**Explanatory Statement**

**Civil Aviation Regulations 1988**

**Civil Aviation Safety Regulations 1998**

Civil Aviation Order 95.55 (Exemptions from CAR and CASR — Certain Light Sport Aircraft, Lightweight Aeroplanes and Ultralight Aeroplanes) Instrument 2021

**Purpose**

The purpose of *Civil Aviation Order 95.55 (Exemptions from CAR and CASR — certain ultralight aeroplanes) Instrument 2021* (the ***instrument***) is to repeal and reissue *Civil Aviation Order 95.55 (Exemption from provisions of the Civil Aviation Regulations 1988 — certain ultralight aeroplanes) Instrument 2021* (the ***previous CAO***) in order to:

* exempt operators of lightweight aeroplanes with a maximum take-off weight (***MTOW***) not exceeding 760 kilograms (up from the previous MTOW of 600 kilograms) from particular requirements of the *Civil Aviation Regulations 1988* (***CAR***);
* exempt operators of certain ultralight aeroplanes and light sport aircraft from provisions of the regulations, which involves transitioning from exemptions from CAR to exemptions from their equivalent provisions in *Civil Aviation Safety Regulations 1988* (***CASR***) following the commencement, on 2 December 2021, of:
	+ the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*;
	+ the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019;*
	+ the *Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021*
* enable administering aviation organisations (***ASAOs***) to exercise aviation administration functions in relation to aeroplanes covered by the instrument (***relevant aeroplanes***).

The instrument reissues the previous CAO and is required for two main reasons: first, because the *Part 103 Manual of Standards* (***MOS***) that was originally intended to accompany new Part 103 of CASR will not commence as anticipated on 2 December 2021; and secondly, most of the provisions of CAR are being repealed on that date and as a result, the previous CAO will be ineffective in providing exemptions for operators of relevant aeroplanes as it refers to the obsolete CAR provisions. The instrument is being remade with exemptions from equivalent provisions in CASR. This will enable reasonable continuity for operators of such aeroplanes, whilst creating a bridge to the new flight rules under Part 91 of CASR and, eventually, to the new rules for sport and recreation aircraft under Part 103 of CASR. The opportunity has also been taken to make minor drafting improvements and updating or deleting outdated or obsolete provisions.

**Legislation**

Subsection 20AB (1) of the *Civil Aviation Act 1988* (the ***Act***) provides that a person must not perform any duty that is essential to the operation of an Australian aircraft during flight time unless the person is authorised to do so under a civil aviation authorisation or is authorised by or under the regulations to perform that duty without the civil aviation authorisation.

Section 98 of the Act empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made CAR and CASR.

Subparagraph 14 (1) (a) (ii) of the *Legislation Act 2003* (the ***LA***) allows a legislative instrument to apply, adopt or incorporate the provisions of another legislative instrument, as the other instrument is in force at a particular time or in force from time to time. The other instrument must be of a type mentioned in subsection 14 (3) of the LA, which relevantly includes a disallowable legislative instrument — paragraph 14 (3) (a).

Subsection 14 (2) of the LA states that, unless a contrary intention appears in the enabling legislation, a legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. This contrary intention appears in subsection 98 (5D) of the Act, which provides that a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160 (1) provides that, for subsection 98 (5A) of the Act, the Civil Aviation Safety Authority (***CASA***) may grant an exemption from a provision of the regulations in relation to a matter mentioned in that subsection (namely matters affecting the safe navigation and operation, or the maintenance, of aircraft or the airworthiness of, or design standards for, aircraft). Subregulation 11.160 (2) of CASR provides that an exemption may be granted to a person or a class of persons.

Under subregulation 11.175 (4) of CASR, in deciding whether to renew an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety.

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

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

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

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

Under regulation 200.020 of CASR, for the purposes of paragraph 20AA (3) (b) of the Act, an Australian aircraft is only authorised to fly without a certificate of airworthiness if the regulations authorise the flight without the certificate.

For paragraph 20AB (1) (a) of the Act, a person is taken to hold a civil aviation authorisation that is in force and authorises the person to perform a duty that is essential to the operation of an unregistered Australian aircraft during flight time if:

(a) the person holds a pilot certificate granted by a sport aviation body that administers aviation activities in the aircraft; and

(b) the person operates the aircraft in accordance with the sport aviation body’s operations manual and the instrument.

