



# 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 95.4 (Exemptions from CAR and CASR — Sailplanes and Towing Aircraft) Instrument 2021**

---

#### **1 Name**

- 1.1 This instrument is *Civil Aviation Order 95.4 (Exemptions from CAR and CASR — Sailplanes and Towing Aircraft) Instrument 2021*.
- 1.2 This Order may be cited as *Civil Aviation Order 95.4*.
- 1.3 A reference in a CASA instrument (being an instrument issued by CASA under a statutory power to issue the instrument) to section 95.4 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- (b) is repealed at the end of 1 December 2024.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*Civil Aviation Order 95.4 Instrument 2011* (assigned the FRL number F2012C00683) is repealed.

#### **4 Application**

This Order applies to:

- (a) a **relevant sailplane**, being a sailplane that is employed in private operations; and
- (b) a **relevant towing aircraft**, being:
  - (i) a powered sailplane that is towing a sailplane or hang glider; or
  - (ii) an aeroplane that is towing a sailplane.

## 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**, **glider**, **hang glider**, **pilot certificate**, **power-assisted sailplane**, **powered sailplane**, **private operation**, **sailplane**, **sport aviation body**, **VMC** and **VMC criteria**.

In this Order, unless the contrary intention appears:

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

**administrative rules**, in relation to a sport aviation body, means that part of its SAB manual detailing the practices, procedures, instructions and other information by which the sport aviation body performs its approved functions, in accordance with the civil aviation legislation, of administering a relevant sailplane or a person or activity, and includes rules relating to an aircraft's listing and the authorisation of flight crew.

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

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

- (a) is issued to a person (the **holder**) by a relevant sport aviation body in accordance with the sport aviation body's operational and technical rules; and
- (b) confers privileges on the holder to conduct flying training in the sailplane.

**GFA** means The Gliding Federation Association of Australia Inc.

**GFA Operational Regulations** means the regulations prepared by the GFA, and approved by CASA, containing the procedures and instructions necessary to ensure that relevant sailplanes comply with the provisions of CAR and CASR applicable to those sailplanes and with the conditions specified in this Order.

**glider pilot certificate** means a pilot certificate mentioned in subregulation 61.1540 (2) of CASR.

**operational and technical rules**:

- (a) in relation to the GFA, means the GFA Operational Regulations; and
- (b) in relation to a sport aviation body other than the GFA, means that part of its SAB manual detailing the practices, procedures, instructions and other information by which the sport aviation body ensures the operational and technical safety of relevant sailplane in accordance with this Order and the civil aviation legislation, and includes rules relating to flight operations, pilot training, airworthiness and governance.

**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 SAB manual of the relevant sport aviation body that authorises the person operating the aircraft to conduct specified activities in the aircraft.

**relevant aircraft** means a relevant sailplane or a relevant towing aircraft.

**relevant sailplane**: see subparagraph 4 (a).

**relevant sport aviation body**, in relation to a relevant aircraft, person or activity means a sport aviation body (other than an ASAO) whose approved function is or includes administering the aircraft, person or activity.

**relevant towing aircraft**: see subparagraph 4 (b).

**SAB manual** means the manual prepared by a sport aviation body and approved by CASA from time to time that contains:

- (a) the sport aviation body's operational and technical rules; and
- (b) the sport aviation body's administrative rules; and
- (c) any associated written directives or documents prepared by the sport aviation body.

**suitable landing area**, in relation to a relevant sailplane, 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 the Part 91 MOS.

## **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 (other than an aeroplane mentioned in subparagraph 4 (b) (ii)) 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 Exemptions**

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

*Note* Sailplanes are also exempt from various provisions of Part 91 of CASR by virtue of subregulation 91.030 (2) of CASR.

- 7.2 In paragraph 7.1:

**exempted provisions** means:

- (a) Parts 4 and 4A of CAR; and
- (b) the following provisions of CASR:
  - (i) regulations 91.155, 91.415, 91.455 and 91.625;
  - (ii) Subpart 91.Y;
  - (iii) Parts 13 and 103.

