



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX87/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

[Signed P. Spence]
Pip Spence
Director of Aviation Safety

1 October 2021

CASA EX87/21 – Flight Operations Regulations – SMS, HFP&NTS and T&C Systems – Supplementary Exemptions and Directions Instrument 2021

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Part 1 Preliminary and Definitions

1 Name

This instrument is *CASA EX87/21 – Flight Operations Regulations – SMS, HFP&NTS and T&C Systems – Supplementary Exemptions and Directions Instrument 2021*.

2 Duration

This instrument:

- (a) commences on 2 December 2021 (the *commencement date*); and
- (b) is repealed at the end of 1 December 2024.

3 Definitions

- (1) In this instrument:

aerial work (air ambulance) operation has the same meaning as in regulation 202.405 of CASR.

aerial work operation has the meaning given by the CASR Dictionary.

aerial work operator has the meaning given by the CASR Dictionary.

Note An aerial work operator is the holder of an aerial work certificate.

Australian air transport operation has the meaning given by the CASR Dictionary.

Australian air transport operator has the meaning given by the CASR Dictionary.

CAO is short for Civil Aviation Order and has the same meaning as in subregulation 2 (1) of CAR.

CAR means the *Civil Aviation Regulations 1988*, as in force immediately before 2 December 2021, and any mention of a provision of CAR refers to that provision as so in force.

CASR means the *Civil Aviation Safety Regulations 1998*.

charter operation has the same meaning as in paragraph 2 (7) (b) of CAR.

civil aviation legislation has the meaning given by section 3 of the *Civil Aviation Act 1988*.

commencement date means 2 December 2021.

early applicant, for a particular AOC or AOC variation, means a person:

- (a) who at least 90 days before the commencement date — applied for the AOC or AOC variation under the civil aviation legislation in force on the date of the application; but
- (b) whose application was still under consideration by CASA on the commencement date.

FDAP is short for flight data analysis program.

HFP&NTS program means an Australian air transport operator's program for training and assessing crew members in human factors principles and non-technical skills.

HFP&NTS program exposition content means the content of a relevant Australian air transport operator's exposition about HFP&NTS program matters, for the operator's proposed compliance with the provisions mentioned in section 26.

human factors principles or **HFP** has the meaning given by the CASR Dictionary.

key personnel has the meaning given by the CASR Dictionary.

MOS is short for Manual of Standards.

MTOW is short for maximum take-off weight.

non-technical skills or **NTS** has the meaning given by the CASR Dictionary.

operational safety-critical personnel has the meaning given by the CASR Dictionary.

Part 121 operation has the meaning given by the CASR Dictionary.

Part 133 operation has the meaning given by the CASR Dictionary.

Part 142 activity has the meaning given by subregulation 142.015 (1) of CASR.

regular public transport operation has the same meaning as in paragraph 2 (7) (c) of CAR.

safety management system or **SMS**:

(a) for an Australian air transport operator — has the meaning given by the CASR Dictionary; and

(b) for an aerial work operator — has the same meaning as in regulation 138.145.

scheduled air transport operation has the meaning given by the CASR Dictionary.

SMS exposition content means the content of a relevant Australian air transport operator's exposition about SMS, for the operator's proposed compliance with the CASR provisions from which a relevant Part of this instrument has exempted the operator.

SMS implementation plan means a relevant operator's detailed plan to develop and implement a safety management system for the operator's air transport operations or relevant aerial work operations, as the case requires.

Note CASA has published on its website detailed guidance material on SMS implementation plans, including an SMS implementation resource kit. The guidance material addresses what an SMS must contain, how the contents requirements may be satisfied, and related operator management responsibilities.

SMS manual content means the content of an aerial work operator's safety management system manual for the operator's proposed compliance with the CASR provisions from which a relevant Part of this instrument has exempted the operator, and includes any related content contained in the operator's operations manual.

T&C is short for training and checking.

T&C exposition content means the content of an Australian air transport operator's exposition about training and checking matters for the operator's proposed compliance with the CASR provisions from which a relevant Part of this instrument has exempted the operator.

T&C manual content means the content of an aerial work operator's training and checking manual for the operator's proposed compliance with the CASR provisions from which a relevant Part of this instrument has exempted the operator, and includes any relevant content contained in the operator's operations manual.

the Act means the *Civil Aviation Act 1988*.

- (2) Subject to subsection (1), in this instrument, words and expressions have the same meaning as in CASR, the CASR Dictionary and the Act, as applicable.
- (3) To avoid doubt, in this instrument, unless a contrary intention appears, mention of a provision with one of the following prefixes is a reference to that provision as contained in the Part of CASR that uses the same prefix in its title:
“11.”, “119.”, “121.”, “133.”, “135.”, “138.”.
- (4) To avoid doubt, any document incorporated into this instrument is so incorporated as it is in force from time to time.

