

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021

Purpose

The purpose of instrument *CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021* (the **instrument**) is to amend instrument *CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021* (**CASA EX66/21**). The amendments effectively remake 7 instruments, which contain exemptions from various requirements of the *Civil Aviation Safety Regulations 1998* (**CASR**) to:

- exempt certain holders of pilot type ratings from the requirement to have successfully completed certain instrument proficiency checks (**IPCs**) in an aircraft type covered by the rating and that is to be flown under the instrument flight rules (the **IFR**), provided that the holder has successfully completed certain alternative IPCs
- exempt the holders of certain aircraft class ratings and pilot type ratings from the requirement to complete particular kinds of flight reviews for each specific class rating and each specific pilot type rating held in order to exercise the privileges of the rating, provided that the holder complies with conditions which require completion of a relevant alternative kind of flight review
- exempt holders of a check pilot approval under *Civil Aviation Order (CAO) 82.0*, an approval under regulation 121.010 of CASR, or individuals who meet the requirements of paragraphs 133.377 (2) (a), 135.387 (2) (a) or 138.505 (2) (a) of CASR, from the requirement to hold a flight examiner rating (**FER**) under Part 61 of CASR when conducting certain operator proficiency checks (**OPCs**), subject to conditions imposed by the Civil Aviation Safety Authority (**CASA**) in the interest of air safety
- allow foreign cadet pilots to take a flight test for a commercial pilot licence (**CPL**) without holding a class 1 medical certificate, provided that they comply with specified conditions, including that the pilot holds a current class 2 medical certificate and has met the class 1 medical standard in the pilot's country of residence
- exempt certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in multi-crew cooperation (**MCC**) for the purposes of multi-crew operation, subject to various conditions which, in effect, require a similar level of competence as would otherwise be provided by an approved course of training in MCC
- allow the conduct of basic instrument flight training (**BIF training**) by flight instructors who meet an alternative qualification requirement to that set out in Part 61 of CASR, and to recognise that training
- allow the head of flight operations of an aerial application operator to continue to conduct an OPC for the head of flight operations of another aerial application operator, and to allow a pilot who holds an aerial application rating and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, to exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations in an aeroplane, instead of a check conducted by a relevant flight examiner.

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*).

Exemptions

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 compliance with a provision of the regulations or a civil aviation order.

Under subregulation 11.160 (2) of CASR, an exemption may be granted to a person or a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160 (3) of CASR, an exemption may be granted on application by a person or on CASA's own initiative.

Under subregulation 11.175 (4) of CASR, in deciding whether to renew an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to renew an exemption on its own initiative.

Regulation 11.205 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.

Subpart 11.G of CASR provides for CASA to issue directions in relation to matters affecting the safety of air navigation. Under paragraph 11.245 (1) (a) of CASR, CASA may, by instrument, issue a direction about any matter affecting the safe navigation and operation of aircraft. Subregulation 11.245 (2) of CASR provides that CASA may issue such a direction if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation, if the direction is not inconsistent with the Act, and for the purposes of CASA's functions.

Under paragraph 11.250 (a) of CASR, a direction under regulation 11.245 ceases to be in force on the day specified in the direction. Under regulation 11.255 it is an offence of strict liability to contravene a direction under regulation 11.245.

Subsection 98 (5D) of the Act provides that a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

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

Part 61 of CASR

Part 61 of CASR sets out flight crew licensing requirements. (References below to provisions that commence with the numerals “61” are references to provisions in Part 61 of CASR.)

Regulation 61.010 contains definitions for Part 61. It defines **basic instrument flight training** to mean flight training in the units of competency for instrument flight mentioned in the Part 61 Manual of Standards for (the **Part 61 MOS**) for the grant of a private pilot licence (**PPL**) or CPL. It also defines an **approved course of training**, for a provision of Part 61 of CASR, as, among other things, a course of training for which the provider holds an approval under regulation 61.040 for the provision.

Under regulation 61.015, each of the following is a category of aircraft: aeroplane; helicopter; powered-lift aircraft; gyroplane; airship.

Regulation 61.035 empowers CASA to issue the Part 61 MOS that sets out matters relating to flight crew licences, including standards for flight training.

Under subregulation 61.065 (1), the holder of a flight crew licence commits an offence if the holder conducts an activity mentioned in Part 61 while piloting a registered aircraft, and the holder is not authorised under Part 61 to conduct the activity.

Subregulation 61.195 (2) applies to an applicant for a flight crew licence, rating or endorsement, other than a design feature endorsement or a flight activity endorsement. Under paragraph 61.195 (2) (b), if there is a requirement in Part 61 of CASR for the applicant to have completed flight training for the licence, rating or endorsement, the training must be conducted by an instructor for a Part 141 or 142 operator that is authorised to conduct flight training for the licence, rating or endorsement, or the holder of an approval under regulation 141.035 or 142.040 to conduct the training.

Under paragraph 61.235, an applicant is eligible to take a flight test for a licence in an aircraft only if the applicant holds a current medical certificate of the class required for the exercise of the privileges of the licence, or a medical exemption for the exercise of the privileges of the licence. Under regulation 61.415 of CASR, the holder of a CPL is authorised to exercise the privileges of the licence only if the holder also holds a current class 1 medical certificate, or a medical exemption for the exercise of the privileges of the licence. Therefore, under paragraph 61.235 (2) (c), an applicant is eligible to take a flight test for a CPL in an aircraft only if the applicant holds a current class 1 medical certificate, or a medical exemption for the exercise of the privileges of the licence.

Under regulation 61.240, an applicant for a flight crew licence is taken not to have passed the flight test if, when the applicant took the flight test, the applicant was not eligible under regulation 61.235 to take the flight test.

Under subparagraph 61.285 (f) (ii), a member or former member of the Australian Defence Force (**ADF**) is taken to meet the requirements under Part 61 for the grant of an air transport

pilot licence (**ATPL**) if the member completes, among other things, an approved course of training in MCC.

Subregulation 61.375 (7) states that the holder of a pilot licence is authorised to conduct an activity mentioned in table 61.375 only if the pilot also holds the requisite rating. For the conduct of an activity mentioned in regulation 61.1255, item 9 of table 61.375 requires the pilot to hold an FER. Subparagraph 61.1255 (c) (v) provides that a flight examiner is authorised to conduct OPCs.

Under subregulation 61.415 (2), the holder of a CPL is authorised to exercise the privileges of the licence in an activity that would be authorised by a PPL if the holder also holds a current class 2 medical certificate

Under subregulation 61.510 (1), the holder of a PPL is authorised to exercise the privileges of the licence in a multi-crew operation only if the holder has completed an approved course of training in MCC.

Under subregulation 61.575 (1), the holder of a CPL is authorised to exercise the privileges of the licence in a multi-crew operation only if the holder has completed an approved course of training in MCC.

Under paragraph 61.580 (2) (c), an applicant for a CPL must have passed the flight test mentioned in the Part 61 MOS for the CPL and the associated category rating. Under subregulation 61.580 (3), the flight test for the CPL must be conducted in an aircraft.

Under paragraph 61.700 (3) (e), a (non-ADF) applicant for an ATPL must have completed, among other things, an approved course of training in MCC.

Under paragraph 61.785 (1) (b), the holder of a single-pilot (**SP**) type rating who does not hold a multi-crew type rating is authorised to exercise the privileges of the rating in a multi-crew operation only if the holder has completed an approved course of training in MCC.

Flight review

Under subregulation 61.745 (1), the holder of an aircraft class rating is authorised to exercise the privileges of the rating only if the holder has a valid flight review *for the rating*. Under regulation 61.020, the classes of aircraft include single-engine aeroplane, multi-engine aeroplane and single-engine helicopter.

Under subregulation 61.745 (1A), the holder has a valid flight review for the rating during the period beginning when the holder successfully completes a flight review for the rating in accordance with subregulation (2) and ending at the end of the 24th month after the month in which the holder completes the review, or at the end of the 24th month after the validity of a relevant previous flight review expires.

Under subregulation 61.745 (2), the flight review must be conducted in an aircraft of the class covered by the rating, or in an approved flight simulator for the flight review.

Under subregulation 61.800 (1), the holder of a pilot type rating is authorised to exercise the privileges of the rating as the pilot in command of an aircraft only if the holder has a valid flight review *for the rating*. The pilot type ratings are prescribed by CASA in *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021*.

Under subregulation 61.800 (2), the holder has a valid flight review for the rating during the period beginning when the holder successfully completes a flight review for the rating in accordance with subregulation (3) and ending at the end of the 24th month after the month in which the holder completes the review, or at the end of the 24th month after the validity of a previous relevant flight review expires.

Under subregulation 61.800 (3), if the aircraft covered by the rating is not a prescribed type of single-engine helicopter, the flight review must be conducted in an aircraft of the type covered by the rating or in an approved flight simulator for that type of aircraft. If the aircraft covered by the rating is a prescribed type of single-engine helicopter, the flight review must be conducted in: a helicopter of the type covered by the rating; or an approved flight simulator for that type of helicopter; or a type of single-engine helicopter prescribed as equivalent to the type covered by the rating; or an approved flight simulator for that type of helicopter.

Pilot type ratings

Regulation 61.805 deals with limitations on the exercise of the privileges of pilot type ratings, in particular concerning the requirement to have IPCs for flight under the IFR.

Under subregulation 61.805 (1), the holder of a pilot type rating is authorised to exercise the privileges of the rating under the IFR, but only if the holder has a valid IPC for an aircraft type covered by the rating.

Biennial IPC for the aircraft type covered by a type rating

The holder of a pilot type rating is taken to have a valid IPC *for an aircraft type other than a single-pilot turbojet aeroplane type* during the following periods:

- under paragraph 61.805 (2) (a) — the 24 months from when the holder passes the flight test for an instrument rating, a private IFR rating, a multi-crew pilot licence, or an air transport pilot licence, in an aircraft of that type (that is, of the type which is covered by a type rating that the holder holds)
- under paragraph 61.805 (2) (aa) — the 24 months from when the holder passes the flight test for the pilot type rating in an aircraft under the IFR
- under paragraph 61.805 (2) (b) — the 24 months from when the holder passes the flight test for an instrument endorsement in an aircraft of that type (provided that the flight test is conducted more than 6 months after the holder passed the flight test for the instrument rating)
- under paragraph 61.805 (2) (c) — the 24 months from when the holder successfully completes an OPC that covers certain IFR operations in an aircraft of that type
- under paragraph 61.805 (2) (d) — while the holder is successfully participating in an operators' training and checking system for an IFR operation in an aircraft of that type,

and the operator holds an approval, under regulation 61.040 for the purposes of subregulation 61.805 (2), for the system and operations in an aircraft of that type

- under paragraph 61.805 (2) (e) — the 24 months from when the holder completes an IPC for the aircraft type
- under paragraph 61.805 (2) (f) — the 24 months from expiry of an existing check, provided that in the 3 months before expiry the holder has successfully completed an IPC for the aircraft type.

