



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

**CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR –  
Supplementary Exemptions and Directions Instrument 2021**  
**as amended**

made under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

This compilation was prepared on 2 December 2023 taking into account amendments up to instrument *CASA EX97/23 – Amendment of CASA EX85/21 – Instrument 2023 (No. 1)*. It is a compilation of *CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*, as amended and in force on 2 December 2023.

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## **Part 1 Preliminary, Definitions and Application**

### **1 Name**

This instrument is *CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

### **2 Duration**

This instrument:

- (b) is repealed at the end of 1 December 2024 (thereby, for paragraph 11.250 (a) of CASR, ceasing to be in force on and from the beginning of 2 December 2024).

### **3 Definitions**

- (1) In this instrument:

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

***aeroplane of a relevant type or class*** means an aeroplane that is one of the following:

- (a) an aeroplane of a particular class, within the meaning of class in regulation 61.020 of CASR, other than an aeroplane mentioned in paragraph (b) or (c);
- (b) a multi-crew aircraft for which a legislative instrument, in accordance with paragraph 61.055 (1) (a) of CASR, has prescribed type ratings that may be granted for a multi-crew operation;

- (c) a type of aircraft for which single-pilot type ratings are required under paragraph 61.060 (1) (a) of CASR, for which a legislative instrument, in accordance with subparagraph 61.060 (1) (b) (i) of CASR, has prescribed the type ratings that may be granted for single-pilot operation.

**Australian air transport operation** has the meaning given by regulation 119.010 of CASR.

**Australian air transport operator** has the meaning given by subregulation 119.015 (2).

**authorised weather forecast** has the meaning given by the CASR Dictionary.

**CAR** means the *Civil Aviation Regulations 1988*.

**CASR** means the *Civil Aviation Safety Regulations 1998*.

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

**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.

**flight crew member proficiency check** has the meaning given by section 12.01 of the Part 135 Manual of Standards.

**maximum operational passenger seat configuration** or **MOPSC** has the meaning given by the CASR Dictionary.

**minimum equipment list** or **MEL** has the meaning given by regulation 91.925.

**Part 135 operation** means an operation mentioned in regulation 135.005.

**private operation** has the meaning given by the CASR Dictionary.

**recognised foreign State** has the meaning given by regulation 61.010 of CASR.

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

**State**, for an operator, has the meaning given by the CASR Dictionary.

**State of the operator** has the same meaning as **State**, for an operator.

**Subpart 121.Z operation** means an operation mentioned in subregulation 121.005 (2).

**the Act** means the *Civil Aviation Act 1988*.

- (2) To avoid doubt, in this instrument, unless a contrary intention appears words and expressions have the same meaning as in Part 135 of 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:
- “135.”, “121.”, “91.”.

- (4) To avoid doubt, any document incorporated into this instrument is so incorporated as it is in force from time to time.

### **3A Table of Contents**

The Table of Contents for this instrument is not part of this instrument. It is for guidance only and may be edited or updated by CASA in any published version of this instrument.

### **4 Application**

This instrument applies, according to its terms.

## **Part 2 Exemptions from Part 135**

### **5 Application of Part 135 – Australian air transport operations in foreign countries – exemption**

- (1) This section applies to the operator, and the pilot in command, of an aeroplane for a flight that is a Part 135 operation, or a Subpart 121.Z operation, conducted in a foreign country.
- (2) The operator, and the pilot in command, are each exempted from compliance from each provision of Part 135 but only to the extent that the provision is inconsistent with a provision of the law of the foreign country.
- (3) Each exemption in subsection (2) is subject to the condition that the operator, and the pilot in command, must each comply with each applicable provision of Part 135, except that if a law of the foreign country applies to the operation of the aeroplane in that country, the law of the foreign country prevails to the extent of any inconsistency.
- (4) For subsection (3), a provision of a law of a foreign country for a flight is taken not to be inconsistent with a provision of Part 135 for the flight to the extent that the provisions are capable of operating concurrently.

