

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### Part 61 Manual of Standards Amendment Instrument 2024 (No. 1)

##### Purpose

The main purpose of *Part 61 Manual of Standards Amendment Instrument 2024 (No. 1)* (the *instrument*) is to set out specific aeronautical knowledge standards, practical competency standards and flight training requirements that must be met when a person applies for a licence to fly a gyroplane, when the continued competence of the holder of a pilot's licence with a gyroplane aircraft rating is periodically reviewed and when a person who holds a pilot licence with a gyroplane category rating applies for an aerial application, aerial mustering or formation flying endorsement, a night VFR rating, a low-level rating or a flight instructor rating. This would permit flight training schools to develop a training syllabus and provide training to students to enable them to meet the necessary requirements for a pilot licence with a gyroplane category rating, the gyroplane aircraft rating and gyroplane relevant endorsements for operational rating.

That purpose is achieved by making the following amendments to the *Part 61 Manual of Standards Instrument 2014* (the *Part 61 MOS*) to integrate new standards that will apply specifically to gyroplanes (in particular to pilots and operators of gyroplanes used in commercial operations such as aerial livestock mustering), with the existing standards about flight crew licensing, ratings and endorsements that apply to other aircraft:

- (a) the directory of abbreviations in Schedule 1A is updated to include abbreviations used in the new provisions;
- (b) the directory of units of competency and units of knowledge set out in Schedule 1 (which assists readers to navigate through the other Schedules of the Part 61 MOS and specifies the units of competency that are required for each type of licence, rating and endorsement) is amended to refer to the new provisions inserted by the instrument that specifically apply to pilots and operators of gyroplanes;
- (c) the existing competency standards for gyroplanes used in flight training, flight testing, proficiency checks and flight reviews, which are set out in Schedule 2, are restructured and additional gyroplane-specific elements and performance criteria are added;
- (d) the aeronautical knowledge standards set out in Schedule 3 are amended to include gyroplane-specific aeronautical knowledge;
- (e) the standards that must be demonstrated by an applicant in a flight test set out in Schedule 5 are amended to include gyroplane-specific knowledge and abilities;
- (f) the standards for use in proficiency checks set out in Schedule 6 are amended to include gyroplane-specific activities and manoeuvres;
- (g) the standards for use in flight reviews set out in Schedule 7 are amended to require applicants for a night VFR flight review in a gyroplane to demonstrate competency by performing operations within the flight tolerances specified;
- (h) the flight tolerances applicable for various required flight tests, proficiency checks and flight reviews set out in Section 1 of Schedule 8 are amended to include gyroplane-specific flight tolerances and rating scales;
- (i) consequential amendments are made to existing provisions about gliders so that gyroplanes and gliders are not referred to by the same abbreviations;

- (j) transitional provisions are included to update references in approvals, authorisations, documents or other writings that would otherwise be outdated;
- (k) amendments of a minor editorial nature are made to various other provisions.

### **Legislation**

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made the *Civil Aviation Safety Regulations 1998* (*CASR*).

#### Flight crew licensing

Part 61 of CASR (Flight crew licensing) sets out requirements for flight crew licensing, including training, flight tests and proficiency checks. A pilot may be authorised to fly a particular type of aircraft, for a particular kind of operation, only if the pilot has undertaken sufficient training and an assessment has been made (through a flight test) to confirm that the pilot is competent in operating that type of aircraft for the particular kind of operation in question. In addition, a pilot must periodically undergo a flight review or proficiency check to maintain competency operating a gyroplane, if the pilot wishes to continue flying that type of aircraft in that kind of operation.

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

By virtue of this power, regulation 61.035 of CASR provides for CASA to issue a Manual of Standards for Part 61 of CASR and sets out the matters relating to flight crew licences that may be provided for in that Manual of Standards. These include the following:

- (a) aeronautical and other knowledge required by Part 61 of CASR for the grant of a licence, rating or endorsement;
- (b) flight training;
- (c) other training and development requirements;
- (d) flight tests;
- (e) general operating competencies for aircraft of a particular class or type and activities authorised by operational ratings and endorsements;
- (f) flight reviews;
- (g) instrument proficiency checks;
- (h) night vision imaging system proficiency checks;
- (i) aerial application proficiency checks;
- (j) instructor proficiency checks;
- (k) competencies for glider pilot licences.

Under regulation 61.195 of CASR, an applicant for a flight crew licence, rating or endorsement (other than a design feature endorsement or flight activity endorsement) must receive training conducted by a Part 141 or Part 142 flight training operator in the specified units of competency mentioned in the Part 61 MOS for the licence, rating or endorsement and be assessed as competent.

Regulation 61.235 of CASR sets out the requirements, including flight training and aeronautical experience requirements, which must be satisfied for an applicant to be eligible to take a flight test for a flight crew licence or rating. Under regulation 61.240, the consequence of not being eligible is that the applicant is taken not to have passed the flight test. Under regulation 61.250, an applicant is taken to have passed the flight test for a flight crew licence, rating or endorsement if assessed by the examiner as meeting the competency standards specified in the Part 61 MOS for the flight test.

Under subregulation 61.035(1) of CASR, for paragraph 98(5A)(a) of the Act, CASA has issued the Part 61 MOS which sets out matters relating to flight crew licences, including flight tests.

#### Incorporation of documents by reference

Under subsection 14(1) of the *Legislation Act 2003* (the **LA**), a legislative instrument may make provision in relation to matters by applying, adopting or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences.

Under subsection 14(2) of the LA, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

However, subsection 98(5D) of the Act provides that, despite section 14 of the LA, a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

#### **Background**

Currently Australian pilots do not have the ability to obtain a flight crew licence required to pilot an Australian registered gyroplane. When Part 61 of CASR commenced there was no immediate need for gyroplane provisions since there were no gyroplanes on the Australian Civil Aircraft Register (the *civil register*).

Gyroplane operations in Australia are currently conducted in accordance with *Civil Aviation Order 95.12* or *95.12.1* (the **Orders**) due to a historical lack of a flight training and flight examination pathway to enable the grant of Part 61 gyroplane pilot licences. These Orders provide exemptions from certain requirements of the *Civil Aviation Regulations 1988* (**CAR**) and CASR which enable the recreational operation of gyroplanes listed with a sport aviation body. In accordance with the requirements specified in the operations manual of Australian Sport Rotorcraft Association (**ASRA**), these operations are limited to gyroplanes with a maximum take-off weight of 600 kg (650 kg if equipped to operate on water) conducting private operations and flight training activities.

Flights in gyroplanes under ASRA administration can be conducted only as private operations and not commercial operations. Commercial operations can only be conducted in aircraft on the civil register where flight crew hold a relevant licence issued in accordance with Part 61 of CASR (Flight crew licensing). Despite this, it has come to the attention of

CASA in recent times that gyroplanes have been used for operations beyond the scope of the authorisations granted by ASRA, including for aerial livestock mustering.

With the commencement of Part 61 of CASR, CASA made the Part 61 MOS which describes the knowledge and practical competency standards that must be met before the grant of a licence, endorsement or rating. Part 61 of CASR provides a licensing framework for powered-lift, airship and gyroplane aircraft categories in addition to aeroplane and helicopter categories. (Some gyroplane licences were issued by CASA under Part 5 of CAR before the commencement of Part 61 of CASR, typically on the basis of recognition of an equivalent foreign licence.)