Under regulation 5 of CAR, if CASA is empowered or required under the regulations to issue a direction, instruction or notification, or give a permission, approval or authority, it may, unless the contrary intention appears in the regulation conferring the power or function or imposing the obligation or duty, issue the direction, instruction or notification, or give the permission, approval or authority, in a Civil Aviation Order.

**Background**

The previous CAO applied to ultralight aeroplanes and light sport aircraft with MTOWs not exceeding 600 kilograms. In 2019, a discussion paper prepared by CASA explored a change to this MTOW and, during consultation, the proposal to increase the MTOW for light aeroplanes to 760 kilograms was strongly supported. Other limitations currently imposed by the previous CAO such as the maximum stall speed in the landing configuration would be unchanged. The 2 December 2021 commencement of Part 103 of CASR (Sport and Recreation Aircraft) and its associated Manual of Standards was considered the eventual vehicle for reflecting this increase in the MTOW, however the MOS has been delayed and will not commence at the same time at Part 103. Adoption of this increased MTOW is now being introduced by means of this instrument. The measure will allow access to a wider variety of aircraft for almost 6,500 pilot certificate holders and student pilots, and with this greater scope for training there is expected to be a proportionate improvement in pilot skills and experience, and therefore safety.

Australian sport aviation operates under a system of self-administration. This system requires sport aviation bodies to register and administer the operation of various sport and recreational aircraft and sport aviation activities. All of these bodies are overseen by CASA. Until recently, Recreational Aviation Australia Limited (***RAAus***) had been the only sport aviation body with permission to administer the ultralight aeroplanes and certain light sport aircraft to which the instrument applies. The proposed instrument continues to permit RAAus to do so as an ASAO, whilst expressly opening the field to other ASAOs to perform such functions under Part 149 of CASR and its companion *Part 149 (Approved Self-administering Aviation Organisations) Manual of Standards 2018*, again under the oversight of CASA. This measure would enable the expanded pool of aeroplanes to which the instrument will now apply to be suitably registered and administered by newly authorised ASAOs in addition to non-ASAO organisations.

This instrument continues the substance of regulatory exemptions from CAR applying under the previous CAO, however, in form, the exemptions are now largely from the equivalent provisions under CASR, in particular, the new Part 91 provisions. Industry and operators should not experience any disruption to operations as a result of this instrument.

**Overview of instrument**

The instrument continues a scheme of exemptions, subject to conditions, that facilitates the safe operation of certain light sport aircraft, lightweight aeroplanes and ultralight aeroplanes (relevant aeroplanes).

The instrument reissues the previous CAO in order to enable reasonable continuity for operators of relevant aeroplanes, whilst creating a bridge to the new flight rules under Part 91 of CASR and, eventually, the new rules for sport and recreation aircraft under Part 103 of CASR. The instrument also facilitates the transition for sport aviation bodies to become ASAOs under CASR.

**Documents incorporated by reference**

In subparagraph 4.2 of the instrument, aircraft to which *Civil Aviation Order 95.10* or *Civil Aviation Order 95.32* applies, are disapplied. These CAOs are legislative instruments. A reference to each CAO is, by virtue of section 10 of the *Acts Interpretation Act 1901* and section 13 of the LA, a reference to the CAO as originally made and as amended from time to time. Their incorporation in the instrument is authorised by paragraph 14 (1) (a) of the LA.

*Civil Aviation Order 95.10* is an exemption from provisions of CAR and CASR for microlight aeroplanes. The Order is freely available, and accessible on the Federal Register of Legislation via the internet.

*Civil Aviation Order 95.32* is an exemption from provisions of CAR and CASR for powered parachutes and weight-shift controlled aeroplanes. The Order is freely available, and accessible on the Federal Register of Legislation via the internet.

In subparagraph 4.3 of the instrument modifications are provided to ensure references to the instrument in *CASA EX86/19 –* *Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2019* are applied to the relevant provisions. The provisions referenced in *CASA EX86/19* relate to the previous CAO which, in the instrument, will be numbered differently. Its incorporation is authorised by paragraph 14 (1) (a) of the LA.

In the section 5 definition of ***ultralight aeroplane*** at subparagraph (e)(i), a type of relevant aeroplane is described by reference to Schedule 1 to Civil Aviation Amendment Order (No. R92) 2004 (also known as section 101.28 of the Civil Aviation Orders), as in force from time to time. The Order is a legislative instrument. Under subparagraph 14 (1) (a) (ii) of the LA, subparagraph (e)(i) the definition of ***ultralight aeroplane*** in section 5 of the instrument applies, adopts or incorporates the Order, as in force from time to time. The Order is freely available, and accessible on the Federal Register of Legislation via the internet.

