



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX97/22

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

[Signed P. Spence]

Pip Spence

Director of Aviation Safety

30 November 2022

CASA EX97/22 – Part 121 – Single Pilot Aeroplane (MOPSC 10-13) Operations – Exemptions Repeal, Remake, and Direction Instrument 2022

1 Name

This instrument is *CASA EX97/22 – Part 121 – Single Pilot Aeroplane (MOPSC 10-13) Operations – Exemptions Repeal, Remake, and Direction Instrument 2022*.

2 Duration

This instrument:

- (a) commences immediately before 2 December 2022 (the *commencement date*); and
- (b) is repealed at the end of 1 December 2024 (thereby, for paragraph 11.250 (a) of CASR, ceasing to be in force on and from the beginning of 2 December 2024).

Note See also section 9 about when and how certain exemptions cease to have effect.

2A Repeal

CASA EX137/21 – Part 121 – Single Pilot Aeroplane (MOPSC 10-13) Operations – Exemptions Instrument 2021 (the *previous instrument*) is repealed.

Note But see sections 7 and 8 for the continuation of some of the previous instrument's provisions so that there is no break in their continuity.

3 Definitions

- (1) In this instrument:

airborne weather radar equipment has the same meaning as in Part 135 of CASR.

automatic pilot has the same meaning as in Part 135 of CASR.

commencement date means 2 December 2022.

CAO is short for Civil Aviation Order.

CAR means the *Civil Aviation Regulations 1988*, as in force immediately before 2 December 2021 and any mention of a provision of CAR refers to that provision as so in force.

CASR means the *Civil Aviation Safety Regulations 1998*.

charter operation has the same meaning as in paragraph 2 (7) (b) of CAR.

class, in relation to an aeroplane, has the meaning given by Part 61 of CASR.

Note See regulation 61.020.

early applicant, for a particular AOC or AOC variation, means a person:

- (a) who at least 90 days before the commencement date — applied for the AOC or AOC variation under the civil aviation legislation in force on the date of the application; but
- (b) whose application was still under consideration by CASA on the commencement date.

inoperative has the meaning given by the CASR Dictionary.

kind, in relation to an aeroplane, has the meaning given by the CASR Dictionary.

maximum operational passenger seat configuration, or **MOPSC**, has the meaning given by the CASR Dictionary.

Part 145 approved maintenance organisation has the same meaning as in Part 145 of CASR.

previous instrument means *CASA EX137/21 – Part 121 – Single Pilot Aeroplane (MOPSC 10-13) Operations – Exemptions Instrument 2021*.

regular public transport operation has the same meaning as in paragraph 2 (7) (c) of CAR.

relevant aeroplane means an aeroplane:

- (a) to which subregulation 121.005 (1) or (2) of Part 121 would apply were it not for this instrument; and
- (b) that has a MOPSC of at least 10 but not more than 13; and
- (c) that has a maximum take-off weight of no more than 8 618 kg; and
- (d) that is certificated to be operated by a single pilot in accordance with the type certificate data sheet; and
- (e) whose flight manual provides that the flight crew of the aeroplane may be constituted by a single pilot.

TAWS-Class A has the meaning given by the CASR Dictionary.

TAWS-Class B has the meaning given by the CASR Dictionary.

type, in relation to an aeroplane, has the meaning given by the CASR Dictionary.

- (2) A **similar type of aeroplane** to a particular type of relevant aeroplane (the **first type**), means another type of aeroplane (the **second type**) that:
 - (a) is of the same type as the first type; or
 - (b) if the first type is included in a class rating — is included in the same class rating.

Note 1 Example of same type for paragraph (a): if the first type is a King Air 350, the same type could be a Beech 1900, as both types are covered by the same pilot type rating (both aeroplane types would need to have a MOPSC of 10 to 13 to utilise the exemption).

Note 2 Example of same class for paragraph (b): if the first type is a BE200 (King Air), the same type could be a Cessna 404 (Titan), as both types are included in the multi-engine aeroplane class rating. A Cessna 208B (Caravan) would not be the same as either of these types as it is included in the single, and not the multi-engine, aeroplane class rating.

- (3) To avoid doubt, in this instrument, unless a contrary intention appears:
 - (a) words and expressions have the same meaning as in Part 121 of CASR, the CASR Dictionary and the *Civil Aviation Act 1988*, as applicable; and
 - (b) mention of a provision with the prefix “121.” is a reference to that provision as contained in Part 121 of CASR; and
 - (c) mention of a provision with the prefix “135.” is a reference to that provision as contained in Part 135 of CASR.