The current regulatory requirements administered by CASA for pilot licensing were designed so that a private and commercial gyroplane licence could be issued to the pilot of a gyroplane added to the Australian civil register. During the development of the Part 61 MOS, some sections were reserved to allow for the development of the standards necessary to ensure the safe operation of these aircraft by appropriately trained and qualified pilots. CASA has developed the relevant knowledge and practical competency standards for gyroplane pilot licences and relevant aircraft and operational ratings for inclusion in the Part 61 MOS. The instrument inserts content in those reserved places and replaces some of the existing content relating to gyroplanes. The new standards have a substantial focus on the conduct of commercial operations in gyroplanes and will complement the present suite of competency standards and harmonise with international standards.

### **Overview of instrument**

The instrument amends the Part 61 MOS to establish specific requirements for the flight training and aeronautical knowledge required for private and commercial pilots who are seeking to be licensed to fly a gyroplane, and for gyroplane pilots seeking an aerial application, aerial mustering and formation flying endorsement, for a gyroplane. This includes requirements for periodic flight reviews and proficiency checks of their continued competence to exercise the privileges of the licence, ratings and endorsements.

The instrument amends Schedules 1A, 1, 2, 3, 5, 6, 7 and 8 of the Part 61 MOS by adding to the competency standards for the operation of gyroplanes so as to include provisions that specifically apply to a pilot licence to fly a gyroplane and specified endorsements for a gyroplane.

CASA has assessed the impact on aviation safety.

### **Documents incorporated by reference**

The amendments made to the Part 61 MOS by the instrument include the insertion of provisions that incorporate the provisions of the following documents:

- (a) the aircraft flight manual;
- (b) the Aeronautical Information Publication (AIP);
- (c) ERSA, which is the part of the AIP known as *En Route Supplement Australia*;
- (d) the AIP Supplements;
- (e) the AIP GEN;
- (f) Civil Aviation Orders;
- (g) Civil Aviation Advisory Publications (CAAP).

In addition, the expression *in accordance with published procedures* is referred to in several provisions inserted into the Part 61 MOS by the instrument. This expression is defined in subsection 5.1 of the Part 61 MOS to mean carrying out an activity in accordance with the applicable requirements (if any) set out in each of the following:

- (a) the aircraft flight manual;
- (b) the aircraft operator's operations manual;
- (c) the Aeronautical Information Publication (AIP);
- (d) another operational document applicable to the activity that is approved in writing by CASA or the operator.

Accordingly, the documents mentioned in paragraphs (b) and (d) are also incorporated by reference by provisions inserted by the instrument.

In accordance with paragraph 15J(2)(c) of the LA, the following table contains a description of the documents incorporated by reference into provisions inserted by the instrument. The table also sets out the organisation responsible for each document, how each document is incorporated, and how each document may be obtained by a member of the public.

#### Instruments and other documents incorporated into the Part 61 MOS

Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
Aircraft flight manual	<p>An aircraft flight manual is prepared by the manufacturer of an aircraft and contains information required to safely operate the specific aircraft.</p> <p>The term aircraft's <i>flight manual</i> is defined in clause 37 of Part 2 of the Dictionary to CASR to mean (in most cases relating to gyroplanes) any manual required to be provided for the certification of a type of aircraft or another document that contains the aircraft's operating limitations and other information required for safe operation of the aircraft.</p>	<p>All of the aircraft flight manual is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).</p> <p>This is because, under clause 37 of Part 2 of the Dictionary to CASR, an aircraft flight manual also includes certain amendments and supplements to the manual. This means that wherever the term is referred to in the Part 61 MOS, it will mean that aircraft flight manual in its amended or supplemented form.</p>	<p>The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of an aircraft flight manual, as follows:</p> <p>(a) knowledge of the contents of the relevant aircraft flight manual is required by provisions added to the competency standards in Schedule 2 of the Part 61 MOS and provisions added to the aeronautical knowledge standards in Schedule 3 of the Part 61 MOS;</p>	<p>An aircraft flight manual is publicly available but not for free.</p> <p>An aircraft flight manual is the proprietary property of the owner of the aircraft design (usually the manufacturer), is subject to copyright and is available for a cost.</p> <p>However, these costs are not considered to be unreasonably onerous for operators to whom they are most relevant. Nevertheless, they do involve a modest impost for some others, although academic and other researchers may obtain free access through a university library.</p> <p>CASA considers it extremely unlikely that the owner of the document would sell CASA the copyright, so that CASA could make the document freely available, at a price that would be an effective and efficient use of CASA funds.</p> <p>Where available, and by prior arrangement, CASA will make an aircraft flight manual available for inspection at any CASA office.</p>

Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
			(b) the knowledge requirements and operational scope and conditions of flight tests, inserted in Schedule 5 of the Part 61 MOS incorporate situations and criteria set out in the aircraft flight manual.	
Aeronautical Information Publication (AIP)	The AIP is a package of documents published by Airservices Australia to disseminate information relevant to aviation participants on matters essential to the safe and efficient conduct of national (civil) and international air navigation throughout Australia.	The AIP is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).	The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of the AIP. Knowledge of the contents of the AIP is required in provisions added to the competency standards in Schedule 2 of the Part 61 MOS and to the aeronautical knowledge standards, including the documentation of flight rules, in Schedule 3 of the Part 61 MOS.	The AIP is available for free on the Airservices Australia website <a href="http://www.airservicesaustralia.com/aip/aip.asp">www.airservicesaustralia.com/aip/aip.asp</a> .
ERSA	The ERSA is the part of AIP (published by Airservices Australia) known as En Route Supplement Australia and contains information vital for planning a flight and for the pilot in flight, including aerodrome physical characteristics, hours of operation, visual ground aids, air traffic services, navaids, lighting, CTAF frequency, aerodrome	All of the ERSA is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).	The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of the ERSA. In particular:  (a) an applicant is required to decode information contained in ERSA by the aeronautical knowledge standards, including the documentation of flight rules, in Schedule 3	The ERSA is available for free on the Airservices Australia website <a href="http://www.airservicesaustralia.com/aip/aip.asp">www.airservicesaustralia.com/aip/aip.asp</a> .

Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
	operators' details and any changes applicable.		of the Part 61 MOS; and (b) an applicant is required to demonstrate knowledge of ERSA normal and emergency procedures by provisions added to Schedule 7 of the Part 61 MOS.	
AIP Supplements	The AIP Supplements are issued by Airservices Australia under the ICAO Aeronautical Information Regulation and Control (AIRAC) and include operational information appropriate to the AIP, that is of a temporary nature.	All of an AIP Supplement is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).  This is because <i>AIP Supplement</i> is defined in the Dictionary to CASR to have the same meaning as in Annex 15 to the Chicago Convention, which in turn defines the term to mean “temporary changes to the information contained in the AIP which are provided by means of special pages”.  This means that wherever the term is referred to in the Part 61 MOS, it will mean all temporary changes as they are made.	The instrument inserts a provision about gyroplanes into the aeronautical knowledge standards in Schedule 3 of the Part 61 MOS that incorporate the AIP Supplements by requiring an applicant to decode information contained in the AIP Supplements.	The AIP Supplements are available for free on the Airservices Australia website <a href="http://www.airservicesaustralia.com/aip/aip.asp">www.airservicesaustralia.com/aip/aip.asp</a> .
AIP GEN	The AIP GEN is Part 1 General of AIP (published by Airservices Australia) which consists of five sections containing	All of the AIP GEN is incorporated as in force or existing from time to time (which is authorised by	The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of the AIP GEN.	The AIP GEN is available for free on the Airservices Australia website <a href="http://www.airservicesaustralia.com/aip/aip.asp">www.airservicesaustralia.com/aip/aip.asp</a> .

Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
	information about national regulations and requirements, tables and code, services and charges for aerodromes and heliports and air navigation services.	subsection 98(5D) of the Act, despite subsection 14(2) of the LA).	In particular, knowledge of the contents of the AIP GEN is required in provisions added to the aeronautical knowledge standards in Schedule 3 of the Part 61 MOS.	
Civil Aviation Orders	Civil Aviation Orders are made on behalf of CASA under the Act, CAR and CASR.	All of the Civil Aviation Orders are incorporated as in force or existing from time to time (which is authorised by subsection 14(1) of the LA).  References to provisions of the Civil Aviation Orders are taken to be as they are in force from time to time, by virtue of paragraph 13(1)(a) of the LA and section 10 of the <i>Acts Interpretation Act 1901</i> .	The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of the Civil Aviation Orders. In particular, knowledge of the contents of the Civil Aviation Orders is required in provisions added to the aeronautical knowledge standards in Schedule 3 of the Part 61 MOS.	The Civil Aviation Orders are available for free on the Federal Register of Legislation <a href="http://www.legislation.gov.au">www.legislation.gov.au</a> .
Civil Aviation Advisory Publications (CAAP)	The Civil Aviation Advisory Publications (CAAP) produced by CASA provide advice and guidance to help industry comply with regulations, or to explain regulatory requirements, in the CAR.	All of the CAAP are incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).	The instrument inserts various provisions about gyroplanes into the Part 61 MOS that incorporate all or part of the CAAP, including provisions requiring knowledge of the contents of the CAAP added to the competency standards in Schedule 2 of the Part 61 MOS.	The CAAP are available for free on the CASA website <a href="http://www.casa.gov.au">www.casa.gov.au</a> .
An aircraft operator's operations manual	An aircraft operator's operations manual is a manual or set of documents prepared by the operator of an aircraft for the use and guidance of the operations	All of the aircraft operator's operations manual is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite	The aircraft operator's operations manual is incorporated by reference whenever the instrument includes the words "in accordance with	The incorporated requirements of manuals are at the operator-specific level and apply only to the operator and its personnel. Further, the operator is under obligations to make the manual available to its personnel who have obligations under the document (see, for example, regulation 138.165 of CASR).



Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
	<p>personnel of an operator. It specifies the scope of the operations and activities conducted by the operator, and sets out the procedures and other matters, that must be implemented by the operator and the flight crew to comply with the civil aviation legislation.</p> <p>The term <i>operations manual</i> is defined in the CASR Dictionary. In relation to gyroplanes, it is more likely to be the manual required to be provided by the operator under Part 138 of CASR.</p>	<p>subsection 14(2) of the LA).</p> <p>This means that wherever the term “in accordance with published procedures” is referred to in the Part 61 MOS, it will include the operations manual in its amended form.</p>	<p>published procedures”.</p> <p>The instrument inserts various provisions about gyroplanes into the Part 61 MOS that use the expression “in accordance with published procedures” in two main contexts:</p> <p>(a) as the manner of performing the range of variables for the units of gyroplane category, gyroplane aerial application operation and formation flying — gyroplane, inserted in Schedule 2 of the Part 61 MOS;</p> <p>(b) as the manner of performing activities and manoeuvres under a condition of a flight test for the various rating flight tests, inserted in Schedule 5 of the Part 61 MOS.</p>	<p>CASA always holds a copy of an aircraft operator’s operations manual.</p> <p>As the operations manual is specific to and prepared by each operator, and is subject to copyright, it is not appropriate for it to be made available for inspection more generally.</p>
<p>Another operational document applicable to the activity that is approved in writing by CASA or the operator</p>		<p>Such documents are not legislative instruments. As such, the whole of the document is incorporated either as in force at the time of the giving of the approval or as existing from time to time by virtue of subsection 98(5D) of the Act, despite</p>	<p>Such documents are incorporated by reference whenever the instrument includes the words “in accordance with published procedures”.</p> <p>The instrument inserts various provisions about gyroplanes into the Part 61 MOS that use the expression “in accordance with</p>	<p>Where available, and by prior arrangement, CASA will make such a document available for inspection at any CASA office.</p>

Name of document	Description of document	Manner of incorporation	Operation of provisions that incorporate the document by reference	Where document may be obtained and used by public
		<p>subsection 14(2) of the LA.</p> <p>This means that wherever the term “in accordance with published procedures” is referred to in the Part 61 MOS, it will include the document in its amended form.</p>	<p>published procedures” in two main contexts:</p> <p>(a) as the manner of performing the range of variables for the units of gyroplane category, gyroplane aerial application operation and formation flying of gyroplane, inserted in Schedule 2 of the Part 61 MOS; and</p> <p>(b) as the manner of performing activities and manoeuvres under a condition of a flight test for the various rating flight tests, inserted in Schedule 5 of the Part 61 MOS.</p>	

CASA appreciates the concerns of the Senate Standing Committee for the Scrutiny of Delegated Legislation that legislation should not incorporate documents that are not freely available to the public. However, in the case of documents that are specific to and prepared by each operator, and are copyright and propriety documents of each operator, CASA maintains it does not consider it appropriate to make them available for inspection to the operator’s competitors or the public more generally.

Many of the documents that are held by a manufacturer or operator of an aircraft are available to operators and pilots who are affected by the instrument but may not otherwise be publicly available. Other documents that are not freely available, are publicly available but subject to copyright. CASA has incorporated the documents in the instrument because aviation safety requires the use of the information and data in the documents by aircraft operators and pilots and because there are no freely available documents serving the relevant purpose.

The cost of obtaining a copy of a document is a matter for the operator of the aircraft or other person wishing to view the document. CASA has no effective control over those costs. However, where practicable, by prior arrangement with CASA, copies of those documents can be made available for viewing free of charge at any office of CASA. Given the large

number of documents that fall within the classes of documents listed in the table, it is not practicable for many of these documents to be held and made available by CASA. CASA considers it extremely unlikely that the owner of the document would sell CASA the copyright, so that CASA could make the document freely available, at a price that would be an effective and efficient use of CASA funds.

CASA has incorporated the documents in the instrument because they are appropriate and necessary in the interests of aviation safety.

### **Content of instrument**

Section 1 sets out the name of the instrument: *Part 61 Manual of Standards Amendment Instrument 2024 (No. 1)*.