4 Application

This instrument applies to operators according to its terms.

Part 2 Safety management systems – Australian air transport operators – excluding certain Part 142 activities – exemptions

5 Application of Part 2

This Part applies to an Australian air transport operator (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation that:
 - (i) authorised charter operations, or aerial work (air ambulance) operations; and
 - (ii) did not authorise regular public transport operations; and
 - (iii) did not authorise Part 142 activities in an aircraft; and
- (b) was not the subject of a direction under regulation 11.245 to have an SMS.

6 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) regulation 119.035;
- (b) subparagraphs 119.130 (1) (b) (iii) and (v);
- (c) paragraph 119.130 (1) (c);
- (d) regulation 119.155;
- (e) regulation 119.160;
- (f) regulation 119.190;
- (g) paragraph 119.205 (1) (e), but only in relation to the safety manager.

Note For exemption in relation to FDAP requirements under regulation 119.195, refer to Part 11 of this instrument.

7 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 6 that the relevant operator must not commence scheduled air transport operations until CASA approves the operator’s SMS exposition content for the operations.
- (2) It is a condition of the exemptions in section 6 that the relevant operator must ensure that:
 - (a) operational safety-critical personnel (the personnel) actively seek to identify any safety risks arising from the operator’s operations; and
 - (b) the personnel bring identified safety risks to the attention of the operator’s key personnel as soon as practicable; and

- (c) the operator's key personnel:
 - (i) review the identified safety risks; and
 - (ii) if ongoing aviation safety requires the risks to be addressed — implement corrective safety controls as soon as practicable through changes to the operator's exposition; and
- (d) the operator's key personnel oversee the recording, and retention for the relevant period identified in the operator's exposition, of:
 - (i) the identified safety risks; and
 - (ii) the corrective safety controls implemented to address those risks; and
- (e) procedures are set out in the operator's exposition designed to achieve the outcomes mentioned in paragraphs (a) to (d).

8 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 6 that the relevant operator must:
 - (a) not later than the end of 2 December 2022 — give CASA an SMS implementation plan; and
 - (b) not later than the end of 3 June 2024 — give CASA the proposed SMS exposition content, with an application for its approval; and
 - (c) not later than the end of 1 December 2024 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their SMS exposition content if planning an earlier commencement of scheduled air transport operations. However, they should apply to CASA for the approval at least 90 days before their planned date for scheduled air transport operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

9 Expiry of the exemptions

The exemptions under section 6 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 December 2024;
- (b) the day CASA's approval of the operator's proposed SMS exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have an SMS in accordance with Part 119 of CASR.

Part 3 Safety management systems – Australian air transport operators – including certain Part 142 activities – exemptions

10 Application of Part 3

This Part applies to an Australian air transport operator (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that:
 - (i) authorised charter operations, or aerial work (air ambulance) operations; and

- (iii) authorised Part 142 activities in an aircraft; and
 - (iii) did not authorise regular public transport operations; and
- (b) was not the subject of a direction under regulation 11.245 to have an SMS.

11 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) regulation 119.035;
- (b) subparagraphs 119.130 (1) (b) (iii) and (v);
- (c) paragraph 119.130 (1) (c);
- (d) regulation 119.155;
- (e) regulation 119.160;
- (f) regulation 119.190;
- (g) paragraph 119.205 (1) (e), but only to the extent that it applies to the safety manager.

Note For exemption in relation to FDAP requirements under regulation 119.195, refer to Part 11 of this instrument.

12 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 11 that the relevant operator must not commence scheduled air transport operations until CASA approves the operator's SMS exposition content for the operations.
- (2) It is a condition of the exemptions in section 11 that the relevant operator must ensure that:
 - (a) operational safety-critical personnel (the *personnel*) actively seek to identify safety risks arising from the operator's operations; and
 - (b) the personnel bring identified safety risks to the attention of the operator's key personnel as soon as practicable; and
 - (c) the operator's key personnel:
 - (i) review the identified safety risks; and
 - (ii) if ongoing aviation safety requires the risks to be addressed — implement corrective safety controls as soon as practicable through changes to the operator's exposition; and
 - (d) the operator's key personnel oversee the recording, and retention for the relevant period identified in the operator's exposition, of:
 - (i) the identified safety risks; and
 - (ii) the corrective safety controls implemented to address those risks; and
 - (e) procedures are set out in the operator's exposition designed to achieve the outcomes mentioned in paragraphs (a) to (d).