Annual IPC for single-pilot turbojet aeroplanes covered by a type rating

The holder of a pilot type rating is taken to have a valid IPC *for a single-pilot turbojet aeroplane type* during the following periods:

- under paragraph 61.805 (3) (a) — the 12 months from when the holder passes the flight test for an instrument rating or a private IFR rating in an aircraft of that type
- under paragraph 61.805 (3) (b) — the 12 months from when the holder passes the flight test for an instrument endorsement in an aircraft of that type (provided that the flight test is conducted more than 6 months after the holder passed the flight test for the instrument rating)
- under paragraph 61.805 (3) (c) — the 12 months from when the holder successfully completes an OPC that covers certain IFR operations in an aircraft of that type
- under paragraph 61.805 (3) (d) — while the holder is successfully participating in an operators' training and checking system for an IFR operation in an aircraft of that type, and the operator holds an approval under regulation 61.040, for the purposes of subregulation 61.805 (3), for the system and operations in an aircraft of that type
- under paragraph 61.805 (3) (e) — the 12 months from when the holder completes an IPC for the aircraft type
- under paragraph 61.805 (3) (f) — the 12 months from expiry of an existing check, provided that in the 3 months before expiry the holder has successfully completed an IPC for the aircraft type.

Under subregulation 61.805 (5), for paragraphs 61.805 (2) (e) and (f), and (3) (e) and (f) described above, the holder of a pilot type rating successfully completes an IPC for *the relevant aircraft* if, among other things, a particular assessment of the holder's competency is carried out by CASA, a flight examiner or an approved person.

Under subregulation 61.805 (6), for paragraphs 61.805 (2) (e) and (f), and (3) (e) and (f) described above, the IPC must be conducted in a relevant aircraft or an approved flight simulation training device for the proficiency check.

Regulation 61.1110 provides, among other things, that the holder of an aerial application rating is authorised to exercise the privileges of the rating only if the holder has a valid aerial application proficiency check. Paragraph 61.1110 (2) (c) provides that the holder is taken to have a valid aerial application proficiency check if the holder successfully completes an OPC that covers operations under the rating, and the OPC is conducted by a flight examiner who holds an aerial application rating flight test endorsement.

Subpart 61.T of CASR deals with flight instructor ratings and training endorsements. Under subregulation 61.1175 (1), a flight instructor is authorised to conduct flight training mentioned in column 2 of an item in table 61.1235 only if the instructor also holds the endorsement mentioned in column 1 of the item.

Items 1, 2, 3 and 3A of table 61.1235 provide for 3 grades of training endorsement for each category of aircraft. Those training endorsements authorise a flight instructor to conduct various types of training, but not BIF training. The grade 1 training endorsement is the most advanced of the 3 grades of training endorsement and allows the holder to supervise holders of grade 2 and grade 3 training endorsements in the conduct of flight training in an aircraft of the relevant category.

Under items 8 and 9 of table 61.1235, conduct of BIF training for an aircraft of a specified category requires the flight instructor to hold an instrument rating training endorsement or a night VFR rating training endorsement in the relevant category.

Under item 14 of table 61.1235, conduct of flight training for a training endorsement in an aircraft of a specified category requires the flight instructor to hold an instructor rating training endorsement in the relevant category.

Relevant ancillary provisions

Subpart 67.C of CASR sets out the medical standard that must be met by a person to obtain a class 1, 2 or 3 medical certificate. The standard in relation to respiratory function, diabetes mellitus, hearing and distant visual acuity is higher for a class 1 medical certificate than for a class 2 medical certificate.

Under section 3 of the Act, the term **AOC** is defined to mean an Air Operator's Certificate issued under Division 2 of Part III of the Act.

Check pilots

CAO 82.0 prescribes the application and general requirements for AOC. Paragraph 2.1 of CAO 82.0 defines a **check pilot** as meaning a person approved by CASA to conduct flight training and proficiency checks. By virtue of this provision, a person may be approved as a CAO 82.0 check pilot. CAO 82.0 is intended to be repealed upon the commencement of Parts 119, 121, 133, 135 and 138 of CASR on 2 December 2021.

Regulation 121.010 of CASR provides that if a provision of Part 121 of CASR refers to a person holding an approval under regulation 121.010, a person may apply to CASA, in writing, for the approval.

Regulation 121.580 of CASR sets out the requirements for proficiency checks for a pilot for an aeroplane. Subparagraph 121.580 (3) (a) (ii) of CASR provides that the individual who conducts the check must hold an FER, or an approval under regulation 121.010 to conduct a proficiency check, for an aeroplane of that kind.

Regulation 133.377 of CASR sets out the requirements for training or checks for flight crew of rotorcraft under Part 133 of CASR. Paragraph 133.377 (2) (a) provides that the training or check must be conducted by an individual who is engaged by the operator (whether by

contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 133 Manual of Standards.

Regulation 135.387 of CASR sets out the requirements for training or checks for flight crew of an aeroplane under Part 135 of CASR. Paragraph 135.387 (2) (a) provides that the training or check must be conducted by an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 135 Manual of Standards.

Subpart 137.N of CASR sets out the qualification and proficiency requirements for pilots conducting aeroplane aerial application operations. Regulation 137.235 of CASR provides that it is a strict liability offence for an operator to allow an aeroplane to be used for an application operation if the pilot in command is not authorised under Part 61 to do so. Under subregulation 137.240, the operator also commits an offence if the operator allows an aeroplane to be used for an application operation and the pilot in command does not hold a valid OPC.

Under subregulation 137.240 (3) of CASR, the OPC for a pilot, who is employed by the operator, must be conducted by the operator's head of flight operations, or by a flight examiner or instructor who is authorised to conduct aerial application operations under Part 61. However, subregulation 137.240 (4) provides that the OPC for the operator's head of flight operations must be conducted by a flight examiner or instructor who is authorised to conduct aerial application operations under Part 61.

Regulation 138.505 of CASR sets out the requirements for training or checks for flight crew of an aircraft under Subpart 138.N of CASR. Paragraph 138.505 (2) (a) provides that the training or check must be conducted by an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 138 Manual of Standards.

Part 141 operators and Part 142 operators are operators who are authorised under Parts 141 and 142, respectively, of CASR to conduct particular kinds of flight training and checking.

Background

The instrument effectively remakes the following 7 instruments, which will be repealed at the end of 31 August 2021:

- *CASA EX93/18 — Instrument Proficiency Checks for Aircraft Type Ratings Exemption 2018 (CASA EX93/18)*
- *CASA EX99/18 — Flight Reviews Exemption 2018 (CASA EX99/18)*
- *CASA EX100/18 — Flight Examiner Rating for CAO 82.0 Check Pilots Exemption 2018 (CASA EX100/18)*
- *CASA EX101/18 — Foreign Cadet Pilots (Medical Certificate for CPL Flight Test) Exemption 2018 (CASA EX101/18)*
- *CASA EX102/18 — Approved Course of Training (Multi-crew Cooperation) Exemption 2018 (CASA EX102/18)*
- *CASA EX103/18 — Basic Instrument Flight Training Exemption 2018 (CASA EX103/18)*
- *CASA EX104/18 — Aerial Application Proficiency Check Instrument 2018 (CASA EX104/18)*

Remake of CASA EX93/18

As set out in detail above, regulation 61.805 provides requirements for pilots operating type-rated aircraft under the IFR. Those requirements mean that:

- the pilot must, within the previous 24 months, and using one of the alternatives described above, have completed a check of the pilot's competency conducting IFR operations in an aircraft covered by the type rating (see subregulation 61.805 (2)); and
- for single-pilot turbojet aeroplanes — the pilot must, within the previous 12 months, and using one of the alternatives described above, have completed a check of the pilot's competency conducting IFR in an aircraft covered by the type rating (see subregulation 61.805 (3)).

Subregulation 61.805 (3) aimed to address the safety concerns associated with operating complex, high performance aeroplanes under the IFR as a single-pilot operation. These aircraft typically have complex systems and in certain circumstances high workload situations can arise for the pilot when operating alone. The purpose of the 12-monthly IPC in an aircraft covered by the type rating was to provide an acceptable level of assurance that pilots would be competent operating these kinds of aircraft that have higher cognitive workloads without the assistance of a co-pilot.

However, in the light of experience and feedback from the aviation industry, including discussions with the Flight Crew Licensing (**FCL**) Subcommittee of the Standards Consultative Committee (**SCC**) (a broad-based CASA/industry consultation forum), and the Industry Advisory Panel (**IAP**) (a joint CASA/industry consultation forum for Part 61), CASA undertook to review and reconsider the Part 61 pilot type-rating specific IPC requirements.

Before reaching a decision, CASA reconsidered the US Federal Aviation Administration (**FAA**) regulation 61.58 for single-pilot turbojet aeroplane operations under which pilots are required to have an annual proficiency check in any single-pilot turbojet aeroplane type and a biennial check in the specific type.

In view of that FAA rule, and as an initial response to the broader type rating IPC issue, CASA granted an exemption for pilots operating single-pilot turbojet aeroplanes under the IFR. The exemption, CASA EX41/16, commenced on 11 March 2016. The exemption relieved pilots from the requirement to have a valid annual IPC for single-pilot turbojet aeroplane types, provided that the pilot had a valid annual IPC for any single-pilot turbojet aeroplane type. Under this exemption, the pilot was not relieved from the biennial type-rating specific IPC requirement.

Following further consideration of the requirements, including consultation with the 2 consultation bodies described above, CASA considered that, relative to the interests of aviation safety, the requirement insisting on 24-monthly (or 12-monthly — for the single-pilot turbojet aeroplane type) IPCs for each type rating under which pilots are exercising privileges, is onerous and unnecessary, and could be relaxed without adverse effects on aviation safety.

It should be noted that pilots are still required to satisfy the general instrument rating proficiency check requirements in regulation 61.880. That provision ensures that pilots exercising the privileges of an instrument rating are checked annually conducting operations under the IFR in an aircraft *of the same category* and, if the aircraft is a multi-engine aircraft, then the pilot is checked in a multi-engine aircraft of the same category.