- 7.3 Subject to paragraph 7.7, 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 compliance with that regulation to the extent that:
  - (a) the aircraft is a relevant towing aircraft and the thing being dropped is a tow rope or related fitting used for the towing of a relevant sailplane; or

- (b) the aircraft is a relevant sailplane and the thing being dropped is:
    - (i) a tow rope or related fitting used for the towing of the sailplane; or
    - (ii) a launch cable or related fitting used to launch the sailplane into the air; or
    - (iii) a detachable drag inducing device that was fitted to the sailplane; or
    - (iv) water ballast dropped from the sailplane.
- 7.4 Subject to paragraph 7.7, a person who would, but for this paragraph, have an obligation under regulation 91.210 of CASR in relation to a relevant towing aircraft (which makes it an offence if a thing is towed by the aircraft without certain authorisations) is exempt from compliance with that regulation to the extent that:
- (a) if the aircraft is an aeroplane — the thing being towed is a sailplane; or
  - (b) if the aircraft is a powered sailplane — the thing being towed is a sailplane or a hang glider.
- 7.5 Subject to paragraph 7.7, a person who would, but for this paragraph, have an obligation under regulation 91.267 of CASR in relation to a relevant towing aircraft that is an aeroplane towing a relevant sailplane or hang glider (which prescribes minimum height rules other than in populous areas and public gatherings) is exempt from compliance with that regulation.
- 7.6 Subject to paragraph 7.7, a person who would, but for this paragraph, have an obligation under regulation 91.390 of CASR in relation to a relevant towing aircraft that is towing a relevant sailplane or hang glider (which prescribes requirements for maintaining the same track after take-offs from non-controlled aerodromes) is exempt from compliance with that regulation.
- 7.7 The exemption of a person under paragraphs 7.3 to 7.6 is conditional on the person complying with the conditions in this Order to the extent to which they are applicable.

## 8 General conditions

*Note* CASA may, by an approval under subsection 10, authorise a person to fly a relevant sailplane otherwise than in accordance with a condition in this subsection.

- 8.1 The following conditions apply in relation to a relevant sailplane:
- (a) a relevant sailplane must not be operated except in accordance with:
    - (i) the SAB manual of the relevant sport aviation body; or
    - (ii) an approval mentioned in paragraph 61.1515 (1) (b) of CASR;
  - (b) a relevant sailplane must not be used for flying training unless:
    - (i) the sailplane is operated in accordance with the SAB manual of the relevant sport body; and
    - (ii) the flying training is given by a person who holds:
      - (A) a glider pilot certificate; and
      - (B) a flying instructor authorisation issued by the relevant sport aviation body in accordance with the standards specified in the SAB manual and subject to any limitations as may be specified in the manual as being appropriate to the qualification held by the person.

8.2 The following conditions apply in relation to a relevant aircraft that is a powered sailplane or a power-assisted sailplane (whether or not it is a relevant towing aircraft):

- (a) a powered sailplane must carry engraved placards in the cockpit in full view from every control seat, stating:
  - (i) for a powered sailplane administered by the GFA:  
“THIS POWERED SAILPLANE MUST BE OPERATED IN ACCORDANCE WITH THE PROVISIONS OF CAO 95.4 AND THE GFA OPERATIONAL REGULATIONS”; or
  - (ii) for any other powered sailplane:  
“THIS POWERED SAILPLANE MUST BE OPERATED IN ACCORDANCE WITH THE PROVISIONS OF CAO 95.4 AND THE SAB MANUAL”;
- (b) a power-assisted sailplane must carry engraved placards in the cockpit in full view from every control seat, stating:
  - (i) for a power-assisted sailplane administered by the GFA:  
“THIS POWER-ASSISTED SAILPLANE MUST BE OPERATED IN ACCORDANCE WITH THE PROVISIONS OF CAO 95.4 AND THE GFA OPERATIONAL REGULATIONS.  
TAKE-OFFS USING ONLY INSTALLED ENGINE POWER ARE PROHIBITED.”; or
  - (ii) for any other power-assisted sailplane:  
“THIS POWER-ASSISTED SAILPLANE MUST BE OPERATED IN ACCORDANCE WITH THE PROVISIONS OF CAO 95.4 AND THE SAB MANUAL.  
TAKE-OFFS USING ONLY INSTALLED ENGINE POWER ARE PROHIBITED.”.

## 9 Flight conditions

*Note* CASA may, by an approval under subsection 10, authorise a person to fly a relevant sailplane otherwise than in accordance with a condition in this subsection.

