



Australian Government

Civil Aviation Safety Authority

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160 and 11.205 of the *Civil Aviation Safety Regulations 1998* and subregulations 5 (1) and (1A) of the *Civil Aviation Regulations 1988*.

[Signed P. Spence]

Pip Spence
Director of Aviation Safety

30 November 2021

Civil Aviation Order 95.8 (Exemptions from CAR and CASR — Hang Gliders and Paragliders) Instrument 2021

1 Name

- 1.1 This instrument is *Civil Aviation Order 95.8 (Exemptions from CAR and CASR — Hang Gliders and Paragliders) Instrument 2021*.
- 1.2 This Order may be cited as *Civil Aviation Order 95.8*.
- 1.3 A reference in a CASA instrument (being an instrument issued by CASA under a statutory power to issue the instrument) to section 95.8 of the Civil Aviation Orders is taken to be a reference to this Order.

2 Duration

This Order:

- (a) 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
- (b) is repealed at the end of 1 December 2024.

3 Repeal

Civil Aviation Order 95.8 Instrument 2011 (assigned the FRL number F2015C00153) is repealed.

4 Application

This Order applies to the following aircraft that are employed in private operations:

- (a) hang gliders;
- (b) powered hang gliders;
- (c) paragliders;

- (d) powered paragliders;
(referred to in this Order as *relevant aircraft*).

5 Definitions

Note In this Order, certain terms and expressions have the same meaning as they have in the Act and the regulations. These include: *aircraft flight manual instructions, employed in private operations, flying training, hang glider, paraglider, pilot certificate, private operation, powered hang glider, powered paraglider, registered, restricted area, sport aviation body, VMC and VMC criteria*.

- 5.1 In this Order, unless the contrary intention appears:

authorised person means a person included in a class of persons appointed under regulation 6 of CAR.

emergency ELT has the meaning given by section 26.50 of the Part 91 MOS.

flying instructor authorisation, in relation to a relevant aircraft, means an authorisation, however described, that:

- (a) is issued to a person (the **holder**) by the relevant sport aviation body in accordance with its operations manual; and
- (b) confers privileges on the holder to conduct flying training in the aircraft.

Military Control Zone means a control zone administered by a military authority and so designated in Aeronautical Information Publication or by Notice to Airmen.

operations manual, in relation to the relevant sport aviation body for a relevant aircraft, means the manual, approved from time to time by CASA, that contains the practices, procedures, instructions and other information by which the sport aviation body ensures the operational safety of the aircraft in accordance with the civil aviation legislation.

Order means Civil Aviation Order.

Part 91 MOS means the Part 91 Manual of Standards.

pilot authorisation, in relation to a person piloting an aircraft, means:

- (a) a pilot certificate; and
- (b) a rating or endorsement issued in accordance with the operations manual of the relevant sport aviation body that authorises the person operating the aircraft to conduct specified activities in the aircraft.

relevant aircraft means an aircraft to which this Order applies under subsection 4.

relevant sport aviation body, in relation to an aircraft, person or activity means a sport aviation body whose approved function is or includes administering the aircraft, person or activity.

single-place aircraft means an aircraft that has been designed, manufactured or certificated to carry only the pilot and no other person.

suitable landing area, in relation to a relevant aircraft, means an area in which such an aircraft may be landed without endangering the safety, or damaging the property, of persons unconnected with the operation of the aircraft.

survival ELT has the meaning given by section 26.51 of Part 91 MOS.

technical manual, in relation to the relevant sport aviation body for a relevant aircraft, means the manual, approved from time to time by CASA, that contains:

- (a) airworthiness, design and maintenance standards; and
- (b) aeronautical practices and test procedures and processes;

by which the relevant sport aviation body ensures the technical safety of the aircraft in accordance with the civil aviation legislation.

two-place aircraft means an aircraft that has been designed, manufactured or certificated to carry the pilot and no more than one other person.

- 5.2 A reference in this Order to a Class of airspace is a reference to the volumes of airspace of that Class, as determined by CASA in the *Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument*, as in force from time to time.

6 Authorisation to perform duty without civil aviation authority

- 6.1 Subject to the conditions in this Order, for the purposes of paragraph 20AB (1) (b) of the Act, a person performing a duty that is essential to the operation of a relevant aircraft during flight time is authorised to do so without a civil aviation authorisation mentioned in paragraph 20AB (1) (a).
- 6.2 Despite paragraph 6.1, a person who makes an airborne radio transmission on an aeronautical HF frequency must be authorised to transmit using an aeronautical radio under Part 61 or Part 64 of CASR.

