



**Australian Government**  
**Civil Aviation Safety Authority**

Instrument number CASA EX100/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160 and 11.205 of the *Civil Aviation Safety Regulations 1998*.

**[Signed P. Spence]**

Pip Spence  
Director of Aviation Safety

23 August 2021

**CASA EX100/21 – CASA EX92/21 – Extension of COVID-19 Relief Measures – Amendment Instrument 2021 (No. 1)**

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**1 Name**

This instrument is *CASA EX100/21 – CASA EX92/21 – Extension of COVID-19 Relief Measures – Amendment Instrument 2021 (No. 1)*.

**2 Duration**

This instrument:

- (a) commences on the day it is registered; and
- (b) is repealed in accordance with section 48A of the *Legislation Act 2003*.

**3 Amendment of instrument CASA EX92/21**

Schedule 1 amends *CASA EX92/21 – Flight Reviews, Proficiency Checks and Related Matters (Extensions of Time Due to COVID-19) Exemptions Instrument 2021*.

**Schedule 1 Amendments**

**[1] Subsection 2 (b)**

*repeal and substitute*

- (b) is repealed at the end of 31 March 2022.

**[2] Subsection 3 (1)**

*insert*

**CAO 82.6** means Civil Aviation Order 82.6, as in force immediately before 2 December 2021.

**MOS** is short for Manual of Standards.

**NVIS** is short for night vision imaging system and has the meaning given by regulation 61.010.

**NVIS aircrew member** has the meaning given by CAO 82.6.

**SRMP** is short for a Safety Risk Mitigation Plan that is approved in writing by CASA, being a plan that sets out the arrangements that operators, who have an approved training and checking organisation, must follow to enjoy the benefit of an exemption to which the SRMP relates.

*Note* An SRMP extends an alleviation period up to 31 March 2022, and as such is considered by CASA to be an acceptable alternative method of achieving pilot proficiency outcomes that cannot be completed in the context of the COVID-19 pandemic.

**[3] Subsection 3 (4)**

*repeal and substitute*

- (4) In this instrument, a numerical reference to a provision that includes the number 61, 65, 137, 141 or 142 is a reference to the provision as contained in Part 61, Part 65, Part 137, Part 141 or Part 142, respectively, of CASR.

**[4] After paragraph 4 (1) (d)**

*insert*

(da) to a person who:

- (i) is an NVIS pilot or an NVIS aircrew member under CAO 82.6; and
- (ii) is not the subject of an active show cause notice; and

(db) to a person who:

- (i) is:
  - (A) the holder of an air traffic control licence or a flight service licence that was in force immediately before 1 August 2021; and
  - (B) for subregulation 65.035 (3) or 65.050 (3) of CASR, under the supervision of a person mentioned in sub-subparagraph (A); and
- (ii) is not the subject of an active show cause notice; and

**[5] Subsections 4 (3) and 4 (4)**

*repeal and substitute*

- (3) An exemption under this instrument does not apply to or for a person who is exercising the privileges of a rating to which an applicable exemption would otherwise apply, if the person operates an aircraft outside Australian territory, other than in an operation that:
- (a) leaves Australian territory and returns to Australian territory without entering the territory of another State; or
  - (b) is for an operator who has an SRMP in relation to the exemption and the operation.
- (4) An exemption under this instrument does not apply to or for a person:
- (a) who is exercising the privileges of a rating to which an applicable exemption would otherwise apply; and
  - (b) if the person's operator has an SRMP; and
  - (c) if the person fails to comply with any applicable requirements of the operator's SRMP.

- (4A) This instrument may be repealed, or repealed and replaced, or amended, by CASA sooner than the end of 31 March 2022 if CASA considers that such action is required and safe in the context of any ongoing COVID-19 pandemic.

