

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX61/22 — Amendment of CASA EX81/21 (Carriage of Observers on Flight Tests and Proficiency Checks) Instrument (No. 1) 2022

Purpose

The purpose of this instrument is to insert a number of additional exemptions into *CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (CASA EX81/21 or the **principal exemptions instrument**)*.

CASA EX81/21 made a number of exemptions against Part 91 of CASR to facilitate implementation of Part 91 of CASR in accordance with CASA’s transition policies for Part 91. Part 91 is a comprehensive code of general flight and operational safety rules for Australian-registered aircraft wherever located, and for foreign-registered aircraft in Australian territory. Part 91 contains the baseline rules for “private operations”. It commenced on 2 December 2021.

The existing exemptions in CASA EX81/21 were designed to correct technical errors and omissions in Part 91 which gave rise to unintended obligations. Those will be rectified in the next set of amendments to the Part but, in the meantime, until those amendments are made, it was considered necessary to use exemptions to provide relevant areas of the aviation industry with relief from having to comply with certain requirements and directions, adherence to which at the time may not have ensured safety compliance.

On further review of Part 91, post-2 December 2021, it was considered that *CASA EX61/22 — Amendment of CASA EX81/21 (Carriage of Observers on Flight Tests and Proficiency Checks) Instrument (No. 1) 2022 (the **exemptions instrument**)* was urgently required to add a number of additional exemptions, each subject to safety conditions, as explained below.

Background

Generally, anyone on board an aircraft is considered to be a passenger unless they are a crew member. Obviously, different, and necessarily more restrictive, rules apply to passengers. However, from time to time it is necessary for persons to be on board who are nominally passengers but are there to perform an aviation-related role not directly related to the actual purpose of the flight. Persons undergoing approved training to qualify for the flight examiner rating, or for approval as a check pilot, whose approved training requires them to observe qualified examiners or check pilots in action, are 2 relevant examples. A CASA officer who is receiving on-the-job training that properly involves the observation of flight tests or proficiency checks, is a third example.

CASA considers that these persons should be permitted, as part of their approved training course, to be on board to observe how those already qualified to examine and check pilots perform their roles.

Although exemptions had been granted in the past for similar purposes (most recently in CASA EX58/19), the need for their continuation in appropriate Part 91 provisions was not identified until after 2 December 2021. The purpose of the exemptions instrument is, therefore, to address this gap pending further amendments to Part 91, likely to be in force in 2023.

Legislation — exemptions

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Subpart 11.F of CASR deals with exemptions. Under subregulation 11.160 (1), and for subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from a provision of CASR in relation to a matter mentioned in subsection 98 (5A).

Subsection 98 (5A) matters are, in effect, those affecting the safety, airworthiness or design of aircraft.

Under subregulation 11.160 (2), an exemption may be granted to a person or a class of persons. Under subregulation 11.160 (3), CASA may grant an exemption on application, or on its own initiative. Under subregulation 11.170 (3), for an application for an exemption, CASA must regard as paramount the preservation of an acceptable level of safety. For making a decision on its own initiative, CASA is guided by the requirement in subsection 9A (1) of the Act that in exercising its powers and functions CASA must regard the safety of air navigation as the most important consideration.

Under regulation 11.205, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition. Under regulation 11.225, CASA must, as soon as practicable, publish on the internet details of all exemptions granted under Subpart 11.F.

Legislation — directions

Under paragraph 11.245 (1) (a) of CASR, for subsection (5A) of the Act, CASA may, by instrument, issue a direction about any matter affecting the safe navigation and operation of aircraft. Under subregulation 11.245 (2), CASA may issue such a direction only if CASA is satisfied that it is necessary in the interests of safety, only if the direction is not inconsistent with the Act, and only for the purposes of CASA's functions.

Under regulation 11.250, a direction ceases to be in force on a day specified in the instrument or, if no day is specified, 1 year after the instrument commences. Under subregulation 11.255 (1), it is an offence to contravene a direction under regulation 11.245 that is applicable to the person.

