



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX151/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

[Signed P. Spence]

Pip Spence
Director of Aviation Safety

30 November 2021

CASA EX151/21 – Amendment of CASA EX86/21 – Instrument 2021

1 Name

This instrument is *CASA EX151/21 – Amendment of CASA EX86/21 – Instrument 2021*.

2 Commencement

This instrument commences on 2 December 2021.

3 Amendment of CASA EX86/21

Schedule 1 amends *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (CASA EX86/21)*.

Schedule 1 Amendments

[1] Subsection 3 (1), Definitions

insert

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

large aeroplane means an aeroplane mentioned in subsection 18.01 (2) of the Part 138 MOS.

NVIS operation means an NVIS flight that is any of the following operations using NVIS:

- (a) an aerial work operation conducted by an aerial work operator;
- (b) a maintenance flight of an aircraft for the purpose of ensuring the serviceability of the aircraft, or the NVIS, for NVIS operations mentioned in any other paragraph of this definition;
- (c) a test flight of an aircraft for the purpose of certifying the aircraft, or the NVIS, for NVIS operations mentioned in any other paragraph of this definition.

[2] Section 13

repeal and substitute

13 Application of Part 138 performance requirements instead of Part 91 performance requirements — exemption and direction

- (1) This section applies to a private operation in an aircraft, conducted by an aerial work certificate holder, provided that the private operation is not a limited aerial work operation.
- (2) For the operation, the operator and the pilot in command of a large aeroplane are each exempted from compliance with each provision in Subpart 91.F (as applicable) but only if the operator and the pilot in command (as applicable) each complies with the directions in subsections (4), (5) and (6), as applicable.
- (3) For the operation, the operator and the pilot in command of a rotorcraft are each exempted from compliance with each provision in Subpart 91.F, but only:
 - (a) to the extent of sections 24.04, 24.05, 25.04 and 25.05 of the Part 91 MOS; and
 - (b) if the operator and the pilot in command (as applicable) each complies with the directions in subsections (4), (5) and (6), as applicable.

Directions

- (4) The operator of a large aeroplane must ensure that for the operation:
 - (a) the requirements of Division 1 of Chapter 18 of the Part 138 MOS are complied with; and
 - (b) the operations manual provides for the compliance mentioned in paragraph (a).
- (5) The operator of a rotorcraft must ensure that for the operation:
 - (a) the requirements of Division 2 of Chapter 18 of the Part 138 MOS are complied with for take-off and landing operations in populous areas; and
 - (b) the operations manual provides for the compliance mentioned in paragraph (a).
- (6) The pilot in command must comply with any requirements arising under subsections (4) and (5) that are applicable to the pilot in command.

[3] After section 14

insert

14A Use of foreign-registered aircraft

- (1) This section applies to an aerial work certificate holder (the *operator*) for aerial work operations in a foreign-registered aircraft in Australian territory (the *operations*) but only if:
 - (a) immediately before 2 December 2021, the operator held an AOC authorising the operations in the foreign-registered aircraft; and
 - (b) an agreement of the kind mentioned in paragraph 28A (1) (a) of the *Civil Aviation Act 1988* is in place in relation to the foreign-registered aircraft.
- (2) The operator is exempted from compliance with regulation 138.200.
- (3) This section ceases to have effect at the end of 30 April 2022.

[4] After section 22

insert

23 First use of NVIS in an NVIS operation under Part 138 – significant change – direction

- (1) This section applies to an aerial work certificate holder (the *operator*) for aerial work operations (the *operations*).
- (2) Before conducting an NVIS operation for the first time in an aerial work operation, the operator must apply for, and obtain, the written approval of CASA as if:
 - (a) the first conduct of the NVIS operation were a significant change within the meaning of that expression in regulation 138.012; and
 - (b) regulations 138.062, 138.064, and 138.066 applied to the first conduct of the NVIS operation as if it were such a significant change.
- (3) If CASA gives the operator its approval under subsection (2) for a particular NVIS operation, no subsequent approval under subsection (2) is required before the operator may conduct a different NVIS operation for the first time in an aerial work operation.

24 Retention of historical flight crew member records — direction

- (1) This section applies to an aerial work certificate holder (the *operator*) for aerial work operations (the *operations*) if, immediately before 2 December 2021, the operator was an AOC holder authorised to conduct aerial work operations other than aerial work (air ambulance) operations (the *operator*).
 - (2) The operator must retain in safe custody, for the periods mentioned in subsection (3), each of the records held by the operator on 1 December 2021 that were mentioned in Appendix 1, paragraphs 2.3, 2.4 and 2.5 of CAO 82.1 as the provisions were in force immediately before 2 December 2021.
 - (3) For subsection (2), the period for retention of the records is at least the period, commencing on 2 December 2021, that the similar or analogous record is to be retained under Subpart 119.J.
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