of differences training conducted by a Part 142 operator, consistent

with requirements of other foreign international aviation authorities who have certified the variants.

The DHC-8-100/200/300/400 series has been deleted from Schedule 2 for Bombardier Inc and re-entered for De Havilland – Canada, De Havilland – Canada being the new type certificate holder for those aircraft.

All of the aircraft models and variants that were previously included in Schedule 2 for McDonnell Douglas have been added for Boeing and the entire entry for McDonnell Douglas has been removed. This reflects the purchase of McDonnell Douglas by Boeing and Boeing now being the type certificate holder for those aircraft. The aircraft that have been added for Boeing are:

- The DC-9 (10-50 series)
- DC-9 80 series
- MD 88 series
- MD 90 series
- MD 11 series
- MD 10 series.

A new model has been added for Bombardier Inc, namely the BD-100-1A10 (Challenger 300/350) and the type rating of CL30 has been reinstated (following its removal in a previous edition of the instrument) in anticipation of the type being added to the Register in the near future. Variants have been removed following their purchase by MHI RJ Aviation ULC and transferred to that type certificate holder (see below).

For Embraer S.A., the recent introduction of updated models of the EMB 545 and 550 aircraft (which have not affected pilot training requirements) has required updated references in column 2 of the table, including the deletion of Legacy 450 and Legacy 550. The changes are minor and reflect changes to Embraer’s marketing descriptions. There has also been a nomenclature update with the replacement of references to “series” with “models”.

New entries in Schedule 2 for MHI RJ Aviation ULC (also known as Mitsubishi Heavy Industries Regional Jet Aviation) reflect the purchase by that company of the type certificate for the Regional Jet family of aircraft from Bombardier, having the type rating of CL 65, namely:

- CRJ 100 and 200 series and the Challenger 800/850
- CRJ 700, 900 and 1000 series and the Challenger 870.

Schedule 3 — Multi-crew pilot helicopter type ratings, variants and differences training

Existing AS 332 models listed for Airbus (multi-crew) in Schedule 3 have been amended and new models added, namely the AS 332 (C, C1L, L1, C1e and L1e models). These changes are made for consistency with Airbus (single-pilot) entries in Schedule 7.

In Edition 7, a number of ex-military Sikorsky S60 helicopters acquired as limited category aircraft for firefighting purposes were added to Schedule 3 to join the then existing S70 helicopters, to be flown under the SK70 helicopter rating. The S60 entry is now removed and replaced with military designations of the aircraft to identify the

variants covered by the SK70 type rating. The amendments are administrative in nature and intended for clarification purposes only. The new designations are:

- EH-60 series
- HH-60 series
- MH-60 series
- SH-60 series
- UH-60 series.

Schedule 6 — Single-pilot type-rated aeroplanes, type ratings, variants and differences training

Two new variants of the Pilatus PC-24 are added as a result of different upgrades to systems fitted to these aircraft that were recently evaluated by EASA. Column 1 has been updated to reflect that the type certificate holder is now known as Pilatus Aircraft Ltd.

Schedule 7 — Single-pilot type-rated helicopters, type ratings, variants and differences training

The BK117 D-3 models are added to Schedule 7 for Airbus (single-pilot) reflecting the anticipated addition of the models to the Register. Minor adjustments, including the addition of the prefix MBB-, are made to the names of other Airbus BK117 models for clarification purposes.

Models are added to Schedule 7 for Airbus (single-pilot) for helicopters covered by the AS332/EC225 type rating and the SA330 type rating which have not previously been operated single pilot in Australia. The inclusion of the models in Schedule 7 is in anticipation of their proposed use by an operator in single-pilot operations by day under the VFR as permitted by the aircraft flight manual. The models (which are the same as those listed in Schedule 3 for multi-crew helicopters) are:

- AS 332 (C, C1L and L1 models)
- AS 332 (C1e and L1e models)
- AS 332 (L2 models)
- EC 225
- SA 330.

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 only cost impact would be the requirement for pilots seeking to operate the B737 MAX aircraft to complete a course of differences training mentioned above. This training is consistent with the training required by other foreign national aviation authorities. The only operator who will be affected by this requirement is Virgin Australia who has not objected to the requirement.

The other amendments are of an administrative or clarifying nature or as a result of change of ownership of, or marketing changes to, aircraft models or to enable the issue of a type rating for a new aircraft type or model consistent with the type ratings issued by other foreign national aviation authorities. These updates reflect entries for aircraft that have been or are shortly anticipated to be added to, or deleted from, the Register.

In these circumstances, 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)

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 the Schedules since Edition 7 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 Part 61 of CASR 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 after it is registered.

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 8) Instrument 2021

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 of Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*. 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.

The instrument repeals and replaces *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 7) Instrument 2020 (Edition 7)*.

New aircraft types are being added to the list of type ratings and models in recognition of those aircraft commencing operations in Australia. This includes the Boeing 737-8 and 737-9 aircraft (the **B737 MAX aircraft**). The former of these was grounded internationally as a result of 2 fatal air crashes and removed from the list. Following a review of the B737-8 aircraft certification (the *Joint Authorities Technical Review* commissioned by the Federal Aviation Administration of the USA (the *FAA*)) and the determination of revised training requirements by the FAA, the European Union Aviation Safety Agency and Transport Canada, CASA is satisfied that the B737 MAX aircraft can be reinstated on the list with a new requirement that in order to operate the aircraft, pilots will be required to complete a course of differences training conducted by a Part 142 operator (within the meaning of subregulation 142.015 (4) of CASR), consistent with requirements of other foreign national aviation authorities who have certified the aircraft.

The other amendments to the instrument since Edition 7 are of an administrative or clarifying nature or as a result of change of ownership of, or marketing changes to, aircraft models or to enable the issue of a type rating for a new aircraft type or model consistent with the type ratings issued by other foreign national aviation authorities. These updates reflect the aircraft that have been or are shortly anticipated to be added to, or deleted from, the Australian Civil Aircraft Register.

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 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