**[6] Subsections 6 (4) and (5)**

*repeal and substitute*

- (4) For subsections (1) and (2), the exemption applies to each provision mentioned in subsection (3):
- (a) only to the extent that the provision has the effect of imposing an expiry date on the validity of the holder's required proficiency check under the applicable regulation; and
  - (b) only:
    - (i) for a holder other than a holder mentioned in subparagraph (ii) — for the applicable period mentioned in subsection (5) (the ***extension period***); and
    - (ii) for a holder when conducting operations for an operator that has an SRMP — for the extension period mentioned in subsection (5A).
- (5) For subparagraph (4) (b) (i):
- (a) for a proficiency check, under an applicable regulation, that expires after 31 July 2021 but on or before 31 December 2021 — the extension period is 2 months from the expiry date; and
  - (b) for a proficiency check, under the applicable regulation, that expires after 31 December 2021 but on or before 28 February 2022 — the extension period is 1 month from the expiry date.
- (5A) For subparagraph (4) (b) (ii), the extension period ends at the end of whichever of the following dates occurs first:
- (a) the end date in the SRMP; or
  - (b) 31 March 2022.

**[7] Subsections 7 (4) and (5)**

*repeal and substitute*

- (4) For subsections (1) and (2), the exemption applies to each provision mentioned in subsection (3):
- (a) only to the extent that the provision has the effect of imposing an expiry date on the validity of the holder's required flight review under the applicable regulation; and
  - (b) only:
    - (i) for a holder other than a holder mentioned in subparagraph (ii) — for the applicable period mentioned in subsection (5) (the ***extension period***); and
    - (ii) for a holder when conducting operations for an operator that has an SRMP — for the applicable period mentioned in subsection (5A).
- (5) For subparagraph (4) (b) (i):
- (a) for a flight review, under an applicable regulation, that expires after 31 July 2021 but on or before 31 December 2021 — the extension period is 2 months from the expiry date; and

- (b) for a flight review, under the applicable regulation, that expires after 31 December 2021 but on or before 28 February 2022 — the extension period is 1 month from the expiry date.
- (5A) For subparagraph (4) (b) (ii), the extension period ends at the end of whichever of the following dates occurs first:
- (a) the end date in the SRMP; and
  - (b) 31 March 2022.

**[8] Subsection 9 (1)**

*omit*

subsection (2)

*insert*

subsections (2) and (3)

**[9] After subsection 9 (2)**

*insert*

- (3) For subsection (1), the exemption applies to a proficiency check that:
- (a) is required by regulation 217 of CAR; and
  - (b) is not otherwise required by Part 61; and
  - (c) is not the subject of an exemption under another section in this instrument; and
  - (d) is covered by the operator's SRMP.

**[10] After section 13**

*insert*

**14 Exemptions — NVIS operators, pilots and aircrew members**

- (1) This section applies to a person mentioned in paragraph 4 (1) (da) of this instrument (*a person*) who:
- (a) is assigned by an NVIS operator for an NVIS operation; and
  - (b) on 1 August 2021, met the applicable NVIS proficiency check requirements under Part 61 of CASR and CAO 82.6 for the operation.
- (2) A person to whom this instrument applies is exempted from the requirement, under a provision of CAO 82.6 mentioned in subsection (3) that applies to the person:
- (a) for an NVIS pilot — to have a valid NVIS proficiency check that is in addition to, or at variance with, any such check required under Part 61 of CASR; and
  - (b) for an NVIS aircrew member — to have an NVIS capability check flight (*NVIS CCF*), or meet minimum recency requirements;
- but only to the extent mentioned in subsection (4).
- Note* Various Part 61 proficiency checks are already the subject of exemption under section 6.
- (3) For subsection (2), the provisions are the following clauses in Appendix 3:
- (a) clause 21;
  - (b) clause 22.

