



# Australian Government

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## Civil Aviation Safety Authority

Instrument number CASA EX61/22

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

10 August 2022

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

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#### **1 Name**

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

#### **2 Commencement**

This instrument commences on the day after it is registered.

#### **3 Amendment of CASA EX81/21**

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

### **Schedule 1 Amendments**

#### **[1] After section 3**

*insert*

#### **3A Table of Contents**

The Table of Contents for this instrument is not part of this instrument. It is for guidance only and may be edited or updated by CASA in any published version of this instrument.

**[2] After section 26**

*insert*

**Part 4 Observers who may be on certain flight tests and proficiency check flights**

**27 Definitions etc.**

In this Part:

**check pilot** means the holder of a pilot licence who:

- (a) holds an approval under regulation 121.010 of CASR, for subparagraph 121.580 (3) (a) (ii), to conduct a CASR Part 121 proficiency check for an aeroplane of a particular kind; or
- (b) is an individual who satisfies the requirements expressed in any of the following provisions of CASR for the conduct of a proficiency check:
  - (i) paragraph 133.377 (2) (a);
  - (ii) paragraph 135.387 (2) (a);
  - (iii) paragraph 138.505 (2) (a).

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

The pilot in command of an aircraft for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.715 (1) — but only in relation to the requirement under paragraph 91.715 (2) (b) for a flight that is, or is part of, a flight test or a proficiency check;
- (b) subregulation 91.715 (4) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

**29 Exemptions – any aircraft – training flight limitations**

The pilot in command of an aircraft for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subparagraph 91.725 (2) (b) (ii) — but only in relation to 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;
- (b) subregulation 91.725 (5) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

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

The pilot in command for a single-engine aeroplane for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.735 (1) — but only in relation to the requirement under paragraph 91.735 (2) (b), for a flight mentioned in subregulation 91.735 (1), that is, or is part of, a flight test or a proficiency check;

- (b) subregulation 91.735 (3) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

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

The pilot in command for a single-engine aeroplane for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.740 (1) — but only in relation to the requirement under paragraph 91.740 (2) (b) for a flight, mentioned in subregulation 91.740 (1) and paragraph 91.740 (2) (d) or (e), that is, or is part of, a flight test or a proficiency check;
- (b) subregulation 91.740 (3) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

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

The pilot in command for a multi-engine aeroplane for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.750 (1) — but only in relation to the requirement under paragraph 91.750 (2) (c) for a flight, mentioned in subregulations 91.750 (1) and (2), that is, or is part of, a flight test or a proficiency check;
- (b) subregulation 91.750 (3) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

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

The pilot in command for a single-engine rotorcraft for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.765 (1) — but only in relation to the requirement under paragraph 91.765 (2) (c) for a flight, mentioned in subregulations 91.765 (1) and (2), that is, or is part of, a flight test or a proficiency check;
- (b) subregulation 91.765 (3) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section are subject to conditions set out in sections 35 and 36.

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

The pilot in command for a multi-engine rotorcraft for a flight is exempted from the following provisions of Part 91 of CASR:

- (a) subregulation 91.775 (1) — but only in relation to the requirement under paragraph 91.775 (2) (c) for a flight, mentioned in subregulations 91.775 (1) and (2), that is, or is part of, a flight test or a proficiency check;
- (b) subregulation 91.775 (3) — but only to the extent of the exemption under paragraph (a).

*Note* The exemptions under this section 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) 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) The pilot in command of an aircraft 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.

*Note* An **officer**, defined in the Act, means a member of the staff of CASA.

- (3) 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 pilot in command 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 (as 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 pilot in command is satisfied that the person's presence on board the rotorcraft is essential for the safe conduct of the test or check.

*Note 1* 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.

*Note 2* 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**

- (1) In this section:  
*sterile cockpit procedures* means any procedures requiring the persons piloting an aircraft to refrain from non-essential activities during critical phases of flight.
  - (2) For an observer who is not an officer of CASA, the pilot in command of an aircraft mentioned in a relevant section (the *pilot in command*) 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) The pilot in command 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) The pilot in command 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 pilot in command 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) When conducting the flight test or the proficiency check, the pilot in command 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) References in this Part to approved courses of training for the FER, 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.
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