

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021

Purpose

CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021 (the **instrument**) provides exemptions from certain requirements of the *Civil Aviation Safety Regulations 1998 (CASR)* to allow pilots who perform co-pilot duties in multi-pilot capable aircraft operated by the holder of an air operator's certificate to have their flying time performing those duties taken to be flight time for specified purposes under CASR, even though the second pilot is not required for the operation. Permissible co-pilots will be allowed to log their flying time in these aircraft (**permissible co-pilot time**) in their personal logbook.

Permissible co-pilot time in a category of aircraft will be taken to be equivalent to required flight time in the same category of aircraft for an application for an air transport pilot licence (**ATPL**) in the aeroplane, helicopter or powered-lift aircraft category. Permissible co-pilot time in a type of aircraft will also be taken to be flight time for a pilot type rating for a multi-engine turbine-powered aircraft and permissible co-pilot time in a helicopter will be taken to be flight time for a night vision imaging system endorsement in the helicopter category.

The instrument also enables specified flight training and flight examination activities to be undertaken by qualified persons when they are not occupying a flight control seat (in this Explanatory Statement referred to as a **control seat**) of a relevant aircraft or flight simulation training device (**FSTD**). The person may not be occupying a control seat, being a seat at which flight controls are fitted, for a number of reasons. There may only be 1 control seat in the aircraft, or the nature of the operation may mean that there are other persons already occupying all the control seats.

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 CASR and the *Civil Aviation Regulations 1988 (CAR)*.

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160 (1) of CASR provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations.

Under subregulation 11.160 (2) of CASR, an exemption may be granted to a person or a class of persons.

Under Subpart 11.F of CASR, in deciding whether to grant an exemption on its own initiative, CASA will regard as paramount the preservation of at least an acceptable level of aviation safety.

Regulation 11.205 of CASR provides that CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition.

Regulation 11.225 of CASR requires an exemption to be published on the internet. Under subregulation 11.230 (1), the maximum duration of an exemption is 3 years.

Part 61 of CASR establishes the licensing scheme for pilots and flight engineers of registered aircraft. Regulation 61.065 makes it an offence for the holder of a flight crew licence to “conduct” an activity while acting as an instructor or examiner if the person is not authorised under Part 61 to conduct the activity. Regulation 61.080 of CASR defines a person’s *flight time* (also referred to in CASR as *flight time as a pilot*) as the duration of specified flights by a person (e.g. of solo flights) and the person’s flight time as, among other things, a co-pilot. Regulation 61.085 of CASR defines *flight time* as a co-pilot (also referred to in CASR as *co-pilot flight time*) as “any period, during flight in an aircraft that, under these Regulations, must be flown with a flight crew of at least 2 pilots, in which the person is performing co-pilot duties other than as pilot in command under supervision.”.

Regulation 61.010 of CASR prescribes definitions for Part 61. It defines *conduct*, as a verb and in relation to specified types of operation, including operations in aircraft and simulated flight operations, to cover the occupation of a control seat while the operation takes place.

The scheme in Part 61 establishes various licences, ratings and endorsements. Relevantly for this legislative instrument, Part 61 creates a number of classes of “pilot licence”.

Subregulation 61.375 (7) of CASR authorises the holder of a pilot licence to conduct activities mentioned in column 1 of an item in Table 61.375 of CASR. Items of the table relevantly prescribe activities for which each of a flight instructor rating, simulator instructor rating and flight examiner rating is required.

The holding of a pilot licence may be augmented with flight instructor ratings to provide flight training in aircraft and FSTDs (Division 61.T.1), simulator instructor ratings to provide flight training in FSTDs (Division 61.T.2) and flight examiner ratings to conduct flight tests and other examinations of other pilots (Subpart 61.U).

Subregulation 61.345 (1) of CASR requires pilots to keep a personal logbook and specifies all the information that they must include in the logbook after completing each flight, including their flight time.

