

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Amendment Instrument 2023

##### Purpose

The purpose of the *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Amendment Instrument 2023* (the **instrument**) is to make a correction to the table in Schedule 6 to the *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Instrument 2023* (the **principal instrument**) to ensure that the differences training requirements are applied as intended to certain aeroplane models and variants prescribed in column 2 of the table. These are the models and variants that have the prescribed type rating C525(SP), and is consistent with the prescription of the same variants in Schedule 2 to the principal instrument and earlier editions of this type of instrument.

The principal instrument prescribes the variants, differences training requirements, flight review requirements and type ratings for specified aircraft types for the purposes of relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*. It also prescribes the flight training and flight review requirements for the exercise of the privileges of class ratings to pilot aircraft prescribed by the Civil Aviation Safety Authority (**CASA**).

##### Legislation

Section 98 of the *Civil Aviation Act 1988* (the **Act**) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Under paragraph 98(5A)(a) of the Act, such regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft.

Part 61 of CASR contains regulations for flight crew licensing, including the various requirements for flight crew licences, ratings and endorsements. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft and whether, in such cases, differences training is required if privileges are to be exercised in a variant.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue an instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

##### **Regulation 61.060 — type ratings for single-pilot aircraft**

Under subregulation 61.060(1) of CASR, for paragraph 98(5A)(a) of the Act, CASA may, by legislative instrument, prescribe the following:

- (a) for a type of aircraft that is certificated for single-pilot operation — whether a single-pilot type rating is required;
- (b) for aircraft for which single-pilot type ratings are required:
  - (i) the type ratings that may be granted for single-pilot operation; and
  - (ii) the aircraft models that are variants of each other; and

- (iii) in relation to each variant — the variants for which differences training is required;
- (c) the type ratings for which the flight review requirements may be met by completion of a single flight review;
- (d) the type ratings for which the instrument proficiency check requirements may be met by completion of a single instrument proficiency check.

Under subregulation 61.060(2) of CASR, CASA may prescribe that a single-pilot type rating is required for an aircraft only if satisfied that:

- (a) the complexity of the aircraft's systems; or
- (b) its performance or handling characteristics;

requires the provision of additional flight training to ensure the person is competent to pilot that kind of aircraft safely.

## **Background**

### Fundamental concepts in the operation of Part 61 of CASR

The rationale behind Part 61 of CASR is that a pilot must complete flight training and be assessed as competent to the standards in the Part 61 MOS to be granted an aircraft class or type rating. Most aircraft certified for single-pilot operations are included in an aircraft class rating, however, CASA prescribes type ratings for all single-pilot turbo-jet powered aeroplanes requiring pilots to complete specific training for each aircraft type to ensure they are competent in operating that type of aircraft. In addition, a pilot must periodically undergo a review (a flight review or proficiency check) to maintain the pilot's competency operating the aircraft if the pilot wishes to continue flying that type of aircraft.

Within the range of available aircraft types and models, some can be grouped together and treated in a common way under Part 61 of CASR. Thus, undertaking training and being assessed to operate one type of aircraft may satisfy the training requirements for a number of other types of aircraft if they have similar characteristics and performance. Also, undertaking a flight review or proficiency check in one type of aircraft may satisfy the flight review or proficiency check requirements for a number of other types of aircraft.

However, many types of aircraft are sufficiently complex or different from other types as to warrant a pilot undertaking type-specific training to be authorised to fly these types. These aircraft are identified as type-rated aircraft.

Before flying any aircraft, a pilot must complete appropriate training as required by regulation 61.385 of CASR. Consequently, even if pilots are qualified to fly an aircraft covered by a class rating, before flying a different type within the class rating, pilots must make sure that they are competent to fly the new type, which may have different systems, performance and handling characteristics to the type of aircraft they flew when qualifying for the class rating.