13 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 11 that the relevant operator must:
 - (a) not later than the end of 2 September 2022 — give CASA the proposed SMS exposition content, with an application for its approval; and
 - (b) not later than the end of 1 December 2022 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their SMS exposition content if planning an earlier commencement of scheduled air transport operations. However, they

should apply to CASA for the approval at least 90 days before their planned date for scheduled air transport operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

14 Expiry of the exemptions

The exemptions under section 11 expire for a relevant operator at the earlier of the following:

- (a) the end of 1 December 2022;
- (b) the day CASA's approval of the operator's proposed SMS exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have an SMS in accordance with Part 119 of CASR.

Part 4 Safety management systems – aerial work operations – excluding certain Part 142 activities – exemptions

15 Definition and application of Part 4

- (1) In this Part:

relevant aerial work operation means an aerial work operation for which the aerial work operator:

- (a) is required to have an SMS under subregulation 138.140 (1); and
- (b) is not relieved of that requirement by subregulation 138.140 (2).

- (2) This Part applies to an aerial work operator (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that:
 - (i) authorised an aerial work operation (other than an aerial work (air ambulance) operation); and
 - (ii) did not authorise regular public transport operations; and
 - (iii) did not authorise Part 142 activities in an aircraft; and
- (b) was not the subject of a direction under regulation 11.245 to have an SMS.

16 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) paragraphs 138.085 (1) (c) and (d);
- (b) regulation 138.110;
- (c) regulation 138.115;
- (d) regulation 138.140;
- (e) regulation 138.145;
- (f) paragraph 138.155 (1) (e), but only to the extent that it applies to the safety manager.

17 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 16 that the relevant operator must not commence a relevant aerial work operation of a kind that the operator was not authorised to conduct immediately before 2 December 2021 until CASA approves the operator's SMS manual content for the operation.
- (2) It is a condition of the exemptions in section 16 that the relevant operator must ensure that:
 - (a) operational safety-critical personnel (the personnel) actively seek to identify safety risks arising from the operator's operations; and
 - (b) the personnel bring identified safety risks to the attention of the operator's key personnel as soon as practicable; and
 - (c) the operator's key personnel:
 - (i) review the identified safety risks; and
 - (ii) if ongoing aviation safety requires the risks to be addressed — implement corrective safety controls as soon as practicable through changes to the operator's operations manual; and
 - (d) the operator's key personnel oversee the recording, and retention for the relevant period identified in the operator's operations manual, of:
 - (i) the identified safety risks; and
 - (ii) the corrective safety controls implemented to address those risks; and
 - (e) procedures are set out in the operations manual designed to achieve the outcomes mentioned in paragraphs (a) to (d).

18 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 16 that the relevant operator must:
 - (a) not later than the end of 2 December 2022 — give CASA an SMS implementation plan; and
 - (b) not later than the end of 3 June 2024 — give CASA the proposed SMS manual content, with an application for its approval; and
 - (c) not later than the end of 1 December 2024 — have obtained CASA's written approval of that content.
- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

Note A relevant operator may voluntarily seek earlier approval of their SMS manual content if planning an earlier commencement of a relevant aerial work operation. However, they should apply to CASA for the approval at least 90 days before their planned date for the operation to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

19 Expiry of the exemptions

The exemptions under section 16 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 December 2024;
- (b) the day CASA's approval of the operator's proposed SMS manual content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have an SMS in accordance with Part 138 of CASR.

Part 5 Safety management systems – aerial work operations – including certain Part 142 activities – exemptions

20 Definition and application of Part 5

- (1) In this Part:
relevant aerial work operation means an aerial work operation for which the aerial work operator:
 - (a) is required to have an SMS under subregulation 138.140 (1); and
 - (b) is not relieved of that requirement by subregulation 138.140 (2).
- (2) This Part applies to an aerial work operator (the *relevant operator*) who, immediately before 2 December 2021:
 - (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that:
 - (i) authorised an aerial work operation (other than an aerial work (air ambulance) operation); and
 - (ii) did not authorise regular public transport operations; and
 - (iii) authorised Part 142 activities in an aircraft; and
 - (b) was not the subject of a direction under regulation 11.245 to have an SMS.

21 Exemptions+

A relevant operator is exempted from compliance with the following provisions:

- (a) paragraphs 138.085 (1) (c) and (d);
- (b) regulation 138.110;
- (c) regulation 138.115;
- (d) regulation 138.140;
- (e) regulation 138.145;
- (f) paragraph 138.155 (1) (e), but only to the extent that it applies to the safety manager.