7 Relevant aircraft authorised to fly without certificate of airworthiness

Subject to the other subsections in this Order, a relevant aircraft is, for the purposes of regulation 200.020 of CASR (and for those purposes only), an Australian aircraft that is exempt from CASR (other than Parts 1, 11, 13, 39, 61, 67, 91, 92, 99 and 149).

Note The effect of this provision is that, under regulation 200.020 of CASR, for the purposes of paragraph 20AA (3) (b) of the Act, a relevant aircraft is authorised to fly without a certificate of airworthiness.

8 Exemptions

- 8.1 A person who would, but for this subsection, have an obligation under the **exempted provisions** in relation to a relevant aircraft is exempt from complying with the obligation if the person complies with the conditions in this Order.

Note Hang gliders and paragliders are also exempt from various provisions of Part 91 of CASR by virtue of subregulation 91.030 (2) of CASR.

- 8.2 In paragraph 8.1:

exempted provisions means the following provisions of CASR:

- (a) regulations 91.155, 91.415 and 91.625;
- (b) Subpart 91.Y;
- (c) Parts 13, 21, 33, 35, 47 and 103.

- 8.3 Subject to paragraph 7.4, a person who would, but for this paragraph, have an obligation under regulation 91.190 of CASR in relation to a relevant aircraft (which makes it an offence if a thing is dropped from the aircraft) is exempt from that regulation to the extent that:
- (a) the thing being dropped is a tow rope or related fitting used for the towing of the aircraft: or
 - (b) the thing being dropped is a launch cable or related fitting used to launch the aircraft into the air.
- 8.4 The exemption of a person under paragraph 8.3 is conditional on the person complying with the conditions in this Order.

9 General conditions

Note CASA may, by an approval under subsection 11, authorise a person to fly a relevant aircraft otherwise than in accordance with a condition in this subsection.

- 9.1 The following general conditions apply in relation to a relevant aircraft:
- (a) a person must not act as pilot in command of a relevant aircraft unless the person:
 - (i) holds a pilot certificate issued by a relevant sport aviation body in accordance with paragraph 9.2; or
 - (ii) is receiving flying training, provided that the instruction:
 - (A) is given by the holder of a flying training authorisation issued by a sport aviation body; and
 - (B) is of a kind that is within the privileges and limitations of the flying instructor authorisation;
 - (b) a relevant aircraft must be operated and maintained in accordance with the rules, regulations and directions made by the relevant sport aviation body for the operation of such aircraft and specified in the sport aviation body's operations manual, technical manual and any relevant associated written directives or documents prepared by the sport aviation body;
 - (c) the owner or operator of a relevant aircraft must, on the reasonable request of an authorised person:
 - (i) furnish the authorised person with evidence that the aircraft meets the weight requirements of this Order; and
 - (ii) give the authorised person reasonable access to the aircraft to determine that the aircraft meets those weight requirements;
 - (d) a relevant aircraft must not be used for the carriage of passengers or cargo for hire or reward.
- 9.2 The following provisions apply in relation to a pilot certificate issued to a person by a relevant sport aviation body:
- (a) a sport aviation body must not issue a person with a pilot certificate unless the person has completed the training and assessment in all the units of competency and competency standards specified in the sport aviation body's operations manual;
 - (b) the holder of a pilot certificate:
 - (i) is subject to the privileges and limitations specified in the sport aviation body's operations manual as being appropriate to the pilot certificate held; and

- (ii) must comply with all the requirements that apply to the holder as may be specified in the sport aviation body's operations manual;
- (c) the sport aviation body may suspend, cancel or otherwise vary a pilot certificate but, unless it has exercised such power, the pilot certificate remains in force for the period specified in its operations manual.

10 Flight conditions

Note CASA may, by an approval under subsection 11, authorise a person to fly a relevant aircraft otherwise than in accordance with a condition in this subsection.

