



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX72/24

I, STEVEN JAMES CAMPBELL, 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 S. Campbell]

Steven Campbell
Executive Manager, National Operations & Standards

29 November 2024

CASA EX72/24 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2024

Part 1 Preliminary, Definitions and Application

1 Name

This instrument is *CASA EX72/24 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2024*.

2 Duration

This instrument:

- (a) commences on 2 December 2024; and
- (b) is repealed at the end of 1 December 2027.

3 Definitions

- (1) In this instrument:

aerial work (air ambulance) operation has the same meaning as in regulation 202.405 of CASR.

aerial work certificate holder has the same meaning as ***aerial work operator***.

aerial work operator has the meaning given by the CASR Dictionary.

CAR means the *Civil Aviation Regulations 1988*.

CASA EX86/21 means *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

CASR means the *Civil Aviation Safety Regulations 1998*.

civil aviation legislation has the meaning given by section 3 of the *Civil Aviation Act 1988*.

DAMP organisation has the meaning given by subregulation 99.010(1) of CASR.

early applicant, for a particular AOC or AOC variation, means a person:

- (a) who at least 90 days before the commencement date — applied for the AOC or AOC variation under the civil aviation legislation in force on the date of the application: but
- (b) whose application was still under consideration by CASA on the commencement date.

emergency service operation has the meaning given by the CASR Dictionary.

large aeroplane means an aeroplane mentioned in subsection 18.01(2) of the Part 138 MOS.

limited aerial work operation has the meaning given in subsection 1.04(6) of the Part 138 Manual of Standards.

medical exemption has the same meaning as in regulation 61.010 of CASR.

MOS is short for Manual of Standards.

NVIS means night vision imaging system.

NVIS operation means an NVIS flight that is any of the following operations using NVIS:

- (a) an aerial work operation conducted by an aerial work operator;
- (b) a maintenance flight of an aircraft for the purpose of ensuring the serviceability of the aircraft, or the NVIS, for NVIS operations mentioned in any other paragraph of this definition;
- (c) a test flight of an aircraft for the purpose of certifying the aircraft, or the NVIS, for NVIS operations mentioned in any other paragraph of this definition.

operational safety-critical personnel has the meaning given by the CASR Dictionary.

Part 142 operator has the meaning given by subregulation 142.015(4) of CASR.

private operation has the meaning given by the CASR Dictionary.

recognised foreign State has the meaning given by regulation 61.010 of CASR.

the Act means the *Civil Aviation Act 1988*.

- (2) To avoid doubt, in this instrument, unless a contrary intention appears:
 - (a) words and expressions have the same meaning as in Part 138 of CASR and in the Act; and
 - (b) mention of a provision with the prefix “138.” is a reference to that provision as contained in Part 138 of CASR; and
 - (c) mention of a provision with the prefix “91.” is a reference to that provision as contained in Part 91 of CASR, the CASR Dictionary and the Act, as applicable.
- (3) To avoid doubt, any document incorporated into this instrument is so incorporated as it is in force from time to time.

3A Table of Contents

The Table of Contents for this instrument is not part of this instrument. It is for guidance only and may be edited or updated by CASA in any published version of this instrument.

4 Application

This instrument applies according to its terms.

Part 2 Exemptions from Part 138

5 Key personnel – unable to carry out responsibilities – exemption

- (1) This section applies to an aerial work certificate holder (the *operator*).
- (2) The operator is exempted from compliance with subregulation 138.075(1).
- (3) The exemption under subsection (2) is subject to the condition that the operator must comply with the requirements of subregulation 138.075(1) as if the reference to “30 days” were a reference to “35 days”.

6 Compliance with requirements of aerial work certificate – CEO responsibilities – exemption

- (1) This section applies to an aerial work certificate holder (the *operator*) who is not required under regulation 138.140 to have a safety management system.
- (2) The operator is exempted from compliance with paragraph 138.050(1)(b) and regulation 138.055, but only to the extent of the requirement that the operator must comply with the condition in paragraph 138.050(1)(b) that relates to the responsibilities and accountabilities of the operator’s chief executive officer under paragraph 138.085(1)(d).
- (3) The exemption in subsection (2) is subject to the condition that the operator must ensure that the operations manual requirement under paragraph 138.155(1)(l) is complied with.