In the section 5 definition of ***ultralight aeroplane*** at subparagraph (e)(ii), an aeroplane to which the Order applies includes an aeroplane mentioned in paragraph 1.1 of Schedule 1 to the Civil Aviation Amendment Order (No. R94) 2004 (also known as section 101.55 of the Civil Aviation Orders), as in force on 31 May 2016 (the ***repealed Order***). The repealed Order is a legislative instrument. Under subparagraph 14 (1) (a) (ii) of the LA, subparagraph (e)(ii) of the definition of ***ultralight aeroplane*** in section 5 of the instrument applies, adopts or incorporates the repealed Order, as in force at a particular time, namely 31 May 2016. The Order is freely available, and accessible on the Federal Register of Legislation via the internet.

In the section 5 definition of ***ultralight aeroplane*** at subparagraph (e)(iii), an aeroplane to which the Order applies includes an aeroplane mentioned in paragraph 1.2 of, and that meets the design standards in, Schedule 1 to the repealed Order.

In the section 5 definition of ***ultralight aeroplane*** at subparagraph (e)(iv), a type of aeroplane is described by reference to Civil Aviation Order 95.25. Under subsection 98 (5D) of the Act, the definition applies, adopts or incorporates the Order, as in force immediately before 28 February 1990. The Order is freely available, and accessible via the internet on the following webpage: <https://www.casa.gov.au/files/cao-9525-issue-1>.

In paragraph 5.2 of the instrument, a class of airspace is defined by reference to the *Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument*, as in force from time to time. That instrument is a legislative instrument updated approximately every 6 months. Under subparagraph 14 (1) (a) (ii) of the LA, paragraph 2.2 of the instrument applies, adopts or incorporates the airspace instrument, as in force from time to time. Airspace details from the Determination in force at any particular time are published by Airservices Australia in the Designated Airspace Handbook. The instrument is also freely available on the Federal Register of Legislation which is accessible via the internet.

Under sub-subparagraph 9.3 (b) (ii) of the instrument, a towing aeroplane must be listed in Civil Aviation Advisory Publication 149 as acceptable to CASA for towing. In accordance with subsection 98 (5D) of the Act, the publication is incorporated as it exists from time to time. It is not a legislative instrument. The current edition is October 2012. The publication is freely available on the CASA website which is accessible via the internet on the following webpage: <https://www.casa.gov.au/rules-and-regulations/current-rules/civil-aviation-advisory-publications>.

Under paragraph 9.5 of the instrument, a relevant aeroplane that is fitted with, or carries, automatic dependent surveillance-broadcast equipment, must comply with the requirements relating to the equipment in subsection 9B of *Civil Aviation Order 20.18* as in force immediately before the commencement of the *Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021*.

Under paragraph 9.6 of the instrument, a relevant aeroplane that is fitted with, or carries, SSR transponder equipment, must comply with the requirements relating to the equipment in subsections 9BA, 9C and 9E of *Civil Aviation Order 20.18* as in force immediately before the commencement of the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*.

*Civil Aviation Order 20.18* relates to basic operational requirements of aircraft equipment and is repealed with the commencement of the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*. A reference to that CAO is, by virtue of section 10 of the *Acts Interpretation Act 1901* and section 13 of the LA, a reference to the CAO as originally made and as amended from time to time. Its incorporation in the instrument is authorised by paragraph 14 (1) (a) of the LA. *Civil Aviation Order 20.18* is freely available on the Federal Register of Legislation which is accessible via the internet. The version of *Civil Aviation Order 20.18* that was in force immediately prior to repeal is on the following webpage: <https://www.legislation.gov.au/Details/F2020C00611>.

Also incorporated by reference are sport aviation bodies’ operations manuals and technical manuals, or, if the sport aviation body is an ASAO, the ASAO’s exposition.

Operations manuals and technical manuals of sport aviation bodies (defined in paragraph 5.1) are referred to throughout the instrument. They are incorporated as existing from time to time, and authority for their incorporation is found in subsection 98 (5D) of the Act. These manuals are prepared by the relevant sport aviation body and are usually freely available on the internet, for example, in the case of RAAus, at <https://www.raa.asn.au/>. If a particular operations manual or technical manual is not so available, CASA will make available for viewing at its offices at least those parts of the operations manual concerned.