4 Application

- (1) This instrument applies to an operator (a ***transitional operator***) of a relevant aeroplane if, immediately before 2 December 2021, the operator held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised charter operations or regular public transport operations, or both kinds of operations, in a particular kind of relevant aeroplane.
- (2) This instrument also applies to the operator of a relevant aeroplane if the operator (an ***expanded transitional operator***):
 - (a) is a transitional operator; and
 - (b) on or after 2 December 2021 — expands operations to include:
 - (i) an air transport operation that is:
 - (A) equivalent to the operations conducted immediately before 2 December 2021; but
 - (B) in a type of relevant aeroplane from is not a similar type of aeroplane to that used before 2 December 2021; or
 - (ii) an air transport operation that is:
 - (A) not equivalent to the operations conducted immediately before 2 December 2021; but
 - (B) in the same type of relevant aeroplane as that used before 2 December 2021.

Note Thus, a transitional operator for a particular operation in a particular type of relevant aeroplane may simultaneously be an expanded transitional operator in a different operation and/or a different type of relevant aeroplane. However, the additional conditions apply differently to each case.

- (3) This instrument applies to the pilot in command of a transitional operator or an expanded transitional operator.
- (4) This instrument also applies to the operator of a relevant aeroplane who is neither a transitional operator nor an expanded transitional operator (a ***new operator***).
- (5) This instrument applies to the pilot in command of a new operator.

5 Exemptions — operators and pilots in command

- (1) For the particular type of relevant aeroplane, when used in an operation that is equivalent to an operation mentioned in subsection 4 (1), a transitional operator is exempt from compliance with each provision of Part 121, and the Part 121 MOS that would, but for this instrument, apply to the transitional operator.

- (2) The pilot in command of the aeroplane for the operation mentioned in subsection (1) is exempt from compliance with each provision of Part 121, and the Part 121 MOS, that would, but for this instrument, apply to the pilot in command.

Note Under subsections 5 (1) and (2), the exemptions for a transitional operator and the pilot in command only extend in relation to the *particular type of aeroplane*, when used in an operation that is the same as, or equivalent to, the *particular operation*: see subsection 4 (1).

- (3) A new operator and an expanded transitional operator are each exempt from compliance with each provision of Part 121, and the Part 121 MOS, that would, but for this instrument, apply to the operator.
- (4) The pilot in command of a new operator or an expanded transitional operator is exempt from compliance with each provision of Part 121, and the Part 121 MOS, that would, but for this instrument, apply to the pilot in command.

6 Basic conditions

- (1) The conditions mentioned in this section apply for each exemption under section 5 on and from 2 December 2022.
- (2) Each exemption under section 5 is subject to the condition that the operator and the pilot in command, while taking the benefit of this exemption instrument, will not, with respect to a relevant aeroplane, take the benefit of any exemption under *CASA EX83/21 – Part 121 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.
- (3) Each exemption under section 5 is subject to the condition that the operator and the pilot in command must each comply (as the case requires) with the following as if they applied instead of a provision of Part 121 or the Part 121 MOS:
 - (a) Part 135, but as if *CASA EX85/21 – Part 135, Subpart 121.Z and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (CASA EX85/21)* also applied;
 - (b) the Part 135 MOS, but as if *CASA EX85/21* also applied.

7 Special condition in relation to GPWS

If, immediately before the commencement of this instrument, section 7 of previous instrument applied to a transitional operator, or an expanded transitional operator, then on and from 2 December 2022 the section continues to apply to the operator by virtue of this section as if it had not been repealed.

Note Section 7 of the previous instrument had provided, in effect, that if, immediately before 2 December 2021, a requirement to carry a specific Ground Proximity Warning System (*GPWS*) applied to a transitional operator's, or an expanded transitional operator's, type of relevant aeroplane, then the operator must continue to comply with that *GPWS* requirement as if it continued to apply until the end of 1 December 2023.

8 Application of the additional conditions set out in in Schedule 1

- (1) The additional conditions mentioned in Schedule 1 apply for each exemption under section 5 in accordance with this section.
- (2) Each additional condition mentioned in Schedule 1 applies to a new operator on and from 2 December 2022.
- (2A) If, immediately before the commencement of this instrument, subsection 8 (2) of the previous instrument applied to an operator, then on and from 2 December 2022 the subsection continues to apply to the operator by virtue of this section as if it had not been repealed.

Note Under subsection 8 (2) of the previous instrument, the additional condition mentioned in Schedule 1 applied to a new operator on and from 2 December 2021 (the *post 2021 cohort*). Subsection 8 (2A) is necessary to continue this requirement for that post 2021 cohort so that there is no break in the continuity of application of Schedule 1 to those operators.

- (3) Subject to section 9, each additional condition mentioned in Schedule 1 applies to a transitional operator only on and from 2 December 2023.
- (4) Without affecting subsection (3), but subject to section 7, each additional condition mentioned in Schedule 1 applies to an expanded transitional operator:
 - (a) on and from the date, before 2 December 2023, that the operator conducts expanded operations; but
 - (b) only with respect to the operation and the relevant aeroplane that constitute the expanded operations.