22 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 21 that the relevant operator must not commence a relevant aerial work operation of a kind that the operator was not authorised to conduct immediately before 2 December 2021 until CASA approves the operator's SMS manual content for the operation.
- (2) It is a condition of the exemptions in section 21 that the relevant operator must ensure that:
 - (a) operational safety-critical personnel (the *personnel*) actively seek to identify safety risks arising from the operator's operations; and
 - (b) the personnel bring identified safety risks to the attention of the operator's key personnel as soon as practicable; and
 - (c) the operator's key personnel:
 - (i) review the identified safety risks; and
 - (ii) if ongoing aviation safety requires the risks to be addressed — implement corrective safety controls as soon as practicable through changes to the operator's operations manual; and

- (d) the operator's key personnel oversee the recording, and retention for the relevant period identified in the operator's operations manual, of:
 - (i) the identified safety risks; and
 - (ii) the corrective safety controls implemented to address those risks; and
- (e) procedures are set out in the operations manual designed to achieve the outcomes mentioned in paragraphs (a) to (d).

23 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 21 that the relevant operator must:
 - (a) not later than the end of 2 September 2022 — give CASA the proposed SMS manual content, with an application for its approval; and
 - (b) not later than the end of 1 December 2022 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their SMS manual content if planning an earlier commencement of a relevant aerial work operation. However, they should apply to CASA for the approval at least 90 days before their planned date for the operation to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

24 Expiry of the exemptions

The exemptions under section 21 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 December 2022;
- (b) the day CASA's approval of the operator's proposed SMS manual content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have an SMS in accordance with Part 138 of CASR.

Part 6 Human factors principles and non-technical skills – Australian air transport operators – exemptions

25 Application of Part 6

This Part applies to an Australian air transport operator (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that:
 - (i) authorised charter operations, or aerial work (air ambulance) operations; and
 - (ii) did not authorise regular public transport operations; and
- (b) was not the subject of a direction under regulation 11.245 to have an HFP&NTS program for the operator's charter operations or aerial work (air ambulance) operations.

26 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) paragraph 119.130 (1) (e), but only to the extent that it applies to training and checking of operational safety-critical personnel (other than flight crew) in an HFP&NTS program;
- (b) regulation 119.175;
- (c) regulation 119.180;
- (d) regulation 119.185.

27 Conditions of the exemptions — safety

It is a condition of the exemptions in section 26 that the relevant operator must not commence scheduled air transport operations until CASA approves the operator's HFP&NTS program exposition content for the operations.

28 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 26 that the relevant operator must:
 - (a) not later than the end of 2 June 2023 — give CASA the proposed HFP&NTS program exposition content, with an application for its approval; and
 - (b) not later than the end of 3 December 2023 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their HFP&NTS program exposition content if planning an earlier commencement of scheduled air transport operations. However, they should apply to CASA for the approval at least 90 days before their planned date for scheduled air transport operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

29 Expiry of the exemptions

The exemptions under section 26 expire for a relevant operator at the earliest of the following:

- (a) the end of 3 December 2023;
- (b) the day CASA's approval of the operator's proposed HFP&NTS program exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have an HFP&NTS program in accordance with Part 119 of CASR.

Part 7 Training and checking systems – Australian air transport operators – Part 121 operators – aeroplanes – exemptions

30 Application of Part 7

This Part applies to an Australian air transport operator for a Part 121 operation (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised charter operations, or aerial work (air ambulance) operations; and

- (b) was not subject to a requirement under subregulation 217 (1) of CAR to provide a training and checking organisation for the operations or for an aeroplane used in the operations.

31 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) regulation 119.036;
- (b) regulation 119.145;
- (c) regulation 119.150;
- (d) regulation 119.170;
- (e) paragraph 119.205 (1) (e), but only to the extent that it applies to the head of training and checking;
- (f) paragraphs 121.475 (2) (c), (i), (j), (k), (l) and (m);
- (g) regulation 121.485;
- (h) paragraph 121.495 (1) (b);
- (i) regulation 121.565.

Note Paragraph (c) has the following implied consequential effects:

1. exemption from paragraph 121.475 (2) (c) has the implied consequential effect of exempting from regulation 121.480;
2. exemption from paragraph 121.475 (2) (i) has the implied consequential effect of exempting from regulation 121.555;
3. exemption from paragraph 121.475 (2) (j) has the implied consequential effect of exempting from subregulation 121.560 (1);
4. exemption from paragraph 121.475 (2) (k) has the implied consequential effect of exempting from subregulations 121.560 (2) and (3);
5. exemption from paragraph 121.475 (2) (l) has the implied consequential effect of exempting from regulations 121.575, 121.580, 121.595, 121.600, 121.605, 121.610, 121.615 and 121.620;
6. exemption from paragraph 121.475 (2) (m) has the implied consequential effect of exempting from regulations 121.585 and 121.590.