Section 2 provides that the instrument commences on the day after it is registered, with the qualification that Schedules 1, 3 and 4 commence immediately after the commencement of Schedule 2. It is important that Schedule 2 comes into operation first, so that there is no duplication of abbreviations for gyroplanes and gliders, and so that gyroplanes can be referred to by the abbreviation “G” (that abbreviation is currently used to refer to gliders).

Section 3 provides that Schedules 1 and 2 amend the *Part 61 Manual of Standards Instrument 2014*.

### **Schedule 1 Amendments**

Schedule 1 amends the Part 61 MOS by adding to and updating the competency standards for the operation of gyroplanes. It also makes a number of minor editorial corrections.

#### ***Amendment to Schedule 1A of the Part 61 MOS (Dictionary of abbreviations)***

**Item [1]** inserts the abbreviation “AAL”, which is the abbreviation for “above aerodrome level”, and which is used in the provisions substituted by **item [18]** of the instrument, in the dictionary of abbreviations in Schedule 1A to the Part 61 MOS.

#### ***Amendments to Schedule 1 of the Part 61 MOS (Directory of units of competency and units of knowledge)***

Schedule 1 of the Part 61 MOS contains a directory of units of competency and units of knowledge. Paragraph 8.1(a) of the Part 61 MOS provides that the units of competency for a flight crew licence with an aircraft category rating, a flight crew rating on a licence, or an endorsement on a rating are the units of competency set out in the Appendix of a Section in Schedule 1. (Paragraphs 8.1(b) to (e) make similar provision for the units of competency for a design feature endorsement or a flight activity endorsement, use of an Airborne collision avoidance system (ACAS), an aeronautical radio operator certificate and a certificate of competency for taxiing aeroplanes of a particular class or type rating.) Schedule 1 can be used to locate, under the heading of the particular licence, rating or endorsement, the units of knowledge and the units of competency (including underpinning knowledge) required to obtain the desired licence, rating or endorsement. These units are identified by reference to unit titles and codes. The following gyroplane-related amendments and minor editorial or consequential amendments are made to Schedule 1.

**Item [2]** inserts new Appendix G.3 (Gyroplane category rating (RPL)) in place of a previously reserved Appendix. The new Appendix G.3 contains two tables headed Aeronautical knowledge standards, and Practical flight standards — gyroplane category, respectively, in section G. These are the new standards that will apply to persons seeking to obtain their recreational pilot licence with the gyroplane category rating.

**Item [3]** inserts new Appendix H.4 (Gyroplane category rating (PPL)) in place of a previously reserved Appendix. The new Appendix H.4 contains two tables headed Aeronautical knowledge standards, and Practical flight standards, respectively, in Section H. These are the new standards that will apply to persons seeking to obtain their private pilot licence with the gyroplane category rating.

**Item [4]** inserts new Appendix I.4 (Gyroplane category rating (CPL)) in place of a previously reserved Appendix. The new Appendix I.4 contains two tables headed Aeronautical knowledge standards, and Practical flight standards, respectively, in Section I. These are the new standards that will apply to persons seeking to obtain their commercial pilot licence with the gyroplane category rating.

**Items [5] to [10]** are technical amendments to avoid the use of the unit code AAGA for both units “ATP Aircraft general knowledge – aeroplane” and “Aerial application rating – aeroplane” and the unit code AAGH for both units “ATP Aircraft general knowledge – helicopter” and “Aerial application rating – helicopter”.

**Item [5]** omits from Appendix J.1 (Aeroplane category rating (MPL)) the Unit Code “AAGC”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATP Aircraft general knowledge – common” and inserts instead the new Unit code “AGKC” for that unit of knowledge.

**Item [6]** omits from Appendix J.1 (Aeroplane category rating (MPL)) the Unit Code “AAGA”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATP Aircraft general knowledge – aeroplane” and inserts instead the Unit code “AGKA” for that unit of knowledge.

**Item [7]** omits from Appendix K.1 (Aeroplane category rating (ATPL)) the Unit Code “AAGC”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATP Aircraft general knowledge – common” and inserts instead the new Unit code “AGKC” for that unit of knowledge.

**Item [8]** omits from Appendix K.1 (Aeroplane category rating (ATPL)) the Unit Code “AAGA”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATP Aircraft general knowledge – aeroplane” and inserts instead the new Unit code “AGKA” for that unit of knowledge.

**Item [9]** omits from Appendix K.2 (Helicopter category rating (ATPL)) the Unit Code “AAGC”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATP Aircraft general knowledge – common” and inserts instead the new Unit code “AGKC” for that unit of knowledge.

**Item [10]** omits from Appendix K.1 (Helicopter category rating (ATPL)) the Unit Code “AAGH”, which currently applies to the unit of knowledge in the aeronautical knowledge

standards that is entitled “ATP Aircraft general knowledge – helicopter” and inserts instead the new Unit code “AGKH” for that unit of knowledge.

**Item [11]** inserts the new Appendix L.3 (Single-engine gyroplane class rating), in place of the existing Appendix L.3. The Appendix contains a table headed Practical flight standards, in Section L. The table retains codes NTS1 and NTS2 from the previous table whilst adding a range of other practical flight competency units. Unit codes C2 and C4 are added. The unit code “GSE” is replaced with unit codes “G1” through to “G6”, referring to the new content for these codes inserted by **item [18]** of the instrument.

**Item [12]** inserts a new Appendix, Appendix L.15A (Gyroplane type rating), containing Aeronautical knowledge standards and Practical flight standards.

**Item [13]** substitutes a revised Appendix L.18 in place of current Appendix L.18. The unit “CRT Cruise relief type rating” is replaced with the unit “TR-CR Type rating – cruise relief aeroplane” in the table for Practical flight standards. A minor correction has also been made, namely, the reference to “Type rating – aircraft” has been corrected to “Pilot type rating – aeroplane” in the table for Aeronautical knowledge standards.

**Item [14]** inserts new Appendix O.1 (NVFR rating) in place of a previously reserved Appendix. The new Appendix contains a new table headed Aeronautical knowledge standards, in Section O. This new content applies to persons seeking to obtain an NVFR (night visual flight rules) rating. The unit of knowledge for the standards (NVFR) refers to content for this rating updated by **item [40]** of the instrument.

**Item [15]** inserts new Appendix Q.7 (Aerial mustering – gyroplane endorsement) in place of a previously reserved Appendix. The new Appendix contains a table headed Practical flight standards, in Section Q. The new practical flight standards require several units of competency for this endorsement, including “LL-M Aerial mustering operations” which is a reference to that unit described in Schedule 2 of the Part 61 MOS.

**Item [16]** inserts a new Appendix R.3 (Gyroplane aerial application endorsement) in Section R in place of current Appendix R.3. A new Aeronautical knowledge standard is added, namely “AAGG” which stands for aerial application rating – gyroplane endorsement. This refers to the unit of competency by that name inserted by **item [39]** of the instrument. A unit code is added to the current requirements for the practical flight standards, namely, “LL-G” which stands for gyroplane low-level operations — a competency standard described in Schedule 2 of the Part 61 MOS.