Although the principal instrument contains various directions, no new directions are included in the exemptions instrument.

Legislation — CASR

The exemptions instrument grants exemptions from various provisions of Part 91 of CASR whose effect is to restrict the persons who may be on board an aircraft to the crew or flight crew. The impacted regulations are the following:

- (a) 91.715;
- (b) 91.725;
- (c) 91.735;
- (d) 91.740;
- (e) 91.750;
- (f) 91.765;
- (g) 91.775.

These provisions are explained in Appendix 1 in the context of the relevant exemptions applicable to each provision.

Description of the exemptions instrument

The way in which the exemptions instrument operates is described in Appendix 1. (Note: for those seeking to have the benefit of an exemption, an Explanatory Statement is never a substitute for reading the terms of the exemption, including the scope of its application, and its conditions.)

Aviation safety

In determining whether to issue the exemption instrument, CASA had regard to the safety of air navigation as the most important consideration. In deciding whether to impose particular conditions on the particular exemptions, CASA considered what would be necessary in the interests of the safety of air navigation. CASA is satisfied that, given the nature of the trainees involved, and the necessary conditions imposed by the instrument, an acceptable level of aviation safety will be preserved.

Legislation Act 2003 (the LA)

Exemptions under Subpart 11.F of CASR are “for subsection 98 (5A)” of the Act, that is, for regulations which empower the issue of certain instruments, like exemptions, in relation to “(a) matters affecting the safe navigation and operation, or the maintenance, of aircraft”, and “(b) the airworthiness of, or design standards for, aircraft”.

The exemptions instrument is clearly one in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an exemption issued under paragraph 98 (5A) (a), for such matters, is a legislative instrument if expressed to apply in relation to a class of persons, a class of aircraft or a class of aeronautical products (as distinct from a particular person, aircraft or product).

The exemptions instrument applies to a classes of persons and is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 15G, and 38 and 42, of the LA.

Sunsetting

As the exemptions instrument relates to aviation safety and is made under CASR, that means that Part 4 of Chapter 3 of the LA (the sunseting provisions) does not apply to the instrument (as per item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). The instrument deals with aviation safety matters that, once identified, require a risk response or treatment plan. Generally speaking, item 15, when invoked, is necessary in order to ensure that, in the interests of aviation safety, a relevant instrument has enduring effect, certainty and clarity for aviation operators both domestic and international.

In this case, the instrument amends the principal exemptions instrument and is almost immediately spent and repealed in accordance with the automatic repeal provisions in Subdivision A in Division 1 of Part 3 of Chapter 3 of the LA. The principal exemptions instrument is itself repealed at the end of 1 December 2024 by virtue of the terms of paragraph 2 (b) of the principal exemptions instrument. Thus, in practice, no sunseting avoidance issues arise. The fact that the instrument is formally not subject to sunseting does not impact on the potential for parliamentary oversight.

Incorporations by reference

Under subsection 98 (5D) of the Act, the instrument may apply, adopt or incorporate any matter contained in any instrument or other writing. A non-legislative instrument may be incorporated into a legislative instrument made under the Act, as that non-legislative instrument exists or is in force at a particular time or from time to time (including a non-legislative instrument that does not exist when the legislative instrument is made).

Under paragraph 15J (2) (c) of the LA, the Explanatory Statement must contain a description of the incorporated documents and indicate how they may be obtained. The paragraphs below identify the documents mentioned in the instrument that are applied, adopted, or incorporated, and identify how the document may be obtained.

References to provisions of CASR and the Part 61 Manual of Standards (the *MOS*) are taken to be as they are in force from time to time, by virtue of paragraph 13 (1) (c) of the LA. CASR and the MOS are freely available online on the Federal Register of Legislation.

References to approved courses of training for the flight examiner rating, and to approved training programs for a CASA officer are to the courses or programs as they exist now or in the future for a particular person, or as they exist from time to time for classes of persons. On written application to CASA, a course or program will be made available for inspection in a suitable way at a relevant CASA office.

