



Australian Government

Civil Aviation Safety Authority

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulation 5 of the *Civil Aviation Regulations 1988* and regulation 11.160 of the *Civil Aviation Safety Regulations 1998*.

[Signed P. Spence]

Pip Spence

Director of Aviation Safety

5 January 2023

Civil Aviation Orders (CAO 95 Series) Amendment and Repeal Instrument 2023

1 Name

This instrument is *Civil Aviation Orders (CAO 95 Series) Amendment and Repeal Instrument 2023*.

2 Commencement

This instrument commences on the day after it is registered.

3 Amendment of Civil Aviation Order 95.8

Schedule 1 amends *Civil Aviation Order 95.8 (Exemptions from CAR and CASR — Hang Gliders and Paragliders) Instrument 2021*.

4 Amendment of Civil Aviation Order 95.10

Schedule 2 amends *Civil Aviation Order 95.10 (Exemptions from CAR and CASR — Microlight Aeroplanes) Instrument 2021*.

5 Amendment of Civil Aviation Order 95.12

Schedule 3 amends *Civil Aviation Order 95.12 (Exemptions from CAR and CASR — Gyroplanes Not Exceeding 250 kg) Instrument 2021*.

6 Amendment of Civil Aviation Order 95.12.1

Schedule 4 amends *Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021*.

7 Amendment of Civil Aviation Order 95.32

Schedule 5 amends *Civil Aviation Order 95.32 (Exemptions from CAR and CASR — Powered Parachutes and Weight-shift-controlled Aeroplanes) Instrument 2021*.

8 Amendment of Civil Aviation Order 95.55

Schedule 6 amends *Civil Aviation Order 95.55 (Exemptions from CAR and CASR — Certain Light Sport Aircraft, Lightweight Aeroplanes and Ultralight Aeroplanes) Instrument 2021*.

9 Repeal

Each Civil Aviation Order described in Schedule 7, as in force immediately before the commencement of this instrument, is repealed.

Schedule 1 Amendment of Civil Aviation Order 95.8

[1] Subsection 5, the Note following the heading

substitute

Note In this Order, certain terms and expressions have the same meaning as they have in the Act and the regulations. These include: *AIP, authorised person, employed in private operations, flying training, hang glider, NOTAM, paraglider, pilot certificate, powered hang glider, powered paraglider, restricted area, sport aviation body, VFR, VMC and VMC criteria.*

[2] Paragraph 5.1, definition of *authorised person*

omit

[3] Paragraph 5.1

insert

Act means the *Civil Aviation Act 1988*.

automatic ELT has the meaning given by section 26.50 of the Part 91 MOS.

[4] Paragraph 5.1, definition of *emergency ELT*

omit

[5] Paragraph 5.1, definition of *Military Control Zone*

omit

Aeronautical Information Publication or by Notice to Airmen

insert

the AIP or by NOTAM

[6] Paragraph 5.2

omit

[7] Paragraph 8.2

substitute

8.2 In paragraph 8.1:

exempted provisions means:

- (a) Parts 4 to 4D (inclusive) of CAR; and
- (b) the following provisions of CASR:
 - (i) regulations 91.155, 91.415 and 91.625;
 - (ii) Subpart 91.Y;
 - (iii) Parts 13, 21, 33, 35, 47 and 103.

[8] Paragraph 8.3

omit

paragraph 7.4

insert

paragraph 8.4

[9] After sub-subparagraph 10.1 (d) (i)

insert

and

[10] After subparagraph 10.1 (k)

insert

Note CASA determines classes of airspace by instrument under regulation 5 of the *Airspace Regulations 2007*. At the commencement of this Note, the instrument was *CASA OAR 166/22 — Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument 2022*.

Schedule 2 Amendment of Civil Aviation Order 95.10

[1] Subparagraph 10.1 (g)

omit

a relevant

insert

subject to paragraph 10.1A, a relevant

[2] After paragraph 10.1

insert

10.1A An approval mentioned in subparagraph 10.1 (g) is not required for a flight in a relevant aircraft if:

- (a) the flight is over a populous area that is not the built-up area of a city or town; or
- (b) the flight is over a public gathering and the aeroplane is only passing over the public gathering for the purpose of:
 - (i) arrival or departure from an aerodrome, in the course of normal navigation; or
 - (ii) transit, in the course of normal navigation.