**Item [17]** inserts Appendix S.10 (Formation flying (gyroplane) flight activity endorsement), containing practical flight standards, in Section S.

### ***Amendments to Schedule 2 of the Part 61 MOS (Competency standards)***

Schedule 2 of the Part 61 MOS sets out the competency standards. Having found the relevant starting point in Schedule 1 (Directory of units of competency and units of knowledge), the user would find details of the competency standards in Schedule 2. The relevant location in Schedule 2 describes the particular unit and contains the elements and performance criteria to be met, the range of variables involved in meeting them and the underpinning knowledge. Schedule 2 standards are also referred to in Schedules 5, 6 and 7, which deal with flight tests,

proficiency checks and flight reviews. The following gyroplane-related amendments and minor editorial or consequential amendments are made to Schedule 2.

**Item [18]** inserts new units (G1 to G6) for the entry for GYROPLANE CATEGORY in Schedule 2, Section 4 in place of the existing unit (GSE). The content of this category has been restructured and revised. Units have been recategorised, for example, “Take-off gyroplane” is given its own unit rather than forming part of the element “Control gyroplane on the ground”. Each unit is given its own description — this replaces the previous content of the category in which the entire body of text was given a single unit description. The content has been renumbered with renumbered units reflecting the change in nomenclature from, for example, “GSE” to “G1”.

**Item [19]** makes a minor editorial correction to a subheading in Section 5 by inserting a hyphen so that the subheading reads “LOW-LEVEL RATING”.

**Item [20]** makes a minor editorial correction to the heading to unit “LL-PL Powered-light low-level operations – *Reserved*” in Section 5 so that the heading reads “LL-PL Powered-lift low-level operations – *Reserved*”.

**Item [21]** corrects an error in the Unit description of the Unit LL-G (Gyroplane low-level operations).

**Item [22]** inserts new Unit AA3 (Gyroplane aerial application operation) in Section 5 in place of a previously reserved unit. The unit describes the skills and knowledge required to conduct aerial application operations (other than firefighting operations) in gyroplanes.

**Item [23]** corrects a typographical error.

**Item [24]** inserts new unit FAE-10 (Formation flying — gyroplane) after a similar unit for helicopters in Section 6. The unit describes the skills and knowledge required to fly a gyroplane in formation, plan a formation flight, brief all participants and lead a formation.

### ***Amendments to Schedule 3 of the Part 61 MOS (Aeronautical knowledge standards)***

Having identified, in Schedule 1, the units of competency and units of knowledge required for the relevant licence, endorsement or rating, the user would find details of the units of knowledge in Schedule 3. The following amendments are made to Schedule 3.

**Item [25]** inserts new Unit 1.1.4, (RBKG: RPL Basic aeronautical knowledge – gyroplane) in Appendix 1, Section 1.1 in place of a previously reserved unit. This unit sets out the basic aeronautical knowledge required for a recreational pilot licence to fly a gyroplane.

**Item [26]** inserts new Unit 1.2.6, (PAKG: PPL aeronautical knowledge – gyroplane) in Appendix 1, Section 1.2 in place of current Unit 1.2.6. This unit sets out the aeronautical knowledge required for a private pilot licence to fly a gyroplane. The unit has been restructured and revised with changes, including the addition of knowledge of various forces and effects in relation to a gyroplane rotor and the removal of knowledge of weather-related conditions and knowledge of how to use an altimeter to obtain local QNH at an aerodrome.

**Item [27]** inserts new Unit 1.2.12 (CAKG: CPL aeronautical knowledge – gyroplane) in Appendix 1, Section 1.2 in place of a previously reserved unit. This unit sets out relevant aeronautical knowledge required for a commercial pilot licence to fly a gyroplane.

**Item [28]** inserts new Unit 1.3.4 (CADG: CPL aerodynamics – gyroplane) in Appendix 1, Section 1.3 in place of a previously reserved unit. This unit sets out relevant aeronautical knowledge required for a commercial pilot licence to fly a gyroplane.

**Items [29] to [31]** are technical amendments to avoid the use of the unit code AAGA for both units “ATP Aircraft general knowledge – aeroplane” and “Aerial application rating – aeroplane” and the unit code AAGH for both units “ATP Aircraft general knowledge – helicopter” and “Aerial application rating – helicopter”.

**Item [29]** omits the Unit Code “AAGC”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATPL aircraft general knowledge – all aircraft categories” and inserts instead the new Unit code “AGKC” for that unit of knowledge.

**Item [30]** omits the Unit Code “AAGA”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATPL aircraft general knowledge – aeroplane” and inserts instead the new Unit code “AGKA” for that unit of knowledge.

**Item [31]** omits the Unit Code “AAGH”, which currently applies to the unit of knowledge in the aeronautical knowledge standards that is entitled “ATPL aircraft general knowledge – helicopter” and inserts instead the Unit code “AGKH” for that unit of knowledge.

**Item [32]** inserts new Unit 1.5.5 (PFRG: PPL flight rules and air law – gyroplane) in Appendix 1, Section 1.5 in place of a previously reserved unit. This unit sets out the relevant aeronautical knowledge required for a private pilot licence to fly a gyroplane.

**Item [33]** inserts new Unit 1.5.11 (CFRG: CPL flight rules and air law – gyroplane) in Appendix 1, Section 1.5 in place of a previously reserved unit. This unit sets out aeronautical knowledge required for a commercial pilot licence to fly a gyroplane.

**Item [34]** inserts new Unit 1.9.4 (POPG: PPL operations, performance and planning – gyroplane) in Appendix 1, Section 1.9 in place of a previously reserved unit. This unit sets out the relevant aeronautical knowledge required for a private pilot licence to fly a gyroplane.

**Item [35]** inserts new Unit 1.9.8 (COPG: CPL operations, performance and planning – gyroplane) in Appendix 1, Section 1.9 in place of a previously reserved unit. This unit sets out the relevant aeronautical knowledge required for a commercial pilot licence to fly a gyroplane.

**Item [36]** omits an incorrect heading to a provision that is not reserved.

**Item [37]** makes a minor editorial correction to a heading in Appendix 2, Section 2.3, Unit 2.3.3, subclause 1.1 by changing “Environment affects” to “Environmental effects”.

**Item [38]** corrects a typographical error in a heading in Appendix 2, Section 2.3, Unit 2.3.3, subclause 1.3.

**Item [39]** inserts new Unit 2.3.4 (AAGG: aerial application rating – gyroplane endorsement) after a similar unit for helicopters in Schedule 3, Appendix 2, Section 2.3. The new unit sets out the aeronautical knowledge required for the aerial application endorsement for a gyroplane.

**Item [40]** updates the content of Section 2.7 (NIGHT VFR RATING) in Schedule 3, Appendix 2. For example, it includes, at subclause 1.7, the ability to explain alternate aerodrome planning requirements (including night circuit training flights). This change applies to all aircraft categories.

**Item [41]** renumbers previous Unit 3.2.3 as Unit 3.2.4 to allow new Unit 3.2.3 (inserted by **item [42]** of the instrument) to occupy the vacated position.