9 When exemptions cease to have effect for a transitional operator

Each exemption under subsections 5 (1) and (2) ceases to have effect for a transitional operator and the operator's pilot in command on 2 December 2023 unless the operator has, before that date, received from CASA a written notice that the operator's exposition changes are approved.

Note CASA's approval allows the exemption to continue to apply but the additional conditions in Schedule 1 must be complied with on and from 2 December 2023: see subsection 7 (4).

10 Direction to submit revised exposition content not later than 2 June 2023

A transitional operator who intends to operate a relevant aeroplane at any time on or after 2 June 2023 is directed that they must submit to CASA, on or before 2 June 2023, the operator's proposed exposition changes showing how the operator will comply with the conditions mentioned in Schedule 1 of this instrument on and from 2 December 2023.

Note 1 For exposition changes, see regulation 119.100 of CASR.

Note 2 The direction ceases to be in force in accordance with paragraph 2 (b).

Schedule 1 Additional conditions

Note The equipment fitment requirements under this Schedule intentionally exceed those under Part 135 of CASR.

- 1 For a VFR flight conducted by day, a relevant aeroplane must comply with the automatic pilot requirements of subsection 11.10 (2) of the Part 135 MOS as if that subsection applied to the flight.
 - 2 For any flight of a relevant aeroplane, subsection 11.10 (3) of the Part 135 MOS does not apply to the flight.
 - 3 An automatic pilot may be inoperative at the beginning of a day VFR or day IFR VMC flight in a relevant aeroplane only if the flight begins:
 - (a) from an aerodrome at which there is no facility for the automatic pilot to be repaired or replaced; and
 - (b) within 24 hours of the time the automatic pilot was found to be inoperative.
- Note* The effect of these provisions is that an automatic pilot must not be inoperative for more than 24 hours, or if departing from an aerodrome where repairs can be made.
- 4 For an IFR flight, or a VFR flight at night, in a turbine-engine aeroplane, the relevant aeroplane must be fitted with a TAWS-Class A that is not inoperative.

- 5 For an IFR flight, or a VFR flight at night, in a piston-engine aeroplane, the relevant aeroplane must be fitted with a TAWS-Class A or TAWS-Class B that is not inoperative.
- 6 For a VFR flight by day in a relevant aeroplane, the relevant aeroplane must be fitted with a TAWS-Class A or TAWS-Class B that is not inoperative.

Note For guidance only:

Item	IFR flight, or VFR flight at night, in turbine-engine aeroplane (clause 4)	IFR flight, or VFR flight at night, in piston-engine aeroplane (clause 5)	VFR flight by day (clause 6)
Operative TAWS-Class A	Must be fitted	N/A	N/A
Operative TAWS-Class A or TAWS-Class B	N/A	Must be fitted	Must be fitted

- 7 For a flight in a relevant aeroplane, paragraph 11.26 (a) of the Part 135 MOS may be applied by the pilot in command or the operator of the flight as if that paragraph applied to the flight.
Note Paragraph 11.26 (a) of the Part 135 MOS deals with inoperative GPWS and TAWS.
- 8 For a flight in a relevant aeroplane, the aeroplane must be fitted with airborne weather radar equipment.
- 9 For a flight in a relevant aeroplane, section 11.28 of the Part 135 MOS may be applied by the pilot in command or the operator of the flight as if that section applied to the flight.
Note Section 11.28 of the Part 135 MOS deals with inoperative airborne weather radar equipment.
- 10 Fatigue risk management requirements for the operator's pilot in command under the civil aviation legislation must be reviewed, and modified (if appropriate), for single-pilot operations in a relevant aeroplane.
Note See, for example, *Civil Aviation Order 48.1 Instrument 2019*.
- 11 Details of the review under clause 10 must be recorded in the operator's exposition, including details of any changes made to the operator's fatigue risk management requirements arising from the review.
- 12 A training needs analysis (*TNA*) for the operator's pilot in command and other operational safety-critical personnel must be conducted to determine the human factors principles and non-technical skills requirements for single-pilot operations in a relevant aeroplane.
- 13 Details of the TNA under clause 12 must be recorded in the operator's exposition.
- 14 Single-pilot operations in a relevant aeroplane must not be conducted unless:
 - (a) the pilot in command meets the fatigue risk management requirements for the operation as determined by the review under clause 10; and
 - (b) the pilot in command and relevant operational safety-critical personnel each meets the competency requirements for the operation as determined by the TNA under clause 12.

- 15 The operator must have an arrangement in place for all maintenance services for a relevant aeroplane to be provided by a Part 145 approved maintenance organisation.
-