32 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 31 that the relevant operator must not commence scheduled air transport operations (*relevant operations*), or the use of an aeroplane for an air transport operation (the *relevant aeroplane*), that would have required a training and checking organisation under subregulation 217 (1) of CAR, until CASA approves the operator's T&C exposition content for the relevant operations or the relevant aeroplane.
- (2) It is a condition of the exemptions in section 31 that the relevant operator must ensure that:
 - (a) the operator's head of flying operations takes responsibility for the matters mentioned in regulations 119.140 and 119.150; and
 - (b) each crew member of an aeroplane for a flight that is a Part 121 operation:
 - (i) meets the requirements (as applicable) of paragraph 4.1 of CAO 82.1, as in force immediately before 2 December 2021; and
 - (ii) has met the requirements of section 12 and Appendix IV of CAO 20.11, as in force immediately before 2 December 2021; and

- (iii) has been assessed as competent, in accordance with the operator's exposition, to perform the duties assigned to the person for the flight; and
- (c) for a flight that is a Part 121 operation for an operator who did not conduct multi-crew operations before 2 December 2021, prior training for the pilot in command of the aeroplane must include the following:
 - (i) training in the responsibilities of the pilot in command;
 - (ii) training in relation to pilot incapacitation; and
- (d) a training record is maintained for each crew member that records at least the following:
 - (i) each ground training course completed or attempted, including the results for each phase or subject, and the final assessment of the standard achieved;
 - (ii) each flying training course completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each test or check;
 - (iii) each flight or simulator proficiency check completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each check;
 - (iv) each period of training, other than training referred to in subparagraph (i), (ii) or (iii), undertaken in an aircraft or simulator, including the exercises completed or attempted, and an assessment of the standard achieved; and
- (e) the training record is retained for the relevant period identified in the operator's exposition; and
- (f) procedures are set out in the operator's exposition designed to achieve the outcomes mentioned in paragraphs (a) to (e).
- (3) For paragraph (2) (b), for a provision of a CAO mentioned in subparagraph (2) (b) (i) or (2) (b) (ii), any reference to:
 - (a) a charter operation — must be taken to be a mention of the relevant operator's Part 121 operation to which this Part applies; and
 - (b) a chief pilot — must be taken to be a mention of the relevant operator's head of flying operations.

33 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 31 that the relevant operator must:
 - (a) not later than the end of 2 September 2022 — give CASA the proposed T&C exposition content, with an application for its approval; and
 - (b) not later than the end of 1 March 2023 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of the T&C exposition content if planning an earlier commencement of scheduled air transport operations, or air transport operations in an aircraft with an MTOW greater than 5 700 kg. However, the operator should apply to CASA for the approval at least 90 days before their planned date for the relevant operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

34 Expiry of the exemptions

The exemptions under section 31 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 March 2023;
- (b) the day CASA's approval of the operator's T&C exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have a training and checking system in accordance with Part 119 and Part 121 of CASR.

Part 8 Training and checking systems – Australian air transport operators – Part 133 operations – rotorcraft – exemptions

35 Application of Part 8

This Part applies to an Australian air transport operator for the conduct of a Part 133 operation (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised charter operations, or aerial work (air ambulance) operations; and
- (b) was not subject to a requirement under subregulation 217 (1) of CAR to provide a training and checking organisation for the operations or for rotorcraft used in the operations.

36 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) regulation 119.036;
- (b) regulation 119.145;
- (c) regulation 119.150;
- (d) regulation 119.170;
- (e) paragraph 119.205 (1) (e), but only to the extent that it applies to the head of training and checking;
- (f) paragraph 133.370 (2) (g);
- (g) regulation 133.375;
- (h) paragraph 133.385 (1) (c);
- (i) regulation 133.395;
- (j) paragraph 133.425 (3) (b);
- (k) regulation 133.455;
- (l) regulation 133.465;
- (m) regulation 133.470.

Note 1 For paragraph (f), exemption from paragraph 133.370 (2) (g) has the implied consequential effect of exempting from subregulation 133.370 (4) and Chapter 12 of the Part 133 MOS.

Note 2 For paragraph (j), exemption from paragraph 133.425 (3) (b) has the implied consequential effect of exempting from subregulation 133.425 (4) and section 13.02 of the Part 133 MOS.

