



# Australian Government

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## Civil Aviation Safety Authority

Instrument number CASA EX87/24

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

28 November 2024

### **CASA EX87/24 – Amendment of CASA EX92/22 – Exemptions and Directions Instrument 2024**

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#### **1 Name**

This instrument is *CASA EX87/24 – Amendment of CASA EX92/22 – Exemptions and Directions Instrument 2024*.

#### **2 Commencement**

This instrument commences on 1 December 2024.

#### **3 Amendment of instrument CASA EX92/22**

Schedule 1 amends *CASA EX92/22 – Part 137 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2022*.

### **Schedule 1 Amendments**

#### **[1] After Part 3**

*insert*

#### **Part 4 Minimum height and lateral separation — firefighting operations**

##### **11 Definitions, etc.**

In this Part:

***Authority*** means the ***authority of the Commonwealth, a State, or a Territory*** with whom the relevant operator is under an arrangement or agreement.

***authority of the Commonwealth, a State, or a Territory*** means an authority prescribed by the Part 138 Manual of Standards for the purposes of paragraph (b) of the definition of ***emergency service operation*** in the CASR Dictionary.

***emergency service firefighting operation*** means an operation that is conducted:

- (a) under the authority of an AOC that authorises aerial application operations; and
- (b) under an arrangement or agreement between the AOC holder and the Authority; and
- (c) at the direction of the Authority, for the purpose of dropping water or a retardant over either or both of the following:
  - (i) an occupied building;
  - (ii) an area that is closer than 100 metres, measured horizontally, from an occupied building.

***relevant aeroplane*** means a relevant operator's aeroplane.

***relevant operation*** means an aerial application operation that is an emergency service firefighting operation.

***relevant operator*** means an operator who conducts a relevant operation.

***relevant pilot*** means the pilot in command of a relevant aeroplane.

## 12 Application of Part

This Part applies to a relevant pilot and a relevant operator for a relevant operation, according to its terms.

*Note* This instrument has no application in relation to dropping water or a retardant outside 100 metres, measured horizontally, from an occupied building in an area that is not a populous area as this is already permitted by subregulation 137.140(3) of CASR.

## 13 Exemption

A relevant pilot is exempted from compliance with subregulation 137.140(3) of CASR.

*Note* Under subregulation 137.140(3) of CASR, it is an offence if the pilot in command of an aeroplane engaged in an aerial application operation, in an area that is **not** a populous area, flies lower than 350 feet AGL, while closer than 100 metres horizontally, from an occupied building. Under subregulation 137.140(4), the aeroplane may fly closer than so provided for if a prescribed written or verbal notice was given to the occupier and the occupier did not object to the operation. However, fires often require an immediate response. Delays through adherence to notice and consent procedures can endanger life and property, both on the ground and in the air. Conditions and directions, specified below, are designed to address these issues.

## 14 Conditions — the relevant operation

The exemption under section 13 is subject to the following conditions:

- (a) the relevant operation must be conducted without:
  - (i) adverse effects on the safety of air navigation; or
  - (ii) unacceptable risks to the safety of any person in the relevant aeroplane; or
  - (iii) unacceptable risks to the safety of any person on the ground;
- (b) the relevant operation may only be targeted on or at a specific occupied building, if:
  - (i) the Authority has given express instructions to that effect; or
    - Note* It is for the Authority, in the exigencies of an emergency service firefighting operation, to determine the appropriate means of providing such instructions.
  - (ii) in the absence of such instructions — the relevant pilot, on the scene, reasonably considers that such targeting is necessary to prevent the spread of fire; or

- (iii) the relevant pilot reasonably believes that the building is not, or is no longer, an occupied building, and such targeting may prevent the spread of fire.

## **15 Directions — the relevant operator**

A relevant operator is directed to ensure that:

- (a) their relevant pilot complies with the conditions in this instrument; and
- (b) on and from 31 March 2025 — their operations manual contains appropriate procedures for the purposes of paragraph (a).

*Note* The 4-month grace period is designed to give relevant operators time to draft procedures, submit them to CASA for approval, and receive approval while continuing to use their existing or adapted procedures for relevant operations. The conditions under section 14, and the direction under paragraph 15(a), apply immediately on and from 1 December 2024.

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