CASA has previously issued a substantially similar exemption in instruments CASA EX93/16 and CASA EX93/18. Without renewal of CASA EX93/18, the number of IPCs required by the regulations would increase significantly, especially for operators and pilots in the general aviation sector. Given the current limited volume of CASA authorised flight examiners in Australia, this would represent a substantial barrier to industry, and subsequently a significant administrative and resourcing burden for CASA. Also of note would be the impact of the present COVID-19 travel restrictions where pilots would need to access flight simulators outside of Australia to complete the checks if the exemption is not renewed.

Remake of CASA EX99/18

One of the effects of the changes introduced by Part 61 of CASR from 1 September 2014 was to increase the number of occasions on which a pilot is required to undergo a flight review, as compared to the pre-1 September 2014 situation under Part 5 of CAR. The flight review requirements were expanded to require periodic flight reviews for each *aircraft class rating* and each *pilot type rating* the privileges of which a pilot wished to exercise. Previously, a periodic licence-based flight review in an aircraft of the same category was sufficient.

Experience since September 2014, and feedback to CASA from the aviation industry, have identified some unforeseen effects arising from these new requirements. For example, there is a relatively small cohort of pilots in the aviation industry who fly more than 1 type or class of aircraft, although not, individually, a great variety of aircraft. However, there is a smaller cohort again who operate several different type-rated and class-rated aircraft.

These pilots are most likely completing both flight reviews and proficiency checks for operational ratings, and together these mitigate the risks that the flight review requirements in Part 61 of CASR was addressing. Even those pilots who may not be completing both flight reviews and proficiency checks for operational ratings are, in any case, like all pilots, obliged to comply with the general competency rule in regulation 61.385 of CASR, which also addresses the maintenance of pilot competency.

The effect of the requirements in Part 61 of CASR is, to a greater or lesser degree, to oblige pilots in each of these small cohorts to complete additional flight reviews for each class and type of aircraft flown, without any significant gains in aviation safety outcomes from the additional obligations.

Pilots working for holders of AOCs are, and will remain, subject to more frequent proficiency checks under other provisions of Part 61 of CASR conducted under the auspices of the AOC holder.

Pending amendments to Part 61 of CASR, CASA issued instrument CASA EX97/16, and later CASA EX99/18, to exempt pilots in the relevant cohorts from an unnecessary multiplicity of flight reviews. The instrument renews the exemptions in CASA EX99/18.

Remake of CASA EX100/18

The effect of subregulation 61.375 (7) and regulation 61.1255 is that each OPC referred to in Part 61 is required to be conducted by a person who holds an FER. This precludes the checks being conducted by a CAO 82.0 check pilot who does not also hold an FER. CASA issued CASA EX100/18 to allow a holder of a CAO 82.0 check pilot approval to continue performing check pilot duties under Part 61.

CASA EX100/18 exempts holders of a check pilot approval under CAO 82.0 from the requirement to hold an FER. CAO 82.0 provides the application and general requirements for AOC holders including the mechanism for CASA to approve check pilots to conduct flight training and proficiency checks.

CASR 61.375 (7) limits pilot activities according to requisite pilot ratings (outlined in the table 61.375). In this instance, item 9 of the table requires OPCs to be completed by a pilot holding an FER (as an activity listed under CASR 61.1255 (c) (v)). The exemption alleviates the requirement for check pilots approved by CASA under CAO 82.0 to hold an FER.

CAO 82.0 is intended to be repealed at the commencement of Parts 119, 121, 133, 135 and 138 of CASR on 2 December 2021. A new exemption, that operates from 2 December 2021, is required so that a formal CASA check pilot approval is only required for the conduct of a Part 121 proficiency check (where the holder of an FER does not conduct the check). Check pilots used by certificated operators for the purposes of Part 133, 135 or 138 will not require formal CASA approval.

The policy therefore represents a significant cost benefit for operators in that their approved check pilots are not required to obtain and maintain an FER, although the requirements to maintain their check pilot approval is similar.

Remake of CASA EX101/18

CASA has previously issued instruments to allow foreign student applicants for a CPL to take a flight test for a CPL without holding a class 1 medical certificate. The most recent of these instruments is CASA EX101/18. This recognises that requiring a current Australian class 1 medical certificate is an unnecessary cost to operators or foreign cadet pilots when they will not seek to exercise the privileges of a CPL in Australia.

Foreign cadet pilots often come to Australia under sponsorship arrangements to complete training and the flight test for an Australian CPL, which is then converted to the equivalent licence or authorisation in their home country. The flight training courses are conducted at Australian flying schools and typically run for more than 1 year.

Without the exemption in CASA EX101/18, a pilot must hold a class 1 medical certificate to attempt the CPL flight test. The standards for a class 1 medical certificate are stringent and require several tests for initial issue. The costs of these tests are significant; it takes several weeks to complete all the tests and assessments required; and the validity period of a class 1 medical certificate is only 12 months. These standards are based on standards for medical certification in Annex 1 to the Convention on International Civil Aviation and consistent with the standards in other countries. This provides a level of satisfaction that the pilot meets the

relevant class 1 medical standards published by the International Civil Aviation Organization (*ICAO*).

Renewal of the exemption is cost neutral. However, if the exemption is not renewed, foreign cadet pilots will incur significant cost increases from the requirement to acquire and maintain an Australian class 1 medical certificate. It is therefore costly, and time consuming for foreign cadet pilots to acquire an Australian class 1 medical certificate simply to attempt the CPL flight test, when the foreign cadet will not exercise the CPL in Australia. The class 2 medical certificate is sufficient for flight training activities. The instrument does not affect the requirement for the foreign cadet pilot, following successful completion of the flight test for a CPL, to hold all relevant permissions, approvals, ratings, endorsements, and medical certificates in accordance with Part 61 of CASR before the pilot flies a registered aircraft in any operation.

The policy is not consistent with the requirement in ICAO Annex 1 (chapter 2.4.1.4) for a licence applicant to hold a current class 1 medical certificate. However, CASA has lodged a non-compliance difference with that ICAO standard.

Remake of CASA EX102/18

Pilots wishing to conduct a multi-crew operation, or apply for an ATPL, are required to have completed an approved course of training in MCC. Training in MCC is Part 142 flight training delivered by Part 142 operators. It involves the acquisition of competency in human factors and non-technical skills (*HF&NTS*) which enhances the safety of multi-crew operations in which pilots must work together with high levels of mutual cooperation. Under Part 61 of CASR, all applicants for ATPLs (other than overseas conversions) must have completed an approved course of training in MCC. Similarly, from 1 September 2015, all holders of PPLs and CPLs who are conducting multi-crew operations must have completed an approved course of training in MCC. For transition purposes, PPL and CPL holders have not been required to complete MCC training if they had, before 1 September 2015, conducted a multi-crew operation. From 1 September 2015, the holder of an SP type rating, who does not hold a multi-crew type rating, must have completed an approved course of training in MCC if the holder is to exercise the privileges of the rating in a multi-crew operation.

CASA recognises that the requirements under Part 61 provide one of several ways to demonstrate the knowledge and experience in procedures for crew incapacitation and crew coordination, and human performance required by ICAO Annex 1, but that other methods provide equally appropriate ways to demonstrate that knowledge and experience.

The policy represents a significant cost benefit for pilots who have already completed equivalent courses of training in MCC, as well as operators who do not have to incur training costs for employees to meet Australian standards.

Without the exemption in CASA EX102/18, there is no provision in Part 61 of CASR for any alternative means of compliance (*AMC*) with the existing MCC requirement, for example equivalent courses of training or experience. CASA considers that relevant applicants and pilots who comply with an AMC that delivers at least the same level of competence in MCC, should be exempt from having to complete an MCC training course under Part 61 of CASR. Part 61 of CASR will be amended in due course to reflect this intent.

Remake of CASA EX103/18

CASA considers that, provided appropriate training requirements are met and the flight instructor has been assessed as competent by an appropriately qualified person, the flight instructor should be allowed to conduct BIF training without holding an instrument rating training endorsement or a night VFR rating training endorsement. The person assessing whether the flight instructor is competent to conduct BIF training must hold a grade 1 training endorsement for the relevant category of aircraft and themselves be authorised to conduct BIF training.

CASA previously issued instruments CASA EX143/16 and CASA EX103/18 to provide an exemption to this effect. It was noted in the explanatory statement to CASA EX103/18 that the policy effect was expected to be incorporated into a future amendment of Part 61 of CASR that has not yet occurred.

The exemption requires pilots to have completed equivalent training to ensure they are competent to conduct BIF training. Safety is managed by the operator procedures and training requirements.

The standards for flight instructors prescribed by ICAO Annex 1 (chapter 2.8) are general in nature, and do not set specific standards. The policy remains consistent with those general standards provided.

The policy represents a significant benefit for instructors who are permitted to undertake BIF training earlier than they would otherwise. There are also benefits to operators as the policy expands the training activities that employed instructors can conduct on completion of the training.

Remake of CASA EX104/18

The arrangement under regulation 137.240 of CASR – where a pilot who is also the head of flight operations of an aerial application operator cannot undertake an OPC conducted by another head of flight operations – raised concerns in the aerial application industry. Specifically, the Aerial Application Association of Australia (AAAA) advised CASA that access to flight examiners and instructors who can conduct an OPC in rural and regional Australia can be difficult. AAAA proposed, among other things, that CASA should issue an exemption that allows a head of flight operations to conduct an OPC for another head of flight operations.

Similarly, the requirements of paragraph 61.1110 (2) (c) are incongruous with AAAA's proposal that a head of flight operations could conduct an OPC. This exemption is necessary only because the head of flight operations cannot comply with the OPC requirement in Part 137 of CASR. CASA therefore issued instruments CASA EX162/14, CASA EX105/16, and later CASA EX104/18. It was noted in the explanatory statement to CASA EX104/18 that the policy effect was expected to be incorporated into a future amendment of Part 61 of CASR that has not yet occurred.

The exemption requires operators to complete OPCs but allows that check to be conducted by alternative personnel. Safety is managed in the same way as the provisions in Part 137 apply.

ICAO Annexes 1 and 6 do not explicitly regulate for aerial application. However, Part 2 of Annex 6 refers to pilot proficiency checks that must be undertaken by operators. To this extent, the policy remains consistent with ICAO standards.

The policy represents a significant benefit for operators where there are difficulties in obtaining access to examiners due to the limited number of qualified examiners in this sector and the remote nature of much of the activities undertaken. Without the renewal of the policy, operators would incur significant costs in engaging examiners to undertake proficiency checks with their head of flight operations.