- (4) For subsection (2), the exemption applies to each provision mentioned in subsection (3):
  - (a) only to the extent that the provision has the effect of imposing an expiry date on the validity of the person's required NVIS proficiency check or NVIS CCF; and
  - (b) only:
    - (i) for a person other than a person mentioned in subparagraph (ii) — for the applicable period mentioned in subsection (5) (the *extension period*); and
    - (ii) for a person when conducting operations for an operator that has an SRMP — for the extension period mentioned in subsection (5).
- (5) For subparagraph (4) (b) (i):
  - (a) for an NVIS proficiency check or NVIS CCF that expires after 31 July 2021 but on or before 31 December 2021 — the extension period is 2 months from the expiry date; and
  - (b) for an NVIS proficiency check or NVIS CCF that expires after 31 December 2021 but on or before 28 February 2022 — the extension period is 1 month from the expiry date.
- (6) For subparagraph (4) (b) (ii), the extension period ends at the end of whichever of the following dates occurs first:
  - (a) the end date in the SRMP; or
  - (b) 31 March 2022.

## **15 Exemptions — air traffic control licence holders and flight service licence holders**

- (1) This section (except subsections (7) and (8)) applies to each person (the *licence holder*) who is the holder of one of the following licences that is endorsed for certain duties for a particular aerodrome or in relation to particular airspace (the *relevant endorsement*):
  - (a) an air traffic control licence, so endorsed under regulation 65.085 of CASR;
  - (b) a flight service licence, so endorsed under regulation 65.140 of CASR.
- (2) Each licence holder to whom a provision of CASR mentioned in subsection (3) applies is exempt from the provision but only:
  - (a) to the extent mentioned in subsection (4); and
  - (b) if the requirement in subsection (5) is met; and
  - (c) if the condition mentioned in subsection (6) is complied with.
- (3) For subsection (2), the provisions are the following:
  - (a) subregulation 65.045 (1) — but only with respect to subparagraph 65.035 (1) (c) (i);
  - (b) subregulation 65.060 (1) — but only with respect to subparagraph 65.050 (1) (c) (i).
- (4) For paragraph (2) (a), the exemption applies only to the extent that, but for the exemption, the licence holder would commit an offence by failing, at a particular time, to satisfy:
  - (a) the applicable recency requirement under subregulation 65.025 (1) or (2) for the relevant endorsement; or

- (b) the applicable currency requirement under paragraph 65.030 (1) (b) for the relevant endorsement.
- (5) For paragraph (2) (b), the exemption applies only if the licence holder:
  - (a) is employed by Airservices Australia; and
  - (b) was authorised to perform the duties under the relevant endorsement on 1 August 2021.
- (6) For paragraph (2) (c), the licence holder must comply, to the extent applicable, with:
  - (a) subregulations 65.025 (1) and (2) — as if the reference to 21 days was a reference to 30 days; and
  - (b) paragraph 65.030 (1) (b) — as if the reference to 6 months was a reference to 9 months.
- (7) Subject to subsection (8):
  - (a) a person to whom subregulation 65.035 (3) applies is exempt from subregulation 65.045 (2); and
  - (b) a person to whom subregulation 65.040 (1) applies is exempt from subregulation 65.040 (2); and
  - (c) a person to whom subregulation 65.050 (3) applies is exempt from subregulation 65.060 (2).
- (8) Each exemption under subsection (7) applies:
  - (a) only to the extent that the person is acting under the supervision of an applicable licence holder mentioned in subsection (1), who is the subject of an applicable exemption under subsection (2); and
  - (b) subject to the condition that the person complies with the directions of the supervisor as if regulation 65.040 continued to apply despite the supervisor acting under an applicable exemption under subsection (2).

## 16 Exemptions — proficiency in emergency procedures

Each of the following:

- (a) an AOC holder engaged in charter operations or regular public transport operations (the *AOC holder*) in relation to whose crew members (*relevant crew members*) subsection 12 of Civil Aviation Order 20.11 (the *CAO*) applies;
  - (b) each relevant crew member;  
is exempted from the requirements under subsection 12 of the CAO in relation to the completion of an annual proficiency test in emergency procedures but only if:
    - (c) the AOC holder has an SRMP; and
    - (d) the SRMP otherwise deals with proficiency in emergency procedures.
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