



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX39/23

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

5 April 2023

CASA EX39/23 – Part 141 operators using a sole instructor – Exemption Instrument 2023

1 Name

This instrument is *CASA EX39/23 – Part 141 operators using a sole instructor – Exemption Instrument 2023*.

2 Duration

This instrument:

- (a) commences on the day after it is registered; and
- (b) is repealed at the end of 31 March 2026.

3 Application

This instrument applies, according to its terms, to the following with respect to Part 141 flight training conducted by an operator or to be conducted by a relevant applicant for a Part 141 certificate:

- (a) an operator;
- (b) the operator's chief executive officer;
- (c) the operator's head of operations;
- (d) the operator's sole instructor;
- (e) the relevant applicant.

4 Definitions

- (1) In this instrument, words and phrases have the same meaning as in Part 141 of the *Civil Aviation Safety Regulations 1998 (CASR)*, unless the contrary appears.

- (2) In this instrument:

excluded flight training means authorised Part 141 flight training for any of the following:

- (a) a flight crew licence category rating;
- (b) an instrument rating;

(c) an instructor rating.

operator means a person, whether incorporated or otherwise:

- (a) who holds a Part 141 certificate (a **Part 141 operator**); and
- (b) who:
 - (i) is the sole individual who carries out the authorised Part 141 flight training; or
 - (ii) uses a single individual for the purposes of carrying out the authorised Part 141 flight training.

relevant applicant means a person who applies to CASA for a Part 141 certificate with the intention, conveyed to CASA in writing, of being an operator in accordance with this instrument.

sole instructor means the individual mentioned in subparagraph (b)(i) or (b)(ii) of the definition of **operator** (as applicable).

- (3) A reference in this instrument to a numeral with the prefix “141.” is a reference to the provision in CASR identified by that numeral.

5 Exemptions — chief executive officer

The operator’s chief executive officer is exempted from compliance with the following provisions:

- (a) subparagraph 141.070(b)(i);
- (b) subregulation 141.075(1);

but only to the extent that each provision would otherwise apply in relation to a matter that is the subject of another exemption under this instrument.

Note 1 Subparagraph 141.070(b)(i) imposes on a Part 141 certificate prescribed conditions relating to compliance with Part 141 that the operator and the operator’s key personnel must comply with.

Note 2 Subregulation 141.075(1) makes it an offence for an operator to contravene a condition of its Part 141 certificate.

6 Exemptions — head of operations

- (1) The operator’s head of operations is exempted from compliance with the following provisions:

- (a) subparagraph 141.070(b)(i);
- (b) subregulation 141.075(1);

but only to the extent that the paragraphs would otherwise apply in relation to a matter that is the subject of another exemption under this instrument.

Note 1 Subparagraph 141.070(b)(i) imposes on a Part 141 certificate prescribed conditions relating to compliance with Part 141 that the operator’s key personnel must comply with.

Note 2 Subregulation 141.075(1) makes it an offence for an operator to contravene a condition of its Part 141 certificate.

- (2) The operator’s head of operations is exempted from compliance with paragraph 141.130(2)(h) but only to the extent of the requirement under subparagraph 141.130(4)(b)(iv).

Note Relevantly under paragraph 141.130(2)(h), the head of operations is responsible for the requirement under subparagraph 141.130(4)(b)(iv) to ensure that the sole instructor must hold a valid standardisation and proficiency check for the operator under regulation 141.190.

- (3) The operator’s head of operations is exempted from compliance with paragraph 141.130(2)(o) but only to the extent that a requirement under

paragraph 141.130(5)(d) relates to training bases where the operator conducts flight training other than excluded flight training.

Note Relevantly under paragraph 141.130(2)(o), the head of operations is responsible for implementing and managing the operator's processes mentioned in paragraph 141.130(5)(d), namely, a process for regularly assessing the suitability of the operator's facilities.

7 Exemptions — Part 141 operator

(1) The operator is exempted from compliance with subregulation 141.085(1), but only to the extent to which:

- (a) the operator makes a significant change to its training bases where the operator conducts Part 141 flight training other than excluded flight training; and
- (b) the change is not approved by CASA.

Note Relevantly under subregulation 141.085(1), an operator commits an offence if the operator makes a significant change to its training bases and CASA has not approved the significant change.

(2) The operator is exempted from compliance with subregulation 141.185(1), but only to the extent that the sole instructor fails to hold a valid standardisation and proficiency check for the operator under regulation 141.190.

Note Relevantly under subregulation 141.185(1), the operator commits an offence if an instructor conducts authorised Part 141 flight training and does not hold a valid standardisation and proficiency check for the operator under regulation 141.190 (which specifies when an instructor is taken to hold a valid standardisation and proficiency check).

(3) The operator is exempted from compliance with regulation 141.195, but only to the extent that the sole instructor fails to hold a valid standardisation and proficiency check for the operator under regulation 141.185.

Note Relevantly under regulation 141.195, requirements for a valid standardisation and proficiency check are set out.

(4) An operator is exempted from compliance with the following provisions:

- (a) subparagraph 141.260(1)(b)(ii) — but only in relation to the training bases where it conducts Part 141 flight training other than excluded flight training;

Note Relevantly subparagraph 141.260(1)(b)(ii) requires the operator's operations manual to include the address of each of the operator's training bases.

- (b) paragraph 141.260(1)(s) — but only in relation to the location of the training bases where it conducts Part 141 flight training other than excluded flight training.

Note Relevantly, paragraph 141.260(1)(s) requires the operator's operations manual to include the operator's process for making a significant change to its training bases, and telling CASA of the change.

(5) The operator is exempted from compliance with the following provisions:

- (a) subparagraph 141.070(a)(i);
- (b) subregulation 141.075(1);

but only to the extent that the provision would otherwise apply in relation to a matter that is the subject of another exemption under this instrument.

Note 1 Subparagraph 141.070(a)(i) imposes on a Part 141 certificate prescribed conditions relating to compliance with Part 141 that the operator must comply with.

Note 2 Subregulation 141.075(1) makes it an offence for an operator to contravene a condition of its Part 141 certificate.

8 Conditions

- (1) Each exemption in this instrument that is applicable to an operator is subject to the following conditions:
 - (a) the operator must ensure that CASA is notified of the operator's primary base for its Part 141 flight training, and of any change to the primary base;
 - (b) the operator must have and comply with an operations manual that is fully consistent with the sample operations manual prepared by CASA for Part 141 operators with a sole instructor, as it is in force from time to time.

Note CASA's sample operations manual for individual Part 141 operators is available on the CASA website.

- (2) Each exemption in this instrument that is applicable to an operator, the operator's chief executive officer or the operator's head of operations is subject to the condition that the operator, the officer and the head must each ensure compliance with the conditions under subsection (1).

9 Relevant applicants — exemption

A relevant applicant is exempted from paragraph 141.055(2)(f) — but only to the extent that the appointed or proposed chief executive officer would otherwise be required to give a written undertaking in relation to a matter that is the subject of an exemption under this instrument.

10 Relevant applicants — direction to delegates

For subregulation 11.260(4) of CASR, a CASA delegate for the issue of a Part 141 certificate to a relevant applicant must consider for paragraph 141.060(1)(a) that the applicant's operations manual complies with paragraph 141.260(1)(p), but only in relation to the location of the training bases where it will conduct flight training other than excluded flight training.

11 Relevant applicants — cessation of this instrument

This instrument ceases to have effect for an operator if the operator:

- (a) becomes an operator having the benefit of sections 9 and 10; and
- (b) fails to operate within the scope of:
 - (i) their Part 141 certificate; or
 - (ii) this instrument.