Further information on incorporations

Where an approved course of training for the flight examiner rating has been developed commercially by a relevant training organisation, the contents would be the intellectual property of the organisation which may or may not choose to make them publicly available in this way.

CASA has incorporated the documents in the instrument because they are appropriate and necessary in the interests of aviation safety.

CASA has noted the views of the Senate Standing Committee for the Scrutiny of Delegated Legislation (expressed under its former name of the Senate Standing Committee on Regulations and Ordinances in its report *Parliamentary scrutiny of delegated legislation*, tabled out of session on 3 June 2019) that:

The incorporation of material by reference (particularly where that material is not publicly available) has been a longstanding concern for the committee. [para 3.65]

and:

The committee appreciates that it may in some cases be costly to provide free, public access to all incorporated Australian and international standards. Nevertheless, the committee reiterates that one of its core functions is to ensure that all persons subject to or interested in the law may readily and freely access its terms. It intends to continue to monitor this issue. Any justification for a failure to provide for public access to incorporated documents, and any action the committee takes in relation to this matter, will be determined on a case-by-case basis. [para 3.75]

CASA appreciates the Committee's concern and to mitigate the situation as far as currently practicable proposes that where an incorporated document is copyright and not otherwise freely available to the general public, but is available to CASA as a licenced subscriber or similarly, CASA will, by prior arrangement, make CASA's copy available, for *in situ* viewing, free of charge, at a nominated office of CASA.

Consultation

Under section 16 of the Act, in performing its functions and exercising its powers, CASA must consult government, industrial, commercial consumer and other relevant bodies and organisations insofar as CASA considers such consultation to be appropriate.

Under section 17 of the LA, before a legislative instrument is made, CASA must be satisfied that it has undertaken any consultation it considers appropriate and practicable in order to draw on relevant expertise and involve persons likely to be affected by the proposals.

Exemptions from regulatory requirements are considered to be beneficial for those to whom they apply, who voluntarily elect to take advantage of them, and who comply with their conditions. It is, therefore, rarely necessary to engage in extensive public consultation on a proposed exemption. However, it is CASA's policy to consult, where possible, in an appropriate way with those parts of the aviation industry most likely to avail themselves of, or be affected by, an exemption so that they may have the opportunity to comment on the possible or likely terms, scope and appropriateness of the exemption.

For the principal exemptions instrument, CASA consulted the aviation community in June 2020 on the policy proposals that ultimately gave rise to that exemptions and directions instrument. A summary of the consultation feedback and CASA's disposition of comments received was published on the CASA website in December 2020.

In addition, for the principal exemptions instrument, from 16 July to 6 August 2021, CASA consulted the aviation community by providing descriptions of the exemptions and directions to the Implementation Technical Working Group (*TWG*) of the Aviation Safety Advisory Panel (*ASAP*) for comment. The ASAP is the primary advisory body through which CASA directs its engagement with industry and seeks input on current and future regulatory and associated policy approaches.

CASA considered all TWG input and, in finalising this latest exemption instrument, has also received and considered informal additional input about transitional issues.

While the current issue was overlooked in preparing the final draft of Part 91 of CASR, there would have been an implicit understanding among all concerned in earlier relevant consultation that pre-existing observer privileges for examiner and check pilot trainees would be continued where such roles were essential parts of approved training. Therefore, CASA considered that further formal consultation was not necessary or appropriate before making for the current exemptions instrument.

Nevertheless, there has been informal consultation with elements of the aviation industry and discussions about the urgent need to consider the further exemptions to ensure that Part 91 of CASR was consistent with previously consulted statements and understandings of its intent.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required for Exemption or Direction instruments (OBPR id: 14507).

Sector risk, economic and cost impact

Economic and cost impact

Subsection 9A (1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration. Subsection 9A (3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9 (1) (c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses, and the community to incur.

The economic impact of a standard refers to the impact a standard would have on the production, distribution, and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

In terms of economic and cost impacts for subsection 9A (3) of the Act, the exemptions instrument would facilitate the continued conduct of approved training for those aspiring to qualify as flight examiners or proficiency check pilots.