### **6 Minimum equipment list for Part 135 operations — exemption**

- (1) This section applies to the operator of an aeroplane for a flight that is a Part 135 operation or a Subpart 121.Z operation, if, immediately before 2 December 2021, the operator held an AOC, or was an early applicant for an AOC or an AOC variation, that:
  - (a) authorised charter operations, or aerial work (air ambulance) operations, in the aeroplane; and
  - (b) did not authorise regular public transport operations in the aeroplane.
- (2) The operator is exempted from compliance with regulation 135.045 with respect to the aeroplane.
- (3) The exemption in subsection (2) is subject to the condition that the operator must not commence using the aeroplane for scheduled air transport operations.
- (4) This section ceases to have effect at the earliest of the following:
  - (a) the day the operator commences using the aeroplane for scheduled air transport operations;
  - (b) the day an approval, under regulation 91.935, of a MEL for the aeroplane takes effect;
  - (c) the end of 3 December 2023.

## **7 Journey log – recording time flight begins – exemption**

- (1) This section applies to the operator, and the pilot in command, of an aeroplane for a flight that is a Part 135 operation or a Subpart 121.Z operation.
- (2) The operator, and the pilot in command, are each exempted from compliance with subregulation 135.085 (2), but only to the extent of the information for the flight mentioned in subparagraph 135.085 (3) (d) (ii).
- (3) Each exemption in subsection (2) is subject to the condition that the time the flight begins must be recorded in one of the following, not later than as soon as reasonably practicable after the flight ends:
  - (a) the journey log that is prepared under subregulation 135.085 (1);
  - (b) another document kept by the operator, or that is readily available to the operator from another source.

*Note* An example for paragraph (b) is an operational flight plan kept by the operator for the flight.

## **8 Journey log – recording flight information – exemption**

- (1) This section applies to the operator, and the pilot in command, of an aeroplane for a flight that is a Part 135 operation or a Subpart 121.Z operation.
- (2) The operator, and the pilot in command, are each exempted from compliance with subregulation 135.085 (4), but only to the extent of the information for the flight mentioned in paragraphs 135.085 (5) (a) and (e).
- (3) The exemptions in subsection (2) are subject to the condition that the information for the flight mentioned in paragraphs 135.085 (5) (a) and (e) must be recorded in one of the following, not later than as soon as reasonably practicable after the flight ends:
  - (a) the journey log that is prepared under subregulation 135.085 (1);
  - (b) another document kept by the operator, or that is readily available to the operator from another source.

*Note* An example for paragraph (b) is an operational flight plan kept by the operator for the flight.

## **9 VFR flights at night – instrument rating – exemption**

- (1) This section applies to the operator of an aeroplane for a flight that is both:
  - (a) a Part 135 operation; and
  - (b) a passenger transport operation or a medical transport operation, that is a VFR flight at night.
- (2) The operator is exempted from compliance with the following:
  - (a) subregulation 135.235 (1), but only to the extent of the requirement under paragraph 135.235 (2) (c);
  - (b) subregulation 135.380 (1), but only to the extent of the requirement under paragraph 135.380 (2) (d).
- (3) Each exemption in subsection (2) is subject to the condition that at least one flight crew member for the flight must be authorised, as follows, to pilot the aeroplane under the IFR:
  - (a) if the aeroplane is an Australian aircraft — under Part 61 of CASR; and
  - (b) if the aeroplane is a foreign-registered aircraft — under the law of:
    - (i) the aeroplane's State of registry; or

- (ii) the State of the operator of the aeroplane.

#### **9A Ground support personnel**

- (1) This section applies to the operator of an aeroplane for a flight that is a Part 135 operation or a Subpart 121.Z operation.
- (2) The operator is exempted from compliance subregulations 135.125 (1) and (3) — but only to the extent that the member of the operator’s personnel who carries out a ground support duty for the flight (the *duty*):
  - (a) is not a person employed by the operator under a contract of service (that is, as a *direct employee*); but
  - (b) is instead retained, or utilised, by the operator on some other basis or arrangement (the *relevant member*).
- (3) It is a condition of the exemption in subsection (2) that:
  - (a) the operator is satisfied that the relevant member is capable of carrying out, and willing to carry out, the duty in a manner that maintains aviation safety; or
  - (b) the relevant member is supervised by a direct employee of the operator who meets the requirements of subregulation 135.125 (2).