10.1 The following flight conditions apply in relation to a relevant aircraft:

- (a) a relevant aircraft may only be flown in VMC and in accordance with the VFR;
- (b) a relevant aircraft may only be flown during daylight hours;
- (c) a relevant aircraft must not conduct aerobatic manoeuvres over a populous area;
- (d) subject to paragraph (c), a relevant aircraft must not conduct aerobatic manoeuvres unless:
 - (i) any loose articles in the aircraft have been made secure;
 - (ii) each person attached to the aircraft is secured with a correctly adjusted safety harness;
- (e) any cargo carried on board a flight by a relevant aircraft must be securely restrained;
- (f) a relevant aircraft must not be flown at or above flight level 125 (FL 125) unless each person in the aircraft is supplied with supplemental oxygen from an oxygen supply system carried on, or fitted to, the aircraft that has been approved by CASA or the relevant sport aviation body;
- (g) a relevant aircraft must not be flown at a height in excess of 300 feet above ground level unless serviceable equipment for measuring and displaying pressure altitude, that:
 - (i) is calibrated in feet; and
 - (ii) is accurate to within 100 feet; and
 - (iii) has an adjustable datum scale calibrated in millibars or hPa; is carried in a position on the aircraft so as to be easily read by the pilot at all times while in flight;
- (h) a hang glider or a paraglider must not be flown over a body of water beyond gliding distance from a suitable landing area unless the operator has a rescue water craft in the vicinity;
- (i) a powered hang glider or a powered paraglider must not be flown over a body of water:
 - (i) beyond gliding distance from a suitable landing area; or
 - (ii) beyond a horizontal distance of 25 nautical miles from a suitable landing area — if each occupant wears a life jacket and the aircraft is equipped with a serviceable radiocommunication system and an emergency ELT or survival ELT;

- (j) a relevant aircraft must not be flown over a populous area — below 1 000 feet above terrain, or the lowest height from which the hang glider could land outside the populous area, whichever is the higher, except that during the launching and landing phase of flight only the requirement to be able to land clear of a populous area applies;
 - (k) a relevant aircraft may only be flown in:
 - (i) Class E or G airspace; or
 - (ii) Class C or D airspace that is below 300 feet above ground level and not within 10 nautical miles of a controlled aerodrome; or
 - (iii) Class C or D airspace to which sub-subparagraph (ii) does not refer, or a restricted area — if in accordance with paragraph 10.2.
- 10.2 For the purposes of sub-subparagraph 10.1 (k) (iii), a person must not operate a relevant aircraft in Class C or D airspace or a restricted area unless:
- (a) the person:
 - (i) holds a pilot licence with an aircraft category rating, the valid privileges of which include operating in controlled airspace and at a controlled aerodrome; and
 - (ii) has a valid flight review for the aircraft class rating in accordance with Part 61 of CASR; and
 - (b) the aircraft is carrying radiocommunications equipment capable of two-way communication with air traffic control.
- 10.3 A relevant aircraft must not be flown:
- (a) at a height of 5 000 feet above mean sea level or higher; or
 - (b) in the VMC criteria specified in item 4 of Table 2.07 (3) of the Part 91 MOS;
- unless it is equipped with, or carries, serviceable radiocommunications equipment.
- 10.4 Any radiocommunications equipment fitted to, or carried by, a relevant aircraft must not be used by a person unless:
- (a) in the case of transmission in VHF frequency:
 - (i) the person is authorised or qualified to transmit in VHF frequency under Part 61 of CASR; or
 - (ii) the person holds a pilot authorisation issued by the relevant sport aviation body that authorises the holder to operate VHF radiocommunications equipment; and
 - (b) in any other case — the person is authorised or qualified to transmit in the relevant frequency in accordance with regulation 91.625 of CASR.
- 10.5 A relevant aircraft must not be flown within 5 nautical miles of a military aerodrome.
- 10.6 A relevant aircraft must not be flown at any height within a Military Control Zone unless the prior approval of the appropriate military authority has been obtained.
- 10.7 A relevant aircraft must not carry more than:
- (a) in the case of a single-place aircraft— the pilot; or
 - (b) in the case of a two-place aircraft — the pilot and one passenger.

11 Approval of flights not complying with conditions

- 11.1 CASA may, on application by a person who proposes to fly a relevant aircraft otherwise than in accordance with a condition in subsection 9 or 10, approve the proposed flight.
- 11.2 The application must:
- (a) include details of the proposed flight and the conditions sought to be disapplied; and
 - (b) be made at least 28 days before the proposed flight.
- 11.3 The approval must specify:
- (a) the condition in subsection 9 or 10 that is not to apply in relation to the proposed flight; and
 - (b) the conditions, if any, to which the approval is subject.
- 11.4 A person must not contravene an approval (or any conditions of an approval) granted under this subsection.

12 Transitional provisions

- 12.1 A certificate, approval or authorisation given under the repealed Order by a sport aviation body that was current or in force immediately before the commencement of this Order, continues on and from that commencement as if it were an equivalent certificate, approval or authorisation given by the sport aviation body under this Order and subject to the same terms and conditions.
- 12.2 An approval given, or determination made, under the repealed Order by CASA that was in force immediately before the commencement of this Order, continues on and from that commencement as if it were an equivalent approval given, or determination made, by CASA under this Order and subject to the same terms and conditions.
- 12.3 In this subsection:
repealed Order means *Civil Aviation Order 95.8 Instrument 2011* (repealed under subsection 3).
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