



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 95.10 (Exemptions from CAR and CASR — Microlight Aeroplanes) Instrument 2021

1 Name

- 1.1 This instrument is *Civil Aviation Order 95.10 (Exemptions from CAR and CASR — Microlight Aeroplanes) Instrument 2021*.
- 1.2 This Order may be cited as *Civil Aviation Order 95.10*.
- 1.3 A reference in a CASA instrument (being an instrument issued by CASA under a statutory power to issue the instrument) to section 95.10 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- (b) is repealed at the end of 1 December 2024.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 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020 (assigned the FRL number F2020L01242) is repealed.

4 Application

This Order applies in relation to a microlight aeroplane if it is listed with a sport aviation body (referred to in this Order as a **relevant aircraft**).

Note See definition of **listed** in paragraph 5.1.

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: *ASAO, certificate of airworthiness, exposition, light sport aircraft, pilot certificate, restricted area, sport aviation body, weight-shift-controlled aeroplane, VMC* and *VMC criteria*.

5.1 In this Order, unless the contrary intention appears:

3-axis aeroplane means an aeroplane that has a conventional 3-axis flight control system.

CAO 20.18 means *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*.

close relative, of a person, means the spouse or a parent, child or sibling of the person.

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

listed: an aircraft is listed with a sport aviation body if:

- (a) the sport aviation body's approved function is or includes administering the aircraft; and
- (b) the sport aviation body holds a record of:
 - (i) a description of the aircraft (by reference to its make, model and serial number or construction number) and the identity of the aircraft's operator; and
 - (ii) the identifying mark issued for the aircraft by the sport aviation body in accordance with its operations manual or technical manual.

microlight aeroplane means a privately built single-place weight-shift-controlled aeroplane or a privately built single-place 3-axis aeroplane that:

- (a) has a take-off weight (being the total weight of the aeroplane when it begins to taxi before taking off, including the weight of the pilot and of fuel, oil, recovery and personnel parachutes, flotation equipment, items of optional equipment, tools and baggage) not exceeding:
 - (i) in the case of an aeroplane that is not equipped to land on water:
 - (A) if it has no parachute recovery system — 300 kilograms; or
 - (B) if it has a parachute recovery system — 320 kilograms; or
 - (ii) in the case of an aeroplane that is equipped to land on water:
 - (A) if it has no parachute recovery system — 335 kilograms; or
 - (B) if it has a parachute recovery system — 355 kilograms; and
- (b) has a wing loading not exceeding 30 kilograms per square metre at its take-off weight.

Note A microlight aeroplane is not a Part 103 aircraft.

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.

privately built: see paragraph 5.2.

recognised standard part, in relation to a relevant aircraft, means a part specified in a list of standard parts for such aircraft included in the relevant sport aviation's operations manual or technical manual, or if the sport aviation body is an ASAO, its exposition.

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 (whether or not the sport aviation body is an ASAO).

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.

5.2 Subject to paragraph 5.3, for the purposes of this Order, a microlight aeroplane is **privately built** only if:

- (a) the aeroplane was built by a person, or was jointly built by not more than 4 persons, with a view to the aeroplane being owned by the person, or by 1 or more of the persons, who built it; and
- (b) the person who built the aeroplane was, or each of the persons who built the aeroplane was, at the time of completion of the aeroplane, an eligible private builder in relation to the aeroplane (within the meaning of paragraph 5.5); and
- (c) the aeroplane:
 - (i) was designed by its builder, or by one or more of its builders; or
 - (ii) was built in accordance with a set of drawings or a data package, or a set of drawings and a data package, approved, in writing, by a relevant sport aviation body; or
 - (iii) was built from a kit approved, in writing, by a sport aviation body; and
- (d) except in a case to which sub-subparagraph (c) (iii) applies — the parts from which the aeroplane was built (other than any recognised standard parts) were made by, or at the direction of, the person, or one or more of the persons, who built the aeroplane.

5.3 CASA may determine, in writing, that a microlight aeroplane that would not otherwise comply with this Order:

- (a) substantially complies with specifications set out in this Order; and

- (b) may safely be operated in accordance with its conditions.
- 5.4 The operator of a microlight aeroplane, the subject of a determination under paragraph 5.3, may operate the aeroplane in accordance with this Order, subject to compliance with any additional condition that CASA mentions in that determination.
- 5.5 For the purposes of this Order, a person is, at the time the building of a microlight aeroplane is completed, an **eligible private builder** in relation to the aeroplane only if the person has not, within the preceding 12 months, whether alone or jointly with another person or other persons, completed building another microlight aeroplane that satisfies the requirements mentioned in subparagraph 5.2 (c).
- 5.6 In this Order, a reference to a Class of airspace means 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 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, 21, 39, 61, 67, 91, 92, 99 and 149).