7 Qualifications and experience of key personnel — exemption

- (1) This section applies to an aerial work certificate holder (the *operator*) who, immediately before 2 December 2021, held an AOC, or was an early applicant for an AOC, authorising aerial work operations (other than solely for ambulance functions, within the meaning of subparagraph 206(1)(a)(vii) of CAR, as in force immediately before 2 December 2021).
- (2) The operator is exempted from compliance with paragraph 138.050(1)(b) and regulation 138.055, but:
 - (a) only to the extent of the requirement that the operator must comply with the certificate conditions under paragraph 138.050(1)(b) that relate to the qualifications and experience of the persons mentioned in subsection (3); and
 - (b) only if the conditions in subsection (4) are complied with.
- (3) For subsection (2), the persons are the following persons who, on 2 December 2021, are the key personnel, or proposed key personnel, of the operator to whom the provision mentioned for the person would apply, but for this exemption, or an exemption under section 16, 21 or 46 of *CASA EX73/24 – Flight Operations Regulations – SMS, HFP&NTS and T&C Systems – Supplementary Exemptions and Directions Instrument 2024*:
 - (a) the head of operations who, immediately before 2 December 2021, was the operator’s chief pilot, or chief pilot and head of training and checking — in relation to the qualifications and experience mentioned in subregulation 138.090(2);

- (b) the head of training and checking who, immediately before 2 December 2021, was the operator's head of training and checking (if any) — in relation to the qualifications and experience mentioned in subregulation 138.100(2);
 - (c) the safety manager (if any) who, immediately before 2 December 2021, was the operator's safety manager — in relation to the qualifications and experience mentioned in subregulation 138.110(2).
- (4) For subsection (2), unless otherwise approved by CASA under subsection (5), the conditions are that the operator's operations manual, the training and checking manual and the safety management system manual, as the case requires, each includes and requires the same qualifications and experience, for each of the persons mentioned in subsection (3), as were included and required for the person, in the manual, immediately before 2 December 2021.
- (5) For subsection (4), CASA may approve a change to any particular qualification and experience requirement mentioned in subsection (4), but only if:
- (a) the operator applies in writing, setting out the proposed change; and
 - (b) the application is accompanied by the part of each manual to be affected by the proposed change, clearly showing the effect of the proposed change on that manual; and
 - (c) the operator demonstrates how the proposed change would otherwise conform to the significant change process under paragraph 138.155(1)(m); and
 - (d) the change were approved, the requirements under regulation 138.040 for the issue of an aerial work certificate would continue to be met.
- (6) This section ceases to have effect at the earlier of the following:
- (a) the day the head of operations, head of training and checking or safety manager (as the case may be), ceases to be the operator's head of operations, head of training and checking or safety manager;
 - (b) another date that CASA specifies in writing.

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

8 Requirements to have a training and checking system — exemption

- (1) This section applies to an aerial work certificate holder (the *operator*) to whom regulation 138.125 would otherwise apply but for the following:
- (a) this exemption;
 - (b) the exemptions in section 46 of *CASA EX73/24 – Flight Operations Regulations – SMS, HFP&NTS and T&C Systems – Supplementary Exemptions and Directions Instrument 2024*.
- (2) The operator is exempted from compliance with paragraph 138.050(1)(b) and regulation 138.055, but:
- (a) only to the extent of the requirement that the operator must comply with the condition in paragraph 138.050(1)(b) in relation to subregulation 138.125(1); and
 - (b) for paragraph (a), only for the purpose of complying with the condition set out in subsection (3).

- (3) The exemption in subsection (2) is subject to the condition that, in its aerial work operations, the operator must comply with the requirements of subregulation 138.125(1):
 - (a) as if it only applied for a particular aircraft or a particular operation mentioned in subregulation 138.125(1) (subject to any exclusion of an aircraft or operation by virtue of the operation of subregulation 138.125(2) regardless of this exemption); and
 - (b) as if it did not apply to any other particular aircraft or particular operation not mentioned in subregulation 138.125(1).

9 Training and checking system requirements for operational safety-critical personnel — exemption

- (1) This section applies to an aerial work certificate holder (the *operator*) to whom subregulation 138.125(3) applies.
- (2) The operator is exempted from compliance with paragraph 138.050(1)(d) and regulation 138.055, but:
 - (a) only to the extent of the requirement that the operator must comply with the condition in paragraph 138.050(1)(d) in relation to subregulation 138.125(3); and
 - (b) for paragraph (a), only to the extent of the requirement under subregulation 138.135(1) that the operator's training and checking system must include those operational safety-critical personnel (the *relevant personnel*) who are not any of the following:
 - (i) flight crew members;
 - (ii) other crew members who are assigned duties on board an aircraft in relation to 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 of its relevant personnel:
 - (i) is competent to carry out their 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.

9A Flight crew training or checking – foreign conductors of – exemption

- (1) This section applies to an aerial work certificate holder (the *operator*) to whom regulation 138.125 applies.

Note *Aerial work certificate holder* is defined in section 3.

- (2) The operator is exempted from compliance with regulation 138.505, in relation to training and checking, but only to the extent of who may conduct the training or checking required by Subpart 138.N of CASR.
- (3) The exemption in subsection (2) is subject to the condition that the training or checking for which the operator takes the benefit of the exemption must be conducted by a person who is:
 - (a) employed by a training provider authorised by the national aviation authority of a recognised foreign State to conduct training or a check equivalent to the training or check required by Subpart 138.N of CASR that the operator has contracted the training provider to conduct for a flight crew member of the operator (the ***equivalent training or checking***); and
 - (b) authorised by the national aviation authority of the recognised foreign State to conduct the equivalent training or checking.
- (4) It is also a condition of the exemption under subsection (2) that for training or checking for which the operator takes the benefit of the exemption, the operator must ensure that:
 - (a) each person who conducts the training or checking for the foreign training provider mentioned in subsection (3) is appropriately authorised to conduct the training or checking; and
 - (b) the foreign training provider is notified, in writing, of any change in the operator's training and checking manual relating to the training or checking that the foreign training provider conducts under the contract.