Nevertheless, some aircraft that are designated as type-rated aircraft are sufficiently similar in their characteristics to other aircraft covered by the relevant class rating as to warrant recognition of ongoing competency checks (flight reviews) done in the type-rated aircraft for the purposes of the class rating flight review.

There will be aircraft that have been included within a class, although they are sufficiently complex or have performance characteristics that warrant initial type-specific training and a flight review. Once the pilot has completed that initial type-specific training and the flight

review, the continued competency of the pilot to operate such aircraft in the future can be demonstrated in any aircraft covered by the class rating.

Several regulations in Part 61 of CASR provide for a legislative instrument to prescribe the types of aircraft for which some of the concessions mentioned above apply.

#### The principal instrument

The principal instrument commenced on 12 April 2023 and repealed and replaced the *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021 (Edition 8)*.

Schedule 6 of the principal instrument, “Single-pilot type-rated aeroplanes, type ratings, variants and differences training”, is made for the purposes of sections 13, 15, 17 and 19 in the principal instrument, and sets out models and variants of type ratings, and whether differences training is required.

Section 13 prescribes the aeroplanes for which single-pilot type ratings are required under paragraph 61.060(1)(a) of CASR.

Section 15 prescribes type ratings for single-pilot aeroplanes under subparagraph 61.060(1)(b)(i) of CASR.

Aircraft type ratings can include a number of models or variants. In some cases, differences between the variants are such that additional training of the pilots is warranted to enable them to pilot these variants of the original aircraft type.

Section 17 prescribes variants of single-pilot aeroplane models that still have the same type rating for subparagraph 61.060(1)(b)(ii) of CASR.

Section 19 prescribes, for subparagraph 61.060(1)(b)(iii) of CASR, differences training that is required for a person to exercise the privileges of a single-pilot aeroplane rating in a variant that is different from the variant for which the person first received the type rating.

Aircraft referred to by regulation 61.060 are aircraft that may be operated by 1 pilot and require initial and ongoing type-specific training and competency checking. These aircraft are sufficiently complex, or their performance or handling characteristics are such, that additional training of the pilots is warranted to enable them to pilot these aircraft safely.

#### **Overview**

As mentioned, the principal instrument repealed and replaced Edition 8. This had the unintended result of altering the structure of the aeroplane models and variants (relating to type rating “C525(SP)”) prescribed in column 2 of the table in Schedule 6, such that certain cells were combined. Section 19 of the principal instrument prescribes that differences training is required for variants in column 2 that appear in different cells in relation to the same type rating. The amendment reinstates the cells and, therefore, ensures the correct differences training requirements are prescribed. These are the same as were present in Edition 8, in Schedule 6 for the C525(SP) type rating.

#### **Content of instrument**

Section 1 gives the instrument its name.

Section 2 provides that the instrument commences on the day after it is registered.

Section 3 provides that Schedule 1 amends the principal instrument.

#### Schedule 1

Item [1] amends column 2 of the table in Schedule 6 to the principal instrument. It substitutes the cell in which the C525 aeroplane models and variants manufactured by Textron Aviation Inc appear, with the following arrangement:

C525-CJ C525-CJ1 C525A-CJ2
C525-CJ1+ C525A-CJ2+ C525B-CJ3
C525B-CJ3+
C525C-CJ4
C525 M2-CJM2

It reinstates the requirements for difference training for models and variants in the different cells.

#### **Legislation Act 2003 (the LA)**

Paragraph 10(1)(d) of the LA provides that an instrument will be a legislative instrument if it includes a provision that amends or repeals another legislative instrument. This instrument amends the principal instrument that was registered as a legislative instrument and is, therefore, also a legislative instrument, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to the instrument (as per item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). The instrument will be repealed in accordance with section 48A of the LA. However, the principal instrument deals with aviation safety matters that, once identified, require a risk response or treatment plan. As such, the principal instrument is intended to have enduring operation and it would not be appropriate for it to be subject to sunsetting. The exemption from the sunsetting provisions affects parliamentary oversight by not requiring the principal instrument to be remade and subject to further tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Despite this, CASA's accepted practice has been to repeal and remake a new edition of the instrument, generally every year, as an alternative to amending it. A renewal of the principal instrument would be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA, in which case the exemption from sunsetting would not affect parliamentary oversight of that instrument.