Without the exemptions instrument, aircraft operations that were being safely conducted before 2 December 2021 would be precluded from continuing without going to the time and expense of obtaining individual exemptions or approvals.

Thus, the exemptions instrument will have the effect of lowering some costs for industry that might otherwise have arisen.

Sector risk

For aviation safety reasons, the exemptions instrument is specific to flight testing and pilot checking scenarios for particular kinds of aircraft described in the instrument where aviation safety risks are considered to be acceptable.

Rural and regional impacts

The Minister's Statement of Expectations for the CASA Board states: "I expect that CASA will: ... (b) fully consider the impact of new regulations on general aviation, with a particular focus on regional and remote Australia. All Explanatory Statements drafted by CASA for subordinate legislation should identify the impact on the various categories of operations as well as on communities in regional and remote Australia served by those operations and how these impacts have been considered."

There are no identified rural and regional impacts that differ in any material way from the general economic and cost impacts, or sector risks described above.

Environmental impact

Under subsection 9A (2) of the Act, while regarding the safety of air navigation as the most important consideration, CASA must exercise its powers and perform its functions in a manner that ensures that, as far as practicable, the environment is protected from the effects and associated effects of the operation and use of aircraft.

It is not anticipated there will be any negative environmental impacts as a result of this exemption, as compared to the baseline that existed on 1 December 2021, since the exemption is enabling a continuation of existing practices.

Thus, the exemption instrument as such will have no specific negative effect on the environment, while having the positive effects of facilitating maximum levels of piloting competence and aviation safety from the professional roles of highly-trained flight examiners and check pilots.

Statement of Compatibility with Human Rights

The Statement in Appendix 1 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The exemptions instrument is compatible with human rights: with its aviation safety focus, it promotes the right to life, and it does so in a way that is reasonable, necessary and proportionate in the context of the regulatory aviation safety framework.

Commencement and making

The instrument commences on the day after it is registered.

The instrument has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

Details of:**CASA EX61/22 — Amendment of CASA EX81/21 (Carriage of Observers on Flight Tests and Proficiency Checks) Instrument (No. 1) 2022**

1 Name

This section names the instrument.

2 Commencement

Under this section, this instrument commences on the day after it is registered.

3 Amendment of CASA EX81/21

Under this section, Schedule 1 amends *CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

Schedule 1 Amendments**[1] After section 3 — 3A**

This provision is designed to facilitate the future creation of a Table of Contents for the principal exemptions instrument.

[2] After section 26

This amendment inserts a new Part 4 into the principal exemptions instrument with new sections as follows.

Part 4 Observers who may be on certain flight tests and proficiency check flights**27 Definitions etc.**

This new section defines a check pilot.

28 Exemptions – all aircraft – causing or simulating failure of flight instruments

Relevantly under regulation 91.715, the pilot in command (*PIC*) of an aircraft for a checking or testing flight commits an offence if the failure of certain instruments is simulated in breach of a requirement that only the crew members required for the checking or testing are carried on the flight. This section exempts the PIC from this obligation and consequence.

29 Exemptions – any aircraft – training flight limitations

Relevantly under regulation 91.725, the PIC of an aircraft commits an offence if they permit the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the aircraft while persons other than permitted persons (crew members and certain authorised persons) are on board. This section exempts the PIC from this obligation and consequence where the flight is or is part of a flight test or proficiency check.

30 Exemptions – single-engine aeroplane – VFR flights by day – engine not to be shut down

Relevantly under regulation 91.735, the PIC of a single-engine aircraft who shuts the engine down during a VFR flight by day, where the flight is for the

purpose of a proficiency check or flight test, commits an offence if someone other than flight crew are on board. This section exempts the PIC from this obligation and consequence.