Overview of instrument

In accordance with subsection 33 (3) of the *Acts Interpretation Act 1901*, the instrument amends CASA EX66/21. Each of the 7 exemptions referred to above, that are being remade, and the conditions or directions applying to those exemptions, are inserted as 7 new Parts of CASA EX66/21.

Remake of CASA EX93/18

New Part 4 of CASA EX66/21 remakes CASA EX93/18 in substantially the same terms. The effect of the exemption is that a pilot who complies with the relevant conditions of the exemption for acquiring a valid IPC, rather than with the requirements of subregulation 61.805 (2) or (3), will be authorised under subregulation 61.805 (1) to exercise the privileges of their rating during the relevant period.

The effects of the exemption must be understood in the context that, for the purposes of flying under the IFR, the holder of a pilot type rating must have successfully completed a relevant IPC within the prescribed preceding period.

Thus, the exemption exempts the holder of a *single-pilot turbojet aeroplane type rating* (the **SP type rating holder**) from, in effect, the obligation to have an annual IPC for the single-pilot turbojet aeroplane type covered by the rating and that the holder intends to fly under the IFR. Instead, a 24-monthly IPC in **any** single-pilot turbojet aeroplane type will suffice.

The exemption exempts the holder of a *multi-crew type rating for a particular aircraft* from, in effect, the obligation to have a 24-monthly IPC for the aircraft type covered by the rating and that the holder intends to fly under the IFR. Instead, an IPC in **any** multi-crew type-rated aircraft in the same category will suffice.

The exemption exempts the holder of a *pilot type rating (that is not a single-pilot turbojet aeroplane type rating, or a multi-crew type rating for a particular aircraft)* from, in effect, the obligation to have a 24-monthly IPC for the aircraft type covered by the rating and that the holder intends to fly under the IFR. Instead, an IPC in **any** type-rated aircraft in the same category will suffice.

There are consequential machinery exemptions and related conditions to make the exemption operate without ambiguity in relation to what is “the relevant aircraft” for the conduct of an IPC, or for the use of an approved flight simulation training device for an IPC.

A general condition applies to the exemptions. Thus, an exemption does not apply to any of the pilot type rating holders mentioned in the instrument unless the holder's pilot licence records that the holder has a valid IPC in accordance with the conditions in the exemption for having alternative valid IPCs.

Remake of CASA EX99/18

New Part 5 of CASA EX66/21 remakes CASA EX99/18 in substantially the same terms.

The effect of the exemption is that a pilot who complies with the relevant requirements of the exemption for completing a flight review, rather than with the requirements of regulation 61.745 or 61.800 (as the case requires under the terms of the instrument) for the particular rating, would be authorised to exercise the privileges of the relevant aircraft class rating or pilot type rating under regulation 61.745 or 61.800 (as the case requires) during the relevant period.

Section 21 imposes additional conditions on the exemptions. Thus, under subsection 21 (1), relevant holders' pilot licences must include a record that the holder has completed the applicable flight review required under Table 2 as the pre-condition to the application of the exemption.

The MU-2 single pilot multi-engine aeroplane is recognised as an aircraft which has critical performance and handling characteristics that warrant type-specific and recent checks of competency.

Under *CASA 62/20 – Conditions on Flight Crew Authorisations (Edition 3) Instrument 2020 (CASA 62/20)*, the holder of the MU-2 single pilot multi-engine aeroplane type rating must not exercise the privileges of the rating as a pilot in command unless (among other things) the holder has, within the previous 12 months, satisfactorily completed a flight review or a proficiency check specifically *in an MU-2 aircraft*.

Under subsection 21 (2), for aviation safety, the exemptions are expressly stated as not to affect this particular flight review requirement.

Also, Robinson R22 and R44 helicopters are recognised as having critical performance and handling characteristics that warrant specific and recent checks of competency.

Under CASA 62/20, the holder of a single-engine helicopter class rating must not conduct operations in an R22 or R44 helicopter unless (among other things) the holder has completed a flight review, in accordance with regulation 61.745, and the flight review was conducted in an R22 or R44 helicopter.

Once again, for aviation safety, under subsection 21 (3), the exemptions are expressly stated as not to affect this particular flight review requirement.

Remake of CASA EX100/18

New Part 6 of CASA EX66/21 remakes CASA EX100/18 in substantially the same terms, and adds a further exemption that will apply when CAO 82.0 is repealed. New Division 1 exempts a holder of a CAO 82.0 check pilot approval from having to hold an FER for subregulation 61.375 (7) of CASR, but only for the purpose of conducting an OPC within the

scope of the pilot's approval. The scope of the exemption is also limited by excluding the conduct of an OPC for the purposes of regulation 61.650 (multi-crew pilot licence instrument proficiency check), regulation 61.695 (air transport pilot licence instrument proficiency check) or regulation 61.880 (instrument rating proficiency check).

New Division 2 provides exemptions that will operate from 2 December 2021, when Parts 121, 133, 135 and 138 of CASR will commence and CAO 82.0 will be repealed. The exemption from that date will, in addition to the exemption for CAO 82.0 check pilots, include the following kinds of check pilots:

- an individual holding an approval under regulation 121.010 to conduct a Part 121 proficiency check for an aeroplane of a particular kind for the purposes of subparagraph 121.580 (3) (a) (ii) of CASR
- an individual who meets the requirements of paragraph 133.377 (2) (a) of CASR
- an individual who meets the requirements of paragraph 135.387 (2) (a) of CASR
- an individual who meets the requirements of paragraph 138.505 (2) (a) of CASR.

The exemption requires check pilots to be employed or contracted by the operator for which the check is conducted, and to undertake OPCs in accordance with the operator's approved training and checking system.

On the proviso the check pilot is competent to equivalent standards as a flight examiner. the policy is consistent with the ICAO provisions in Annex 6. ICAO Annex 6 (Part I chapter 9), (Part II, chapter 3.9), (Part III, Chapter 7) requires that operators must establish and maintain a ground and flight training programme, approved by the State of the Operator, which ensures that all flight crew members are adequately trained to perform their assigned duties, and that operators must ensure pilots have demonstrated proficiency to a check pilot of the operator (or a representative of the State of the Operator). These provisions assume the check pilot is competent conducting these training and checking activities.

The exemptions in each Division are subject to 3 conditions. The OPC must be conducted: while the holder of the check pilot approval is employed or contracted by the relevant operator; in accordance with the operator's approved training and checking system; and in accordance with the conditions specified in the check pilot's check pilot approval.

Remake of CASA EX101/18

New Part 7 of CASA EX66/21 remakes CASA EX101/18 in substantially the same terms. The exemption allows foreign cadet pilots, who have a class 2 medical certificate, to take a flight test for a CPL without having to obtain a class 1 medical certificate in Australia.

The exemption is subject to a condition that foreign cadet pilots must hold a class 2 medical certificate and have met the class 1 medical standard in the pilot's country of residence. The requirement to hold a class 2 medical certificate reflects the requirement that was in regulation 5.07 of CAR before the commencement of Part 61 of CASR. It is expected that, before receiving sponsorship from an airline, the cadet pilot will have completed medical checks to meet the class 1 medical standard in their home country, consistent with the requirement of the instrument.

It is also a condition of the exemption that the flight test must be organised by the training provider as part of the pilot's registration with the training provider.

The instrument does not affect the requirement for the foreign cadet pilot, following successful completion of the flight test for a CPL, to hold all relevant permissions, approvals, ratings, endorsements and medical certificates in accordance with Part 61 of CASR before the pilot flies a registered aircraft in any operation. For example, under regulation 61.415, if the pilot holds a current class 2 medical certificate, but not a class 1 medical certificate, the pilot may only conduct an activity that would be authorised by a PPL.

Remake of CASA EX102/18

New Part 8 of CASA EX66/21 remakes CASA EX102/18 in substantially the same terms. It exempts certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in MCC for the purposes of multi-crew operations. The conditions on the exemption provide alternative requirements to be satisfied, being:

- an ADF equivalent course
- holding of a multi-crew pilot licence
- other alternative requirements, as listed in new section 41 of the exemption (e.g., a course approved by the European Union Aviation Safety Agency).

New section 42 sets out evidence and other requirements for the alternative requirements in section 41.

Remake of CASA EX103/18

New Part 9 of CASA EX66/21 remakes CASA EX103/18 in substantially the same terms. It grants 3 exemptions: to a flight instructor who conducts BIF training; to the person who teaches the flight instructor how to conduct BIF training; and to the student who receives the BIF training from the flight instructor. The exemptions apply to flight instructors who hold a grade 1, 2 or 3 training endorsement, have successfully completed a training course in the conduct of BIF training and have been assessed as competent to conduct BIF training. The requirements of the training course are set out in new section 46.

The exemption in new section 43 exempts the flight instructor from subregulation 61.065 (1), which is the general requirement that the holder of a flight crew licence must be authorised under Part 61 to conduct an activity. The exemption only applies to the extent that subregulation 61.065 (1) prohibits the flight instructor from conducting BIF training in the specified category of aircraft for which the person holds the grade 1, 2 or 3 training endorsement. Therefore, under this exemption, a flight instructor who meets the alternative qualification requirements may conduct BIF training in the relevant category of aircraft without holding an instrument rating training endorsement or a night VFR rating training endorsement.

The exemption in new section 44 applies to a flight instructor who conducts a training course in the conduct of BIF training that meets the requirements of new section 46. It exempts that flight instructor from subregulation 61.065 (1), but only to the extent that subregulation 61.065 (1) prohibits the flight instructor from conducting the training course in the specified category of aircraft. Therefore, under this exemption, flight instructors are not prohibited from conducting the training course if they meet the requirements of new section 46, including holding a grade 1 training endorsement for the relevant category of aircraft.

The exemption in new section 45 applies to applicants for a flight crew licence, rating or endorsement who receive BIF training from a flight instructor who fulfils the requirements for the exemption in new section 43. Section 45 exempts applicants from the requirement in paragraph 61.195 (2) (b) in relation to the BIF training. Therefore, under the exemption, the training does not need to have been conducted by an instructor or approval holder that is authorised under CASR to conduct the training.