Note Under regulation 200.020 of CASR, for the purposes of paragraph 20AA (3) (b) of the Act, such an aircraft is authorised to fly without a certificate of airworthiness.

7 Authorisation to perform duty without civil aviation authority

- 7.1 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).
- 7.2 Despite paragraph 7.1, 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 64 of CASR.

8 Exemptions

- 8.1 Subject to paragraph 8.3, 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 (to the extent to which they are applicable).
- 8.2 In this subsection:
exempted provisions means:
- (a) Parts 4, 4A, 4B, 4C and 4D of CAR; and
 - (b) the following provisions of CASR:
 - (ii) regulations 91.095, 91.105, 91.110, 91.115, 91.145, 91.155, 91.267, 91.390, 91.415, 91.425, 91.550, 91.585, 91.590, 91.595, 91.605, 91.615, 91.625, 91.725, 91.810 and 91.915;
 - (iii) Subpart 91.Y;
 - (iv) Parts 13, 33, 35, 45, 47, 64 and 90.

- 8.3 The exempted provision relating to regulation 91.390 of CASR does not apply in relation to a microlight aeroplane that is a 3-axis aeroplane.

9 General conditions

Note CASA may, by an approval under subsection 12, authorise a person to fly a relevant aircraft otherwise than in accordance with a condition in this subsection.

The following general conditions apply in relation to a relevant aircraft:

- (a) if a relevant aircraft:
- (i) was first listed with a sport aviation body on or after 1 March 1990; and
 - (ii) was privately built; and
 - (iii) is owned by a person who is not the builder;
the aircraft must not be flown unless a certificate or other authorisation has been issued by the relevant sport aviation body stating that the aircraft meets the requirements set out in its operations manual or technical manual or, if the sport aviation body is an ASAO, its exposition;
- (b) a sign must be clearly displayed in a relevant aircraft, in a position visible to the pilot when occupying the control seat, stating that:
- (i) the airworthiness of the aircraft has not been guaranteed by CASA; and
 - (ii) the airworthiness of the aircraft has not been guaranteed by the relevant sport aviation body; and
 - (iii) the pilot operates the aircraft at the pilot's own risk;
- (c) a relevant aircraft must not be used for the carriage of passengers or cargo for hire or reward;
- (d) a relevant aircraft must not be used for any purpose other than:
- (i) the personal carriage of the pilot; or
 - (ii) the aerial inspection, conducted as a private operation, of stock, fencing or farm or pastoral equipment that is located on land owned by, or under the control of, the pilot or a close relative of the pilot (with the relative's consent);
- (e) a person must not operate a relevant aircraft as pilot in command unless:
- (i) the person holds a pilot certificate granted by the relevant sport aviation body in accordance with its operations manual or, if the sport aviation body is an ASAO, its exposition; and
 - (ii) subject to the other conditions specified in this Order, the person operates the aircraft in accordance with the privileges and limitations of the certificate;

Note Under regulation 200.025 of CASR, for paragraph 20AB (1) (a) of the Act, a person is taken to hold a civil aviation authorisation, which 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.
- (f) subject to the other conditions set out in this Order, a person operating a relevant aircraft must do so in accordance with the requirements of the relevant sport aviation body's operations manual and technical manual or, if the sport aviation body is an ASAO, its exposition;

- (g) a person maintaining a relevant aircraft must hold the necessary qualification for that activity as specified in, and maintain the aircraft in accordance with, the relevant sport aviation body's operations manual and technical manual or, if the sport aviation body is an ASAO, its exposition.