#### **9B Ground support personnel — direct employees**

- (1) This section applies to the operator of an aeroplane for a flight that is a Part 135 operation, or a Subpart 121.Z operation.
- (2) The operator is exempted from compliance with subregulations 135.12 (1) and (3) — but only to the extent that the member of the operator’s personnel who carries out a ground support duty for the flight (the *duty*) is a person employed by the operator under a contract of service (that is, as a *direct employee*).
- (3) It is a condition of the exemption in subsection (2) that:
  - (a) the direct employee is:
    - (i) under training for the duty; and
    - (ii) being supervised by a person, or a kind of person, identified in the operator’s exposition as competent to conduct the training; and
  - (b) the training is being carried out in accordance with the requirements specified in the operator’s exposition for that training.

#### **9C Recent experience requirements — exemption**

- (1) This section applies to:
  - (a) the operator of an aeroplane for a flight that is a Part 135 operation, or a Subpart 121.Z operation (the *operator*); and
  - (b) a pilot assigned to duty by the operator for the Part 135 operation, or the Subpart 121.Z operation.

- (2) The operator is exempted from compliance with subregulation 135.435 (1).
- (3) The pilot is exempted from compliance with subregulation 135.435 (2).
- (4) It is a condition of the exemption in subsection (2) that the operator must not assign a pilot to duty as pilot in command or co-pilot of the aeroplane for a flight that is a Part 135 operation, or a Subpart 121.Z operation, unless the applicable conditions in subsections (6) and (7) of this exemption are complied with.
- (5) It is a condition in subsection (3) that the pilot must not operate an aeroplane for a flight that is a Part 135 operation, or a Subpart 121.Z operation, as a pilot in command or co-pilot, unless the applicable conditions in subsection (6) or (7) of this exemption are complied with.
- (6) For a flight by day, the pilot must, within the 90 days before the flight in the aeroplane:
  - (a) have carried out, in an aeroplane of the relevant type or class, or in an approved flight simulator for the aeroplane (an ***approved simulator***):
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling an aeroplane of the relevant type or class, or the approved simulator; and
    - (ii) at least 3 landings while controlling an aeroplane of the relevant type or class, or the approved simulator; or
  - (b) have passed a flight test for the grant of a pilot licence, or a rating on a pilot licence, in an aeroplane of the relevant type or class, or in an approved simulator; or
  - (c) have successfully completed a flight crew member proficiency check for an aeroplane of the relevant type or class.
- (7) For a flight by night, the pilot must, within the 90 days before the flight in the aeroplane:
  - (a) have carried out, at night, in an aeroplane of the relevant type or class, or in an approved flight simulator for the aeroplane (an ***approved simulator***):
    - (i) at least 3 take-offs followed by climbs to at least 500 ft AGL while controlling an aeroplane of the relevant type or class, or the approved simulator; and
    - (ii) at least 3 landings while controlling an aeroplane of the relevant type or class, or the approved simulator; or
  - (b) have passed a flight test for the grant of a pilot licence, or a rating on a pilot licence, in an aeroplane of the relevant type or class, or in an approved simulator; or
  - (c) have successfully completed a flight crew member proficiency check for an aeroplane of the relevant type or class.

## **9D Flight crew training or checking – foreign conductors of – exemption**

- (1) This section applies to the operator of an aeroplane for a flight that is a Part 135 operation or a Subpart 121.Z operation.

*Note* **Part 135 operation**, and **Subpart 121.Z operation**, are defined in section 3.