9B Crew experience — exemption

- (1) This section applies to an aerial work certificate holder (the ***operator***) and the pilot in command, conducting an NVIS firebombing operation mentioned in Division 2 of Chapter 16 of the Part 138 MOS.
- (2) The operator and the pilot in command are each exempted from compliance with subregulations 138.425(3), (4) and (5), but only to the extent of the requirement under subsection 16.06(3) of the Part 138 MOS that each pilot for the operation must have the aeronautical experience mentioned in the subsection.

Note Crew minimum experience requirements are managed by operators under their SMS and Training and Checking system, to ensure that crews are competent for the firebombing operation.

9C Flight crew licences, medical certificates, etc. — exemptions and conditions

- (1) In this section:
operator means an aerial work operator, whether operating a registered aircraft or a foreign registered aircraft.
- (2) The operator is exempted from the requirements of regulation 138.180 of CASR.
- (3) The exemption under this section is subject to the conditions mentioned in subsections (4), (5) and (6).
- (4) For each flight crew member (***FCM***) operating a registered aircraft, the operator must maintain an up-to-date record showing the currency of each of the

following required under the civil aviation legislation for the FCM to operate the aircraft:

- (a) the FCM's medical certificate;
- (b) the FCM's flight crew licence;
- (c) the FCM's flight crew ratings;
- (d) the FCM's flight crew endorsements.

Note A reference to a flight crew licence includes a certificate of validation of an overseas flight crew licence. A reference to a medical certificate includes an overseas medical certificate of the holder of such a certificate of validation.

- (5) For each FCM operating a foreign registered aircraft, the operator must maintain an up-to-date record showing the currency of each of the following, as applicable, that is required under the civil aviation legislation for the FCM to operate the aircraft:

- (a) the FCM's overseas medical certificate;
- (b) the FCM's overseas flight crew licence;
- (c) the FCM's overseas flight crew ratings;
- (d) the FCM's overseas endorsements;
- (e) the FCM's certificate of validation and related overseas medical certificate.

- (6) The operator must keep each FCM record mentioned in subsections (4) and (5), as applicable, for the period during which the FCM exercises the privileges of their flight crew licence for the operator.

Note The expressions *foreign registered aircraft* and *civil aviation legislation* are each defined in section 3 of the *Civil Aviation Act 1988*. Various other expressions used in this section are defined in Part 1, and in item 36 in Part 2, of the CASR Dictionary.

Part 3 Exemptions from Part 91 and related directions

10 Carriage of medical and identification documents — exemption

- (1) This section applies to the pilot in command of an aircraft for a flight that is conducted by an aerial work certificate holder.
- (2) The pilot in command is exempted from compliance with subregulation 91.105(1), but only to the extent of:
 - (a) the documents mentioned in paragraph 91.105(2)(a); or
 - (b) a medical exemption.
- (3) The exemption in subsection (2) is subject to the condition that:
 - (a) before the flight begins, the pilot in command must give CASA written notice of the fact that, for a particular flight crew member (including the pilot in command), a particular document required under paragraph 91.105(2)(a), or a medical exemption, will not be carried on the aircraft; or
 - (b) if it is not practicable to comply with paragraph (a) — not later than 24 hours after the flight ends, the pilot in command must give CASA written notice of the fact that, for a particular flight crew member (including the pilot in command), a particular document required under paragraph 91.105(2)(a), or a medical exemption, was not carried on the aircraft.

11 Application of Part 138 fuelling safety procedures instead of Part 91 fuelling requirements – persons on, boarding, or disembarking from, aircraft – exemption and direction

- (1) This section applies to a private operation in an aircraft, conducted by an aerial work certificate holder.
- (2) For the operation, the pilot in command of the aircraft is exempted from compliance with regulation 91.510.
- (3) The exemption in subsection (2) is subject to the condition that the pilot in command must comply with any requirements in the operations manual prepared in accordance with regulation 138.302 that are applicable to the pilot in command for the private operation.

Directions

- (4) The operator must ensure that, for the private operation:
 - (a) the operations manual provides for compliance with the requirements of regulation 138.302; and
 - (b) such requirements are complied with by:
 - (i) the pilot in command; and
 - (ii) other crew members (if any); and
 - (iii) the operator's personnel (if any) who carry out a ground support duty for a flight of the aircraft.