The instrument incorporates an ASAO’s exposition, which is defined in the CASR Dictionary as:

(a) the set of documents approved by CASA under regulation 149.080 in relation to the ASAO; or

(b) if the set of documents is changed under regulation 149.115 or 149.120, or in accordance with the process mentioned in paragraph 149.340 (i)—the set of documents as changed.

The ASAO is required to keep the exposition up to date under regulation 149.350 of CASR. Accordingly, the exposition will, under Part 149 of CASR, effectively apply as it exists from time to time, even though those words are not used. Authority for such incorporation is found in subsection 98 (5D) of the Act.

Regulation 149.285 of CASR requires an ASAO to provide to its personnel and the holders of authorisations from the ASAO, ready access to up‑to‑date copies of:

(a) the civil aviation legislation;

(b) technical standards and practices;

(c) technical bulletins and instructions;

(d) manuals for equipment used by the ASAO’s personnel;

(e) any other materials prescribed by the Part 149 MOS. (In this regard, section 35 of the Part 149 MOS prescribes, for an aircraft: (a) the flight manual; (b) the handbook; (c) the maintenance manual.)

Reference to an ASAO’s exposition is made throughout the instrument, as an alternative to a sport aviation body’s operations manual or technical manual and such an exposition contains equivalent material, including operational requirements and airworthiness, design and maintenance standards relating to aircraft that the ASAO is authorised to administer.

The exposition is prepared by the relevant ASAO and, under regulation 149.350 of CASR, is required to be made accessible to CASA and to holders of authorisations issued by the ASAO in relation to microlight aeroplanes registered with the ASAO. The contravention by an ASAO of this requirement is an offence of strict liability.

The instrument incorporates the entirety of an ASAO’s exposition. However, having regard to the manner of its incorporation, in practical and actual terms only parts of the exposition are relevant to the instrument. By prior arrangement, CASA will make available for viewing at its offices at least those parts of an exposition, and any other parts that are referred to in regulation 149.285 of CASR, which is expected to most of an exposition.

**Content of instrument**

Subsection 1 provides that the name of the instrument is the *Civil Aviation Order 95.55 (Exemptions from CAR and CASR—Certain Light Sport Aircraft, Lightweight Aeroplanes and Ultralight Aeroplanes) Instrument 2021*.

It also states that a reference in a CASA instrument to section 95.55 of the Civil Aviation Orders is taken to be a reference to this instrument.

Subsection 2 provides that the instrument commences on 2 December 2021 after the commencement of both of the following:

1. Schedule 1 to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*; and
2. the *Civil Aviation Safety Amendment (Part 91) Regulations 2018.*

It also states that the instrument is repealed at the end of 1 December 2024 with the qualification that paragraph 5A.3 is repealed at the end of 1 December 2023. A note to this section states that the direction in paragraph 8.2 ceases to be in force at the end of 31 March 2024 for the purposes of regulation 11.250 of CASR.

Subsection 3 provides that the previous CAO is repealed by this instrument.

Paragraph 4.1 states the types of aeroplane the instrument applies to. Each of these types of aeroplane is referred to in the instrument as a ***relevant aeroplane***. They are the following aeroplanes if listed with a sport aviation body:

* light sport aircraft (experimental)
* light sport aircraft (production)
* lightweight aeroplanes
* ultralight aeroplanes.

These aeroplanes are defined in subsection 5.

Paragraph 4.2 provides that the instrument does not apply to aircraft to which *Civil Aviation Order 95.10* or *Civil Aviation Order 95.32* applies.

Paragraph 4.3 provides directions as to references that have been made to the instrument in *CASA EX86/19*.

Subsection 5 contains definitions of terms used in the instrument. It also explains what is meant by a reference in the instrument to a class of airspace. Some definitions have been altered from the previous CAO to refer to CASR that were not relevant prior to the commencement of the instrument. Further definitions have been added to provide for the measure to include lightweight aeroplanes within the application of the instrument.

Subsection 5A provides the definition for a ***SAB flight permit***. This is a new definition to provide clarity in relation to aircraft not holding a certificate of airworthiness and relates to approvals required for flights over a populous area under the *Civil Aviation Safety Amendment (Part 91) Regulations 2018.* This provision does not change existing requirements for flights other than those taking place over a populous area. Paragraph 5A.3 is a deeming provision which provides continuity for certain sport aviation bodies while they ensure their administrative and procedural arrangements for SAB flight permits are brought up to date. The provision will be in place for 2 years.