- (2) The operator is exempted from compliance with regulation 135.387, in relation to training and checking, but only to the extent of who may conduct the training or checking.
- (3) The exemption in subsection (2) is subject to the condition that the training or checking for which the operator takes the benefit of the exemption must be conducted by a person who is:
  - (a) employed by a training provider authorised by the national aviation authority of a recognised foreign State to conduct training or a check equivalent to the training or check required by Part 135 of CASR that the operator has contracted the training provider to conduct for a flight crew member of the operator (the ***equivalent training or checking***); and
  - (b) authorised by the national aviation authority of the recognised foreign State to conduct the equivalent training or checking.
- (4) It is also a condition of the exemption under subsection (2) that for training or checking for which the operator takes the benefit of the exemption, the operator must ensure that the head of training and checking ensures that:
  - (a) each person who conducts the training or checking for the foreign training provider mentioned in subsection (3) is appropriately authorised to conduct the training or checking; and
  - (b) the foreign training provider is notified, in writing, of any change in the operator's exposition relating to the training or checking that the foreign training provider conducts under the contract.

### **Part 3 Exemptions from Part 91 and related directions**

#### **10 Use of Part 135 flight-related documents instead of Part 91 flight-related documents — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the ***operation***):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the ***operator***).
- (2) For the operation, the operator and the pilot in command of the aeroplane (as applicable) are each exempted from compliance with each provision in Division 91.C.3 of CASR, but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

#### **Directions**

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of each provision in Division 135.C.3 are complied with for the operation (subject to the exemptions in sections 7 and 8 of this instrument in relation to regulation 135.085); and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

**11 Application of Part 135 fuel requirements instead of Part 91 fuel requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the pilot in command of the aeroplane is exempted from compliance with regulation 91.455 but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

**Directions**

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of regulation 135.215 are complied with; and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

**12 Application of Part 135 fuelling requirements instead of Part 91 fuelling requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the pilot in command of the aeroplane is exempted from compliance with regulation 91.510 but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

**Directions**

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of regulation 135.220 are complied with; and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

**13 Application of Part 135 passenger safety briefings, instructions and demonstrations requirements instead of Part 91 safety briefing and instructions requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);

- (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the pilot in command of the aeroplane is exempted from compliance with regulation 91.565 but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

#### Directions

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of regulation 135.280 are complied with; and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

### **14 Application of Part 135 performance requirements instead of Part 91 performance requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the operator and the pilot in command of the aeroplane are each exempted from compliance with each provision in Subpart 91.F (as applicable) but only if the operator and the pilot in command each comply with the directions in subsections (3) and (4).

#### Directions

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of each provision in Subpart 135.F are complied with; and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

### **15 Application of Part 135 weight and balance requirements instead of Part 91 weight and balance requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (b) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the pilot in command of the aeroplane is exempted from compliance with each provision in Subpart 91.J, but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

### Directions

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of each provision in Subpart 135.J are complied with;  
and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

## **16 Application of Part 135 equipment requirements instead of Part 91 equipment requirements — exemption and direction**

- (1) This section applies to the operation of an aeroplane that is both of the following (the *operation*):
  - (a) a private operation using an aeroplane mentioned in regulation 135.005 or subregulation 121.005 (2);
  - (c) conducted by an Australian air transport operator whose AOC operations specifications include the aeroplane (the *operator*).
- (2) For the operation, the operator, the pilot in command and any crew member of the aeroplane (as applicable) are each exempted from compliance with each provision in Subpart 91.K, but only if the operator, the pilot in command and the crew member (as applicable) each comply with the directions in subsections (3) and (4).

### Directions

- (3) The operator must ensure that, for the operation:
  - (a) the requirements of each provision in Subpart 135.K are complied with;  
and
  - (b) the operator's exposition provides for compliance with the requirements.
- (4) The pilot in command and the crew member must each comply with any requirements arising under subsection (3) that are applicable to the pilot in command or the crew member.

## **17 Seating for crew members other than flight crew members — exemption and direction**

- (1) This section applies to a crew member (other than a flight crew member) (the *crew member*) for the operation of an aeroplane (the *operation*) that is both:
  - (a) a Part 135 operation, or a Subpart 121.Z operation as applicable; and
  - (b) a medical transport operation.
- (2) For the operation, the crew member is exempted from compliance with regulation 91.555.
- (3) The exemption in subsection (2) is subject to the condition that the requirements (including the definitions) set out in subsections (4) to (9) are complied with.
- (4) For subsections (5) to (9):

*equipment* means a safety harness and a restraint strap.