Schedule 3 Amendment of Civil Aviation Order 95.12

[1] Paragraph 2.3

omit

[2] Paragraph 5.1, definition of *ASRA Basic Gyroplane Construction Standards*

omit

the Australian Sport Rotorcraft Association Inc.

insert

Australian Sport Rotorcraft Association Incorporated

[3] Paragraph 5.1, after definition of *ASRA Basic Gyroplane Construction Standards*

insert

automatic ELT has the meaning given by section 26.50 of the Part 91 MOS.

- [4] **Paragraph 5.1, definition of *emergency ELT***
omit
- [5] **Paragraph 5.1, after definition of *Order***
insert
Part 61 MOS means the Part 61 Manual of Standards.
- [6] **Paragraph 5.1, after definition of *Part 91 MOS***
insert
Part 103 MOS means the Part 103 Manual of Standards.
- [7] **Paragraph 5.1, definition of *pilot authorisation***
omit
- [8] **Paragraph 5.1, definition of *survival ELT***
omit
of
insert
of the
- [9] **Paragraph 5.2**
omit
- [10] **Paragraph 5A.2**
omit
immediately before the commencement of this Order under subsection 2:
insert
on or before 1 December 2021:
- [11] **Paragraph 8.2, definition of *exempted provisions*, subparagraph (a)**
omit
CAR:
insert
CAR; and
- [12] **Paragraph 10.3, including the notes**
omit each mention of
Part 61 Manual of Standards
insert, in each case
Part 61 MOS
- [13] **Sub-subparagraph 11.1 (g) (ii)**
substitute
(ii) if the pilot wears a life jacket and the aircraft is equipped with a serviceable radiocommunication system and an automatic ELT or survival ELT:

[14] Sub-subparagraph 11.1 (h) (ii)

omit

an approval

insert

subject to paragraph 11.1A, an approval

[15] After sub-subparagraph 11.1 (i) (ii)

insert

Note CASA determines classes of airspace by instrument under regulation 5 of the *Airspace Regulations 2007*. At the commencement of this Note, the instrument was *CASA OAR 166/22 – Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument 2022*.

[16] After paragraph 11.1

insert

11.1A An approval mentioned in sub-subparagraph 11.1 (h) (ii) is not required for a flight in a relevant aircraft if:

- (a) the flight is over a populous area that is not the built-up area of a city or town; or
- (b) the flight is over a public gathering and the aeroplane is only passing over the public gathering for the purpose of:
 - (i) arrival or departure from an aerodrome, in the course of normal navigation; or
 - (ii) transit, in the course of normal navigation.

Schedule 4 Amendment of Civil Aviation Order 95.12.1

[1] Paragraph 2.3

omit

[2] Paragraph 5.1, before definition of *aerial mustering*

insert

Act means the *Civil Aviation Act 1988*.

[3] Paragraph 5.1, definition of *ASRA Compliant Gyroplane Construction Standards*

omit

The Australian Sport Rotorcraft Association

insert

Australian Sport Rotorcraft Association Incorporated

[4] Paragraph 5.1, after definition of *authorised person*

insert

automatic ELT has the meaning given by section 26.50 of the Part 91 MOS.

- [5] **Paragraph 5.1, after definition of *two-place aircraft***
insert
two-place gyroplane means a gyroplane that has been designed, manufactured or certificated to carry only the pilot and no more than one other person.
- [6] **Paragraph 5.1, definition of *emergency ELT***
omit
- [7] **Paragraph 5.1, after definition of *Order***
insert
Part 61 MOS means the Part 61 Manual of Standards.
- [8] **Paragraph 5.1, after definition of *Part 91 MOS***
insert
Part 103 MOS means the Part 103 Manual of Standards.
- [9] **Paragraph 5.1, definition of *pilot authorisation***
omit
- [10] **Paragraph 5.1, definition of *survival ELT***
omit
of
insert
of the
- [11] **Paragraph 5.2**
omit
- [12] **Paragraph 5A.2**
omit
immediately before the commencement of this Order under subsection 2.
insert
on or before 1 December 2021.
- [13] **Paragraph 8.2, definition of *exempted provisions*, subparagraph (a)**
omit
CAR:
insert
CAR; and
- [14] **Subparagraph 10.1 (b)**
omit
given by
insert
of

[15] Paragraph 11.3, including the notes

omit each mention of

Part 61 Manual of Standards

insert, in each case

Part 61 MOS

[16] Sub-subparagraph 12.1 (g) (ii)

substitute

- (ii) if the pilot wears a life jacket and the aircraft is equipped with a serviceable radiocommunication system and an automatic ELT or survival ELT:

[17] Sub-sub-subparagraph 12.1 (h) (iii) (B)

omit

an approval

insert

subject to paragraph 12.1A, an approval

[18] After paragraph 12.1

insert

12.1A An approval mentioned in sub-sub-subparagraph 12.1 (h) (iii) (B) is not required for a flight in a relevant aircraft if:

- (a) the flight is over a populous area that is not the built-up area of a city or town; or
- (b) the flight is over a public gathering and the aeroplane is only passing over the public gathering for the purpose of:
 - (i) arrival or departure from an aerodrome, in the course of normal navigation; or
 - (ii) transit, in the course of normal navigation.

[19] After sub-subparagraph 12.1 (i) (ii)

insert

Note CASA determines classes of airspace by instrument under regulation 5 of the *Airspace Regulations 2007*. At the commencement of this Note, the instrument was *CASA OAR 166/22 — Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument 2022*.

[20] Paragraph 15.3, definition of *repealed Order*

omit

3)

insert

3).

Schedule 5 Amendment of Civil Aviation Order 95.32

[1] Paragraph 2.3

omit

[2] Paragraph 5.1, after definition of *Part 91 MOS*

insert

pilot authorisation means a pilot certificate, or a rating or endorsement on a pilot certificate, and includes, without limitation, a flying instructor authorisation.

[3] Subparagraph 5A.2 (a)

omit

immediately before the commencement of this Order under subsection 2; and

insert

on or before 1 December 2021; and

[4] Subparagraph 7 (d), after the chapeau

insert

- (ai) the personal carriage of the pilot; or
- (i) for a two-place aircraft:
 - (A) the personal carriage of the pilot; or
 - (B) if the pilot holds a pilot authorisation, issued by the relevant sport aviation body, a privilege of which includes the carriage of a passenger — the personal carriage of the pilot and the carriage of a passenger; or

[5] Paragraph 8.8

substitute

- 8.8 For the purposes of sub-sub-subparagraph 8.1 (i) (iii) (B), the following requirements are mentioned:
- (a) an experimental certificate under regulation 21.195A of CASR, or an SAB flight permit, must be in force for the aircraft;
 - (b) subject to paragraph 8.9, an approval authorising the flight over the populous area or public gathering must be in force under regulation 91.045 or 91.050 of CASR, which approval imposes no conditions or limitations that would prevent the flight.
- 8.9 An approval mentioned in subparagraph 8.8 (b) is not required for a flight in a relevant aircraft for which an SAB flight permit is in force if:
- (a) the flight is over a populous area that is not the built-up area of a city or town; or
 - (b) the flight is over a public gathering and the aircraft is only passing over the public gathering for the purpose of:
 - (i) arrival or departure from an aerodrome, in the course of normal navigation; or
 - (ii) transit, in the course of normal navigation.

Schedule 6 Amendment of Civil Aviation Order 95.55

[1] Paragraph 2.3

omit

[2] Paragraph 4.3

omit

[3] Paragraph 5.1, after definition of *operations manual*

insert

pilot authorisation means a pilot certificate, or a rating or endorsement on a pilot certificate, and includes, without limitation, a flying instructor authorisation.

[4] Paragraph 5A.3

omit

immediately before the commencement of this Order under subsection 2.

insert

on or before 1 December 2021.

[5] Paragraph 6.1, Table 1, the Note after item 1

omit

Parts 4 to 4D of CAR are not exempted under this Order for lightweight aeroplanes, however, *CASA 10/19 — Maintenance (certain amateur-built, kit-built and light sport aircraft) Instrument 2019*

insert

Other than in accordance with paragraph 6.3, persons are not exempted from Parts 4 to 4D of CAR in relation to lightweight aeroplanes. However, *CASA 18/22 — Maintenance (Certain Amateur-built, Kit-built and Light Sport Aircraft) Instrument 2022*

[6] Paragraph 6.2

omit

this subsection:

insert

Table 1:

[7] After paragraph 6.2

insert

6.3 The operator of, and the pilot in command of, a lightweight aeroplane is exempt from subregulation 42ZC (1) of CAR to the extent that the subregulation requires that the person must not authorise or permit maintenance to be carried out on the lightweight aeroplane in Australian territory by a person who:

- (a) does not meet the requirements of subparagraph 42ZC (4) (d) (i) of CAR to carry out the maintenance; and
- (b) holds the pilot authorisation mentioned in paragraph 8A.2; and
- (c) carries out the maintenance in accordance with paragraph 8A.2.