**Item [42]** inserts Unit 3.2.3 (TYPG: Pilot type rating – gyroplane) after Unit 3.2.2 (which has similar provisions for helicopters) in Schedule 3, Appendix 3, Section 3.2. The new unit contains the aeronautical knowledge required for a pilot type rating for a gyroplane.

#### ***Amendments to Schedule 5 of the Part 61 MOS (Flight test standards)***

Schedule 5 contains the flight test standards for the relevant licence, rating or endorsement. It calls up units of competency based on codes that refer to Schedule 2 competency standards for the flight test content. The following amendments are made to Schedule 5.

**Item [43]** omits references to unit code C3 (which relates to the unit of competency “Operate aeronautical radio”) from notes to two provisions about the flight test standards for a recreational pilot licence aeroplane category rating flight test. That unit of competency is not one of the practical flight standards that must be demonstrated by an applicant for a recreational pilot licence with an aeroplane category rating.

**Item [44]** omits a reference to unit code C3 (which relates to the unit of competency “Operate aeronautical radio”) from a note to a provision about the flight test standards for a recreational pilot licence helicopter category rating. That unit of competency is not one of the practical flight standards that must be demonstrated by an applicant for a recreational pilot licence with a helicopter category rating.

**Item [45]** inserts new Appendix G.3 (RPL Gyroplane category rating flight test) in Section G in place of a previously reserved Appendix. The new content sets out the knowledge and abilities that must be demonstrated by an applicant for a recreational pilot licence with gyroplane category rating flight test.

**Item [46]** inserts a new Appendix H.4 (PPL Gyroplane category rating flight test) in Section H in place of a previously reserved Appendix. The new content sets out the knowledge and abilities that must be demonstrated by an applicant for a private pilot licence with gyroplane category rating flight test.

**Item [47]** inserts a new Appendix I.4 (CPL Gyroplane category rating flight test) in Section I in place of a previously reserved Appendix. The new content sets out the knowledge and abilities that must be demonstrated by an applicant for a commercial pilot licence with gyroplane category rating flight test.



**Item [48]** inserts a new Appendix L.3 (Single-engine gyroplane class rating flight test) in Section L in place of a previously reserved Appendix. The new content sets out the knowledge and abilities that must be demonstrated by an applicant for a single-engine gyroplane class rating flight test.

**Item [49]** inserts new Appendix L.7A (Gyroplane type rating flight test) after Appendix L.7 in Section L. The new content sets out the knowledge and abilities that must be demonstrated by an applicant for a gyroplane type rating flight test.

**Item [50]** inserts a new Appendix Q.1 (Low-level rating flight test) in Section Q in place of previous Appendix Q.1. The relevant competency standards are updated to include “LL-G” and the new gyroplane abbreviations G1 – G4.

**Item [51]** inserts new Appendix R.1 (Aerial application rating and aerial application endorsement flight test) in Section R in place of existing Appendix R.1. Updates are made to the relevant competency standards to include references throughout the Appendix to “LL-G” and new test-specific activities and manoeuvres for a gyroplane aerial application endorsement at paragraph 3.5(d).

***Amendments to Schedule 6 of the Part 61 MOS (Proficiency check standards)***

Schedule 6 contains the proficiency check standards for the relevant licence, rating or endorsement. It calls up units of competency based on codes that refer to Schedule 2 competency standards. The following amendment is made to Schedule 6.

**Item [52]** inserts new Appendix 4 (Aerial application rating proficiency check) in place of existing Appendix 4. Updates are made to the relevant competency standards to include references throughout the Appendix to “LL-G” and new check-specific activities and manoeuvres for the gyroplane aerial application endorsement at low-level at paragraph 3.5(g).

***Amendments to Schedule 7 of the Part 61 MOS (Flight review standards)***

Schedule 7 contains the flight review standards for the relevant licence, rating or endorsement. It calls up units of competency based on codes that refer to Schedule 2 competency standards for the flight review content. The following amendments are made to Schedule 7.

**Item [53]** inserts new Appendix L (Aircraft rating flight review) in place of existing Appendix L. Corrections have been made to the table containing the practical flight standards in clause 3: references to “class rating” are replaced with “type rating” for content relating to unit codes FR-SEAT, FR-MEAT and FR-MEHT; and references to “single-engine” are replaced with “multi-engine” for content relating to unit codes FR-MEAT and FR-MEHT.

**Item [54]** inserts new Appendix O (Night VFR rating flight review) in place of existing Appendix O. Updates have been made to the flight review requirements in subclause 1.1 so that applicants for a night VFR flight review in a gyroplane will have to demonstrate competency by performing operations within the flight tolerances specified in table 6 in Section 1 of Schedule 8 of the Part 61 MOS.

**Item [55]** inserts new Appendix Q (Low-level rating flight review) in place of existing Appendix Q. Updates have been made to the flight review requirements in subclause 1.2 so that applicants for a low-level rating flight review in a gyroplane will have to demonstrate competency by performing operations within the flight tolerances specified in table 6 in Section 1 of Schedule 8.

### ***Amendments to Schedule 8 of the Part 61 MOS (Tolerances)***

Section 1 of Schedule 8 sets out the flight tolerances that must be adhered to for the various tests, checks and flight reviews required by Schedules 5, 6 and 7. The following minor helicopter-related and gyroplane-related amendments are made to Section 1 of Schedule 8.

**Item [56]** inserts a new Table 3 (Helicopter general flight tolerances – private level) in place of the existing Table 3. Several minor changes have been made to items in the row for “Control helicopter during advanced manoeuvres – steep turns”, namely, the content of column 2 has been substituted with “Descending turns” and the content of column 3 substituted with “Through a minimum descent of 500 ft”.

**Item [57]** inserts a new Table 4 (Helicopter general flight tolerances – professional level) in place of existing Table 4. The same changes are made to Table 4 as those made to Table 3 described in the previous paragraph.

**Item [58]** inserts new Table 6 (Gyroplane general flight tolerances – private level) in place of existing Table 6. The only change apart from the new heading is the deletion of the words “Airspeed/Autorotation” following “Power descent” from column 1 of the table and their replacement by “airspeed”.

**Item [59]** inserts a new Table 7 (Gyroplane general flight tolerances – professional level) in place of existing Table 7. Apart from the new heading, several minor editorial corrections are made to the table. The words “Airspeed/Autorotation” following “Power descent” have been deleted from column 1 and replaced by “airspeed”. The flight tolerances for “Straight and level, IAS” are changed from “ $\pm 5$  ts” to “ $\pm 10$  kts” and Heading for that item from “ $\pm 5^\circ$  of nominated heading” to “ $\pm 10^\circ$  of nominated heading”. The flight tolerances for Landing (normal) has changed from “Within a 100 metre of selected touchdown point” to “ $\pm 50$  m of selected touchdown point”.

## **Schedule 2 Consequential amendments to glider provisions**

Schedule 2 makes consequential amendments to the glider provisions so that gyroplanes and gliders can be distinguished from each other in the Part 61 MOS by different abbreviations. Gliders will be referred to by the letter “S” (for sailplane) rather than “G”, to allow gyroplanes to be identified by the letter “G”.

**Item [1]** inserts new Appendix Z.1 (Glider pilot licence) in Schedule 1 (Directory of units of competency and units of knowledge) in place of the existing Appendix Z.1, using the letter “S” instead of “G”.