31 Exemptions – single-engine aeroplane – simulating engine failure in IMC or at night

Relevantly under regulation 91.740, the PIC of a single-engine aircraft who simulates an engine failure, during a flight at night or in IMC, where the flight is for the purpose of a proficiency check or a flight test, commits an offence if someone other than flight crew are on board. This section exempts the PIC from this obligation and consequence.

32 Exemptions – multi-engine aeroplane – simulating engine failure in IMC or at night

Relevantly under regulation 91.750, the PIC of a multi-engine aircraft who simulates an engine failure, during a flight in IMC or at night, where the flight is for the purpose of a proficiency check or a flight test, commits an offence if someone other than flight crew are on board. This section exempts the PIC from this obligation and consequence.

33 Exemptions – single-engine rotorcraft – simulating engine failure or initiating autorotation of main rotor system at night

Relevantly under regulation 91.765, the PIC of a single-engine rotorcraft who, simulates an engine failure or initiates an autorotation of the main rotor system, at night, where the flight is for the purpose of a proficiency check or a flight test, commits an offence if someone other than flight crew are on board. This section exempts the PIC from this obligation and consequence.

34 Exemptions – multi-engine rotorcraft – simulating engine failure in IMC or at night

Relevantly under regulation 91.775, the PIC of a multi-engine rotorcraft who simulates the failure of one of the rotorcraft's engines, at night, or in IMC, where the flight is for the purpose of a proficiency check or a flight test, commits an offence if someone other than flight crew are on board. This section exempts the PIC from this obligation and consequence.

A Note accompanies this and the previous 6 new sections pointing out that the exemptions under the sections are subject to conditions set out in sections 35 and 36.

35 Conditions that apply to exemptions under sections 28, 29, 30, 31, 32, 33 and 34

- (1) Under this subsection, each exemption under sections 28, 29, 30, 31, 32, 33 and 34 (*relevant sections*) is subject to the applicable conditions set out in this section, and in section 36.
- (2) Under this subsection, the PIC mentioned in a relevant section must be one of the following who is conducting the particular flight test or proficiency check:
 - (a) a flight examiner conducting a flight test or a proficiency check in the aircraft;
 - (b) a check pilot conducting a proficiency check in the aircraft;
 - (c) a person approved under regulation 61.040 of CASR to conduct, and who is conducting, a flight test or a proficiency check in the aircraft;

- (d) an officer of CASA whose duties include conducting, and who is conducting, a flight test or a proficiency check in the aircraft.

A Note explains that an *officer* is defined in the Act, and means a member of the staff of CASA.

- (3) Under this subsection, the only persons who may be on board an aircraft for a flight mentioned in subsection (2) (*the relevant flight*) are the following:
- (a) the PIC who is conducting the relevant flight test or proficiency check;
 - (b) the person who is undertaking the relevant test or check;
 - (c) one passenger (the *observer*) who is observing the relevant test or check, being a person who is:
 - (i) where the flight is a flight test or a proficiency check — undertaking an approved course of training for the flight examiner rating (the *FER*); or
Note Approved means approved by CASA. An approved course includes a course conducted by CASA.
 - (ii) where the flight is a proficiency check — undergoing training, to qualify as a check pilot, within the training and checking system of an operator to whom Part 119 or Part 138 of CASR applies; or
 - (iii) where the flight is a test or a check — an officer of CASA who is receiving on-the-job training that involves the observation of flight tests or proficiency checks;
 - (d) where the flight is in a rotorcraft conducting a simulation (other than verbally) of an emergency or abnormal situation mentioned in subparagraph 91.725 (2) (b) (ii), that is, or is part of, a flight test or a proficiency check — one air crew member, but only if the PIC is satisfied that the person’s presence onboard the rotorcraft is essential for the safe conduct of the test or check.

A Note explains that the effect of paragraph 35 (3) (c) is that not more than one observer may be on board. However, if paragraph 35 (3) (d) applies then, for a rotorcraft, in addition to one observer, one air crew member may also be on board.

