



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX146/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

[Signed P. Spence]

Pip Spence
Director of Aviation Safety

30 November 2021

CASA EX146/21 – Amendment of CASA EX81/21 – Instrument 2021

1 Name

This instrument is *CASA EX146/21 – Amendment of CASA EX81/21 – Instrument 2021*.

2 Commencement

This instrument commences on 2 December 2021.

3 Amendment of CASA EX81/21

Schedule 1 amends *CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021 (CASA EX81/21)*.

Schedule 1 Amendments

[1] Subsection 3 (1), Definitions

insert

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

exposition, of an ASAO, has the meaning given by the CASR Dictionary.

Part 105 ASAO has the meaning given by the CASR Dictionary.

[2] Section 11

repeal and substitute

11 Use of military and joint military/civilian aerodromes — direction

- (1) This section applies to the operator and the pilot in command of an Australian aircraft or a foreign-registered aircraft (a *relevant aircraft*).

- (2) Before operating a flight of a relevant aircraft into, out of, or at, a military aerodrome:
- (a) the operator of a relevant aircraft must obtain permission to operate from the relevant military authority for the aerodrome (the *relevant military authority*); and
- Note 1* For information, military aerodromes are listed in the AIP-ERSA, identified by the symbol “MIL”.
- Note 2* Relevant military authorities are also listed in the AIP-ERSA.
- Note 3* The permission may be in whatever form the relevant military authority chooses.
- (b) the operator and the pilot in command of a relevant aircraft must each comply with any applicable conditions of the permission imposed by the relevant military authority that are not contrary to the civil aviation legislation.
- (3) When conducting operations at a joint military/civilian aerodrome, the operator and the pilot in command of a relevant aircraft must each comply with the applicable requirements for the aerodrome contained in the authorised aeronautical information, unless those requirements are contrary to the civil aviation legislation.
- Note 1* For information, joint military/civilian aerodromes are listed in the AIP-ERSA, identified by the symbol “JOINT”.
- Note 2* At the time of commencement of this direction, the requirements for each joint military/civilian aerodrome are contained in the AIP-ERSA.

[3] After section 18

insert

19 Minimum heights – IFR flights – exemption

- (1) This section applies to the pilot in command of an aircraft for an IFR flight, but only if:
- (a) the aircraft is taking off from an aerodrome for flight along a route or a route segment mentioned in paragraph 91.305 (1) (a); and
- (b) the aircraft is flown at a height lower than the minimum height mentioned in subregulation 91.305 (2); and
- (c) none of the circumstances mentioned in subregulation 91.305 (3) (other than paragraph 91.305 (3) (a)) apply; and
- (d) between the take-off and the time the aircraft reaches a minimum height specified in subregulation 91.305 (2) — the pilot in command ensures that the aircraft clears all obstacles by a safe margin.
- (2) The operator is exempted from compliance with regulation 91.305.

20 Air displays in Australian territory — exemption

- (1) This section applies to the pilot in command of an aircraft conducting a flight that is an air display in Australian territory for which a person holds an approval under regulation 91.045 for paragraph 91.180 (1) (b) to conduct the air display.
- (2) The pilot in command is exempted from compliance with the following provisions of CASR:
- (a) regulation 91.090 — but only if the aircraft is not operated in a manner that creates a hazard to another aircraft, a person or property;

- (b) regulation 91.190 — but only if:
 - (i) the operator of the aircraft does not hold an aerial work certificate authorising dispensing operations; and
 - (ii) the operation is conducted in VMC; and
 - (iii) sections 13.02, 13.04 and 13.05 of the Part 138 Manual of Standards are complied with as if they applied to the flight, and:
 - (A) references to an operator of any kind are taken to be references to the pilot in command; and
 - (B) references to an aerial work operation are taken to be references to the flight conducting the dropping; and
 - (C) references to aerial work passengers are taken to be references to passengers; and
 - (iv) section 16.03 of the Part 138 Manual of Standards is complied with as if the flight were a dispensing operation, and:
 - (A) subsections 16.03 (1) and (8) have no application; and
 - (B) references to ESO have no application; and
 - (C) references to a task specialist are taken to be references to “a crew member competent to perform the dropping task to the satisfaction of the pilot in command”;
- (c) subregulation 91.455 (2), to the extent of the requirements in section 19.04 of the Part 91 Manual of Standards that an aircraft must carry onboard the aircraft final reserve fuel — but only if:
 - (i) it is operationally necessary for the aircraft to carry out the air display flight without the final reserve fuel being carried; and
 - (ii) the pilot in command has taken reasonable steps to ensure that the aircraft carries sufficient fuel to enable the proposed flight to be undertaken safely;
- (d) the following provisions, namely:
 - subregulations 91.375 (1) and (3) (but only in relation to paragraphs 91.375 (2) (a) and (c)); subregulations 91.405 (1) and (6) (subregulation (6) only in relation to subregulation 91.405 (1)); and regulations 91.390, 91.630, 91.635 and 91.640;
 but only if:
 - (i) for an air display being conducted in controlled airspace — the person conducting the air display, or the pilot in command of the aircraft, has formal arrangements in place with the Air Traffic Services responsible for the airspace, to ensure separation between the aircraft and other aircraft in the airspace; and
 - (ii) for an air display being conducted in uncontrolled airspace — the person conducting the air display, or the pilot in command of the aircraft, has arrangements in place to advise aircraft not involved in the air display that:
 - (A) the air display is occurring; and
 - (B) pilots in command of aircraft flying in the air display may not be actively monitoring the relevant radio frequency for the airspace or making the required radio calls.

21 Compliance with flight manual — exemption

- (1) The pilot in command of an aircraft to which Part 91 applies is exempted from compliance with the following provisions of CASR:
 - (a) paragraph 91.095 (2) (a);
 - (b) subregulation 91.095 (3) (in relation to paragraph 91.095 (2) (a)).
- (2) The exemptions in subsection (1) are subject to the condition that the pilot in command complies with the requirements and limitations set out in the aircraft flight manual instructions for the aircraft.

22 Hot fuelling aircraft — exemption

- (1) This section applies to the pilot in command of a turbine-powered aeroplane that is:
 - (a) used to facilitate or conduct parachute operations; and
 - (b) operated under an approval (however described) to conduct the parachute operations issued by a Part 105 ASAO.
 - (2) The pilot in command is exempted from regulation 91.505.
 - (3) The exemption in subsection (2) is subject to the conditions that:
 - (a) the exposition of the Part 105 ASAO must include hot refuelling requirements equivalent to the matters specified in paragraph 138.300 (1) (b) of CASR (the *ASAO hot refuelling requirements*); and
 - (b) the operator of the aircraft must require its pilots in command to comply with the ASAO hot refuelling requirements; and
 - (c) the pilot in command of the aircraft must comply with the ASAO hot refuelling requirements.
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