



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX108/22

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

22 December 2022

CASA EX108/22 – Amendment of CASA EX82/21 – Instrument (No. 2) 2022

1 Name

This instrument is *CASA EX108/22 – Amendment of CASA EX82/21 – Instrument (No. 2) 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] Section 7AA

repeal and substitute

7AA Certain operations not air transport — exemption

(1) In this section:

employed means employed by the operator under a contract of service, or a contract for services.

exempted transport operation means one of the following:

- (a) the operation or use of an aircraft by a company, a partnership, or a sole trader (the ***business***):
 - (i) for the carriage of passengers, or goods (not being goods for sale or exchange); and
 - (ii) where the predominant purpose of the carriage is to facilitate the conduct of the operator’s business; and
 - (iii) where the facilitation is merely ancillary to conducting the business; and

- (iv) where no passenger gives any reward for the carriage of themselves, or otherwise shares in the costs of the carriage; and
 - (v) where the carriage of any passenger, or the passenger's notional share of the costs of the carriage, is not rewarded by anyone else; and
 - (vi) where the aircraft is flown by a pilot who is a related pilot, or a professional pilot employed by the business to fly the aircraft; and
Note The word pilot, in the singular, includes pilots, plural, if applicable.
 - (vii) where the aircraft used has a maximum certificated passenger seating capacity that is not greater than 19;
- (b) the operation of an aircraft directly by a government organisation (the **government organisation**):
- (i) for the carriage of passengers, or goods (not being goods for sale or exchange); and
 - (ii) where the predominant purpose of the carriage is to facilitate the conduct of the government organisation's official activities; and
 - (iii) where the facilitation is merely ancillary to conducting those activities; and
 - (iv) where no passenger gives any reward for the carriage of themselves, or otherwise shares in the costs of the carriage; and
 - (v) where the carriage of any passenger, or the passenger's notional share of the costs of the carriage, is not rewarded by anyone else; and
 - (vi) where the aircraft is flown by a pilot who is a professional pilot employed by the government organisation to fly the aircraft; and
Note The word pilot, in the singular, includes pilots, plural, if applicable.
 - (vii) where the aircraft used has a maximum certificated passenger seating capacity that is not greater than 19;
- (c) the operation of an aircraft for the transportation of any of the following:
- (i) the owner of the aircraft (the **owner**);
 - (ii) a passenger directly associated with the owner;
provided that:
 - (iii) the owner is not given any reward for the transportation; and
 - (iv) the aircraft is flown by the owner, or by a professional pilot; and
Note The word pilot, in the singular, includes pilots, plural, if applicable.
 - (iv) the passenger is being transported for recreational purposes.

government organisation means any department, agency, body, entity or force of the Commonwealth government, or of a State or Territory government.

Note A company that provides flight services under contract to a government organisation is not a government organisation. If a company carries passengers or goods under contract for, or on behalf of, a government organisation, the exemption under section 7AA does not apply to such carriage.

maximum certificated passenger seating capacity has the meaning given by the CASR Dictionary.

MOS means Manual of Standards.

operator means the business, the government organisation, or the owner, (as the case requires) within the meaning of **exempted transport operation**.

professional pilot means the holder of a commercial pilot licence, or an air transport pilot licence.

related pilot means any of the following (as applicable, within the meaning of ***exempted transport operation***) who holds at least a private pilot licence:

- (a) the aircraft owner;
- (b) the sole proprietor;
- (c) the business partner;
- (d) the company director;
- (e) the company shareholder.

reward means money, goods, services, or property, or any other benefit or advantage of any kind, or the promise of any of the foregoing.

- (2) The operator is exempted from compliance with the following:
 - (a) for an aeroplane:
 - (i) Part 119 of CASR; and
 - (ii) Subpart 91.F of CASR;
 - (b) for a rotorcraft — Part 119 of CASR.
- (3) The exemptions in paragraph (2) (a) are subject to the condition that the operator must comply with, and ensure that the aeroplane conforms to the performance requirements under:
 - (a) regulations 121.390, 121.395 and 121.420 of CASR; and
 - (b) subject to subsection (4), the applicable requirements in the Part 121 MOS as made under regulations 121.395 and 121.420 of CASR (the ***applicable MOS requirements***).

Note The applicable requirements in the Part 121 MOS are in Chapter 9, Division 1A, and Chapter 9, Division 2, respectively.

- (4) For paragraph (3) (b):
 - (a) in paragraph 9.08H (1) (a) of the Part 121 MOS, the words, “the operator’s exposition”, are to be taken to say, “the operator and pilot in command”; and
 - (b) in subsection 9.08K (2) of the Part 121 MOS, the words, “the operator’s exposition states procedures requiring the pilot in command to have a plan”, are to be taken to say “the pilot in command has a plan”; and
 - (c) in subsection 9.08K (3) of the Part 121 MOS, the words, “The procedures” are to be taken to say, “The plan”; and
 - (d) in paragraph 9.12 (2) (c) of the Part 121 MOS, the words, “using procedures specified in the operator’s exposition”, are to be taken to say, “determined by the operator and the pilot in command”; and
 - (e) all of the applicable MOS requirements must be read and applied, *mutatis mutandis*, to harmonise with the requirements and intent of this section.
 - (5) This section ceases to have effect at the end of 1 December 2023.
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