A second Note explains that, for paragraph 35 (3) (d), the expression “simulation (other than verbally) of an emergency or abnormal situation”, as mentioned in subparagraph 91.725 (2) (b) (ii), is taken to encompass the rotorcraft simulations mentioned in regulations 91.715, 91.765 and 91.775.

36 Further conditions that apply to exemptions under sections 28, 29, 30, 31, 32, 33 and 34

This new section expressed additional conditions

- (1) Under this subsection, *sterile cockpit procedures* is defined.
- (2) Under this subsection, for an observer who is not an officer of CASA, the PIC mentioned in a relevant section must ensure that the observer:
 - (a) has:
 - (i) applied for the issue of an FER under Part 61 of CASR; or
 - (ii) is undertaking a training course before appointment or approval (as applicable) as a check pilot to conduct proficiency checks; and
 - (b) observes the flight test or proficiency check exclusively as part of a training course for such a rating, appointment, or approval.

- (3) Under this subsection, the PIC must ensure, with respect to an observer who is a CASA officer, that:
 - (a) CASA has approved a training program for the officer with the pilot in command, or with a particular class of pilots in command of whom the pilot in command is a member; or
 - (b) the officer is on board the aircraft in the course of the officer's duties relating to the conduct of the flight test or proficiency check.
- (4) Under this subsection, the PIC must ensure that the observer:
 - (a) does not occupy a control seat; and
 - (b) does not interfere in any way with:
 - (i) the conduct of the flight test or the proficiency check (as applicable); or
 - (ii) communication between the PIC and the person undergoing the test or check; and
 - (c) minimises movement, noise and other distractions within the cockpit, and complies with any applicable sterile cockpit procedures.
- (5) Under this subsection, when conducting the flight test or the proficiency check, the PIC must:
 - (a) limit flight manoeuvres to those:
 - (i) required for the test or check; and
 - (ii) mentioned in the Part 61 Manual of Standards, or required under CASR, as in force from time to time; and
 - (b) ensure that the demonstration of competence in emergency procedures and low flying are carried out only to the extent necessary for the test or check.
- (6) Under this subsection, references in the new Part 4 to approved courses of training for the flight examiner rating, and to approved training programs for a CASA officer, are to the courses or programs as they exist for a particular person, or as they exist from time to time for classes of persons.

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

CASA EX61/22 — Amendment of CASA EX81/21 (Carriage of Observers on Flight Tests and Proficiency Checks) Instrument (No. 1) 2022

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The purpose of this instrument is to insert a number of additional exemptions into *CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (CASA EX81/21)*.

These will have the effect of continuing to allow individuals undergoing approved training to become flight examiners (holders of the flight examiner rating) or check pilots, to be on board certain aircraft as observers during flight tests and proficiency checks. Such observers are not crew and therefore are passengers who would not otherwise be permitted to be on board.

Although exemptions had been granted in the past for similar purposes, the need for their continuation in appropriate Part 91 provisions was not identified until after 2 December 2021. The purpose of the exemptions instrument is to address this gap pending further amendments to Part 91, likely to be in force in 2023.

Human rights implications

The legislative instrument engages with the following human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*:

- the right to life under Article 6 of the International Covenant on Civil and Political Rights (the *ICCPR*).

Right to life under the ICCPR

The exemptions instrument is a transitional measure, pending future amendments to Part 91 of CASR planned for 2023. The exemptions in the instrument have the effect of facilitating, in a safe and prudent manner, the ongoing training of persons seeking to qualify as flight examiners and check pilots, by permitting them to be observers on flight tests and proficiency checks. This will have the effect of enhancing their skills and competence for when they perform the examining and checking roles themselves.

As such, the instrument has no direct negative effect of human rights. However, bearing in mind the conditions in the instrument, it may reasonably be said to support the right to life because of its aviation safety focus.

Human rights implications

This legislative instrument is compatible with human rights and to the extent that it may engage certain rights it does so in a way that promotes the right to life. These measures are considered to be reasonable, necessary and proportionate in the interests of aviation safety.

Conclusion

This legislative instrument is compatible with human rights.

Civil Aviation Safety Authority