



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX161/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.056, 11.160, 11.205, 91.045, 91.935, 121.010, 135.020 and 138.025 of the *Civil Aviation Safety Regulations 1998*.

[Signed P. Spence]

Pip Spence
Director of Aviation Safety

1 December 2021

CASA EX161/21 — Miscellaneous Flight Operations Exemptions and Approvals (Transitional) Instrument 2021

1 Name

This instrument is *CASA EX161/21 — Miscellaneous Flight Operations Exemptions and Approvals (Transitional) Instrument 2021*.

2 Duration

This instrument:

- (a) commences on 2 December 2021, immediately after the commencement of all of the following:
 - (i) Schedules 1 and 3 to the *Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021*;
 - (ii) the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*;
 - (iii) the *Civil Aviation Safety Amendment (Part 121) Regulations 2018*; and
- (b) is repealed at the end of 1 December 2024.

3 Definitions

Note In this instrument, certain terms and expressions have the same meaning as they have in the *Civil Aviation Act 1988* and the regulations. These include: *AOC, operations manual, Part 91 Manual of Standards, Part 121 Manual of Standards, Part 121 operation*.

In this instrument:

CAO means a Civil Aviation Order.

CAO 20.11 means Civil Aviation Order 20.11.

CAO 20.91 means Civil Aviation Order 20.91 (Instructions and directions for performance-based navigation) Instrument 2014.

CAO 29.4 means Civil Aviation Amendment Order (No. R24) 2004.

CAO 29.11 means Civil Aviation Order 29.11.

CAO 82.0 means Civil Aviation Order 82.0 Instrument 2014.

CAO 82.3 means Civil Aviation Order 82.3.

CAO 82.5 means Civil Aviation Order 82.5.

CAO 82.6 means Civil Aviation Order 82.6 (Night vision imaging system — helicopters) 2007.

destination alternate aerodrome has the meaning given by the Part 91 MOS.

flight preparation (Part 121 alternate aerodromes) requirements has the meaning given by subregulation 121.170 (1) of CASR.

Part 91 MOS means the Part 91 Manual of Standards.

Part 121 MOS means the Part 121 Manual of Standards.

Part 138 MOS means the Part 138 Manual of Standards.

4 Exemptions

- (1) Subject to subsection (2):
 - (a) the pilot in command of an aeroplane who was, immediately before the commencement of this instrument, subject to an instruction under subregulation 240 (1) of CAR in respect of a flight in the aeroplane (the **old instruction**) is, on and from that commencement, exempt from compliance with subregulation 121.170 (1) of CASR for a flight in the aeroplane to the extent that the provision requires the flight preparation (Part 121 alternate aerodromes) requirements (the **corresponding new requirements**) to be met for the flight; and
 - (b) the operator of an aeroplane in relation to which an exemption applies under paragraph (a) in respect of a flight in the aeroplane, is exempt from compliance with subregulation 121.170 (1) of CASR for a flight in the aeroplane to the extent that the provision requires the corresponding new requirements to be met for the flight.
- (2) Subsection (1) only applies if the corresponding new requirements are in relation to the matters covered by the old instruction.
- (3) The exemptions in subsection (1) are subject to the following conditions for the flight in the aeroplane:
 - (a) the old instruction must be complied with as if regulation 240 of CAR had not been repealed;
 - (b) the pilot in command must comply with Chapters 7 and 8 of the Part 91 MOS as if the aeroplane were not conducting a Part 121 operation (except subsection 8.08 (1) and section 8.09 of the Part 91 MOS, if the old instruction specifies alternate minima for domestic or foreign aerodromes, as the case may require);
 - (c) the pilot in command must nominate a destination alternate aerodrome for the flight, where the time period encompassing 30 minutes before and 30 minutes after the estimated time of arrival (ETA) includes a period which is night, when the aerodrome lighting that is necessary to ensure safe operations is either not available or is not used by the flight;
 - (d) the operator and the pilot in command must comply with subsection 3A of CAO 82.0 as in force immediately before the commencement of this instrument;

Note Subsection 3A of CAO 82.0 sets out the remote island passenger-carrying rules that will apply given that Chapter 4 of the Part 121 MOS will not apply.

- (e) the exemption ceases at the earliest of the following (if it occurs after the commencement of this instrument):
 - (i) the day (if any) specified in the old instruction as the day on which the old instruction ceases to be in force;
 - (ii) the second anniversary of the day the old instruction was given.