**Item [2]** inserts a new heading to provisions in the Glider category in Schedule 2 (Competency standards), in place of the existing heading, using the letter “S” instead of “G”.

**Item [3]** inserts abbreviations using the letter “S” instead of “G” in provisions in the Glider category in Schedule 2 (Competency standards).

### **Schedule 3 Transitional provisions relating to amendments in Schedule 1**

Schedule 3 contains transitional provisions, the need for which arises from amendments in items 5 to 10 and 29 to 31 of Schedule 1 that change aircraft general knowledge unit titles. The transitional provisions ensure that references in instruments, approvals, authorisations or documents or other writing to aircraft general knowledge unit titles in column 1 of the table to the Schedule that are the subject of an amendment in Schedule 1 of the instrument (that is, the old aircraft general knowledge unit titles), will be taken to be references to the corresponding aircraft general knowledge unit titles in column 2 (that is, the new aircraft general knowledge unit titles).

### **Schedule 4 Transitional provisions relating to amendments in Schedule 2**

Schedule 4 contains transitional provisions, the need for which arises from amendments in Schedules 1 and 2 that change the abbreviations used to refer to gliders. The transitional provisions ensure that references in instruments, approvals, authorisations or documents or other writing to abbreviations in column 1 of the table to the Schedule that are the subject of an amendment in Schedule 2 of the instrument (that is, the old abbreviations) will be taken to be references to the corresponding abbreviations in column 2 (that is, the new abbreviations).

#### ***Legislation Act 2003***

Paragraph 98(5A)(a) of the Act states that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft. Additionally, paragraph 98(5AA)(a) of the Act provides that an instrument issued under paragraph 98(5A)(a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. The instrument contains provisions which apply to classes of person, including Part 141 and 142 flight training operators, pilots seeking to engage in particular flight training or manoeuvres, and student pilots. The various standards set by the Part 61 MOS and the instrument apply not to a particular person or a particular aircraft or aeronautical product, but to classes of persons, aircraft and products.

Paragraph 10(1)(d) of the LA also provides that an instrument will be a legislative instrument if it includes a provision that amends another legislative instrument. This instrument amends the Part 61 MOS which is a legislative instrument.

The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

#### ***Acts Interpretation Act 1901***

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power is to 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.

## Sunsetting

Item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* provides that Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to an instrument that relates to aviation safety and is made under CASR. Generally speaking, item 15, when invoked, is necessary in order to ensure that, in the interests of aviation safety, a relevant instrument has enduring effect, certainty and clarity for aviation operators, both domestic and international.

As the Part 61 MOS relates to aviation safety and is made under CASR, the sunsetting provisions do not apply to the Part 61 MOS. That instrument deals with aviation safety matters that, once identified, require a risk response or treatment plan. In this case, the instrument amends the Part 61 MOS, and the amending provisions in the instrument are repealed in accordance with the automatic repeal provisions in section 48C of the LA.

## Consultation

The relevant knowledge and practical competency standards for gyroplane pilot licences and relevant aircraft and operational ratings included in the Part 61 MOS by the instrument have been developed by CASA in consultation with industry and subject to public consultation. The proposed standards are supported by industry and there was no negative feedback to the consultation.

A consultation document entitled *New competency standards for the operation of Australian registered gyroplanes* was released for public comment during 2020. Feedback from gyroplane pilots, training organisations, industry stakeholders and other interested parties indicated strong support for the proposed standards. Feedback on three main themes, namely, side slip, ground resonance and translational lift, provided ground for further policy development as did suggestions regarding terminology.

The amendments in the instrument are consistent with the recommendations from the consultation.

Accordingly, CASA is satisfied that no further 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) states that, subject to subsection 9A(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 cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The instrument will require individuals or businesses involved in commercial gyroplane operations to meet new requirements. These changes would affect Parts 141 and 142 flight training operators, pilots seeking to engage in particular flight training or manoeuvres, student pilots and self-administering aviation organisations who register and administer commercial gyroplanes. Since there are no gyroplanes currently listed on the civil register, there is no immediate cost impact for these persons. Part 141 operators and Part 142 operators may incur a cost impact if they choose to apply for a Part 141 or Part 142 approval. Once operators, organisations or individuals participate in this new system for gyroplanes, there will be the usual costs associated with becoming authorised under such a regulatory framework.

Although significant from the point of view of aviation safety, the changes that the instrument makes do not require immediate change in the equipment or methods of carrying on business. Because of previous consultation, operators are aware of the suite of changes made by the instrument and can choose whether to participate as commercial gyroplane pilots or flight training operators.

There are benefits to industry of permitting gyroplanes to be used in commercial operations safely. Gyroplanes have a lower cost base than helicopters, and so the amendments made by the instrument will further regulate safety in circumstances where industry and the relevant sectors of the economy, including pastoralists, will benefit overall.

The economic and cost impact of the instrument has been determined by:

- (a) the identification of individuals and businesses affected by the instrument; and
- (b) consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements; and
- (c) a valuation of the impact, in terms of direct costs on individuals and businesses affected by the instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government; and
- (d) a valuation of the impact the different requirements would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly; and
- (e) consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the instrument, that are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

The requirements of the instrument apply to private and commercial pilots who are seeking to be licensed to fly a gyroplane, and gyroplane operators seeking an endorsement for a gyroplane. The instrument will require these individuals or businesses to meet new requirements that are specific to gyroplanes.

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

The instrument will enable airwork and flight training operations to be conducted in gyroplanes which are currently conducted as private flights in gyroplanes administered by ASRA.

**Impact on regional and remote communities**

The instrument is not likely to have a specific impact on operators in regional or remote communities in Australia.

**Office of Impact Analysis**

The Office of Impact Analysis has assessed the amendments to be made by this instrument as having no more than a minor regulatory impact and determined that an Impact Assessment was not required (OIA id: 44229).

**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 the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73(2) of the Act.

The instrument commences on the day after it is registered, with the qualification that Schedules 1, 3 and 4 commence immediately after the commencement of Schedule 2. It is important that Schedule 2 comes into operation first, so that there is no duplication of abbreviations for gyroplanes and gliders, and so that the space is cleared for gyroplanes to assume the “G” abbreviation.

The amending provisions of the instrument (Schedules 1 and 2) are automatically repealed in accordance with section 48C of the LA.

## Statement of Compatibility with Human Rights

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

### Part 61 Manual of Standards Amendment Instrument 2024 (No. 1)

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

Gyroplane operations in Australia have previously been conducted in accordance with *Civil Aviation Order 95.12* or *95.12.1* (the **Orders**) due to a historical lack of a flight training and a flight examination pathway to enable the grant of gyroplane pilot licences under Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*. The operations authorised under the Orders are limited to gyroplanes with a maximum take-off weight of 600 kg (650 kg if equipped to operate on water) conducting private operations and flight training activities.