New section 46 sets out the requirements for the training course that the flight instructor must complete. The course will train the flight instructor in the conduct of BIF training. Under new paragraph 46 (a), the course must be conducted by an instructor for a Part 141 operator or a Part 142 operator that can conduct training for the grant of a PPL or a CPL. New paragraph 46 (b) requires the training to be conducted as if it were flight training under the relevant Part of CASR, being either Part 141 or Part 142. This condition, therefore, requires the Part 141 operator or Part 142 operator to comply with requirements in the relevant Part, including record-keeping requirements and requirements about training in HF&NTS. Under new paragraph 46 (c), the flight instructor who is conducting the course must hold a grade 1 training endorsement and be authorised by the head of operations of the relevant Part 141 operator or Part 142 operator. The flight instructor must also hold an instrument rating training endorsement or a night VFR rating training endorsement, or have held, immediately before 1 September 2014, a suitable similar authorisation under Part 5 of CAR or the CAOs. A person who held 1 of those qualifications was authorised to conduct BIF training.

Remake of CASA EX104/18

New Part 10 of CASA EX66/21 remakes CASA EX104/18 in substantially the same terms. The exemptions in new Part 10 will allow the head of flight operations to continue to conduct an OPC for another head of flight operations. In addition, a pilot, who holds an aerial application rating and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, may exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations in an aeroplane, instead of a check conducted by a relevant flight examiner.

The direction in new section 49 of the instrument requires a head of flight operations, who conducts an OPC for another head of flight operations, to notify CASA in writing about the check. It is expected that the head of flight operations conducting the check will provide information to CASA that includes the names of the relevant pilots and operators and the date of the check.

CASA has assessed the operation of the exemptions contained in the instrument and is satisfied they do not have a negative impact on aviation safety.

Sector risk, economic and cost impact

Subsection 9A(3) of the Act states that subject to regarding the safety of air navigation as the most important consideration, 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 expiring instruments with the same (or largely the same) provisions and conditions, there will be no change of economic or cost impact on individuals, businesses or the community. The exemptions in the instrument generally reduce costs for affected pilots, training providers and aircraft operators.

Documents incorporated by reference

This instrument incorporates the following documents in accordance with subsection 98 (5D) of the Act:

- the operator's approved training and checking system is incorporated by reference as it exists from time to time

Each affected aircraft operator will have an approved training and checking system that was prepared by the operator and approved by CASA. It is available to the operator and its pilots who are affected by the instrument, but is subject to copyright and may not otherwise be publicly available. CASA has incorporated the operator's approved training and checking system in the instrument because aviation safety requires compliance with the system by aircraft operators and pilots and because there are no freely available documents serving the relevant purpose.

Usually, where practicable, by prior arrangement with CASA, copies of the documents can be made available for viewing free of charge at any office of CASA. However, given the large number and variety of approved training and checking systems, it is not practicable for these documents to be made available by CASA. CASA considers it extremely unlikely that the owners of the documents would sell CASA the copyright, so that CASA could make the document freely available, at a price that would be an effective and efficient use of CASA funds.

- Civil Aviation Advisory Publication (**CAAP**) SMS-3 (1) is incorporated as existing from time to time.

CAAP SMS-3 (1) provides guidance and advice for Australian regular public transport operators to develop training and assessment in non-technical skills. It is freely available on the CASA website at: <https://www.casa.gov.au/rules-and-regulations/standard-page/civil-aviation-advisory-publications>.

Content of instrument

The details of the provisions of the instrument are set out in Attachment 1.

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 various classes of persons, such as

holders of, or applicants for, particular flight crew licences, ratings or endorsements. from complying with the various provisions 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

The Part 61 Solutions Taskforce Advisory Panel (*IAP*) and Flight Crew Licensing Subcommittee of the SCC were established as consultation forums on regulatory and standards matters. The members of the IAP and the SCC include officers of CASA and representatives of the aviation community.

Remake of CASA EX93/18

For section 17 of the LA, CASA commenced consultation with the FCL Subcommittee of the SCC in May 2015. The initial consultation was for the single-pilot turbojet aeroplane IPC proposal. However, a separate proposal to review multiple checks and flight reviews was also discussed at the same time. General support was given to both proposals.

At a meeting on 16 December 2015, the IAP identified the question of pilot type rating IPCs as one requiring high priority and recommended removal of the type rating-specific check requirements.

In May 2016, CASA posted proposal documents on the SCC and IAP discussion forum websites, followed by postings of the text of a possible exemption instrument. CASA received a number of responses and all supported the proposal. Bearing in mind these representations, and in the light of CASA's own assessment of safety implications, CASA formulated the proposals embodied in CASA EX93/16, which are also reflected in CASA EX93/18.

The instrument continues the arrangements in CASA EX93/18. CASA has not received any feedback from industry that the exemptions and the conditions on the exemptions are not appropriate or are no longer required. It is CASA's view that the exemptions remain appropriate to the relevant portions of the aviation industry.

Remake of CASA EX99/18

This exemption in new Part 5 of CASA EX66/21 was originally issued in instrument CASA EX97/16. Since September 2014, CASA has received periodic feedback from the aviation industry critical of some of the flight review requirements in Part 61 of CASR. The issue was specifically discussed in December 2015 at the Part 61 Taskforce IAP. At this meeting there was agreement to the proposal to simplify the flight review requirements along the lines of the exemption.

The specific proposal to change flight review requirements was posted to the IAP website and the SCC website on 9 May 2016 for members of those forums to provide review and comments. The SCC is another, broader-based, joint CASA/industry consultation forum. The feedback received supported the proposal. A supplementary change to the proposal was posted to both forums on 19 May 2016 and again the proposal was supported.

CASA EX99/18 continued the arrangements in instrument CASA EX97/16, and the instrument continues the arrangements in CASA EX99/18. CASA has not received any feedback from industry that the exemptions and the conditions on the exemptions are not appropriate. CASA understands that the exemptions remain appropriate for the aviation industry.

Remake of CASA EX100/18

This exemption in new Part 6 of CASA EX66/21 was first issued in instrument CASA EX140/14. Before making CASA EX140/14, CASA, in consultation with industry, reviewed the arrangements applying to CAO 82.0 check pilot approval holders. CASA decided to issue an exemption to ensure industry benefited from a transitional period that applied for other authorisations in force before 1 September 2014 under Part 5 of CAR and CAOs 29.6, 29.10, 29.11 and 82.6. CASA EX100/18 continued the arrangement under instrument CASA EX106/16, which continued the arrangement under instrument CASA EX140/14.

CASA has not received any feedback from industry that the exemption and the conditions on the exemption are not appropriate. CASA understands that the exemptions remain appropriate for the aviation industry. CASA considers it necessary to continue the effect of the exemption after the upcoming repeal of CAO 82.0 and the commencement of Parts 119, 121, 133, 135 and 138 of CASR.

Remake of CASA EX101/18

This exemption in new Part 7 of CASA EX66/21 was first issued in instrument CASA EX117/14, at the request of industry. Instrument CASA EX156/15 continued the exemption after feedback from industry that the exemption had been beneficial to student pilots and had reduced medical testing administrative delays and costs. CASA EX101/18 continued the exemption in CASA EX156/15, on the basis that the exemption remains beneficial to industry without unduly compromising aviation safety. The instrument continues the exemption in CASA EX101/18.

Remake of CASA EX102/18

Informal feedback was received from the aviation community that the MCC training requirement in Part 61 of CASR could be unnecessary in some cases where pilots may have completed equivalent training or have suitable qualifications.

In response to this, for section 17 of the LA, CASA conducted consultation on a possible regulation amendment and an interim exemption, through the Flight Crew Licensing Subcommittee of the SCC. Details of the proposal were also posted on the CASA website on 2 July 2015 for public comment and 4 considered responses were received. None of the responses opposed the proposed measure. However, one counselled caution in relation to unintended consequences.

All of the comments were taken into account before CASA decided to issue the first exemption instrument on this subject (CASA EX192/15). CASA EX102/18 renewed the exemption. The exemption is an optional avenue for ATPL applicants, and PPL, CPL and SP type rating holders, who are not prevented from completing an approved training course in MCC if, for example, they had concerns that their particular compliance with the AMC would not in the event be adequate to satisfy a flight examiner in a flight test, or if, in any particular case, an

AOC holder or private operator required of a pilot the additional assurance of MCC course completion.

The instrument continues the arrangements in instrument CASA EX192/15 and CASA EX102/18. CASA has not received any adverse feedback from industry that the exemption and the conditions on the exemption are not appropriate.

Remake of CASA EX103/18

The proposal reflected in CASA EX143/16, CASA EX103/18 and new Part 9 of CASA EX66/21 (inserted by this instrument) was raised with the IAP and the SCC on 25 May 2016. 4 responses were received from the SCC forum and 1 response was received from the IAP forum. The responses were supportive of the proposal.

The Flight Training Panel is a discussion and consultation meeting on flight training and flight testing matters that includes officers of CASA and representatives of the aviation industry. CASA has consulted with the panel on this subject. The panel also supported the proposal.

This instrument continues the arrangement under CASA EX103/18. CASA has not received any feedback from industry that the exemption and the conditions on the exemption are not appropriate.

Remake of CASA EX104/18

CASA EX162/14 was issued after consultation with AAAA. The exemption has since been renewed in instruments CASA EX105/16 and CASA 104/18. New Part 10 of CASA EX66/21, inserted by this instrument, continues the arrangement under CASA EX104/18.

The exemption applies to a limited number of operators and individuals within the wider aviation industry. CASA has not received any adverse feedback from industry that the exemption or the requirement in the direction are not appropriate.

However, all the exemptions in the instrument are interim measures, pending substantive amendments to Parts 61 and 137 of CASR which will remove the need for the exemptions. These amendments will be part of a larger set of amendments to Part 61 for which CASA has provided drafting instructions to the Office of Parliamentary Counsel. It is expected that the amendments will be made and in force within the next 12 months to 2 years.

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*) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required for exemptions and directions (OBPR id: 14507).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 2 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 September 2021 and is automatically repealed in accordance with section 48A of the LA.

CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021

1 Name

This section provides that the title of the instrument is *CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021*.

2 Duration

Under this section, the instrument commences on 1 September 2021.

3 Amendment of Instrument CASA EX66/21

Under this section, instrument CASA EX66/21 is amended as set out in Schedule 1 to the instrument.

Schedule 1 – Amendments to CASA EX66/21

Item 1

Inserts a Note at the foot of section 2 of CASA EX66/21 relating to the direction inserted at new section 49 by item 5 of the instrument.