Note The definition of **private operation** in the CASR Dictionary includes a limited aerial work, operation and other operations which are not required to be conducted under an AOC or another operating certificate. The intent of this section, and of sections 13 and 14, is to permit holders of aerial work certificates and pilots in command to comply with certain provisions of Part 138 and the Part 138 MOS, instead of the otherwise applicable provisions of Part 91 when conducting private operations, including, for example, such repositioning or ferry flights as are private operations.

12 Application of relevant Part 138 passenger safety procedures instead of Part 91 passenger safety briefing requirements — exemption and direction

- (1) This section applies to an aerial work operation in an aircraft that is an emergency service operation conducted by an aerial work certificate holder.
- (2) For the operation, the pilot in command of the aircraft is exempted from compliance with regulation 91.565 (Passengers — safety briefings and instructions).
- (3) The exemption in subsection (2) is subject to the following conditions:
 - (a) the pilot in command must be satisfied that it is not practicable to comply with regulation 91.565;

Note Reasons for impracticability include the urgency of the flight and the medical condition of the passenger.

- (b) the pilot in command must comply with any procedures and requirements in the operations manual, prepared in accordance with regulation 138.155 in relation to subparagraph 138.305(2)(c)(iii), that are applicable or relevant to the pilot in command for the emergency service operation.

Directions

- (4) The operator must ensure that paragraph (3) (b) is complied with for the operation.

13 Application of Part 138 performance requirements instead of Part 91 performance requirements — exemption and direction

- (1) This section applies to a private operation in an aircraft, conducted by an aerial work certificate holder, provided that the private operation is not a limited aerial work operation.
- (2) For the operation, the operator and the pilot in command of a large aeroplane are each exempted from compliance with each provision in Subpart 91.F (as applicable) but only if the operator and the pilot in command (as applicable) each complies with the directions in subsections (4), (5) and (6), as applicable.
- (3) For the operation, the operator and the pilot in command of a rotorcraft are each exempted from compliance with each provision in Subpart 91.F, but only:
 - (a) to the extent of sections 24.04, 24.05, 25.04 and 25.05 of the Part 91 MOS; and
 - (b) if the operator and the pilot in command (as applicable) each complies with the directions in subsections (4), (5) and (6), as applicable.

Directions

- (4) The operator of a large aeroplane must ensure that for the operation:
 - (a) the requirements of Division 1 of Chapter 18 of the Part 138 MOS are complied with; and
 - (b) the operations manual provides for the compliance mentioned in paragraph (a).
- (5) The operator of a rotorcraft must ensure that for the operation:
 - (a) the requirements of Division 2 of Chapter 18 of the Part 138 MOS are complied with for take-off and landing operations in populous areas; and
 - (b) the operations manual provides for the compliance mentioned in paragraph (a).
- (6) The pilot in command must comply with any requirements arising under subsections (4) and (5) that are applicable to the pilot in command.

14 Application of Part 138 weight and balance requirements instead of certain Part 91 weight and balance requirements — exemption and direction

- (1) This section applies to a private operation in an aircraft, conducted by an aerial work certificate holder, provided that the private operation is not a limited aerial work operation.
- (2) For the operation, the pilot in command of the aircraft is exempted from compliance with each provision in Subpart 91.J, but only if the operator and the pilot in command (as applicable) each comply with the directions in subsections (3) and (4).

Directions

- (3) The operator must ensure that for the operation:
 - (a) the requirements of the provisions in Subpart 138.J are complied with; and

- (b) the operations manual provides for compliance with the requirements.
- (4) The pilot in command must comply with any requirements arising under subsection (3) that are applicable to the pilot in command.

14A Application of Part 91 requirements for anti-collision and navigation lights — exemption and conditions

- (1) In this section:

ACAS means airborne collision avoidance system.

approved transponder has the meaning given by section 26.67 of the Part 91 MOS.

external lights, for an aircraft, means anti-collision lights (as the term is used in section 26.22 of the Part 91 MOS) and navigation lights (as the term is used in section 26.24 of the Part 91 MOS).

GNSS has the meaning given by section 1.07 of the Part 91 MOS.

IFR has the meaning given by Part 1 of the CASR Dictionary.

lights-out operation means a surveillance operation, conducted for law enforcement purposes by a relevant operator using a relevant aircraft, in which the relevant aircraft's external lights are not to be displayed while flying over the relevant area.

navigation specification has the meaning given by section 1.07 of the Part 91 MOS.

relevant aircraft means an aircraft operated by a relevant operator for a lights-out operation.

relevant air traffic service means the air traffic service for the airspace over the area in which a lights-out operation is conducted.

relevant area means the area:

- (a) within which the target of the surveillance is located; and
- (b) over which the relevant pilot considers it necessary for the relevant aircraft's external lights not to be displayed so that the aircraft remains unseen.

relevant operator means an aerial work operator that conducts lights-out operations as, or under an arrangement with, any of the following government authorities:

- (a) the Australian Federal Police;
- (b) the Australian Border Force;
- (c) a State or Territory police service;
- (d) the Department of Home Affairs or an agency under the Department of Home Affairs.

relevant pilot means the pilot in command of a relevant aircraft operated for a lights-out operation.

surveillance operation has the meaning given by section 1.04 of the Part 138 MOS.

