



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX94/23

I, CHRISTOPHER PAUL MONAHAN, Executive Manager, National Operations & Standards, a delegate of CASA, make this instrument under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

[Signed Chris Monahan]

Christopher P. Monahan
Executive Manager, National Operations & Standards

29 November 2023

CASA EX94/23 – Amendment of CASA EX82/21 – Instrument 2023 (No. 2)

1 Name

This instrument is *CASA EX94/23 – Amendment of CASA EX82/21 – Instrument 2023 (No. 2)*.

2 Commencement

This instrument commences on 2 December 2023.

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 2

repeal and substitute

2 Repeal

This instrument is repealed at the end of 1 December 2024.

[2] Subsection 3 (1), definition of CAR

repeal and substitute

CAR means the *Civil Aviation Regulations 1988*.

[3] Subsection 7AA (5)

repeal and substitute

(5) This section ceases to have effect at the end of 1 December 2024.

[4] Section 8

repeal and substitute

8 HOFO requirements — exemption

(1) In this section:

operator means an Australian air transport operator who, immediately before 2 December 2021, held an AOC, or was an early applicant for an AOC or an AOC variation, that:

- (a) authorised the use of single-pilot type certificated aircraft for:
 - (i) charter operations; or
 - (ii) aerial work (air ambulance) operations; and
 - (b) did not authorise regular public transport operations.
- (2) This section applies to a person (the **relevant HOFO**) who:
- (a) on 2 December 2021 is the HOFO or the nominated HOFO (as the case requires) of an operator; and
 - (b) immediately before 2 December 2021 was the operator's Chief Pilot or nominated Chief Pilot; and
 - (c) immediately before 2 December 2021 did not hold an ATPL.
- (3) A relevant HOFO is exempted from the requirements of:
- (a) paragraph 119.135 (1) (a); and
 - (b) subregulation 119.135 (2).
- (4) The exemptions under subsection (3) are subject to the condition that the HOFO must meet the requirements set out in subclause 4.3 in Appendix 1 of CAO 82.0, as in force immediately before 2 December 2021, as if:
- (a) subclause 4.3 continued to apply; and
 - (b) the HOFO was a Chief Pilot; and
 - (c) the operator was the AOC holder.
- (5) This section ceases to have effect on the earliest of the following:
- (a) the day on which the operator commences scheduled air transport operations;
 - (b) the day the HOFO ceases to be the operator's HOFO;
 - (c) the end of a date to be specified in writing by CASA.

Note Through its website, and in communications to relevant operators, CASA will give at least 3 months' notice of any appropriate specified date.

[5] Section 10

repeal and substitute

10 HOTC requirements — exemption

(1) In this section:

operator means an Australian air transport operator who, immediately before 2 December 2021:

- (a) held an AOC, or was an early applicant for an AOC or an AOC variation, that authorised the use of single-pilot type certificated aircraft for one or more of the following:
 - (i) charter operations, or aerial work (air ambulance) operations, in other than high capacity aircraft;

- (ii) regular public transport operations in other than high capacity aircraft; and
 - (b) was not required by subsection 8 of CAO 82.3, as in force immediately before 2 December 2021, to use 2 pilots for an operation under the AOC before 2 December 2021.
- (2) This section applies to a person (the *relevant HOTC*) who:
- (a) on 2 December 2021 is the HOTC or the nominated HOTC (as the case requires) of an operator; and
 - (b) immediately before 2 December 2021:
 - (i) was the operator's Chief Pilot; and
 - (ii) did not hold an ATPL.
- (3) A relevant HOTC is exempted from the requirements of:
- (a) paragraph 119.145 (1) (a); and
 - (b) subregulation 119.145 (2).
- (4) The exemptions under subsection (3) are subject to the condition that the HOTC must meet the requirements set out in subclause 4.3 in Appendix 1 of CAO 82.0, as in force immediately before 2 December 2021, as if:
- (a) subclause 4.3 continued to apply; and
 - (b) the HOTC was the Chief Pilot; and
 - (c) the operator was the AOC holder.
- (5) This section ceases to have effect on the earliest of the following:
- (a) the day the operator commences scheduled air transport operations in:
 - (i) a high capacity aircraft; or
 - (ii) an aircraft, other than a high capacity aircraft, that would have triggered a requirement for 2 pilots under subsection 8 of CAO 82.3, as in force immediately before 2 December 2021, as if it were in force;
 - (b) the day the relevant HOTC ceases to be the operator's HOTC;
 - (c) the end of a date to be specified in writing by CASA.
- Note* Through its website, and in communications to relevant operators, CASA will give at least 3 months' notice of any appropriate specified date.