*restrained*, for a relevant crew member during an operation in an aeroplane, means that the relevant crew member wears the equipment instead of a seatbelt.

- (5) The member must be restrained as follows:
  - (a) for a VFR flight by day — when the aeroplane flies below 1 000 ft AGL;
  - (b) for a VFR flight at night, or IFR flight — when the aeroplane flies below the minimum height required by the civil aviation legislation for a route segment of the flight;
  - (c) for an aeroplane flying above 1 000 ft AGL, or when on the ground at an aerodrome — when the pilot in command of the aircraft, acting in accordance with the operator’s exposition, directs that the relevant crew member be restrained.
- (6) Before the operation commences, the operator must ensure that:
  - (a) the equipment to be worn by the crew member is always available on the aeroplane; and
  - (b) each relevant crew member:
    - (i) has been trained in the use of the equipment; and
    - (ii) has been assessed as competent to use the equipment.
- (7) Before the operation commences:
  - (a) the operator must ensure that the equipment:
    - (i) is fit for the particular purpose of the operation; and
    - (ii) meets the requirements of, or is approved under, Part 21 of CASR; and
    - (iii) is serviceable; and
  - (b) a crew member who may fit the equipment to another person for the operation must, in accordance with procedures in the operator’s exposition, ensure that no defects or other hindrances will prevent the proper fitting of the equipment to the person at the relevant time.
- (8) The crew member must comply with the requirements in the operator’s exposition about wearing of the equipment.
- (9) Without limiting subsection (8), before the operation commences, and during the operation, the crew member must ensure the equipment is:
  - (a) correctly fitted, worn, and adjusted, to prevent injury to the crew member or other person who is wearing the equipment; and
  - (b) correctly adjusted to prevent the crew member, while wearing the equipment, from completely exiting the aircraft; and
  - (c) secured, using the restraint strap, to a hard point of the aircraft in accordance with the relevant approved data.

#### Direction

- (10) The operator must ensure that a crew member who takes advantage of the exemption under subsection (2), complies with the condition mentioned in subsection (3) as it applies to the crew member.

## **Part 4            Directions to Part 135 operators and Subpart 121.Z operators**

### **18        Compliance before and after flight with flight manual instructions — direction**

- (1) This section applies to the operator of an aeroplane for a Part 135 operation or a Subpart 121.Z operation.
- (2) The operator must ensure that any activity in relation to the flight:
  - (a) that occurs before or after the flight; and
  - (b) that is required, under the aircraft flight manual instructions for the aeroplane, to be carried out before or after the flight;  
is carried out in compliance with any relevant requirement or limitation that:
  - (c) is set out in the aircraft flight manual instructions for the aeroplane; and
  - (d) relates to the operation of the aeroplane.

### **19        Taking off from and landing on narrow runways — direction**

- (1) This section applies to the operator of an aeroplane for a Part 135 operation or a Subpart 121.Z operation.
- (2) For the operation, the operator and the pilot in command of the aeroplane must comply with the requirements under regulation 121.220 (including the related requirements under Chapter 6 of the Part 121 MOS) as if:
  - (a) the aeroplane were an aeroplane mentioned in subregulation 121.220 (1);  
and
  - (b) subregulations 121.220 (1) to (4), and the related requirements under Chapter 6 of the Part 121 MOS, applied to the operator and the pilot in command for the operation.

*Note* The requirements under regulation 121.220 apply only to an aeroplane with a maximum certificated take-off weight (MCTOW) of more than 5,700 kg.

### **20        Fuelling safety procedures — direction**

- (1) This section applies to the operator of an aeroplane for a Part 135 operation or a Subpart 121.Z operation.
- (2) The operator must ensure that its exposition includes the procedures to be followed by any crew member for the flight (other than any cabin crew, or flight crew member on duty in the cockpit) in relation to the safety of passengers for a flight of the aeroplane who are embarking or disembarking, or are on board, the aeroplane during fuelling, including the normal, emergency and communication procedures.