5 Approvals

- (1) The holder of an approval, permission or authorisation under a provision of CAR or a CAO mentioned for an item in column 3 of the table in Schedule 1 (the *old authorisation*) that was in force immediately before the commencement of this instrument, is, on and from that commencement, approved to hold an approval under a provision of CASR mentioned in column 4 for the item (the *corresponding new approval*).
- (2) The approval of a person under subsection (1) is subject to the following conditions:
 - (a) the conditions of the old authorisation must be complied with;
 - (b) any other conditions mentioned in column 5 of the table in Schedule 1 for the corresponding new approval must be complied with;
 - (c) if the old authorisation was suspended immediately before the commencement of this instrument:
 - (i) the suspension is to be disregarded for the purposes of subsection (1) to the extent that the old authorisation is taken to have been in force at that time; and
 - (ii) the corresponding new approval is suspended for the same period as that for the old authorisation;
 - (d) the corresponding new approval ceases at the earliest of the following:
 - (i) the day (if any) specified in the old authorisation as the day on which the old authorisation ceases to be in force;
 - (ii) the second anniversary of the day the old authorisation was made that occurs after the commencement of this instrument;
 - (iii) if the operator of the aircraft is the holder of an AOC and the old authorisation applies in relation to the operations authorised by the AOC—the day the operator's AOC expires;
 - (e) if the operator of the aircraft is the holder of an aerial work certificate and the old authorisation applies in relation to the operations authorised by the aerial work certificate—the day the operator's aerial work certificate expires;
 - (f) if the operator of the aircraft is the holder of a Part 141 certificate and the old authorisation applies in relation to the operations authorised by the Part 141 certificate—the day the operator's Part 141 certificate expires.

Schedule 1 Table

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Subject	Old authorisation	Corresponding new approval	Additional conditions
1	Flight distance limitations for certain Part 135 aeroplanes	An approval to conduct an EDTO granted under paragraph 3BB.2 of CAO 82.0	An approval under regulation 135.020 of CASR for the purposes of subsection 2.01(5) of the Part 135 MOS	
2	Flight distance limitations for certain Part 121 aeroplanes	An approval to conduct an EDTO granted under paragraph 3BC.3 of CAO 82.0	An approval under regulation 121.010 of CASR for the purposes of paragraph 121.035 (1) (b) of CASR	
3	Aerodrome requirements – Nil Visual Approach Slope Indicator	An approval granted under paragraph 5.4 of CAO 82.3, or under paragraph 5.3 of CAO 82.5	An approval under regulation 121.010 of CASR for the purposes of paragraph 121.205 (4)(d) of CASR	
4	Polar Operations	An approval to conduct a polar operation granted under paragraph 3BD.2 of CAO 82.0	An approval under regulation 121.010 of CASR for the purposes of paragraph 121.360 (2)(b) of CASR	
5	Training or checking involving safety or emergency equipment	An approval under subparagraph 12.3(b) of CAO 20.11; and A person mentioned in subparagraph 12.3(c) of CAO 20.11	An approval under regulation 121.010 of CASR for the purposes of subregulation 121.475 (4) of CASR	
6	A person who can conduct a Part 121 proficiency check	An approval to conduct a proficiency check granted under definition of <i>check pilot</i> in paragraph 2.1 of CAO 82.0	An approval under regulation 121.010 of CASR for the purposes of subparagraph 121.580 (3)(a)(ii) of CASR	
7	Training or checking involving safety or emergency equipment	An approval under subparagraph 12.3(b) of CAO 20.11; and A person mentioned in subparagraph 12.3(c) of CAO 20.11	An approval under regulation 121.010 of CASR for the purposes of subregulation 121.640 (3) of CASR	
8	Air displays in Australian territory	An approval granted under paragraph 2 of Schedule 1 to CAO 29.4	An approval under regulation 91.045 of CASR for the purposes of subregulation 91.180 (1) of CASR	

9	Use in flight of an RNP AR APCH navigation authorisation (see paragraph 22.01 (a) of the Part 91 MOS)	An RNP AR navigation authorisation granted under paragraph 1.1 of Appendix 7 of CAO 20.91	An approval under regulation 91.045 of CASR for the purposes of subparagraph 91.660 (1)(b)(i) of CASR (being an approval to use, in a flight, the RNP AR APCH navigation specification (see paragraph 22.01 (a) of the Part 91 MOS))	
10	Multi-engine aeroplane—simulating engine failure—general	An approval granted under paragraph 7.3 of CAO 82.0, in relation to aeroplanes only	An approval under regulation 91.045 of CASR for the purposes of subparagraphs 91.745 (2)(b)(ii) or (2)(c)(iii) of CASR	
11	External load operation conducted at night	A permission by CASA for an operator whose operations manual has procedures for night winching operations and training for night winching operations as detailed in CAO 29.11 and CAO 82.6	An approval under regulation 138.025 of CASR for the purposes of subregulation 138.400 (2) of CASR	An operator or pilot in command of an aircraft who acts under the authority of the approval for a flight must comply with conditions of their aerial work certificate and with the applicable operations manual as in force at the commencement of this instrument
12	Approvals required for certain external load operations	An aerial work certificate authorising external load operations, held by an operator who, immediately before the commencement of this instrument, held an AOC authorising power line stringing, banner towing or target towing operations	An approval under regulation 138.025 of CASR for the purposes of subsection 15.09 (3) of the Part 138 MOS	
13	Approval of minimum equipment lists	An approval granted under subregulation 37 (1) of CAR to an operator who, immediately before the commencement of this instrument, held an AOC authorising regular public transport operations, charter operations or aerial work (air ambulance) operations, and who, on and from that commencement, holds an AOC authorising an	An approval under regulation 91.935 of CASR	