37 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 36 that the relevant operator must not commence scheduled air transport operations (*relevant operations*), or the use of a rotorcraft for an air transport operation (*relevant rotorcraft*) that would have required a training and checking organisation under subregulation 217 (1) of CAR, until CASA approves the operator's T&C exposition content for the relevant operations or the relevant rotorcraft.
- (2) It is a condition of the exemptions in section 36 that the relevant operator must ensure that:
 - (a) the operator's head of flying operations takes responsibility for the matters mentioned in regulations 119.140 and 119.150; and
 - (b) each crew member of a rotorcraft for a flight that is a Part 133 operation:
 - (i) has met the requirements of section 12 and Appendix IV of CAO 20.11, as in force immediately before 2 December 2021; and
 - (ii) has been assessed as competent, in accordance with the operator's exposition, to perform the duties assigned to the person for the flight; and
 - (c) for a flight that is a Part 133 operation for an operator who did not conduct multi-crew operations before 2 December 2021, prior training for the pilot in command of the rotorcraft must include the following:
 - (i) training in the responsibilities of the pilot in command;
 - (ii) training in relation to pilot incapacitation; and
 - (d) a training record is maintained for each crew member that records at least the following:
 - (i) each ground training course completed or attempted, including the results for each phase or subject, and the final assessment of the standard achieved;
 - (ii) each flying training course completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each test or check;
 - (iii) each flight or simulator proficiency check completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each check;
 - (iv) each period of training, other than training referred to in subparagraph (i), (ii) or (iii), undertaken in an aircraft or simulator, including the exercises completed or attempted, and an assessment of the standard achieved; and
 - (e) the training record is retained for the relevant period identified in the operator's exposition; and
 - (f) procedures are set out in the operator's exposition designed to achieve the outcomes mentioned in paragraphs (a) to (e).
- (3) For paragraph (2) (b), for a provision of a CAO mentioned in subparagraph (2) (b) (i), any reference to:
 - (a) a charter operation — must be taken to be a mention of the relevant operator's Part 133 operations to which this Part applies; and
 - (b) a chief pilot — must be taken to be a mention of the relevant operator's head of flying operations.

38 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 36 that the relevant operator must:
 - (a) not later than the end of 2 September 2022 — give CASA the proposed T&C exposition content, with an application for its approval; and
 - (b) not later than the end of 1 March 2023 — have obtained CASA’s written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their T&C exposition content if planning an earlier commencement of scheduled air transport operations, or air transport operations in an aircraft with an MTOW greater than 5 700 kg. However, they should apply to CASA for the approval at least 90 days before their planned date for the operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

39 Expiry of the exemptions

The exemptions under section 36 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 March 2023;
- (b) the day CASA’s approval of the operator’s T&C exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have a training and checking system in accordance with Part 119 and Part 133 of CASR.

Part 9 Training and checking systems – Australian air transport operators – Part 135 operations – aeroplanes – exemptions

40 Application of Part 9

This Part applies to an Australian air transport operator for the conduct of a Part 135 operation (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised charter operations, or aerial work (air ambulance) operations; and
- (b) was not subject to a requirement under subregulation 217 (1) of CAR to provide a training and checking organisation for the operations or for an aeroplane used in the operations.

41 Exemptions

A relevant operator is exempted from compliance with the following provisions:

- (a) regulation 119.036;
- (b) regulation 119.145;
- (c) regulation 119.150;
- (d) regulation 119.170;
- (e) paragraph 119.205 (1) (e), but only to the extent that it applies to the head of training and checking;
- (f) paragraph 135.380 (2) (f);
- (g) regulation 135.385;

- (h) paragraph 135.395 (1) (c);
- (i) regulation 135.405;
- (j) regulation 135.430;
- (k) regulation 135.445;
- (l) regulation 135.455;
- (m) regulation 135.460.

Note For paragraph (f), exemption from paragraph 135.380 (2) (f) has the implied consequential effect of exempting from subregulation 135.380 (4) and Chapter 12 of the Part 135 MOS.