- (2) This section applies to a relevant operator and a relevant pilot in relation to the conduct of a lights-out operation in Australian territory.
- (3) The relevant operator and relevant pilot are each exempt from regulation 91.810 of CASR, to the extent that the regulation requires compliance with the

following provisions of the Part 91 MOS in relation to the conduct of a lights-out operation:

- (a) subsection 26.22(3);
 - (b) subsection 26.22(4);
 - (c) subsection 26.22(5);
 - (d) that part of subsection 26.24(2) that requires navigation lights fitted to the aircraft to be displayed during a flight.
- (4) The exemption granted to the relevant operator in subsection (3) is subject to the conditions set out in paragraphs (6)(a) and (b) and subsections (7) to (9).
- (5) The exemption granted to the relevant pilot in subsection (3) is subject to the conditions set out in paragraph 6(c), subsection (8) and subsections (10) to (12).
- (6) Before conducting a lights-out operation:
- (a) the relevant operator must notify CASA that it is an operator that conducts lights-out operations; and
 - (b) the relevant operator must ensure that the relevant aircraft is equipped with the following functional items of equipment:
 - (i) an ACAS with horizontal situation display and aural traffic advisory;
 - (ii) GNSS capable of navigating to a navigation specification of RNP 2;
 - (iii) radiocommunication systems capable of ensuring communication with the relevant air traffic service and other nearby traffic;
 - (iv) despite section 26.73 of the Part 91 MOS, an approved transponder; and
 - (c) the relevant pilot must ensure that the relevant air traffic service is advised of the intention to operate in the relevant area without displaying external lights.
- (7) The relevant operator must ensure that only the minimum number of crew members required for the lights-out operation are carried on the relevant aircraft for the operation.
- (8) The relevant operator and relevant pilot must ensure that the lights-out operation is conducted under the IFR.
- (9) The relevant operator must ensure that the operator's operations manual contains the following:
- (a) procedures regarding entry to, and exit from, a relevant area;
 - (b) a statement of the following requirements for the relevant pilot:
 - (i) to monitor the aircraft's tracking in accordance with regulation 91.257 of CASR and subsection 14.02(4) of the Part 91 MOS;
 - (ii) to maintain vigilance to see and avoid other aircraft in accordance with regulation 91.325 of CASR and by maintaining a scan of ACAS;
 - (iii) to continuously monitor the primary communications medium used by the relevant air traffic service in accordance with regulations 91.635 and 91.640 of CASR.
- (10) The relevant pilot must not turn off external lighting except where it is necessary for the lights-out operation.
- (11) The relevant pilot must ensure that external lights are displayed while the relevant aircraft is climbing to, descending from, transiting between, or travelling to or from the relevant area.

- (12) The relevant pilot must turn the external lights on immediately if any of the following occurs during a lights-out operation:
 - (a) an item of equipment mentioned in paragraph (6)(b) fails to function as intended;
 - (b) the relevant pilot becomes aware of nearby air traffic and assesses that there is a reasonable risk of collision;
 - (c) a pilot of another aircraft, or the relevant air traffic service, requests that the external lights be displayed in order to identify the relevant aircraft as air traffic.

Part 4 Directions to Part 138 aerial work certificate holders

15 Compliance before and after flight with flight manual instructions — direction

- (1) This section applies to the operator of an aircraft for an aerial work operation whether or not the operator holds an aerial work certificate (the *operator*).
- (2) The operator must ensure that:
 - (a) any activity in relation to the flight, that occurs before or after the flight; and
 - (b) any activity that is required under the aircraft flight manual instructions for the aircraft to be carried out before or after the flight;is carried out in compliance with any relevant limitation or requirement that:
 - (c) is set out in the aircraft flight manual instructions for the aircraft; and
 - (d) relates to the operation of the aircraft.
- (3) Subsection (2) does not apply to a limitation or requirement if circumstances prescribed by the Part 138 MOS apply to the aircraft for the activity.

16 Develop and maintain a DAMP — direction

- (1) This section applies to an aerial work certificate holder (the *operator*) for an aerial work operation in an aircraft.
- (2) The operator must comply with the requirements of Part 99 of CASR as if the operator were a DAMP organisation to which Part 99 applied.