[8] Sub-subparagraph 8.1 (d) (i)

omit

certificate

insert

authorisation

[9] Sub-subparagraph 8.1 (d) (ii)

omit

certificate

insert

pilot authorisation

[10] Subparagraph 8.1 (k)

omit

a lightweight

insert

subject to paragraph 8A.2, a lightweight

[11] Subparagraph 8.1 (k), the Note

omit

Parts 4 to 4D of CAR are not exempted under this Order for lightweight aeroplanes, however, *CASA 10/19 — Maintenance (certain amateur-built, kit-built and light sport aircraft) Instrument 2019*

insert

Other than in accordance with paragraph 6.3, persons are not exempted from Parts 4 to 4D of CAR in relation to lightweight aeroplanes. However, *CASA 18/22 — Maintenance (Certain Amateur-built, Kit-built and Light Sport Aircraft) Instrument 2022*

[12] Subsection 8A, the heading

substitute

8A Lightweight aeroplanes — limitations on privileges of pilot authorisation, and pilot maintenance

[13] Paragraph 8A.2

substitute

8A.2 The holder of a pilot authorisation issued in relation to a lightweight aeroplane by the relevant ASAO may carry out maintenance on the lightweight aeroplane in Australian territory if:

- (a) it is a privilege of the pilot authorisation for the holder to operate the lightweight aeroplane as pilot in command; and
- (b) the maintenance is relevant maintenance; and
- (c) the maintenance is carried out in accordance with any requirements set out in a legislative instrument issued by CASA for the purposes of subparagraph 42ZC (4) (d) (iii) of CAR.

8A.3 In this section:

relevant ASAO, for an aeroplane, means the ASAO that performs aviation administration functions in relation to the aeroplane.

relevant maintenance means maintenance mentioned in Part 1 of Schedule 8 of CAR, other than in items 19 and 25.

[14] Paragraph 9.2, the Note

substitute

Note 1 Regulation 91.285 of CASR additionally requires a person to hold an approval under regulation 91.045 of CASR to conduct a VFR flight in Class A airspace.

Note 2 Certain ultralight aeroplanes operated by approved flight training schools may operate in Class D airspace in accordance with *CASA EX55/22 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2022*.

[15] Paragraph 9.7, the chapeau

omit

sub-subparagraph 9.1 (j) (ii) and paragraph 9.2

insert

sub-subparagraphs 9.1 (i) (ii) and (j) (ii) and
sub-sub-subparagraph 9.2 (a) (ii) (B)

[16] Subparagraph 9.7 (a)

omit

(ii), (iii), (iv) or (vi)

insert

(ii) or (iii)

[17] After subparagraph 9.7 (a)

insert

(ba) in the case of an ultralight aeroplane of a kind mentioned in sub-subparagraph (e) (vi) of the definition of **ultralight aeroplane** in paragraph 5.1:

- (i) an SAB flight permit must be in force for the aeroplane; and
- (ii) CASA, an authorised person, or the relevant sport aviation body has imposed no conditions or limitations on the operation of the aeroplane that would prevent the flight;

[18] Sub-subparagraph 9.7 (b) (ii)

omit

an

insert

subject to paragraph 9.8, an

[19] After paragraph 9.7

insert

- 9.8 An approval mentioned in sub-subparagraph 9.7 (b) (ii) is not required for a flight in an aeroplane for which an SAB flight permit is in force if:
- (a) the flight is over a populous area that is not the built-up area of a city or town; or
 - (b) the flight is over a public gathering and the aeroplane is only passing over the public gathering for the purpose of:
 - (i) arrival or departure from an aerodrome, in the course of normal navigation; or
 - (ii) transit, in the course of normal navigation.

Schedule 7 Repeal of Civil Aviation Orders

Civil Aviation Order

Civil Aviation Order 95.12, Exemption from provisions of the Civil Aviation Regulations 1988 — gyroplanes having an empty weight not in excess of 250 kilograms (assigned the FRL number F2006C00314)

Civil Aviation Order 95.12.1, Exemption from provisions of the Civil Aviation Regulations 1988 — 2 place gyroplanes and single-place gyroplanes certificated as light sport aircraft (assigned the FRL number F2006C00315)