10 Flight conditions

Note CASA may, by an approval under subsection 12, 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;
 - (d) any cargo carried on board a flight by a relevant aircraft must be securely restrained;
 - (e) a relevant aircraft must not be flown at a height of less than 500 feet above ground level unless at least one of the conditions set out in paragraph 11.1 is satisfied;
 - (f) a relevant aircraft must not be flown above a body of water at a horizontal distance from a suitable landing area of more than:
 - (i) the distance that the aircraft could glide in case of engine failure; or
 - (ii) if the pilot is wearing a life jacket and the aircraft is equipped with a serviceable radiocommunication system and an emergency ELT or survival ELT:
 - (A) 25 nautical miles; or
 - (B) in the case of a flight between Tasmania and mainland Australia in either direction — a longer route if taking advantage of safer weather conditions;
 - (g) a relevant aircraft must not be flown over a populous area or public gathering unless an approval is in force under regulation 91.045 or 91.050 of CASR authorising the flight over the area or gathering, which approval imposes no conditions or limitations that would prevent the flight; and
 - (h) a relevant aircraft may only be flown in:
 - (i) Class E or G airspace; or
 - (ii) subject to paragraph 10.2 — Class A, B, C or D airspace or a restricted area;
- 10.2 For the purposes of sub-subparagraph 10.1 (h) (ii), a person must not operate a relevant aircraft in Class A, B, C or D airspace, or a restricted area unless the following conditions are satisfied:
 - (a) one of the following provisions applies:
 - (i) a certificate of airworthiness under regulation 21.176 of CASR is in force for the aeroplane; or
 - (ii) both:
 - (A) an experimental certificate under regulation 21.195A of CASR is in force in relation to the aeroplane; and

- (B) an approval is in force under regulation 91.045 or 91.050 of CASR authorising flight in the aircraft over a populous area or public gathering, which approval imposes no conditions or limitations that would prevent the flight;
 - (b) the aircraft is fitted with a radio capable of two-way communication with air traffic control;
 - (c) 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's class rating, under Part 61 of CASR;
 - (e) if the controlled airspace in which the aircraft is operating requires a transponder to be fitted — the aircraft is fitted with a transponder that is suitable for use in the airspace.
- 10.3 Any radiocommunications equipment fitted to 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 relevant sport aviation body has authorised the person to operate VHF radiocommunications equipment in accordance with its operations manual; or
 - (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.
- 10.4 A relevant aircraft that is fitted with, or carries, automatic dependent surveillance-broadcast equipment, must comply with the requirements relating to the equipment in subsection 9B of CAO 20.18.
- 10.5 A relevant aircraft 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 CAO 20.18.

11 Flight height and separation limitations

Note CASA may, by an approval under subsection 12, authorise a person to fly a relevant aircraft otherwise than in accordance with a condition in this subsection.

- 11.1 For the purposes of subparagraph 10.1 (e), a relevant aircraft may be flown at less than 500 feet above ground level over land owned by a person (including the Crown) if:
- (a) the aircraft is flying in the course of actually taking off or landing; or
 - (b) the aircraft is flying over land that is owned by, or under the control of, the pilot; or
 - (c) the owner or occupier (including the Crown) of the land, or an agent or employee of the owner or occupier, has given permission for the flight to take place at such a height.
- 11.2 Except when taking off or landing, a relevant aircraft that is flown at a height lower than 500 feet above ground level must be at a distance of at least 100 metres horizontally from:

- (a) a public road (being a street, road, lane, thoroughfare or place open to, or used by, the public for passage of vehicles); or
 - (b) a person, other than a person associated with the operation of the aircraft; or
 - (c) a dwelling, except with the permission of the occupier.
- 11.3 When taking off or landing a relevant aircraft that is flown at a height of less than 500 feet above ground level, the pilot must, during the take-off or landing, maintain a horizontal distance from a person or place referred to in paragraph 1.2 that may be less than 100 metres but is:
- (a) enough to avoid endangering any person or causing damage to any property; and
 - (b) as far as possible from such a person or place, having regard to carrying out a safe take-off or landing.
- 11.4 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 the aircraft is equipped with a serviceable radiocommunication system and the pilot is qualified to use it in accordance with paragraph 10.3.
- 11.5 A relevant aircraft must not be flown at a height of more than 10 000 feet above mean sea level.

12 Approval of flights not complying with conditions

- 12.1 CASA may, on application by a person who proposes to fly a relevant aircraft otherwise than in accordance with a condition in subsection 9, 10 or 11, approve the proposed flight.
- 12.2 The application must:
- (a) include details of the proposed flight and the condition sought to be disapplied; and
 - (b) be made at least 28 days before the proposed flight.
- 12.3 The approval must specify:
- (a) the condition in subsection 9, 10 or 11 that is not to apply in relation to the proposed flight; and
 - (b) the conditions, if any, to which the approval is subject.
- 12.4 A person must not contravene an approval (or any conditions of an approval) granted under this subsection.

13 Transitional provisions

- 13.1 Any 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, as the case may be, given by the sport aviation body under this Order and subject to the same terms and conditions.
- 13.2 Any 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.

13.3 In this subsection:

repealed Order means *Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020* (repealed under subsection 3).