42 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 41 that the relevant operator must not commence scheduled air transport operations (*relevant operations*), or the use of an aeroplane for an air transport operation (*relevant aeroplane*) that would have required a training and checking organisation under subregulation 217 (1) of CAR, until CASA approves the operator's T&C exposition content for the relevant operations or the relevant aeroplane.
- (2) It is a condition of the exemptions in section 41 that the relevant operator must ensure that:
 - (a) the operator's head of flying operations takes responsibility for the matters mentioned in regulations 119.140 and 119.150; and
 - (b) each crew member of an aeroplane for a flight that is a Part 135 operation:
 - (i) has met the requirements of section 12 and Appendix IV of CAO 20.11, as in force immediately before 2 December 2021; and
 - (ii) has been assessed as competent, in accordance with the operator's exposition, to perform the duties assigned to the person for the flight; and
 - (c) for a flight that is a Part 135 operation for an operator who did not conduct multi-crew operations before 2 December 2021, prior training for the pilot in command of the aeroplane must include the following:
 - (i) training in the responsibilities of the pilot in command;
 - (ii) training in relation to pilot incapacitation; and
 - (d) a training record is maintained for each crew member that records at least the following:
 - (i) each ground training course completed or attempted, including the results for each phase or subject, and the final assessment of the standard achieved;
 - (ii) each flying training course completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each test or check;
 - (iii) each flight or simulator proficiency check completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each check;
 - (iv) each period of training, other than training referred to in subparagraph (i), (ii) or (iii), undertaken in an aircraft or simulator, including the exercises completed or attempted, and an assessment of the standard achieved; and

- (e) the training record is retained for the relevant period identified in the operator's exposition; and
 - (f) procedures are set out in the exposition designed to achieve the outcomes mentioned in paragraphs (a) to (e).
- (3) For paragraph (2) (b), for a provision of a CAO mentioned in subparagraph (2) (b) (i), any reference to:
- (a) a charter operation — must be taken to be a mention of the relevant operator's Part 135 operations to which this Part applies; and
 - (b) a chief pilot — must be taken to be a mention of the relevant operator's head of flying operations.

43 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 41 that the relevant operator must:
- (a) not later than the end of 2 September 2022 — give CASA the proposed T&C exposition content, with an application for its approval; and
 - (b) not later than the end of 1 March 2023 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their relevant exposition content if planning an earlier commencement of scheduled air transport operations, or air transport operations in an aircraft with an MTOW greater than 5 700 kg. However, they should apply to CASA for the approval at least 90 days before their planned date for the operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

44 Expiry of the exemptions

The exemptions under section 41 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 March 2023;
- (b) the day CASA's approval of the T&C exposition content takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245, that on and from a specified date the relevant operator must have a training and checking system in accordance with Part 119 and Part 135 of CASR.

Part 10 Training and checking systems – aerial work operators – exemptions

45 Definition and application of Part 10

- (1) In this Part:
- relevant aerial work operation*** means an aerial work operation by an aerial work operator, that:
- (a) is required to have a training and checking system under subregulation 138.125 (1); and
 - (b) is not relieved of that requirement by subregulation 138.125 (2).

- (2) This Part applies to an aerial work operator (the **relevant operator**) in a relevant aerial work operation who, immediately before 2 December 2021:
 - (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised aerial work operations (other than aerial work (air ambulance) operations); and
 - (b) was not the subject to a requirement under subregulation 217 (1) of CAR to provide a training and checking organisation for the operations or for an aircraft used in the operations.

46 Exemptions

- (1) A relevant operator is exempted from compliance with the following provisions:
 - (a) regulation 138.100;
 - (b) regulation 138.105;
 - (c) regulation 138.125;
 - (d) regulation 138.130;
 - (e) subject to subsection (2), paragraph 138.475 (2) (f),
 - (f) subject to subsection (2), paragraph 138.540 (2) (b).

Note 1 For paragraph (e), exemption from paragraph 138.475 (2) (f) has the implied consequential effect of exempting from subregulation 138.475 (3) and Division 1 of Chapter 23 of the Part 138 MOS.

Note 2 For paragraph (f), exemption from paragraph 138.540 (2) (b) has the implied consequential effect of exempting from subregulation 138.540 (3) and section 24.02 of the Part 138 MOS.

- (2) The exemptions under paragraphs (1) (e) and (f) do not extend to exempt from compliance with paragraph 23.03 (2) (e) of the Part 138 MOS (the **MOS**).

Direction

- (3) A relevant operator must ensure that any training required under paragraph 23.03 (2) (e) of the MOS is conducted as if section 23.10 of the MOS applied to the operator for the training.

47 Conditions of the exemptions — safety

- (1) It is a condition of the exemptions in section 46 that the relevant operator must not do any of the following:
 - (a) commence relevant aerial work operations of a kind that the operator was not authorised to conduct immediately before 2 December 2021;
 - (b) commence relevant aerial work operations, or the use of an aircraft for the relevant aerial work operations (**relevant aircraft**), that would have required a training and checking organisation under subregulation 217 (1) of CAR;

until CASA's approval of the operator's T&C manual content for the relevant aerial work operations or the use of the relevant aircraft, takes effect.