17 Training and checking — direction

- (1) In this section:

non-normal exercise means an aircraft flight that involves the simulated failure of a vital system.

specified training or check means an aircraft training or check event that involves carrying out a non-normal exercise.

vital system means a system whose simulated failure in flight would adversely affect the safety of the aircraft as compared to normal operation.
- (2) This section applies to an aerial work certificate holder (the *operator*) who, immediately before 2 December 2021:
 - (a) conducted aerial work operations in an aircraft; and

- (b) did not hold an approval under subregulation 217(3) of CAR, as in force immediately before 2 December 2021, for a training and checking organisation for the aircraft in the operations.
- (3) The operator must not use an individual to conduct the specified training or check for a flight crew member of the operator's personnel that is required under Part 138, unless a requirement mentioned in subsection (4) or (5) is met.
- (4) For subsection (3), if a registered aircraft is used:
 - (a) the individual must be able to exercise the privileges of one of the following for the relevant type or class (as applicable) of aircraft being used for the specified training or check:
 - (i) a flight instructor rating and appropriate training endorsement;
 - (ii) a flight examiner rating and appropriate flight examiner endorsement;
 - (iii) if the specified training or check is conducted in a flight training device — a simulator instructor rating and appropriate training endorsement;
 - (iv) an approval under regulation 61.040 that confers equivalent privileges to those under subparagraph (i), (ii) or (iii), as applicable to the specified training or check; or
 - (b) the operator must hold CASA's approval that their training and checking system, as applied to the individual, produces a safety outcome equivalent to that under paragraph (a).

Note 1 The effect of subsection (4) is that if the operator uses an individual to conduct a specified training or check, the individual must have appropriate CASR Part 61 qualifications to conduct the training or check unless the operator obtains CASA's approval.

Note 2 The requirements under regulation 138.505 of CASR, and subsection 23.10(2) of the Part 138 MOS, must still be met in addition to the requirements in paragraph (4)(a) or (b).

Note 3 For **registered**, see the definition in the CASR Dictionary.

Note 4 An approval given by CASA under paragraph 17(4)(b) of CASA EX86/21 continues under this instrument — see section 30.

- (5) For subsection (3), if a foreign registered aircraft is used:
 - (a) the individual used by the operator must be able to exercise the privileges of an authorisation (however described) from the national aviation authority of the State of Registry for the aircraft, that are at least equivalent to the privileges described in paragraph (4)(a); or
 - (b) the operator must hold CASA's approval that their training and checking system, as applied to the individual, produces a safety outcome equivalent to that under paragraph 4(a).

Note 1 An operator conducting specified training or check must also comply with the requirements of section 9A.

Note 2 For **foreign registered aircraft**, see the definition in section 3 of the *Civil Aviation Act 1988*.

Note 3 An approval given by CASA under paragraph 17(5)(b) of CASA EX86/21 continues under this instrument — see section 30.

19 RESERVED

20 Survival equipment procedures — direction

- (1) This section applies to an aerial work certificate holder (the *operator*) for an aerial work operation in an aircraft (the *operation*) if the aircraft is required to carry a life raft under section 26.60 of the Part 91 MOS.
- (2) The operator's operations manual must contain the procedures:
 - (a) to be followed by the pilot in command of the operation, and the other flight crew, for the purposes of section 26.60; and
 - (b) for determining the pyrotechnic signalling devices required to ensure the distress signals, set out in Appendix 1 to Annex 2, Rules of the Air, to the Chicago Convention (as in force from time to time), can be made.
- (3) To avoid doubt, this section does not affect any requirement under regulation 138.345.

21 Additional responsibility of head of operations — direction

- (1) This section applies to an aerial work certificate holder who is not required to have a training a checking system under regulation 138.125 (the *operator*).
- (2) The operator must ensure that the head of operations has, and competently discharges, the following duties:
 - (a) ensuring that training and checking of the operator's operational safety-critical personnel, whether conducted by or for the operator, is conducted in accordance with the operator's operations manual;
 - (b) if the operator has a contract with a Part 142 operator for training or checking the operator's flight crew:
 - (i) ensuring that each person who conducts the training or checking for the Part 142 operator is authorised under Part 61 to do so; and
 - (ii) ensuring that the training or checking is conducted in accordance with the aerial work operator's operations manual; and
 - (iii) telling the Part 142 operator, in writing, of any change in the aerial work operator's operations manual.

22 Safety information — direction

- (1) In this section:

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

 - (a) is in any form;
 - (b) is generated within, or captured, collected or held by and within, an aerial work certificate holder's approved safety management system (including a flight data analysis program (*FDAP*), if any);
 - (c) has been approved, whether directly or indirectly, by CASA as fulfilling the relevant safety management system (*SMS*) or FDAP obligations of the aerial work certificate holder under the civil aviation legislation;
 - (d) may include personal information relating to individuals.

Note 1 **Civil aviation legislation** has the meaning given in section 3 of the Act. 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 aerial work certificate to an operator who is required by the civil aviation legislation to have an SMS for that purpose; or by virtue of an operator taking the

benefit of an exemption under CASA EX87/21 relating to SMS under which requirements to introduce an SMS are taken to have been complied with.