### **20A      Training and checking — direction**

- (1) In this section:

*non-normal exercise* means an aeroplane flight that involves the simulated failure of a vital system.

*specified training or check* means an aeroplane training or check event that involves carrying out a non-normal exercise.

*vital system* means a system whose simulated failure in flight would adversely affect the safety of the aeroplane as compared to normal operation.

- (2) This section applies to an Australian air transport operator (the **operator**) who, immediately before 2 December 2021:
- (a) conducted charter operations, or aerial work (air ambulance) operations, in an aeroplane (the **operations**); and
  - (b) did not hold an approval under subregulation 217 (3) of CAR, as in force immediately before 2 December 2021, for a training and checking organisation for the aeroplane in the operations.
- (3) The operator must not use an individual to conduct specified training or check for a flight crew member of the operator's personnel that is required under Part 135, unless a requirement mentioned in subsection (4) or (5) is met.
- (4) For subsection (3), if a registered aeroplane is used:
- (a) the individual must be able to exercise the privileges of 1 of the following for the relevant type or class (as applicable) of aeroplane being used for the specified training or check:
    - (i) a flight instructor rating and appropriate training endorsement;
    - (ii) a flight examiner rating and appropriate flight examiner endorsement;
    - (iii) if the specified training or check is conducted in a flight training device — a simulator instructor rating and appropriate training endorsement;
    - (iv) an approval under regulation 61.040 that confers equivalent privileges on those under subparagraph (i), (ii) or (iii), as applicable to the specified training or check; or
  - (b) the operator must hold CASA's approval that their training and checking system, as applied to the individual, produces a safety outcome equivalent to that under paragraph (a).

*Note 1* The effect of subsection (4) is that if the operator uses an individual to conduct a specified training or check, the individual must have appropriate CASR Part 61 qualifications to conduct the training or check unless the operator obtains CASA's approval.

*Note 2* The requirements of regulation 135.387, and section 12.11 of the Part 135 Manual of Standards, must still be met in addition to the requirements of paragraph (4) (a) or (b).

*Note 3* For **registered**, see the definition in the CASR Dictionary.

- (5) For subsection (3), if an aeroplane that is a foreign registered aircraft is used:
- (a) the individual used by the operator must be able to exercise the privileges of an authorisation (however described) from the national aviation authority of the State of Registry for the rotorcraft that are at least equivalent to the privileges described in paragraph (4) (a); or
  - (b) the operator must hold CASA's approval that their training and checking system, as applied to the individual, produces a safety outcome equivalent to that under paragraph 4 (a).

*Note 1* An operator conducting specified training or check must also comply with the requirements of section 9D.

*Note 2* For **foreign registered aircraft**, see the definition in section 3 of the *Civil Aviation Act 1988*.

## Part 5 Exemptions from Subpart 121.Z

### 21 Definitions

In this Part:

**GPWS that has predictive terrain hazard warning function** has the same meaning as in subparagraph 9.1D (a) of CAO 20.18.

**CAO 20.18** means Civil Aviation Order 20.18, as in force immediately before 2 December 2021.

**GPWS** means ground proximity warning system.

**MTOW** means maximum take-off weight.

**TAWS** means terrain awareness and warning system.

**TAWS-B+ system** has the meaning given by paragraph 2.1 of CAO 20.18.

**TAWS-Class A** has the meaning given by the CASR Dictionary.

**TAWS-Class B** has the meaning given by the CASR Dictionary.

**TAWS-Class B+** means a TAWS that:

- (a) is a TAWS-Class B; and
- (b) includes a colour terrain display that meets the following requirements:
  - (i) the displayed terrain information must be depicted relative to the aeroplane's position such that the pilot can estimate the relative bearing to the terrain of interest;
  - (ii) the displayed terrain information must be depicted relative to the aeroplane's position such that the pilot may estimate the distance to the terrain of interest;
  - (iii) the displayed terrain information depicted must be oriented to either the heading or the track of the aeroplane, and may include an additional selectable north-up orientation format;
  - (iv) variations in terrain elevation must be depicted relative to the aeroplane's current or projected elevation (above and below) and be visually distinct, except that terrain that is more than 2 000 feet below the aeroplane's elevation may be excluded;
  - (v) terrain that generates alerts must be displayed in a manner that distinguishes it from non-hazardous terrain, consistent with the caution and warning alert level relevant to the TAWS Class B equipment.