Regulation 61.700 prescribes the general requirements for the grant of an ATPL. Relevantly for present purposes, an applicant must meet the aeronautical experience requirements in Subpart 61.K of CASR. Regulations 61.705 to 61.715 of CASR, in Subpart 61.K, set out the number of hours of aeronautical experience that an applicant for an ATPL with a particular category of aircraft must have to be eligible for the grant of the ATPL. For example, an applicant for an ATPL with the aeroplane category rating must have, among other things, at least 1 400 hours of flight time as a pilot and at least 750 hours of flight time as a pilot of an aeroplane. For an ATPL with the helicopter category rating, among other things, the applicant must have at least 900 hours of flight time as a pilot and at least 750 hours of flight time as a pilot of a helicopter.

Regulation 61.775 of CASR sets out limitations on the exercise of privileges of pilot type ratings for multi-engine turbine-powered type-rated aircraft, if the holder of the type rating passed the flight test for the rating in a flight simulator. Under subregulation 61.775 (2), a holder of a rating is authorised to exercise the privileges of the holder's type rating as a pilot in command only if the pilot has at least 25 hours of flight time as pilot of an aircraft covered by the rating. The holder is taken to have met this requirement if the holder has at least the number of hours of flight time of the kind specified for each type rating in subregulation 61.775 (3) — for instance, for a type rating for a turbojet-powered aeroplane, the holder is taken to have met the requirements if the holder has at least 1 000 hours of flight time as a pilot of a turbojet-powered aeroplane; or at least 2 000 hours of flight time, including at least 500 hours of flight time as pilot of a turbojet-powered aeroplane.

Regulation 61.1035 of CASR sets out the requirements for the grant of the night vision imaging system endorsements mentioned in regulation 61.1025 of CASR.

Paragraph 61.1035 (2) (d) requires that the applicant must have completed, in accordance with subparagraph 61.1035 (4) (b) (i), 250 hours of flight time in a helicopter.

Subparagraph 61.1035 (4) (b) (ii) requires that at least 10 hours of that flight time is at night.

Regulation 61.1165 prescribes the privileges of a flight instructor rating. For the purposes of this legislative instrument, the regulation authorises the holder of such a rating to conduct, in an aircraft or an FSTD:

- flight training for licences and certain ratings and endorsements on licences (paragraph (a))
- training in multi-crew cooperation (paragraph (c))
- differences training for variants within type-rated aircraft (paragraph (d))
- training for the general competency requirement in regulation 61.385 of CASR (paragraph (e))
- flight reviews for certain ratings on pilot licences (paragraph (f)).

Regulation 61.1190 prescribes the privileges of a simulator instructor rating. For the purposes of this legislative instrument, the regulation authorises the holder of such a rating to conduct, in an FSTD or tethered helicopter:

- flight training for licences and certain ratings and endorsements on licences (paragraph (a))
- training in multi-crew cooperation (paragraph (c))
- differences training for variants within type-rated aircraft (paragraph (d))
- training for the general competency requirement in regulation 61.385 of CASR (paragraph (e))
- flight reviews for certain ratings on pilot licences (paragraph (f)).

Regulation 61.1255 prescribes the privileges of a flight examiner rating. For the purposes of this legislative instrument, the regulation authorises the holder of such a rating to conduct:

- flight tests for licences and certain ratings and endorsements on licences (paragraph (a))
- proficiency checks of the kinds prescribed in paragraph (c) of the regulation.

In addition, regulation 61.040 of CASR empowers CASA to grant approvals for the purpose of specified provisions of Part 61. Relevantly for this legislative instrument, Part 61 contemplates approvals under regulation 61.040 in relation to the following matters:

- conduct of a flight test for a licence, rating or endorsement (subregulation 61.245 (3))
- conduct of a flight review (subregulation 61.400 (2))

- conduct of proficiency checks (subregulations 61.650 (7), 61.695 (7), 61.805 (7), 61.880 (7), 61.1015 (5), 61.1110 (5), 61.1180 (5), 61.1205 (5) and 61.1285 (5)).