- (2) This section applies to an aerial work certificate holder (the **operator**) for aerial work operations (the **operations**) if the operator:
 - (a) is required under regulation 138.140 to have an SMS for the operations; and
 - (b) is not taking the benefit of the exemption from that obligation provided by *CASA EX73/24 – Flight Operations Regulations – SMS, HFP&NTS and T&C Systems – Supplementary Exemptions and Directions Instrument 2024*.
- (3) The operator must comply with the following provisions of Civil Aviation Order 82.5, as in force immediately before 2 December 2021, as if they applied to the operator and as they relate to any safety information arising from the operations:
 - (a) subparagraphs 2A.2(f) and (h);
 - (b) subparagraph 2A.2(g), but only to the extent that the operator has implemented an FDAP;
 - (c) subparagraphs 2A.3(d) and (e), but only to the extent that the operator has implemented an FDAP;
Note The deemed application of sub-subparagraph 2A.3(d)(i) does not prevent an operator from using safety information for the purposes of taking preventive, corrective or remedial action that is necessary to maintain or improve safety. An example of the use of safety information for these purposes is its use by an operator for internal training purposes.
 - (d) subsection 2AA;
 - (e) Appendix 1A.

23 First use of NVIS in an NVIS operation under Part 138 – significant change – direction

- (1) This section applies to an aerial work certificate holder (the **operator**) for aerial work operations (the **operations**).
- (2) Before conducting an NVIS operation for the first time in an aerial work operation, the operator must apply for, and obtain, the written approval of CASA as if:
 - (a) the first conduct of the NVIS operation were a significant change within the meaning of that expression in regulation 138.012; and
 - (b) regulations 138.062, 138.064, and 138.066 applied to the first conduct of the NVIS operation as if it were such a significant change.

Note An approval given by CASA under paragraph 23(2)(b) of CASA EX86/21 continues under this instrument — see section 30.

- (3) If CASA gives the operator its approval under subsection (2) for a particular NVIS operation, no subsequent approval under subsection (2) is required before the operator may conduct a different NVIS operation for the first time in an aerial work operation.

24 Retention of historical flight crew member records — direction

- (1) This section applies to an aerial work certificate holder (the **operator**) for aerial work operations if, immediately before 2 December 2021, the operator was an AOC holder authorised to conduct aerial work operations other than aerial work (air ambulance) operations.

- (2) The operator must retain in safe custody, for the periods mentioned in subsection (3), each of the records held by the operator on 1 December 2021 that were mentioned in Appendix 1, paragraphs 2.3 and 2.4 of CAO 82.1 as the provisions were in force immediately before 2 December 2021.
- (3) For subsection (2), the period for retention of the records is at least the period, commencing on 2 December 2021, that the similar or analogous record is to be retained under Division 138.B.9.

25 Requirements for air crew members, including the Certificate IV in Aviation (Air Crew Officer) — direction

- (1) In this section:

air crew member has the meaning given by the CASR Dictionary.

Note 1 For reference, an air crew member is a crew member for a flight of an aircraft (other than a flight crew member) who carries out a function during the flight relating to the safety of the operation of the aircraft, or the safety of the use of the aircraft.

Note 2 The term air crew member includes, in effect, a trainee air crew member: see subparagraph (b)(i) of the definition of ***crew member*** in the CASR Dictionary.

assignment means an operator assigning an air crew member to occupy a relevant control seat in the operator's rotorcraft during flight time in a private operation or an aerial work operation.

CASA 132/16 means *CASA 132/16 - Helicopter aircrew member — authorisation, exemption and directions*.

CASA EX131/19 means *CASA EX131/19 — Helicopter Aircrew Members Instrument 2019*.

CASA EX84/21 means *CASA EX84/21 – Part 133 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

Certificate IV in Aviation (Air Crew Officer) means:

- (a) any of the following training courses administered by ISA, and as in force or in existence from time to time:
 - (i) AVI40116 – Certificate IV in Aviation (Aircrewman);
 - (ii) AVI40119 – Certificate IV in Aviation (Air Crew Officer);
 - (iii) AVI40224 – Certificate IV in Aviation (Air Crew Officer);
 provided that, for such a training course begun after the commencement of section 25 of CASA EX86/21, Unit AVIW0034 (perform non-pilot cockpit duties) was also successfully completed for the course; or
- (b) a training course, administered by ISA, that supersedes, and is equivalent to, a course mentioned in paragraph (a).

equivalent qualification means a military, or overseas, qualification that has been approved in writing by CASA (including but not limited to an approval given for the purposes of CASA 132/16, CASA EX131/19, section 20A of CASA EX84/21, or section 25 of CASA EX86/21) as being equivalent to the qualification attained by a person upon the satisfactory completion of a Certificate IV in Aviation (Air Crew Officer).

ISA means Industry Skills Australia Ltd, ABN 26 071 267 359.

Note The name of the company on the commencement of CASA EX86/21 was Australian Industry Standards Limited.

operator means an aerial work certificate holder.

relevant control seat means a rotorcraft control seat that is equipped with fully, or partially, functioning dual controls.

trainee means an operator's air crew member who is undergoing formal training, approved by the operator, for a Certificate IV in Aviation (Air Crew Officer).