9.1 The following flight conditions apply in relation to a relevant sailplane:

- (a) a relevant sailplane may only be flown in VMC and in accordance with the VFR;
- (b) a relevant sailplane may only be flown during daylight hours;
- (c) a relevant sailplane may conduct aerobatic manoeuvres, provided they are conducted in accordance with paragraph 9.2;
- (d) any cargo carried on board a flight by a relevant sailplane must be securely restrained;
- (e) a relevant sailplane must not be flown at or above flight level 125 (FL 125) unless each person in the sailplane is supplied with supplemental oxygen from an oxygen supply system carried on, or fitted to the sailplane that has been approved by CASA or the relevant sport aviation body;
- (f) a relevant sailplane may, while completing a flight, descend below 500 feet above the ground when approaching its intended landing place if the flight

is conducted in accordance with the relevant sport aviation body's SAB manual;

- (g) a relevant sailplane may, while engaged in ridge or hill soaring, fly at a height below 500 feet above the ground, but no closer to terrain or any obstacles than the distances specified in the relevant sport aviation body's SAB manual;
- (h) a relevant sailplane must not be flown:
  - (i) at a height of 5 000 feet above mean sea level or higher; or
  - (ii) 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 and the pilot is authorised or qualified to use it;
- (i) a relevant sailplane must not be flown above a body of water:
  - (i) beyond gliding distance from a suitable landing area; or
  - (ii) in the case of a power-assisted sailplane, a powered sailplane or a sailplane that is being towed by a relevant towing aircraft — if the persons on board are wearing life jackets and the aircraft is equipped with a serviceable radiocommunication system and an emergency ELT or survival ELT:
    - (A) beyond a horizontal distance of 25 nautical miles from a suitable landing area; or
    - (B) in the case of a flight between Tasmania and mainland Australia in either direction — by a longer route if taking advantage of safer weather conditions.

9.2 A relevant sailplane may conduct aerobatic manoeuvres if the following conditions are satisfied:

- (a) for an aerobatic manoeuvre that takes place more than 2 nautical miles from a certified aerodrome — no aerobatics may be conducted at a height less than 1 000 feet above the highest point of the terrain or of any obstacle on the terrain within a radius of 600 metres of a line extending vertically below the aircraft unless the prior approval of CASA has been obtained;
- (b) for an aerobatic manoeuvre that takes place 2 nautical miles or less from a certified aerodrome — no aerobatics may be conducted at a height less than 2 000 feet above the aerodrome unless the prior approval of CASA has been obtained.

9.3 Any radiocommunications equipment fitted to a relevant sailplane 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.

- 9.4 A relevant towing aircraft may only tow a glider if the following provisions apply:
- (a) each aircraft is operated in accordance with its aircraft flight manual instructions;
  - (b) the relevant towing aircraft is certified as suitable for that purpose and is mentioned in a Civil Aviation Advisory Publication 149-1(0) as it exists from time to time;
  - (c) in the case of a relevant towing aircraft that is registered under Part 47 of CASR — the pilot in command of the aircraft:
    - (i) is authorised to pilot the aircraft under Part 61 of CASR, or, in the case of a powered sailplane, under subsection 8; and
    - (ii) holds an authorisation issued by the relevant sport aviation body, the privileges of which include the towing of sailplanes administered by the sport aviation body; and
    - (iii) while towing such a sailplane, operates the relevant towing aircraft in accordance with the towing procedures set out in the SAB manual of the relevant sport aviation body that administers the sailplane;
  - (d) in the case of a relevant towing aircraft that is listed with a sport aviation body — the pilot in command of the aircraft:
    - (i) holds:
      - (A) a pilot certificate issued by the relevant sport aviation body; and
      - (B) an authorisation issued by the relevant sport aviation body for a relevant sailplane, the privileges of which include the towing of sailplanes administered by the sport aviation body; and
      - (C) an authorisation issued by the relevant sport aviation body for the relevant towing aircraft, the privileges of which include the towing of gliders; and
    - (ii) while towing such a sailplane, operates the relevant towing aircraft in accordance with the towing procedures set out in the SAB manual of the relevant sport aviation body that administers the sailplane.

## **10 Approval of flights not complying with conditions**

- 10.1 CASA may, on application by a person who proposes to fly a relevant sailplane otherwise than in accordance with a condition in subsection 8 or 9, approve the proposed flight.
- 10.2 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.
- 10.3 The approval must specify:
- (a) the condition in subsection 8 or 9 that is not to apply in relation to the proposed flight; and
  - (b) the conditions, if any, to which the approval is subject.
- 10.4 A person must not contravene an approval (or any conditions of an approval) granted under this subsection.

## **11 Transitional provisions**

- 11.1 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.
- 11.2 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.
- 11.3 In this subsection:  
***repealed Order*** means *Civil Aviation Order 95.4 Instrument 2011* (repealed under subsection 3).
-