[6] Sections 12 and 13

repeal

[7] Section 14

repeal and substitute

14 Training and checking for operational safety-critical personnel — exemption

- (1) This section applies to an Australian air transport operator (the *operator*) to whom subregulation 119.170 (5) applies.
- (2) The operator is exempted from compliance with subregulation 119.170 (4), but only in relation to operational safety-critical personnel (a *relevant person*) who are not any of the following:
 - (a) flight crew members;
 - (b) cabin crew members;

- (c) other crew members assigned duties on board an aircraft for the flying or safety of the aircraft.
- (3) The exemption in subsection (2) is subject to the condition that the operator's training and checking system must include a description of how the operator will satisfy itself:
 - (a) that each relevant person:
 - (i) is competent to carry out the assigned duties; and
 - (ii) in carrying out the duties — is not likely to have an adverse effect on aviation safety; and
 - (b) that immediate action will be taken in the interests of aviation safety if a relevant person:
 - (i) loses competence; or
 - (ii) is likely to have an adverse effect on aviation safety.
- (4) This section ceases to have effect at the end of a date to be specified in writing by CASA.

Note Through its website, and in communications to relevant operators, CASA will give at least 3 months' notice of any appropriate specified dates.

[8] Section 15

repeal and substitute

15 Training and checking for operational safety-critical personnel — direction

- (1) This section applies to an Australian air transport operator (the *operator*).
 - (2) The operator must comply with subsection (3) not later than the earlier of:
 - (a) the day on and from which the operator ceases to take advantage of the exemption under section 14; and
 - (b) the end of a date to be specified in writing by CASA.
- Note* Through its website, and in communications to relevant operators, CASA will give at least 3 months' notice of any appropriate specified dates.
- (3) The operator must include in its exposition information, procedures and instructions on how its training and checking system will comply with subregulation 119.170 (4) in relation to each of its operational safety-critical personnel who is not a flight crew member, a cabin crew member, or another crew member who has duties on board an aircraft for the flying or safety of the aircraft.

[9] Section 17

repeal

[10] After subsection 18 (1)

insert

Note For operators who have the benefit of exemption from regulation 119.195 under Part 11 of CASA EX87/21, section 18 would not apply until that exemption expires.

[11] Subsection 18 (4), including the Note

repeal

[12] Subsection 19 (1)

repeal and substitute

(1) In this section:

safety information means any safety data or information that satisfies all of the following:

- (a) is in any form; and
- (b) is generated within, or captured, collected or held by and within, an operator's approved SMS or FDAP; and
- (c) has been approved, whether directly or indirectly, by CASA as fulfilling the relevant SMS or FDAP obligations of the operator under the civil aviation legislation; and
- (d) may include personal information relating to individuals.

Note 1 **Civil aviation legislation** has the meaning given in section 3 of the *Civil Aviation Act 1988*. It includes, for example, CAR, CASR, relevant Manuals of Standards, and legislative instruments.

Note 2 Safety information may have been approved by CASA in an indirect way, for example: by virtue of the issue of an initial AOC to an operator who is required by the civil aviation legislation to have an SMS or FDAP for that purpose; or by virtue of an operator taking the benefit of an exemption under CASA EX87/21 relating to SMS or FDAP under which requirements to introduce an SMS or FDAP are taken to have been complied with.

[13] Subsection 19 (4)

repeal