- (2) The operator must ensure that, before making an assignment, the air crew member:
 - (a) meets one of the following requirements:
 - (i) holds a certificate, or a statement of attainment, evidencing satisfactory completion of a Certificate IV in Aviation (Air Crew Officer);
Note Under the definition of **Certificate IV in Aviation (Air Crew Officer)** in subsection (1), an air crew member who began one of the training courses mentioned in paragraph (a) of the definition after the commencement of CASA EX86/21 must have successfully completed Unit AVIW0034 (perform non-pilot cockpit duties) for the course. An air crew member who had before the commencement of CASA EX86/21 completed the Certificate, or on the commencement of CASA EX86/21 had begun one of the training courses, is not required to have completed Unit AVIW0034 under the definition.
 - (ii) is a trainee;
 - (iii) holds an equivalent qualification; and
Note See the definition of **equivalent qualification** in subsection (1).
 - (b) meets the operator's training and checking requirements for air crew members or trainees (as applicable) under the operator's training and checking system.
- (3) Subject to subsection (4), the operator may only make an assignment for the purpose of the air crew member performing one or more of the following duties on or for a rotorcraft:
 - (a) assisting the pilot in command in monitoring its flight path to avoid a collision;
 - (b) assisting the pilot in command in selecting a landing site;
 - (c) detecting obstacles during take-off and landing;
 - (d) assisting the pilot in command in relation to tasks associated with any of the following:
 - (i) navigation;
 - (ii) radiocommunications;
Note Under regulation 91.625 of CASR, it is an offence for a person to transmit on particular radio frequencies published in the AIP or NOTAM unless the person is authorised or qualified to do so.
 - (iii) turning on and off, or tuning and identifying, radionavigation systems;
 - (e) assisting the pilot in command with checklist requirements;
 - (f) assisting the pilot in command in monitoring systems and instrumentation;
 - (g) undergoing training for a Certificate IV in Aviation (Air Crew Officer).
Note See the definition of **Certificate IV in Aviation (Air Crew Officer)** in subsection (1).
- (4) A trainee may only be given an assignment involving a duty mentioned in subsection (3) for the purpose of training the trainee for that duty.

- (5) The operator's exposition or operations manual (as applicable) must include such policies, risk assessments, management instructions, standard operating procedures, and training and checking procedures, as are needed to ensure that:
 - (a) the requirements of this section are complied with; and
 - (b) the duties mentioned in subsection (3), including when performed by a trainee, are carried out safely.

Part 5 Miscellaneous Dropping Operations

26 Application of Part

This Part applies to an operator in an aerial work operation that is a miscellaneous dropping operation.

27 Definitions

- (1) In this Part:

CASA EX32/24 means *CASA EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 2024*.

miscellaneous dropping operation means an operation that involves, or involves training for, dropping relevant articles from an aircraft in flight below 500 ft, but does not include any operation that involves spraying or broadcasting any substance.

pilot in command mean the person mentioned in paragraph 28(c).

relevant articles means any of the following:

- (a) incendiaries to initiate controlled burning;
- (b) baits for the capture or eradication of feral animals;
- (c) search and rescue equipment;
- (d) fodder for livestock;
- (e) items for disaster relief;
- (f) other articles of a nature, or articles dropped for a purpose, that is closely similar to the nature or purpose of the articles mentioned in paragraphs (a) to (e).

Note A **relevant article** does not include any substance that may be sprayed or broadcast: see the definition of **miscellaneous dropping operation**.

- (2) Unless the contrary intention appears, in this Part, other words and phrases have the same meaning as they have under Part 138 of CASR.

28 Exemptions

The operator of an aircraft in a miscellaneous dropping operation that is an aerial work operation in the form of a dispensing operation below 500 ft under Part 138 of CASR (the **operator**) is exempted from compliance with the following provisions of CASR:

- (a) subregulation 138.475(1) — but only with respect to subparagraph 138.475(2)(c)(i);
- (b) subparagraph 138.500 (2A)(a)(i) — but only with respect to subparagraph 138.500(1)(a)(i);

BUT:

- (c) only in relation to the operator's pilot in command who is entitled to, and who takes, the benefit of the exemptions under Part 16 of CASA EX32/24; and
- (d) only to the extent of those exemptions as they apply to the pilot in command.

29 Conditions

For a miscellaneous dropping operation, the operator must:

- (a) have procedures in their operations manual, as in force from time to time, for the particular kind of miscellaneous dropping operation conducted by the pilot in command; and
- (b) ensure that the pilot in command is compliant with the conditions imposed on the pilot in command under Part 16 of CASA EX32/24.

Part 6 Transitional provision and consequential amendment

30 Transitional provision

Any approval given under CASA EX86/21 by CASA, that was in force immediately before the commencement of this instrument, continues on and from that commencement as if it were an equivalent approval given by CASA under this instrument and subject to the same terms and conditions.

31 Consequential amendment

Schedule 1 amends *CASA EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 2024*.

Schedule 1 Amendment — CASA EX32/24

[1] Section 74, note

omit

CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021

insert

CASA EX72/24 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2024