In addition, regulation 141.035 of CASR empowers CASA to grant approvals for the purpose of specified provisions of Part 141, and regulation 142.040 of CASR empowers CASA to grant approvals for the purpose of specified provisions of Part 142. In some cases, those approvals under Part 141 or 142 form the basis of authorisations for persons to conduct activities under Part 61 of CASR. Relevantly for this instrument, regulation 141.035 and 142.040 approvals are referenced in Part 61 to authorise the following matters:

- flight training for flight crew licences, ratings and certain endorsements (subparagraph 61.195 (2) (b) (ii))
- differences training for a type variant (subparagraph 61.200 (b) (ii))
- assessment of completion of an approved course of training conducted by a Part 141 or 142 operator (paragraph 61.210 (2) (c))
- flight training for an aircraft class rating (subparagraph 61.747 (3) (b) (ii))
- conduct of an approved course of training for a pilot type rating (paragraph 61.810 (4) (b))
- conduct of an approved course of training for a flight engineer type rating (paragraph 61.1385 (4) (b)).

In addition, a number of persons in the aviation industry conduct flight instructor and examiner activities under instruments of delegation granted under CAR. Such instruments of delegation are defined as an **old authorisation** in regulation 202.261 of CASR. The terms of old authorisations are saved after the commencement of Part 61 of CASR by regulation 202.263 of CASR.

Background

The instrument remakes instrument *CASA EX79/18 — Logging of Flight Time as a Pilot (Co-pilots on Single-pilot Certificated Aircraft) Exemption 2018 (CASA EX79/18)* and instrument *CASA EX83/18 — Occupation of Flight Control Seat (Certain Flight Instruction and Examination Activities) Exemption 2018 (CASA EX83/18)*.

Remake of CASA EX79/18

The regulations under the Act may require aircraft operations to be conducted with 2 pilots depending on the complexity of the aircraft and the number of passengers being carried. In the absence of this requirement, an aircraft operator may choose to operate a single-pilot certificated aircraft as a multi-pilot operation, provided that the aircraft is equipped for operations with more than 1 pilot and multi-pilot operating procedures are used.

However, because the definition of **flight time** as a co-pilot, in regulation 61.085 of CASR, does not include the flying time of a co-pilot of a multi-pilot capable aircraft, when the flight is not required to be conducted as a multi-crew operation under the regulations, such a co-pilot would be unable to log this flying time or use it to meet aeronautical experience requirements (the number of required hours of flight time) to support an application for an ATPL, a night vision imaging system endorsement for helicopters or a pilot type rating for a type rating for a multi-engine turbine-powered aircraft.

Remake of CASA EX83/18

A number of flight instruction activities in FSTDs, and flight examination activities in aircraft and FSTDs, involve a trainee or student pilot being instructed or examined by a second pilot,

and the second pilot being instructed, examined or checked by a third pilot. In this situation, the third pilot is still conducting the relevant instructor or examiner activity. If the activity is conducted in an aircraft or FSTD that has only 2 control seats, then the third pilot will not occupy a control seat.

It is also possible that such a flight instruction or examination activity is conducted in an FSTD that has only 1 control seat, in which case both the second and third pilots would not occupy a control seat.

A similar issue arises for flight instruction activities in FSTDs, and flight examination activities in aircraft and FSTDs, involving a trainee or student pilot being instructed or examined by a second pilot. In this situation, the second pilot is “conducting” the relevant instructor or examiner activity. If the activity is conducted in an aircraft or FSTD that has only 1 control seat, then the second pilot will not occupy a control seat.

If the activity is an examination utilising an aircraft that has only 1 seat, the second pilot may “conduct” the activity from another aircraft, or from the ground.