Item 2

Inserts various definitions into subsection 3 (1) of CASA EX66/21 that are used throughout the new Parts inserted by item 5 of the instrument, including:

exempt check pilot, which means an individual who is one of the following:

- (a) a check pilot (within the meaning of CAO 82.0);
- (b) an individual holding an approval under regulation 121.010 of CASR to conduct a Part 121 proficiency check for an aeroplane of a particular kind for the purposes of subparagraph 121.580 (3) (a) (ii) of CASR;
- (c) an individual who meets the requirements of paragraph 133.377 (2) (a) of CASR;
- (d) an individual who meets the requirements of paragraph 135.387 (2) (a) of CASR;
- (e) an individual who meets the requirements of paragraph 138.505 (2) (a) of CASR.

last 3 years, which means the 3 years immediately before:

- (a) in the case of an applicant for an ATPL — the date of the application; and
- (b) in any other case — the first flight for which a pilot relies upon this exemption instrument (which includes CASA EX192/15, CASA EX225/15 and CASA EX102/18) for non-compliance with a requirement in Part 61 of CASR to have completed an approved course of training in MCC.

Item 3

Adds various terms into subsection 3 (2) of CASA EX66/21, which provides that such terms that have the meaning given by regulation 61.010 of CASR.

Item 4

Inserts a new subsection 3 (3) into CASA EX66/21, providing that a reference in CASA EX66/21 to a provision that includes the numerals “61”, is a reference to the provision of the same number in Part 61 of CASR.

Item 5

Inserts new Parts 4 to 10 into CASA EX66/21 as follows:

Part 4 – Instrument Proficiency Checks for Aircraft Type Ratings Exemption and Conditions

New Part 4 contains the remake of CASA EX93/18.

11 Definitions

Under this section, definitions of *the 12-month period* and *the 24-month period* are provided for the purposes of the conditions in new sections 13, 15 and 17.

12 Exemption No. 1 — single-pilot turbojet aeroplane type ratings

Under this section, an SP type rating holder, for the exercise of privileges under the IFR, is exempted from subregulation 61.805 (3). The holder is also exempted from subregulations 61.805 (5) and (6). The exemptions are subject to the conditions in new sections 13 and 18.

13 Conditions – Exemption No. 1 – single-pilot turbojet aeroplane type ratings

- (1) Under this subsection, the SP type rating holder must have a valid IPC as if the requirement under subregulation 61.805 (3), to have a valid 12-monthly IPC for the aeroplane type covered by the rating, applied as a requirement to have a valid 24-monthly IPC for *any single-pilot turbojet aeroplane type*.

A Note explains that, for an SP type rating holder, the 12-monthly IPC requirement under subregulations 61.805 (1) and (3) may be satisfied by a 24-monthly IPC in *any* single-pilot turbojet aeroplane type.

- (2) Under this subsection, subregulations 61.805 (5) and (6) must be complied with as if they applied despite the exemption in new subsection 12 (2) of CASA EX66/21, except that references to “relevant aircraft” for paragraphs 61.805 (3) (e) and (f) must be taken to be references to *any* single-pilot turbojet aeroplane type (rather than the particular single-pilot turbojet aeroplane type covered by the holder’s rating).

A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805 (5) and (6) that subregulations 61.805 (5) and (6) be complied with, but in the particular context of the operation of the exemption.

14 Exemption No. 2 — multi-crew type ratings

Under this section, the holder of a multi-crew type rating (the *multi-crew type rating holder*) for a particular aircraft category for the exercise of privileges under the IFR is exempted from subregulation 61.805 (2). The holder is also exempted from subregulations 61.805 (5) and (6). The exemptions are subject to the conditions in new sections 15 and 18.

15 Conditions – Exemption No. 2 – multi-crew type ratings

- (1) Under this subsection, the multi-crew type rating holder for a particular aircraft category must have a valid IPC, as if the requirements under subregulation 61.805 (2) to have a valid 24-monthly IPC for the aircraft type covered by the rating applied as

a requirement to have a valid 24-monthly IPC for *any* multi-crew type-rated aircraft in the same category.

- (2) Under this subsection, subregulations 61.805 (5) and (6) must be complied with as if they applied despite the exemption in new subsection 14 (2), except that references to “relevant aircraft” for paragraphs 61.805 (2) (e) and (f) must be taken to be references to any multi-crew aircraft type in the same category as that of the multi-crew type rating holder’s rating (rather than the particular aircraft type covered by the holder’s rating).

A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805 (5) and (6) that subregulations 61.805 (5) and (6) be complied with, but in the particular context of the operation of the exemption.

16 Exemption No. 3 — other aircraft type ratings

Under this section, the holder of a pilot type rating for the exercise of privileges under the IFR is exempted from subregulation 61.805 (2). The holder is also exempted from subregulations 61.805 (5) and (6). The exemptions are subject to the conditions in new sections 17 and 18.

The section does not apply to SP type rating holders or multi-crew type rating holders, as new sections 12 and 14 respectively, and the more prescriptive conditions in new sections 13 and 15 respectively, apply to those rating holders.

17 Conditions – Exemption No. 3 – other aircraft type ratings

- (1) Under this subsection, the holder mentioned in section 16 must have a valid IPC, as if the requirement under subregulation 61.805 (2) to have a valid IPC for the aircraft type covered by the rating applied as a requirement to have a valid IPC for *any* type-rated aircraft in the same category.
- (2) Under this subsection, subregulations 61.805 (5) and (6) must be complied with as if they applied despite the exemption in new subsection 16 (3), except that references to “relevant aircraft” for paragraphs 61.805 (2) (e) and (f) must be taken to be references to any aircraft type in the same category as that of the relevant type rating holder’s rating (rather than the particular aircraft type covered by the holder’s rating).

A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805 (5) and (6) that subregulations 61.805 (5) and (6) be complied with, but in the particular context of the operation of the exemption.

18 General condition — Exemption Nos. 1, 2 and 3

Under this section, an exemption mentioned in new section 12, 14 or 16 does not apply to the pilot type rating holder mentioned in the section unless the holder’s pilot licence records that the holder has a valid IPC in accordance with the condition in new subsection 13 (1), 15 (1) or 17 (1) (as the case requires).

Part 5 – Flight Reviews Exemption and Conditions

New Part 5 contains the remake of CASA EX99/18.

19 Application of Part

Under this section, new Part 5 applies to a person who holds 1 of the following aircraft class or pilot type ratings under Part 61 of CASR:

- (a) a single-engine aeroplane class rating;
- (b) a multi-engine aeroplane class rating;
- (c) a single-engine aeroplane pilot type rating;
- (d) a multi-engine aeroplane pilot type rating;
- (e) a single-engine helicopter class rating;
- (f) a single-engine helicopter pilot type rating;
- (g) a multi-engine helicopter pilot type rating.

20 Exemption from certain flight review requirements

Section 20 activates Table 2, that displays row by row the provision in Part 61 of CASR from which the holder of particular aircraft class rating or pilot type rating is exempted. Each of the provisions exempted from is a provision requiring 1 or other of a particular kind of flight review to have been completed for a particular period. The exemptions apply only to the extent that the pilot must have a prescribed valid flight review for the rating in column 1 of the Table. The exemptions are subject to the conditions and exclusions in new section 21.

Table 2

Each of items 1 to 7 of the Table is applied in the same way for the various class or type rating holders mentioned in paragraphs 19 (a) to (g) above, as follows:

Under item 1, the holder of a single-engine aeroplane **class** rating is exempted from the requirement under regulation 61.745 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** aeroplane **type** rating (and not specifically the flight review for the single-engine aeroplane class rating). A Note takes the reader to an explanation of how a pilot may operate a class-rated single-engine aeroplane under the privileges of a multi-engine aeroplane class rating.

Under item 2, the holder of a multi-engine aeroplane **class** rating is exempted from the requirement under regulation 61.745 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** multi-engine aeroplane pilot **type** rating (and not specifically the flight review for the multi-engine aeroplane class rating).

Under item 3, the holder of a single-engine aeroplane pilot **type** rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** aeroplane pilot **type** rating, or under regulation 61.745 for **any** aeroplane **class** rating.

Under item 4, the holder of a multi-engine aeroplane pilot **type** rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** multi-engine aeroplane pilot **type** rating, or under regulation 61.745 for the multi-engine aeroplane **class** rating.

Under item 5, the holder of a single-engine helicopter **class** rating is exempted from the requirement under regulation 61.745 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** helicopter pilot **type** rating.

Under item 6, the holder of a single-engine helicopter pilot **type** rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** helicopter pilot **type** rating, or under regulation 61.745 for the single-engine helicopter **class** rating.

Under item 7, the holder of a multi-engine helicopter pilot **type** rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for **any** multi-engine helicopter pilot **type** rating.

A Note under the Table explains how, under subregulations 61.375 (3) and (4), the holder of a multi-engine aeroplane class rating who has a valid flight review for that rating is authorised to operate aeroplanes covered by the single-engine aeroplane class rating.

21 Additional conditions and exclusions

Under this section, additional conditions are imposed on the exemptions. Thus, under new subsection 21 (1), relevant holders' pilot licences must include a record that the holder has completed the applicable flight review required under Table 2 as the pre-condition to the application of the exemption.

Under new subsection 21 (2), for aviation safety, the exemptions are expressly stated as not to affect the flight review requirements for the holder of the MU-2 single pilot multi-engine aeroplane type rating, as set out in paragraph 6 (b) of CASA 62/20.

Under new subsection 21 (3), the exemptions under this Part do not affect the flight review requirements for the holder of a single-engine helicopter class rating for use in the conduct of operations in an R22 or R44 helicopter, as set out in section 8 of CASA 62/20.

Part 6 – Flight Examiner Rating for Check Pilots Exemption and Conditions

New Part 6 contains the remake of CASA EX100/18.

Division 1 – Exemption under CAO 82.0

22 Application of Division

Under this section, new Division 1 of Part 6 applies to a check pilot when conducting an OPC within the scope of the check pilot approval, other than an OPC for the purposes of regulation 61.650, 61.695 or 61.880.

23 Exemption

Under this section, the check pilot is exempt from the requirement in subregulation 61.375 (7) to hold an FER, subject to the conditions mentioned in new section 24.

24 Conditions

Under this section, the exemption in new section 23 is subject to 3 conditions. The OPC must be conducted: while the holder of the CAO 82.0 check pilot approval is employed or contracted by the relevant operator; in accordance with the operator's approved training and checking system; and in accordance with the conditions specified in the check pilot's CAO 82.0 check pilot approval.

25 Repeal of Division

Under this section, new Division 1 is repealed at the end of 1 December 2021, which is the same time that CAO 82.0 will be repealed.