### 22 Trend monitoring systems for Subpart 121.Z operations — exemption

- (1) This section applies to the operator of an aeroplane for a flight that is a Subpart 121.Z operation (a **relevant flight**).
- (2) The operator is exempted from compliance with regulation 121.770 in relation to the aeroplane.
- (3) It is a condition of the exemption in subsection (2) that the requirements in subsection (4) are complied with for a relevant flight.
- (4) The operator must have procedures in their exposition to ensure that:
  - (a) the aeroplane engine oil consumption is monitored in accordance with the engine manufacturer's recommendations (the **relevant monitoring**); and

- (b) any anomalies detected by the relevant monitoring are checked against the manufacturer's data to determine appropriate and timely corrective action; and
- (c) the appropriate and timely corrective action is taken.
- (5) This section ceases to have effect on 2 December 2023.

**23 TAWS and GPWS – Subpart 121.Z operations – exemption**

- (1) This section applies to the operator of an aeroplane for a flight that is a Subpart 121.Z operation (a *relevant flight*).
- (2) The operator is exempted from compliance with regulation 121.775 of CASR in relation to the aeroplane.
- (3) If:
  - (a) the relevant flight is a passenger transport operation, under the IFR, with more than 9 passengers; and
  - (b) the operation is conducted in a turbine-engine aeroplane;then, it is a condition of the exemption in subsection (2) that the requirements in subsections (4), (5), and (6), as applicable, are complied with for the flight.

*Note* The condition in subsection (3) does not apply to the operators of: (a) a piston-engine aeroplane; or (b) a turbine-engine aeroplane carrying 9 or less passengers.

- (4) If:
  - (a) the aeroplane has a MTOW greater than 5,700 kg; and
  - (b) immediately before 2 December 2021 the aeroplane would have been required to be fitted with a GPWS that had a predictive terrain hazard warning function under subparagraph 9.1C (c) of CAO 20.18;then, before a flight, the aeroplane must be fitted with 1 of the following:
  - (c) a GPWS that has a predictive terrain hazard warning function that meets the requirements mentioned in subparagraph 9.1D (b) and paragraph 9.2 of CAO 20.18; or
  - (d) a TAWS-Class A.
- (5) If:
  - (a) the aeroplane has a MTOW of 5,700 kg or less; and
  - (b) immediately before 2 December 2021, the aeroplane would have been required to be fitted with 1 of the following:
    - (i) a GPWS that had a predictive terrain hazard warning function under subparagraph 9.1C (c) of CAO 20.18; or
    - (ii) a TAWS-B+ system under subparagraph 9.1C (e) of CAO 20.18;then, before a flight, the aeroplane must be fitted with 1 of the following:
  - (c) a GPWS that has a predictive terrain hazard warning function that meets the requirements mentioned in subparagraph 9.1D (b) and paragraph 9.2 of CAO 20.18; or
  - (b) a TAWS-B+ system; or
  - (d) a TAWS-Class A.

- (6) A TAWS or a GPWS for a flight mentioned in subsection (4) or (5) must be operative at the beginning of a flight unless:
  - (a) the flight begins:
    - (i) from an aerodrome at which there is no facility for the GPWS or the TAWS to be repaired or replaced; and
    - (ii) within 24 hours of the time the GPWS or the TAWS was first found to be inoperative; or
  - (b) the flight is:
    - (i) operated under an authorised weather forecast that indicates the flight can be conducted in VMC by day when operating below the minimum heights stated in subregulations 91.265 (2), 91.267 (2), and 91.305 (2) of CASR (the *relevant minimum heights*); and
    - (ii) conducted in VMC by day below the relevant minimum heights.
- (7) This section ceases to have effect on 1 June 2024.