Any of the circumstances above in which a person “conducts” a flight instructor or flight examination activity while not occupying a control seat would contravene regulation 61.065 of CASR. In some of these circumstances, this is an unintended consequence of the Part 61 scheme.

Overview of instrument

Remake of CASA EX79/18

Part 2 of the instrument provides exemptions, subject to conditions, for persons who have been a co-pilot in a multi-pilot capable aircraft that is certificated under CASR for single-pilot operations. The exemptions are from CASR requirements that prevent them from logging their flying time as a co-pilot in these kinds of aircraft, and from having that flying time count as flight time for eligibility for: an ATPL in the aeroplane, helicopter or powered-lift aircraft category; acting as pilot in command in the exercise of pilot type ratings; and night vision imaging system endorsements in the helicopter category.

Each exemption is subject to the general condition in section 8 that the person must, as soon as practicable after completing each flight as a co-pilot, log their permissible co-pilot time in their pilot’s logbook as if the time was flight time for the purposes of regulation 61.345 of CASR.

CASA has assessed the impact on aviation safety of the instrument and is satisfied that it will have no impact on the safety of pilots or aircraft operations as, under the definition of ***permissible co-pilot time*** in the instrument, pilots must still be performing co-pilot duties, as specified in the aircraft operator’s operations manual, to be able to log permissible co-pilot time and for it to be taken to be flight time for the purposes previously mentioned.

Remake of CASA EX83/18

Part 3 of the instrument grants exemptions to relevant pilot licence holders with flight instructor, simulator instructor, or flight examiner ratings to permit the conduct of specified instructor and examiner activities by those pilots when not occupying a control seat, subject to compliance with specified conditions imposed in the interests of safety.

The instrument also grants the exemptions to persons who hold an approval, under regulation 61.040, 141.035 or 142.040 of CASR (defined as **CASR special approval**), to conduct the same specified activities. The exemption does not apply to all approvals under these provisions; only those that require the occupation of a control seat to conduct the activities specified in the instrument.

The instrument also grants the exemptions to persons who hold a delegation, under repealed provisions of Part 5 of CAR that were saved by regulation 202.263 of CASR (defined as an **old authorisation**, reflecting the term in regulation 202.261 of CASR), to conduct the same specified activities. The exemption does not apply to all delegations granted under Part 5 of CAR and saved by regulation 202.263; only those that require the occupation of a control seat to conduct the activities specified in the instrument.

The exemptions cover specified instructor activities in FSTDs and specified examination activities in aircraft and FSTDs.

Content of instrument

Part 1 — Preliminary

Section 1 of the instrument states the instrument's name.

Section 2 states that the duration of the instrument.

Section 3 sets out some definitions for the instrument. A key definition is **permissible co-pilot time** which is defined as time in which a permitted co-pilot performed co-pilot duties in a multi-pilot capable aircraft in accordance with multi-crew procedures specified in the operations manual or exposition (whichever is applicable) of the air operator's certificate holder operating the aircraft.

There are also a number of signpost definitions of terms used in Part 61 of CASR, or defined in regulation 61.010 of CASR. Important terms include **flight control seat**, which is given the meaning as used in the definition of **conduct** in regulation 61.010 of CASR. Other important terms are **relevant flight examiner activity**, and **relevant simulator instructor activity**, which are defined by reference to specific activities mentioned in regulations 61.1255, 61.1165 and 61.1190. Another important term is **CASR special approval**, mentioned above.

Section 3 also defines **single-place aircraft** to mean an aircraft that has only 1 flight control seat. This definition would cover both aircraft that have only 1 seat, and aircraft that have 1 flight control seat plus 1 or more non-control seats.

Part 2 — Logging of Flight Time as a Pilot (Co-pilots on Single-pilot Certificated Aircraft) Exemption and Conditions

Section 4 exempts a person who has been a permitted co-pilot from compliance with subregulation 61.345 (1) of CASR to the extent that the person must not record in the person's logbook the person's permissible co-pilot time. The exemption is subject to the general condition in section 8.