The measures contained in the *Part 61 Manual of Standards Amendment Instrument 2024 (No. 1)* (the **instrument**) will enable the conduct of flights in gyroplanes in commercial operations, including aerial livestock mustering. The instrument brings the operation of gyroplanes into the ambit of Part 61 of CASR, enabling the conduct of gyroplane operations to be regulated under the suite of competency standards in the *Part 61 Manual of Standards Instrument 2014* (the **Part 61 MOS**). The new standards, which have a substantial focus on the conduct of commercial operations in gyroplanes, are integrated with competency standards for other aircraft and harmonise with international standards.

The instrument amends Schedules 1A, 1, 2, 3, 5, 6, 7 and 8 to the Part 61 MOS by adding to and updating the competency standards for the operation of gyroplanes. The instrument also makes consequential changes so that gyroplanes and gliders are not referred to by the same abbreviations and includes transitional provisions about references in approvals, authorisations, documents or other writings that would otherwise be outdated following the amendments made under the instrument. The opportunity has also been taken to make a number of minor editorial corrections to the Part 61 MOS.

#### Human rights implications

##### The human rights that are potentially limited by the instrument

The instrument may indirectly engage the following human rights:

- (a) the right to work under Article 6 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*;
- (b) the right to freedom of movement under Article 12 of the *International Covenant on Civil and Political Rights (ICCPR)*;

- (c) the right to the enjoyment of just and favourable conditions of work, in particular, safe and healthy working conditions, under Article 7(b) of the ICESCR.

The likely impact on the rights that are engaged

The instrument sets out specific aeronautical knowledge standards, practical competency standards and flight training requirements that must be met when a person applies for a licence to fly a gyroplane, when the continued competence of the holder of a pilot's licence with a gyroplane aircraft rating is periodically reviewed and when a person who holds a pilot licence with a gyroplane category rating applies for an aerial application, aerial mustering or formation flying endorsement, a night VFR rating, a low-level rating or a flight instructor rating. This is achieved by amending the Part 61 MOS, which sets out requirements for flight crew licensing, including training, flight tests and proficiency checks.

***The likely impact on Article 6 of the ICESCR: the right to work***

Article 6 of the ICESCR provides that State Parties recognise the right to work, which includes the right of everyone to the opportunity to gain a living by work which they freely choose or accept, and will take appropriate steps to safeguard this right.

The instrument may indirectly limit this right to the extent that, under CASR, a pilot is authorised to fly a particular type of aircraft, for a particular kind of operation, only if the pilot has undertaken sufficient training and an assessment has been made (through a flight test) to confirm that the pilot is competent in operating that type of aircraft for the particular kind of operation in question. In addition, under CASR, a pilot must periodically undergo a flight review or proficiency check to maintain competency operating a particular type of aircraft, if the pilot wishes to continue flying that type of aircraft in that kind of operation.

That means that persons and pilots who fail to meet the high standards of training and assessment required for recognition of the gyroplane aviation competencies established by the instrument, which qualify a person for a licence, rating or endorsement under Part 61 of CASR, will not be authorised to work flying gyroplanes.

***The likely impact on Article 12 of the ICCPR: the right to freedom of movement***

Article 12(1) of the ICCPR provides that everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement. Article 12(3) provides that limitations may be imposed when necessary for national security, public order and the rights and freedoms of others.

The instrument may indirectly engage the right to freedom of movement in the same manner as it engages the right to work in Article 6 of the ICESCR, by placing restrictions on certain operations unless particular aviation qualification and safety requirements of training and assessment required for recognition of the aviation competencies, which qualify a person for various licences, ratings or endorsements under Part 61 of CASR, are met.

***The likely impact on Article 7(b) of the ICESCR: the right to the enjoyment of just and favourable conditions of work***

Article 7(b) of the ICESCR provides that State Parties recognise the right to enjoyment of just and favourable conditions of work which ensure safe and healthy working conditions.

The instrument engages and promotes the right to the enjoyment of just and favourable conditions of work, including safe and healthy working conditions, by ensuring that the



conditions aboard gyroplanes are in compliance with safety standards applicable to other operations.

Why the potential limitations are justifiable

The potential limitation on the right to work and the right to freedom of movement are permissible limitations as they:

- (a) pursue a legitimate objective; and
- (b) have a rational connection to this objective; and
- (c) are reasonable, necessary, and proportionate.

***The legitimate objective that is pursued***

The policy problem that the instrument is seeking to address is that currently Australian pilots do not have the ability to obtain a flight crew licence required to pilot an Australian registered gyroplane. There are currently no specific requirements for the flight training and aeronautical knowledge required for private and commercial pilots who are seeking to be licensed to fly a gyroplane, and for gyroplane pilots seeking an aerial application, aerial mustering or formation flying endorsement, for a gyroplane. This includes requirements for periodic flight reviews and proficiency checks of their continued competence to exercise the privileges of the licence, ratings and endorsements.

The instrument inserts content in some provisions of the Part 61 MOS marked as reserved and replaces some of the existing content relating to gyroplanes to establish specific requirements for the flight training and aeronautical knowledge required for private and commercial pilots who are seeking to be licensed to fly a gyroplane, and for gyroplane pilots seeking an aerial application, aerial mustering or formation flying endorsement, for a gyroplane.

The making of those amendments by the instrument is necessary for CASA to perform its function (conferred by section 9 of the *Civil Aviation Act 1988*) of conducting the safety regulation of civil air operations in Australian territory and the operation of Australian aircraft outside Australian territory. That section sets out the means by which that can be done which includes developing and promulgating appropriate, clear and concise aviation safety standards, developing effective enforcement strategies to secure compliance with aviation safety standards and issuing certificates, licences, registrations and permits. (See paragraphs 9(1)(c), (d) and (e).)

The making of the instrument would also permit flight training schools to develop a training syllabus and provide training to students to enable them to meet the necessary requirements for a pilot licence with a gyroplane category rating, the gyroplane class or type rating and gyroplane relevant endorsements for operational ratings.

***There is a rational connection between the amendments made by the instrument, including the limitation imposed on human rights, and that objective***

The introduction of specific requirements for periodic flight reviews, proficiency checks of their continued competence to exercise the privileges of the licence, ratings and endorsements directly assists CASA to achieve the objective of improving safety standards. Consequently, any limitation imposed by the standards on the right to work and the right to freedom of movement is permissible because it is rationally connected to a legitimate objective.

***The limitations are reasonable, necessary, and proportionate***

The limitation on the rights to work and to freedom of movement is reasonable and necessary to maintain the safety of all passengers and aircraft, and of those on the ground, and sufficiently precise to ensure that it addresses only those matters relating to gyroplanes that it is intended to capture as well as any relevant safeguards. The standards are commensurate with standards for other pilot licences. They should not in practice prevent pilots accessing work or from moving freely.

However, the rights to work and to freedom of movement are more directly engaged by the primary requirements of the *Civil Aviation Act 1988* and CASR designed for aviation safety and conformity with the standards of the International Civil Aviation Organization under the *Convention on International Civil Aviation* (the Chicago Convention). Thus, the rights are engaged and affected in a way that is balanced by the objectives of achieving and improving aviation safety.

**Conclusion**

The 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*. To the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate in the interests of ensuring the safety and integrity of the aviation safety system on which all aviation operations rely.

**Civil Aviation Safety Authority**