## **24 TAWS – Subpart 121.Z operations – exemption**

- (1) This section applies from 2 December 2023.
- (2) This section applies to the operator of an aeroplane for a flight that is a Subpart 121.Z operation (a *relevant flight*), but only if the aeroplane:
  - (a) has a MOPSC of 13 or less; and
  - (b) is a turbine-engine aeroplane; and
  - (c) has a MTOW of 5,700 kg or less.
- (3) For a relevant flight in the aeroplane, the operator is exempted from compliance with:
  - (a) subregulation 121.775 (1) of CASR; and
  - (b) subregulation 121.775 (2) insofar as it applies to subregulation 121.775 (1).
- (4) It is a condition of the exemptions in subsection (3) that the requirements in subsection (5) or (6), as applicable, are complied with for a relevant flight.
- (5) Subject to subsection (6), before a relevant flight, the aeroplane must be fitted with 1 of the following:
  - (a) a TAWS-Class B+; or
  - (b) a TAWS-Class A.
- (6) Despite subsection (5), if the visual display of a TAWS-B+ system fitted to an aeroplane is not compliant with the terrain display requirements of a TAWS-Class B+ before 2 December 2023, the aeroplane may remain fitted with the TAWS-B+ system for a relevant flight, but only until 2 June 2024.
 

*Note* A TAWS-B+ system is the system referred to in CAO 20.18, as in force immediately before 2 December 2021, which required a less specific visual terrain display compared to the new TAWS-Class B+.
- (7) A TAWS mentioned in subsection (5), or a TAWS-B+ system mentioned in subsection (6), must be operative at the beginning of the relevant flight unless:
  - (a) the flight begins:
    - (i) from an aerodrome with no facility for the GPWS or the TAWS to be repaired or replaced; and

- (ii) not more than 24 hours after the GPWS or the TAWS was first found to be inoperative; or
- (b) the flight is:
  - (i) operated under an authorised weather forecast that indicates the flight can be conducted in VMC by day when operating below the minimum heights stated in subregulations 91.265 (2), 91.267 (2) and 91.305 (2) of CASR (the *relevant minimum heights*); and
  - (ii) conducted in VMC by day below the relevant minimum heights.

**Direction**

- (8) The operator of a relevant aeroplane mentioned in subsection (6) is directed that, not later than 1 December 2023, they must notify CASA, using the relevant approved Form, of each aeroplane that is fitted with the TAWS-B+ system.

## Note to CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021

CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (in force under regulations 11.160, 11.205 and 11.245 of the Civil Aviation Safety Regulations 1998) as shown in this compilation is amended as indicated in the tables below.

### Table of instruments

Title	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021	7 October 2021 (see F2021L01410)	2 December 2021	—
CASA EX150/21 – Amendment of CASA EX85/21 – Instrument 2021	1 December 2021 (see F2021L01675)	2 December 2021	—
CASA EX100/22 – Amendment of CASA EX85/21 (Miscellaneous Revisions) – Instrument 2022	15 December 2022 (see F2022L01652)	16 December 2022	—
CASA EX97/23 – Amendment of CASA EX85/21 – Instrument 2023 (No. 1)	1 December 2023 (see F2023L01594)	2 December 2023	—

### Table of amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
para. 2 (a)	rep. <i>Legislation Act 2003</i> , s 48D
s. 3	am. F2021L01675, F2022L01652, F2023L01594
s. 3A	ad. F2022L01652
s. 9A	ad. F2021L01675
s. 9B	ad. F2021L01675
s. 9C	ad. F2021L01675 am. F2022L01652
s. 9D	ad. F2022L01652
s. 20A	ad. F2023L01594
s. 21	am. F2023L01594
s. 23	am. F2023L01594
s. 24	ad. F2023L01594