Subsection 5B provides that ultralight aeroplanes to which the instrument applies are exempt from CASR (other than certain Parts). Regulation 200.020 of CASR provides that an aircraft exempt from CASR is authorised to fly without a certificate of airworthiness for the purposes of paragraph 20AA (3) (b) of the Act. This is a new provision will ensure that ultralight aeroplanes that were previously covered by Subpart 200.B of CASR (which will be repealed), and therefore exempt from CASR, remain authorised to fly without certificate of airworthiness.

Subsection 5C provides that a person performing a duty that is essential to the operation of a relevant aeroplane during flight time is authorised to do so without a civil aviation authorisation mentioned in paragraph 20AB(1)(a) of the Act. This is a new provision to ensure pilots of aircraft that were previously covered by Subpart 200.B (which will be repealed) remain authorised to fly without being licensed by CASA.

Subsection 6 states the persons to which the exemptions are granted by CASA under the instrument and sets out which provisions of CASR are the ***general CASR exempted provisions***. The exemptions are subject to the conditions stated in column 2 of Table 1 of the instrument.

Subsection 7 states the conditions of the exemptions that apply in relation to a special certificate of airworthiness or experimental certificate for light sport aircraft. CASA or an authorised person may suspend or cancel the special certificate of airworthiness, or experimental certificate, for the aeroplane, if CASA or the authorised person considers it necessary to do so in the interest of aviation safety.

Subsection 8 states the general conditions of the exemptions that apply in relation to a relevant aeroplane. These include conditions restricting the use of relevant aeroplanes to certain non-commercial or private uses or flying training. They also require the pilot in command or flying instructors to hold certain qualifications. There are additional requirements for operating certain aeroplanes that have been repaired or modified or amateur-built or kit-built aeroplanes.

Subsection 9 states the flight conditions of the exemptions that apply in relation to a relevant aeroplane. These conditions restrict the circumstances in which such aeroplanes may fly, including in daylight and at certain heights or airspaces. The towing of aircraft by relevant aeroplanes is subject to conditions as is the use of radiocommunications equipment.

Subsection 10 imposes certain flight height and separation conditions that qualify the flight conditions stated in paragraph 9.1.

The provisions up to this point are largely equivalent to those in the previous CAO but have been modified to align with new provision of CASR and to accommodate the addition of lightweight aeroplanes as relevant aeroplanes to which the instrument applies. It does not create any new obligations on relevant sport aviation bodies, aeroplane owners or pilots, except where those obligations relate to lightweight aeroplanes that were not previously considered.

Subsection 11 states the conditions relating to aerobatic manoeuvres for type certificated lightweight aeroplanes. This is a new provision to accommodate the addition of lightweight aeroplanes as relevant aeroplanes to which the instrument applies.

Subsection 12, which remains substantially unchanged since the previous CAO, sets out the process for a person who proposes to fly a relevant aeroplane, otherwise than in accordance with any of the conditions stated in paragraphs 8, 9, 10 or 11 of the instrument, to apply to CASA for approval of the proposed flight. CASA may grant the approval, for the proposed flight, subject to conditions. Subsection 12 corresponds to subsection 9 of the previous CAO. There are no express fetters on the discretionary power. Applications for approvals will be determined on a case by case basis by reference to safety considerations. There may be a range of reasons for an application under this subsection and it would not be practical or necessary for the instrument or ES to specify the factors that the decision-maker should consider in exercising the discretion. General principles of administrative law would restrict the decision-maker to decisions that are reasonable and have regard to relevant considerations. Depending on the nature of the application and the variation sought, the relevant delegate would be any of the following (who are all employees of CASA and SES equivalent officers):

* Executive Manager, National Operations & Standards
* Executive Manager, Regulatory Oversight
* Branch Manager, Sport & Recreation Aviation

An approval under this provision constitutes an *authorisation* within the meaning of regulation 11.015 of CASR. Item 1 of the Table 201.004 of CASR (see subregulation 201.004(2) of CASR) deems an adverse decision on an authorisation to constitute a reviewable decision on its merits by the Administrative Appeals Tribunal. CASA will include in any such decisions an AAT merits review notice.

Subsection 13 provides for transitional provisions to ensure approvals, authorisations or determinations given by a sport aviation body or CASA under the previous CAO remain in force and are subject to the same conditions under this instrument.

In reissuing the instrument, CASA has regarded as paramount the preservation of at least an acceptable level of aviation safety.

***Legislation Act 2003* (the *LA*)**

Subsection 98 (5) of the Act states that the regulations may provide that CASA may issue a Civil Aviation Order containing a direction, instruction, notification, permission, approval or authority. Subsection 98 (5AAA) of the Act states that a Civil Aviation Order issued under a regulation made under subsection (5) is a legislative instrument.