#### **Consultation**

No consultation has been undertaken under section 17 of the LA. The amendment is machinery in nature as it corrects the structure in the table in Schedule 6 of the principal instrument that provides for differences training between variants of C525 single-pilot aeroplanes, that had been in place in Edition 8 and also in previous editions of the instrument. The change reflects how variants have been prescribed in Schedule 2 (for pilots flying the aircraft as a multi-crew operation) to the principal instrument. These variants are, therefore, already well understood by industry. CASA is satisfied that no consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA.

### **Sector risk, economic and cost impact**

Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A(3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The instrument makes minor or machinery changes to an existing instrument and there will be no change to the economic or cost impact on individuals, businesses or the community.

The Office of Impact Analysis (*OIA*) also made an assessment that an Impact Analysis (*IA*) was not required.

The instrument ensures that differences training is required between particular variants of C525 aeroplanes. As pilots typically need to complete flight training to be competent to fly each kind of aircraft, the changes to the instrument impose no additional cost impacts on industry.

### **Impact on categories of operations**

The instrument should not have any additional impact on operators of the aircraft as these operators have addressed the same requirements which were in the law in Edition 8 and are currently prescribed in Schedule 2 to the principal instrument for pilots flying the aircraft as a multi-crew operation.

### **Impact on regional and remote communities**

The instrument will not have any impact on any particular regional or remote community.

### **Office of Impact Analysis**

An IA is not required in this case, as the amendment corrects an error in the principal instrument. The principal instrument itself did not require an IA as that instrument was covered by a standing agreement between CASA and OIA under which an IA is not required for amendments to Part 61 of CASR to add additional aircraft for the purpose of pilot type ratings (OIA id: 14507).

### **Statement of Compatibility with Human Rights**

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Making and commencement**

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260(1) of CASR.

The instrument commences on the day after it is registered on the Federal Register of Legislation.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the  
Human Rights (Parliamentary Scrutiny) Act 2011*

### Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Amendment Instrument 2023

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the legislative instrument

The purpose of the *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Amendment Instrument 2023* is to make a correction to the table in Schedule 6 to the *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Instrument 2023* (the **principal instrument**) to ensure that the differences training requirements are applied as intended to certain aeroplane models and variants prescribed in column 2 of the table. These are the models and variants that have the prescribed type rating C525(SP).

The principal instrument prescribes the variants, differences training requirements, flight review requirements and type ratings for specified aircraft types for the purposes of relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998*. It also prescribes the flight training and flight review requirements for the exercise of the privileges of class ratings to pilot aircraft prescribed by the Civil Aviation Safety Authority. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft, and whether in such cases, differences training is required if privileges are safely to be exercised in a variant. These requirements are consistent with Australia's obligations of conformity to the Chicago Convention on International Civil Aviation, its Protocols and Annexes.

The principal instrument commenced on 12 April 2023, and repealed and replaced the *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021 (Edition 8)*. This had the unintended result of altering the structure of the aeroplane models and variants (relating to type rating "C525(SP)") prescribed in column 2 of the table in Schedule 6, such that certain cells were combined. Section 19 of the principal instrument prescribes that differences training is required for variants in column 2 that appear in different cells in relation to the same type rating. The amendment reinstates the cells and, therefore, ensures the correct differences training requirements are prescribed. These are the same as were present in Edition 8, in Schedule 6 for the C525(SP) type ratings, and they reflect the variants currently in Schedule 2 of the principal instrument, for pilots flying the aircraft as a multi-crew operation.

#### Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Civil Aviation Safety Authority**