



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX41/22

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*.

[Signed P. Spence]

Pip Spence
Director of Aviation Safety

2 May 2022

CASA EX41/22 – Amendment of CASA EX82/21 – Instrument (No. 1) 2022

1 Name

This instrument is *CASA EX41/22 – Amendment of CASA EX82/21 – Instrument (No. 1) 2022*.

2 Commencement

This instrument commences on the day after it is registered.

3 Amendment of CASA EX82/21

Schedule 1 amends *CASA EX82/21 – Part 119 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

Schedule 1 Amendments

[1] After section 3

insert

3A Table of Contents

A Table of Contents may be added to the front of the compilation of this instrument but it is for reader guidance only and is not a formal part of this instrument.

[2] Section 6, the heading

repeal and substitute

6B Retention of historical records — direction

[3] Part 3, before section 7

insert

7AA Certain air transport operations (business) — exemption

(1) In this section:

operator means a person, organisation or enterprise, who:

- (a) as at the end of 1 December 2021, was engaged in aircraft operations involving the carriage of passengers on board the aircraft; and
- (b) immediately before 2 December 2021, for the purpose of the carriage:
 - (i) did not hold an AOC authorising the carriage of passengers in regular public transport operations, charter operations or aerial work (air ambulance) operations; and
 - (ii) did not hold an AOC solely because subparagraph 2 (7) (d) (v) of CAR was reasonably taken to apply to the carriage of passengers.

Note 1 If, before 2 December 2021, subparagraph 2 (7) (d) (v) of CAR was reasonably taken to apply to the carriage of passengers, the operation was considered to be a private operation not requiring an AOC.

Note 2 In effect, this exemption instrument does not apply to an operator who, immediately before 2 December 2021, held an AOC authorising the carriage of passengers in regular public transport operations, charter operations or aerial work (air ambulance) operations.

- (2) An operator is exempted from compliance with each provision in Part 119 of CASR.

Note If an aircraft operation is exempted from Part 119 of CASR, Parts 121, 133 and 135 of CASR consequentially do not apply to the operation.

- (3) The exemption under subsection (2) is subject to the following conditions:

- (a) for an aeroplane to which CAO 20.7.1B applied immediately before 2 December 2021, each flight of the aeroplane must comply with the most restrictive combination of requirements that apply to the aeroplane under:
 - (i) Subpart 91.F — Performance of CASR, as in force from time to time; and
 - (ii) CAO 20.7.1B as if CAO 20.7.1B, as in force immediately before 2 December 2021, continued to apply to the aeroplane;
- (b) for each flight of an aeroplane that is one of the following:
 - (i) a propeller-driven aeroplane having a maximum take-off weight not in excess of 5 700 kg;
 - (ii) a jet-engined aeroplanes having a maximum take-off weight not in excess of 2 722 kg.

the aeroplane must comply with the most restrictive combination of requirements that apply to the aeroplane under:

- (iii) Subpart 91.F — Performance of CASR, as in force from time to time; and
 - (iv) subsections 3 to 10, inclusive, of CAO 20.7.4, as if these subsections, as in force immediately before 2 December 2021, applied to the aeroplane immediately before 2 December 2021, and continue to apply.
- (4) This section ceases to have effect at the end of 1 June 2023.

7AB Certain air transport operations — “cross-hiring” exemption

- (1) This section applies to an Australian air transport operator (the *relevant operator*) who conducts:
 - (a) a medical transport operation; or
 - (b) a non-scheduled air transport operation;
 but only if:
 - (c) the operation is an Australian air transport operation (*relevant operations*) in an aircraft (the *relevant aircraft*) for which the relevant operator is not

- also the registered operator or the holder of an approval under regulation 119.025 for subparagraph 119.080 (1) (h) (ii); and
- (d) the relevant aircraft does not conduct scheduled air transport operations.
- (2) The relevant operator is exempted from the following for the conduct of relevant operations in the relevant aircraft:
- (a) paragraph 119.080 (1) (h);
- Note* Paragraph 119.080 (1) (h) imposes an AOC condition that Australian air transport operators must be the registered operators of the relevant aircraft. “Cross-hiring” is a colloquial term to describe some common circumstances in which the relevant aircraft operator is not also the registered operator.
- (b) regulation 119.060 but only in relation to paragraph 119.080 (1) (h).
- (3) The exemptions under subsection (2) are subject to the condition that the relevant operator’s exposition must contain procedures to ensure that the requirements expressed in subsection (4) are complied with.
- (4) For subsection (3), the requirements are the following:
- (a) if the relevant operator’s use of the relevant aircraft in a relevant operation does not require CASA’s approval under regulation 119.090 (Application for approval of significant changes), including as a consequence of the exemptions in section 7 of this instrument — the relevant operator must:
- (i) before any such use, assesses any differences between the relevant aircraft and other aircraft being used by the operator; and
- (ii) determine whether additional training or competency assessment is required for any member of the operational safety-critical personnel before the relevant aircraft is used in a relevant operation; and
- (iii) if additional training or competency assessment is so required — ensure that the relevant training or assessment or both is completed before the relevant aircraft is used in a relevant operation;
- (b) before the relevant aircraft is used in a relevant operation, the relevant operator must:
- (i) be fully aware of the continuing airworthiness and maintenance status of the aircraft insofar as they are relevant to the operator’s use of the aircraft; and
- (ii) ensure that the aircraft complies with the safety requirements of the regulations for the operation;
- (c) the relevant operator must ensure that the arrangements between the operator and the registered operator for managing the continuing airworthiness of the relevant aircraft during the operator’s use of it are recorded in the exposition.
- (5) This section ceases to have effect at the end of 1 December 2024.
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