Section 5 exempts an applicant for an ATPL who was a permitted co-pilot from compliance with paragraph 61.700 (3) (d) of CASR. Regulation 61.700 sets out requirements for the grant of ATPLs, and paragraph 61.700 (3) (d) requires the applicant for an ATPL to have met

the aeronautical experience requirements of Subpart 61.K of CASR. The exemption is subject to the condition that the person would meet these requirements for the ATPL if the applicant's permissible co-pilot time was flight time required for the ATPL. The condition operates so that flight time in different categories of aircraft can be used in the manner contemplated in Subpart 61.K. For example, paragraphs 61.705 (1) (a) and (b) operate to permit an applicant for an ATPL with the aeroplane category to rely on up to 650 hours of flight time as a pilot in non-aeroplanes, and this arrangement is intended to be replicated in relation to permissible co-pilot time. The exemption is also subject to the general condition in section 8.

Section 6 exempts a person who holds a pilot type rating for a type-rated aircraft and who has been a permitted co-pilot for the type of aircraft from compliance with the condition mentioned in subregulation 61.775 (2) of CASR. That condition is that the holder of the pilot type rating has at least 25 hours of flight time as pilot of an aircraft covered by the rating. If the holder does not satisfy this condition, the holder is not authorised to exercise the privileges of the rating. The exemption is subject to the condition that the person would meet the flight time requirements of that subregulation if the person's permissible co-pilot flight time, in an aircraft covered by the rating, was flight time. The exemption is also subject to the general condition in section 8.

Section 7 exempts an applicant for a night vision imaging system endorsement mentioned in regulation 61.1025 of CASR, who has been a permitted co-pilot for a helicopter, from compliance with paragraph 61.1035 (2) (d) of CASR to the extent that it requires compliance with subparagraph 61.1035 (4) (b) (i) of CASR. The exemption is subject to the condition that the person would meet the flight time requirements of that paragraph if the person's permissible co-pilot flight time, for a helicopter, was flight time. The exemption is also subject to the general condition in section 8.

Section 8 sets out the condition that applies to each exemption in Part 2. This condition is that the person to whom the exemption applies must, as soon as practicable after completing each flight as a permitted co-pilot, record the permissible co-pilot time in the person's logbook as if the time was flight time for regulation 61.345 of CASR.

Part 3 — Occupation of Flight Control Seat (Certain Flight Instruction and Examination Activities) Exemption and Conditions

Section 9 grants an exemption from compliance with subregulation 61.065 (1) of CASR by reference to Table 1 in the instrument. The exemption is granted to the holder of an authorisation mentioned in column 1 of the table, to the extent that subregulation 61.065 (1) requires compliance with the provisions mentioned in column 2 of the table for that item, when the authorisation holder is conducting the activity mentioned in column 3 of the table for the item. The effect of the exemption is explained below.

For a **relevant simulator instructor activity**, the holder of a pilot licence with a flight instructor rating is exempt from subregulation 61.065 (1) to the extent that the subregulation requires the holder to comply with subregulation 61.375 (7) of CASR, by reference to item 7 of Table 61.375.

In addition, the holder of a flight instructor rating, old authorisation or CASR special approval is exempt from compliance with regulation 61.1165 of CASR in relation to a **relevant simulator instructor activity**. The whole of regulation 61.1165 can be the subject of

the exemption because the defined term *relevant simulator instructor activity* is already limited by reference to specific paragraphs of the regulation.

Also for a *relevant simulator instructor activity*, the holder of a pilot licence with a pilot instructor rating is exempt from subregulation 61.065 (1) to the extent that the subregulation requires the holder to comply with subregulation 61.375 (7) of CASR, by reference to item 8 of Table 61.375.