Paragraph 98 (5A) (a) of the Act states that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft. Paragraphs 98 (5AA) (a) and (b) of the Act state that an instrument issued under paragraph 98 (5A) (a) of the Act is a legislative instrument if the instrument is expressed to apply in relation to a class of persons or a class of aircraft. The instrument exempts classes of persons who would otherwise have an obligation, under the exempted provisions, in relation to a relevant aeroplanes from complying with the obligation.

The instrument is, therefore, a legislative instrument and subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

**Consultation**

The instrument affects the operation of particular aeroplanes registered with a relevant sport aviation body whose approved function is to administer relevant aeroplanes. RAAus is the only sport aviation body that has an approved function as an ASAO to administer relevant aeroplanes under this instrument. The instrument is a remake of the previous CAO with only minor or machinery changes, and the addition of a new category of aircraft (lightweight aeroplanes).

RAAus has been advised by CASA that the instrument is being remade in this way, and a draft of the instrument has been shared with RAAus. RAAus have provided advice that the instrument appropriately extends the circumstances of the previous CAO while accommodating for the new category of aircraft to which the instrument applies. In these circumstances, CASA is satisfied that no further consultation is appropriate or reasonably practicable for the instrument for section 17 of the LA.

**Office of Best Practice Regulation (*OBPR*)**

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

**Sector risk, economic and cost impact**

Subsection 9A (3) of the Act states that subject to regarding the safety of air navigation as the most important consideration, in developing and promulgating aviation safety standards under paragraph 9 (1) (c) of the Act, CASA must:

(a) consider the economic and cost impact on individuals, businesses and the community of the standards; and

(b) take into account the differing risks associated with different industry sectors.

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

Where this instrument makes minor or machinery changes to an existing instrument there will be no change to the economic or cost impact on individuals, businesses or the community. Where this instrument makes substantive changes to incorporate the new measure of allowing lightweight aeroplanes to be aircraft to which this instrument applies, there will be positive change to the economic or cost impact on individuals, businesses and the community. These changes allow for alternative administration for around 6,500 pilots in Australia, who now have options for registration and licensing with a relevant sport aviation body depending on their circumstances.

**Statement of Compatibility with Human Rights**

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

**Making and commencement**

The instrument has been made by the Acting Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument:

* commences on 2 December 2021, immediately after the commencement of both of the following:

(i) Schedule 1 to the *Civil Aviation Legislation Amendment (Parts 103, 105*  *and 131) Regulations 2019*;

(ii) the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*; and

* is repealed at the end of 1 December 2024, except for paragraph 5A.3, which is repealed at the end of 1 December 2023.

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

**Civil Aviation Order 95.55 (Exemptions from CAR and CASR — Certain Light Sport Aircraft, Lightweight Aeroplanes and Ultralight Aeroplanes) Instrument 2021**

This legislative instrument is compatible with the human rights and freedoms
recognised or declared in the international instruments listed in section 3 of the
*Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the legislative instrument**

The purpose of *Civil Aviation Order 95.55 (Exemptions from CAR and CASR — Certain Light Sport Aircraft, Lightweight Aeroplanes and Ultralight Aeroplanes) Instrument 2021* (the ***instrument***) is to reissue *Civil Aviation Order 95.55 (Exemption from the provisions of the Civil Aviation Regulations 1988 — certain ultralight aeroplanes) Instrument 2021* (the ***previous CAO***) when it expires at the end of 1 December 2021.

The instrument continues a scheme of exemptions, subject to conditions, that facilitates the safe operation of certain light sport aircraft, lightweight aeroplanes and ultralight aeroplanes (referred to in the instrument as ***relevant aeroplanes***).

The instrument reissues the previous CAO in order to enable reasonable continuity for operators of relevant aeroplanes under exemptions from CASR, whilst creating a bridge to the new flight rules under Part 91 of CASR and, eventually, the new rules for sport and recreation aircraft under Part 103 of CASR. The instrument increases the maximum take-off weight for lightweight aeroplanes from 600 kg to 760 kg. This brings a new group of aircraft within the category of sport and recreation aircraft governed by the instrument. The instrument also facilitates the transition for sport aviation bodies to become approved self-administering aviation organisations (***ASAO***s) under CASR.

**Human rights implications**

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

**Conclusion**

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

**Civil Aviation Safety Authority**