Division 2 – Exemption under new Flight Operations Regulations

26 Commencement of Division

Under this section, Division 2 commences on 2 December 2021, which is when Parts 119, 121, 133, 135 and 138 of CASR commence.

27 Application of Division

Under this section, new Division 2 of Part 6 applies to an exempt check pilot when conducting an OPC within the scope of the check pilot approval, other than an OPC for the purposes of regulation 61.650, 61.695 or 61.880.

28 Exemption

Under this section, the exempt check pilot is exempt from the requirement in subregulation 61.375 (7) to hold an FER, subject to the conditions mentioned in new section 29. This is effectively the same as the exemption in new section 23.

29 Conditions

Under this section, the exemption in new section 28 is subject to 3 conditions. The OPC must be conducted: while the exempt check pilot approval is employed or contracted by the relevant operator; in accordance with the operator's approved training and checking system; and in accordance with the conditions specified in the exempt check pilot's check pilot approval. These conditions are effectively the same as the conditions in new section 24.

Part 7 – Foreign Cadet Pilots (Medical Certificate for CPL Flight Test) Exemption and Conditions

New Part 7 contains the remake of CASA EX101/18.

30 Application of Part

Under this section, new Part 7 of CASA EX66/21 only applies to foreign cadet pilots. A foreign cadet pilot is a person who is not a citizen or permanent resident of Australia, and who is undertaking training for a CPL, under sponsorship of a foreign aircraft operator, as a student of an operator that conducts flight training in accordance with Part 141 or 142 of CASR.

31 Exemption

Under this section, a foreign cadet pilot is exempt from the requirement in paragraph 61.235 (2) (c) to the extent that it requires the pilot to hold a current class 1 medical certificate to be eligible to take a flight test for a CPL, subject to the conditions in new section 32.

32 Conditions

- (1) Under this subsection, it is a condition of the exemption in new section 31 that foreign cadet pilots must hold a class 2 medical certificate and have met the class 1 medical standard in the pilot's country of residence.
- (2) Under this subsection, it is a condition of the exemption that the flight test must be organised by the training provider as part of the pilot's registration with the training provider.

Part 8 – Approved Course of Training (Multi-crew Cooperation) Exemption and Conditions

New Part 8 contains the remake of CASA EX102/18.

33 Exemption – ATPL – ADF applicants

Under this section, a member or former member of the ADF (the *applicant*) who applies for the grant of an ATPL is exempt from the requirement under subparagraph 61.285 (f) (ii) to complete an approved course of training in MCC.

34 Conditions – ATPL – ADF applicants

Under this section, alternative requirements for ADF applicants for an ATPL are set out, being that the applicant must have successfully completed a course of training conducted by the ADF for a multi-crew pilot operational conversion qualification. Compliance with this must be evidenced by giving CASA a copy of the relevant ADF qualification.

35 Exemption – ATPL – other applicants – MPL

Under this section, the holder of an MPL with an aircraft category rating (the *applicant*) who applies for the grant of an ATPL is exempt from the requirement under paragraph 61.700 (3) (e) to complete an approved course of training in MCC.

36 Exemption – ATPL – other applicants – CPL

Under this section, the holder of a CPL with an aircraft category rating (the *applicant*) who applies for the grant of an ATPL is exempt from the requirement under paragraph 61.700 (3) (e) to complete an approved course of training in MCC.

37 Exemption – PPL – exercise of privileges in multi-crew operation

Under this section, the holder of a PPL (the *holder*) is exempt from the requirement under subregulation 61.510 (1) that to exercise the privileges of the licence in a multi-crew operation, the holder must have completed an approved course of training in MCC.

38 Exemption – CPL – exercise of privileges in multi-crew operation

Under this section, the holder of a CPL (the *holder*) is exempt from the requirement under subregulation 61.575 (1) that to exercise the privileges of the licence in a multi-crew operation, the holder must have completed an approved course of training in MCC.

39 Exemption — single-pilot type rating without multi-crew type rating

Under this section, the holder of a single-pilot (*SP*) type rating (the *holder*) is exempt from the requirement under paragraph 61.785 (1) (b) of CASR that to exercise the privileges of the SP type rating in a multi-crew operation, the holder must have completed an approved course of training in MCC if the holder does not hold a multi-crew type rating.

40 Conditions on exemptions in sections 36, 37, 38, 39

Under this section, each exemption under new sections 36, 37, 38 and 39 is subject to the condition that the applicant or holder, as the case requires: satisfies at least 1 of the alternative requirements set out in section 41, evidences compliance with the requirement as set out in section 42 and complies with any other requirement in section 42 for the requirement.

41 Alternative requirements

Under this section, the alternative requirements to be satisfied are set out. Thus, each of the following would be considered by CASA to be an AMC:

- (a) MCC training approved by the European Union Aviation Safety Agency (*EASA*);
- (b) the training required to qualify for an EASA type rating for a multi-crew certificated aircraft;
- (c) holding a type rating and having at least 50 hours' experience during the last 3 years as a pilot in multi-crew operations conducted by an Australian AOC holder engaged in regular public transport (*RPT*) operations in accordance with CAO 82.3 or 82.5 — CAOs 82.3 and 82.5 impose pilot HF&NTS training obligations on relevant high capacity and low capacity RPT AOC holders through their mandatory HF&NTS programs;
- (d) holding a type rating and having at least 100 hours' experience during the last 3 years as a pilot in multi-crew operations conducted by an Australian AOC holder engaged in charter operations in accordance with CAO 82.1, plus successful completion, within the last 3 years, of 2 OPCs which included assessment of HF&NTS competencies — although CAO 82.1 for charter operations does not impose pilot HF&NTS training obligations on the AOC holder, the relevant OPCs constitute a component of this AMC. A Note explains that the assessment of HF&NTS competencies should be guided by reference to CAAP SMS-3 (1), which is also the HF&NTS guidance document for RPT operations;
- (e) training, qualifications or experience, or a combination of these, which CASA has approved to be at least equivalent to any of the alternative requirements

mentioned in items (1) to (4). It is important to note that CASA, not the applicant, the holder or the head of flying operations, makes the decision about equivalence, based on the evidence it receives and its assessment of the requirements of aviation safety. A person who relies on this must obtain the appropriate certificate from CASA. Under regulation 201.004 of CASR, a decision by CASA to refuse to issue a certificate of equivalence under this provision is subject to merits review by the Administrative Appeals Tribunal.

42 Evidence and other requirements

New section 42 sets out the evidence and other requirements for new sections 40 and 41. The evidence requires is:

- (a) for new paragraph 41 (a), a copy of a course completion certificate issued to the person by an EASA-approved training provider and a copy of the EASA approval held by the approved training provider that shows the approval is valid and current;
- (b) for new paragraph 41 (b), a copy of the person's current EASA flight crew licence endorsed with the multi-crew type rating for a multi-crew certificated aircraft and logbook evidence of the person having exercised the privileges of the rating following the grant of the rating;
- (c) for new paragraph 41 (c), a copy of the person's current CASA flight crew licence endorsed with a multi-crew type rating and logbook evidence of the person's experience as a pilot in multi-crew operations for an Australian AOC holder engaged in RPT operations in accordance with CAO 82.3 or 82.5;
- (d) for new paragraph 41 (d), a copy of the person's current CASA flight crew licence endorsed with a multi-crew type rating and logbook evidence of the person having at least 100 hours' experience as a pilot in multi-crew operations for an Australian AOC holder engaged in charter operations in accordance with CAO 82.1, plus evidence of the successful completion of 2 OPCs which included assessment of HF&NTS competencies;
- (e) for new paragraph 41 (e), evidence of successful completion of training, qualifications or experience, or a combination of these, and a CASA certificate of equivalence.

Under paragraph 42 (f), particular types of evidence in logbooks or other documents must be endorsed by the holder of an FER or the head of the flying operations part, or the head of training and checking, of the relevant AOC holder or other operator, to whom the logbook entries or other documents relate.

Paragraph 42 (g) specifies the person the evidence must be supplied to. An applicant for an ATPL must supply the evidence to CASA. The holder of a PPL, a CPL, or an SP type rating without a multi-crew type rating (as the case may be) conducting multi-crew operations must supply the evidence to the head of the flying operations part of the AOC holder or other operator for whom the pilot operates a multi-crew aircraft.

Paragraph 42 (h) requires an applicant or a holder of the relevant licence or rating to, on written request, supply CASA with any information or documents CASA

considers necessary to determine the appropriate application, or the continued application, of the exemption to the applicant or holder.

Part 9 – Basic Instrument Flight Training Exemption

New Part 9 contains the remake of CASA EX103/18.

43 Exemption — flight instructor conducting BIF training

New section 43 applies to flight instructors who hold a grade 1, 2 or 3 training endorsement, have successfully completed a training course in the conduct of BIF training and have been assessed as competent to conduct BIF training. The requirements of the training course are set out in new section 46.

Under new subsection 43 (2), the flight instructor is exempted from compliance with subregulation 61.065 (1), which is the general requirement that the holder of a flight crew licence must be authorised under Part 61 to conduct an activity. The exemption only applies to the extent that subregulation 61.065 (1) prohibits the flight instructor from conducting BIF training in the specified category of aircraft for which the person holds the grade 1, 2 or 3 training endorsement. Therefore, under this exemption, a flight instructor who meets the alternative qualification requirements may conduct BIF training in the relevant category of aircraft without holding an instrument rating training endorsement or a night VFR rating training endorsement.

44 Exemption — flight instructor conducting training course

New section 44 applies to a flight instructor who conducts a training course in the conduct of BIF training that meets the requirements of new section 46.

Under new subregulation 44 (2), the flight instructor is exempt from compliance with subregulation 61.065 (1), but only to the extent that subregulation 61.065 (1) prohibits the flight instructor from conducting the training course in the specified category of aircraft.

Therefore, under this exemption, flight instructors are not prohibited from conducting the training course if they meet the requirements of new section 46, including holding a grade 1 training endorsement for the relevant category of aircraft.

45 Exemption — applicant for flight crew licence, rating or endorsement

New section 45 applies to applicants for a flight crew licence, rating or endorsement who receive BIF training from a flight instructor who fulfils the requirements for the exemption in new subsection 43 (1).

Under new subregulation 45 (2), applicants are exempt from compliance with paragraph 61.195 (2) (b) in relation to the BIF training.

Therefore, under the exemption, the training does not need to have been conducted by an instructor or approval holder that is authorised under CASR to conduct the training.