In addition, the holder of a simulator instructor rating, old authorisation or CASR special approval is exempt from compliance with regulation 61.1190 of CASR in relation to a *relevant simulator instructor activity*. The whole of regulation 61.1190 can be the subject of the exemption because the defined term *relevant simulator instructor activity* is already limited by reference to specific paragraphs of the regulation.

For a *relevant flight examiner activity*, the holder of a pilot licence with a flight examiner rating is exempt from subregulation 61.065 (1) to the extent that the subregulation requires the holder to comply with subregulation 61.375 (7) of CASR, by reference to item 9 of Table 61.375.

In addition, the holder of a flight examiner rating, old authorisation or CASR special approval is exempt from compliance with regulation 61.1255 of CASR in relation to a *relevant flight examiner activity*. The whole of regulation 61.1255 can be the subject of the exemption because the defined term *relevant flight examiner activity* is already limited by reference to specific paragraphs of the regulation.

The exemption in section 9 is subject to conditions mentioned in section 10. Subsection 10 (1) requires the authorisation holder to occupy a control seat in specified circumstances, and thus operates as a limitation on the scope of the exemption.

The first specified circumstance is when the activity is a proficiency check in an aircraft, which is not a single-place aircraft, unless each flight crew member occupying a control seat is authorised under Part 61 to pilot the aircraft. This ensures that the pilots at the controls have adequate skill and experience for proficiency check operations.

The second specified circumstance is any activity for which the authorisation holder is required to be the pilot in command of the flight in order for the flight to be authorised under the civil aviation legislation.

The third specified circumstance is any activity for which a control seat is available to be occupied by the relevant authorisation holder. The exemption does not permit the authorisation holder to occupy a non-control seat if a control seat is vacant for the activity.

Subsection 10 (2) imposes conditions for flight examination activities in aircraft that are not a single-place aircraft. The authorisation holder, when in the aircraft but not occupying a control seat, must be able to observe all matters to be demonstrated by the flight crew members occupying the control seat or seats. The instrument does not permit an authorisation holder, in relation to an activity in which 2 pilots occupy control seats, to conduct the activity from another aircraft, or from the ground. The authorisation holder must also not manipulate an aircraft control or aircraft system accessible from a control seat. This is intended to ensure that the authorisation holder does not impact the safe operation of the aircraft by doing

anything not expected by the other flight crew, or that can only be safely conducted by the occupant of a control seat. This condition is not intended to prevent the authorisation holder from manipulating systems that do not affect the control or safety of the aircraft (personal air-conditioning controls for example).

Subsection 10 (3) imposes a condition for flight examination activities in single-place aircraft. Only aerial application proficiency checks are permitted in a single-place aircraft, and only if the authorisation holder is conducting the check at a place that enables the holder to observe the matters to be demonstrated by the pilot of the aircraft for the check.

Subsection 10 (4) imposes a condition that ensures that an authorisation holder conducting a relevant activity in an FSTD, when not occupying a control seat, is located at a place that enables the holder to observe the matters to be demonstrated by the flight crew members of the aircraft.

Subsection 10 (5) imposes a condition for all activities covered by the exemption in section 9. The authorisation holder, when not occupying a control seat, must be able to monitor flight crew use of radiocommunication systems, and must maintain 2-way communications with the flight crew members. The condition applies both to flight examination activities in aircraft, and instructor and examination activities in FSTDs.

Legislation Act 2003 (the LA)

Paragraph 98 (5A) (a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft. Additionally, paragraph 98 (5AA) (a) of the Act provides that an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. The instrument exempts the specified class of persons from specified requirements of CASR. The instrument is, therefore, a legislative instrument and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

At the request of industry, CASA EX79/18 was issued to allow co-pilots of single-pilot certificated aircraft to log their time in flight for currency and licensing purposes. The instrument, and the instrument it replaces, is of beneficial effect to the aviation industry and CASA considers that it will have no impact on aviation safety given that permitted co-pilots are still required to conduct multi-crew operations in accordance with an aircraft operator's operations manual. The previous instrument has not been the subject of any adverse feedback.