Note See also section 8 of *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*. This contains additional exemptions to the effect that the operator's training and checking manual content need only relate to a particular aircraft or a particular operation and not operations or aircraft more generally.

- (2) It is a condition of the exemptions in section 46 that the relevant operator must ensure that:
 - (a) the operator's head of operations ensures that training and checking of the operator's operational safety critical personnel, conducted by or for the

operator, is conducted in accordance with the operator's operations manual;
and

- (b) the requirements under subsection 6 of CAO 82.1, as in force immediately before 2 December 2021, are complied with, including as if a reference to the chief pilot were a reference to the operator's head of operations; and
 - (c) a training record is maintained for each crew member that records at least the following:
 - (i) each ground training course completed or attempted, including the results for each phase or subject, and the final assessment of the standard achieved;
 - (ii) each flying training course completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each test or check;
 - (iii) each flight or simulator proficiency check completed or attempted, including the results of each phase of training, the number of times each exercise was undertaken and the results of each check;
 - (iv) each period of training, other than training referred to in subparagraph (i), (ii) or (iii), undertaken in an aircraft or simulator, including the exercises completed or attempted, and an assessment of the standard achieved; and
 - (d) the training record is retained for the relevant period identified in the operator's operations manual; and
 - (e) procedures are set out in the operations manual designed to achieve the outcomes mentioned in paragraphs (a) to (d).
- (3) For paragraph (2) (b), in a provision of subsection 6 of CAO 82.1, any reference to a chief pilot must be taken to be a mention of the relevant operator's head of operations.

48 Conditions of the exemptions — preparation for exemptions to end

- (1) It is a condition of the exemptions in section 46 that the relevant operator must:
 - (a) not later than the end of 2 September 2022 — give CASA the proposed T&C manual content, with an application for its approval; and
 - (b) not later than the end of 1 March 2023 — have obtained CASA's written approval of that content.

Note A relevant operator may voluntarily seek earlier approval of their T&C manual content if planning an earlier commencement of relevant operations. However, they should apply to CASA for the approval at least 90 days before their planned date for the operations to commence. CASA cannot guarantee that an approval can be given in every case within 90 days.

- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

49 Expiry of the exemptions

The exemptions under section 46 expire for a relevant operator at the earliest of the following:

- (a) the end of 1 March 2023;
- (b) the day CASA's approval of the T&C manual content for the relevant operations or the relevant aircraft takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245,

that on and from a specified date the relevant operator must have a training and checking system in accordance with Part 138 of CASR.

Part 11 Flight data analysis programs – Australian air transport operators – exemption

50 Application of Part 11

This Part applies to an Australian air transport operator (the *relevant operator*) who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation that authorised regular public transport operations, charter operations, or aerial work (air ambulance) operations; and
- (b) was not subject to a requirement under subsection 2A of CAO 82.3, or subsection 2A of CAO 82.5, as in force at that time, to have an FDAP for operation of an aircraft in the operations; and
- (c) was not the subject of a direction under regulation 11.245 to have an FDAP for operation of an aircraft in the operations.

51 Exemption

A relevant operator is exempted from compliance with regulation 119.195.

Note See also sections 18 and 19 of *CASA EX82/21 – Part 119 of CASR – Supplementary Exemptions and Directions Instrument 2021*. This contains additional exemptions and directions in relation to FDAP requirements under regulation 119.195.

52 Conditions of the exemption — safety

It is a condition of the exemption in section 51 that the operator must not commence a scheduled air transport operation in an aircraft that required, or would have required, an FDAP under CAO 82.3 or 82.5, as in force immediately before 2 December 2021, until CASA’s approval of the operator’s exposition content that meets the requirements of regulation 119.195 in relation to the operation of the aircraft, takes effect.

53 Conditions of the exemption — preparation for exemption to end

- (1) It is a condition of the exemption in section 51 that the relevant operator must:
 - (a) not later than the end of 3 June 2024 — give CASA the proposed exposition content that meets the requirements of regulation 119.195, with an application for its approval; and
 - (b) not later than the end of 1 December 2024 — have obtained CASA’s written approval of that content.
- (2) For subsection (1), documents submitted to CASA must be accompanied by the relevant approved Form.

54 Expiry of the exemption

The exemption under section 51 expires for a relevant operator, operation and aircraft at the earliest of the following:

- (a) the end of 1 December 2024;
- (b) the day CASA’s approval of the operator’s exposition content for regulation 119.195 takes effect.

Note If it is necessary in the interests of aviation safety, CASA may repeal an exemption under this Part in its application to any particular relevant operator and direct, under regulation 11.245,

that on and from a specified date the relevant operator must have an FDAP in accordance with Part 119 of CASR.