46 Requirements of training course

New section 46 sets out the requirements for the training course that the flight instructor must complete. The course will train the flight instructor in the conduct of BIF training.

Under new paragraph 46 (a), the course must be conducted by an instructor for a Part 141 operator or a Part 142 operator that can conduct training for the grant of a PPL or a CPL.

New paragraph 46 (b) requires the training to be conducted as if it were flight training under the relevant Part of CASR, being either Part 141 or Part 142. This condition, therefore, requires the Part 141 operator or Part 142 operator to comply with requirements in the relevant Part of CASR, including record-keeping requirements and requirements about training in HF&NTS.

Under new paragraph 46 (c), the flight instructor who is conducting the course must hold a grade 1 training endorsement and be authorised by the head of operations of the relevant Part 141 operator or Part 142 operator. The flight instructor must also hold an instrument rating training endorsement or a night VFR rating training endorsement, or have held, immediately before 1 September 2014, a suitable similar authorisation under Part 5 of CAR or the CAOs. A person who held 1 of those qualifications was authorised to conduct BIF training.

The minimum length and content of the course are described in new paragraphs 46 (d) and (e). New paragraph 46 (e) refers to the relevant units of competency in the Part 61 MOS.

Part 10 – Aerial Application Proficiency Check Exemption and Direction

New Part 10 contains the remake of CASA EX104/18.

47 Exemption — head of flight operations

- (1) Under this subsection, new section 47 applies to the head of flight operations of an aerial application operator (the *first aerial application operator*), who has satisfactorily completed an OPC conducted by the head of flight operations of another aerial application operator.
- (2) Under this subsection, the first aerial application operator and that operator's head of flight operations are exempt from compliance with subregulations 137.240 (3) and (4) of CASR.

48 Exemption — aerial application rating holder

Under this section, the holder of an aerial application rating who also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, and who has successfully completed an OPC that was conducted by the head of flight operations of an aerial application operator, is exempt from compliance with the requirement in paragraph 61.1110 (2) (c) of CASR that the check is conducted by a flight examiner who holds an aerial application rating flight test endorsement.

49 Direction

Under this section, a head of flight operations, who conducts an OPC for another head of flight operations, is directed to notify CASA in writing about the check. It is

expected that the head of flight operations conducting the check will provide information to CASA that includes the names of the relevant pilots and operators and the date of the check.

Statement of Compatibility with Human Rights

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

CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021

*CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021 (the **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 effectively remakes the following 7 instruments, made under the *Civil Aviation Safety Regulations 1998 (CASR)*, which will be repealed at the end of 31 August 2021:

- *CASA EX93/18 — Instrument Proficiency Checks for Aircraft Type Ratings Exemption 2018 (CASA EX93/18)*
- *CASA EX99/18 — Flight Reviews Exemption 2018 (CASA EX99/18)*
- *CASA EX100/18 — Flight Examiner Rating for CAO 82.0 Check Pilots Exemption 2018 (CASA EX100/18)*
- *CASA EX101/18 — Foreign Cadet Pilots (Medical Certificate for CPL Flight Test) Exemption 2018 (CASA EX101/18)*
- *CASA EX102/18 — Approved Course of Training (Multi-crew Cooperation) Exemption 2018 (CASA EX102/18)*
- *CASA EX103/18 — Basic Instrument Flight Training Exemption 2018 (CASA EX103/18)*
- *CASA EX104/18 — Aerial Application Proficiency Check Instrument 2018 (CASA EX104/18)*

In accordance with subsection 33 (3) of the *Acts Interpretation Act 1901*, the instrument amends *CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021 (CASA EX66/21)*. The 7 exemptions referred to above, that are being remade, and the conditions or directions applying to those exemptions, are inserted as 7 new Parts of CASA EX66/21.

Remake of CASA EX93/18

New Part 4 of CASA EX66/21 remakes CASA EX93/18 in substantially the same terms. The effect of the exemption is that a pilot who complies with the relevant conditions of the exemption for acquiring a valid instrument proficiency check (**IPC**), rather than with the requirements of subregulation 61.805 (2) or (3) of CASR, will be authorised under subregulation 61.805 (1) of CASR to exercise the privileges of their rating during the relevant period.

The effects of the exemption must be understood in the context that, for the purposes of flying under the Instrument Flight Rules (*IFR*), the holder of a pilot type rating must have successfully completed a relevant IPC within the prescribed preceding period.

Thus, the exemption exempts the holder of a single-pilot turbojet aeroplane type rating from, in effect, the obligation to have an annual IPC for the single-pilot turbojet aeroplane type covered by the rating and that the holder intends to fly under the IFR. Instead, a 24-monthly IPC in any single-pilot turbojet aeroplane type will suffice.

The exemption exempts the holder of a multi-crew type rating for a particular aircraft from, in effect, the obligation to have a 24-monthly IPC for the aircraft type covered by the rating and that the holder intends to fly under the IFR. Instead, an IPC in any multi-crew type-rated aircraft in the same category will suffice.

The exemption also exempts the holder of other pilot type ratings from, in effect, the obligation to have a 24-monthly IPC for the aircraft type covered by the rating and that the holder intends to fly under the IFR. Instead, an IPC in any type-rated aircraft in the same category will suffice.

Remake of CASA EX99/18

New Part 5 of CASA EX66/21 remakes CASA EX99/18 in substantially the same terms.

The effect of the exemption is that a pilot who complies with the relevant requirements of the exemption for completing a flight review, rather than with the requirements of regulation 61.745 or 61.800 of CASR for the particular rating, would be authorised to exercise the privileges of the relevant aircraft class rating or pilot type rating under regulation 61.745 or 61.800 during the relevant period.

The instrument does not affect special flight review requirements that apply to pilots of Mitsubishi Aircraft MU-2 aeroplanes and Robinson R22 and R44 helicopters.

Remake of CASA EX100/18

New Part 6 of CASA EX66/21 remakes CASA EX100/18 in substantially the same terms and adds a further exemption that will apply when *Civil Aviation Order 82.0 (CAO 82.0)* is repealed.

New Division 1 of Part 6 exempts a holder of a CAO 82.0 check pilot approval from having to hold a flight examiner rating for subregulation 61.375 (7) of CASR, but only for the purpose of conducting certain operator proficiency checks (*OPC*) within the scope of the pilot's approval.

New Division 2 provides exemptions that will operate from 2 December 2021, when Parts 119, 121, 133, 135 and 138 of CASR commence and CAO 82.0 will be repealed. From that date, the exemption will, in addition to the exemption for CAO 82.0 check pilots, apply to:

- an individual holding an approval under regulation 121.010 of CASR to conduct a Part 121 proficiency check for an aeroplane of a particular kind for the purposes of subparagraph 121.580 (3) (a) (ii) of CASR

- an individual who meets the requirements of paragraph 133.377 (2) (a), 135.387 (2) (a) or 138.505 (2) (a) of CASR.

The exemption requires exempt check pilots to be employed or contracted by the operator for which the check is conducted, to undertake OPCs in accordance with the operator's approved training and checking system and to comply with conditions on their check pilot approval.

Remake of CASA EX101/18

New Part 7 of CASA EX66/21 remakes CASA EX101/18 in substantially the same terms. The exemption allows foreign student applicants for a commercial pilot licence (**CPL**) to take a flight test for a CPL without holding a class 1 medical certificate. The exemption allows foreign cadet pilots, who have a class 2 medical certificate and have met the class 1 medical standard in the pilot's country of residence, to take a flight test for a CPL without having to obtain a class 1 medical certificate in Australia.

The instrument does not affect the requirement for the foreign cadet pilot, following successful completion of the flight test for a CPL, to hold all relevant permissions, approvals, ratings, endorsements and medical certificates in accordance with Part 61 of CASR before the pilot flies a registered aircraft in any operation.

Remake of CASA EX102/18

New Part 8 of CASA EX66/21 remakes CASA EX102/18 in substantially the same terms. It exempts certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in multi-crew cooperation for the purposes of multi-crew operations. The conditions on the exemption provide alternative requirements to be satisfied, being:

- an Australian Defence Force equivalent course
- holding of a multicrew-pilot licence
- other alternative requirements, as listed in new section 41 of the exemption (e.g., a course approved by the European Union Aviation Safety Agency).

New section 42 sets out evidence and other requirements for the alternative requirements in section 41.

Remake of CASA EX103/18

New Part 9 of CASA EX66/21 remakes CASA EX103/18 in substantially the same terms. It grants 3 exemptions: to a flight instructor who conducts basic instrument flight training (**BIF training**); to the person who teaches the flight instructor how to conduct BIF training; and to the student who receives the BIF training from the flight instructor. The exemptions apply to flight instructors who hold a grade 1, 2 or 3 training endorsement, have successfully completed a training course in the conduct of BIF training and have been assessed as competent to conduct BIF training. The requirements of the training course are set out in new section 46.

The instrument exempts the flight instructor from requirements for conducting BIF training in the specified category of aircraft for which the person holds the grade 1, 2 or 3 training endorsement. Therefore, under this exemption, a flight instructor who meets the alternative qualification requirements may conduct BIF training in the relevant category of aircraft

without holding an instrument rating training endorsement or a night VFR rating training endorsement.

A flight instructor who conducts a training course in the conduct of BIF training that meets the requirements of new section 46 is exempt from the prohibition from conducting the training course in the specified category of aircraft.

Applicants for a flight crew licence, rating or endorsement who receive BIF training from a flight instructor who fulfils the requirements for the exemption are exempt from the requirement that the BIF training must have been conducted by an instructor or approval holder that is authorised under CASR to conduct the training.

The requirements of section 46 include that the instructor conducting the training course in the conduct of BIF training must hold a grade 1 training endorsement for the relevant category of aircraft, and other requirements relating to the content and conduct of the course.

Remake of CASA EX104/18

New Part 10 of CASA EX66/21 remakes CASA EX104/18 in substantially the same terms. The exemptions in new Part 10 will allow the head of flight operations of an aerial application operator to continue to conduct an OPC for the head of flight operations of another aerial application operator. In addition, a pilot, who holds an aerial application rating and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, may exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations in an aeroplane, instead of a check conducted by a relevant flight examiner.

The direction in new section 49 of the instrument requires a head of flight operations, who conducts an OPC for another head of flight operations, to notify CASA in writing about the check. It is expected that the head of flight operations conducting the check will provide information to CASA that includes the names of the relevant pilots and operators and the date of the check.

Human rights implications

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

Conclusion

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

Civil Aviation Safety Authority