Consultation under section 17 of the LA has also not been undertaken in the case of the part of the instrument that remakes CASA EX83/18. The instrument is provided to remove an unintended consequence of Part 61 of CASR and to ensure the legality of longstanding aviation practices that CASA did not intend to prohibit. The instrument is beneficial in nature. The conditions on the exemption ensure the activities are conducted safely and effectively in a manner consistent with previous practices.

The exemptions in the instrument represent longstanding, industry-accepted policy that reflect current industry practice.

Given the instrument continues existing arrangements, and those arrangements have not been the subject of adverse feedback, CASA is satisfied that no consultation is appropriate or reasonably practicable for the instrument for section 17 of the LA.

It is anticipated that a regulatory amendment will address the need for the exemptions in the instrument. Drafting has commenced on these amendments and they are expected to be made sometime in 2022, at which time the instrument will be repealed.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) is not required in this case, as the exemption is covered by a standing agreement between CASA and OBPR under which a RIS is not required for exemptions (OBPR id: 14507).

Sector risk, economic and cost impact

Subsection 9A (1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A (3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9 (1) (c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

As the instrument replaces 2 expiring instruments with the same provisions, there will be no change of economic or cost impact on individuals, businesses or the community.

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 a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of CASR.

The instrument commences on 1 July 2021 and is repealed at the end of 31 May 2024.

Statement of Compatibility with Human Rights

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

CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 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

Part 2 of *CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021* (the **instrument**) provides exemptions, subject to conditions, for persons who have been co-pilots in a multi-pilot capable aircraft that is certificated under the *Civil Aviation Safety Regulations 1998 (CASR)* for single-pilot operations. The exemptions are from CASR requirements that prevent them from logging their flying time as a co-pilot in these kinds of aircraft, and from having that flying time count as flight time for eligibility for: an air transport pilot licence in the aeroplane, helicopter or powered-lift aircraft category; acting as pilot in command in the exercise of pilot type ratings; and night vision imaging system endorsements in the helicopter category.

Each exemption is subject to the general condition in section 8 that the person must, as soon as practicable after completing each flight as a co-pilot, log their permissible co-pilot time in their pilot's logbook as if the time was flight time for the purposes of regulation 61.345 of CASR.

CASA has assessed the impact on aviation safety of the instrument and is satisfied that it will have no impact on the safety of pilots or aircraft operations as, under the definition of **permissible co-pilot time** in the instrument, pilots must still be performing co-pilot duties, as specified in the aircraft operator's operations manual, to be able to log permissible co-pilot time and for it to be taken to be flight time for the purposes previously mentioned.

Part 3 of the instrument grants exemptions to relevant pilot licence holders with flight instructor, simulator instructor, or flight examiner ratings to permit the conduct of specified instructor and examiner activities by those pilots when not occupying a control seat, subject to compliance with specified conditions imposed in the interests of safety.

The instrument also grants the exemptions to persons who hold an approval, under regulation 61.040, 141.035 or 142.040 of CASR (defined as **CASR special approval**), to conduct the same specified activities. The exemption does not apply to all approvals under these provisions; only those that require the occupation of a control seat to conduct the activities specified in the instrument.

The instrument also grants the exemptions to persons who hold a delegation, under repealed provisions of Part 5 of the *Civil Aviation Regulations 1988 (CAR)* that were saved by

regulation 202.263 of CASR (defined as an *old authorisation*, reflecting the term in regulation 202.261 of CASR), to conduct the same specified activities. The exemption does not apply to all delegations granted under Part 5 of CAR and saved by regulation 202.263; only those that require the occupation of a control seat to conduct the activities specified in the instrument.

The exemptions cover specified instructor activities in flight simulation training devices and specified examination activities in aircraft and flight simulation training devices.

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