

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **Prescribed aircraft, ratings and variants for CASR Part 61 Instrument 2014**

##### **Purpose**

This instrument prescribes different types of aircraft for the purpose of relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*.

##### **Legislation**

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

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

The *Civil Aviation Legislation Amendment Regulation 2013 (No. 1)* as amended (the *amendment regulation*) was made under section 98 of the Act to include a new Part 61 in CASR. Part 61 contains regulations for flight crew licensing, including the various requirements for flight crew licences, ratings and endorsements. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft, and whether in such cases, differences training is required if privileges are to be exercised in a variant.

##### **Fundamental concepts in the operation of Part 61 of CASR**

A fundamental rationale behind Part 61 of CASR is that a pilot may be authorised to fly a particular type of aircraft only if he or she has undertaken sufficient training and an assessment has been made to confirm that the pilot is competent in operating that type of aircraft. In addition, a pilot must periodically undergo a review (a flight review) of his or her continued competence operating the aircraft if the pilot wishes to continue flying that type of aircraft.

Within the range of available aircraft types, some can be grouped together and treated in a common way under Part 61 of CASR. Thus, undertaking training and being assessed to operate one type of aircraft may satisfy the training requirements for a number of other types of aircraft if they have similar characteristics and performance. Also undertaking a flight review in one type of aircraft may satisfy the flight review requirements for a number of other types of aircraft.

Most single-engine aeroplanes are grouped together in this way into the single-engine aeroplane class rating. If a pilot completes appropriate training and is assessed as competent flying a particular type that is identified within that single-engine aeroplane class, the pilot does not need to undertake further training and assessment to fly other similar types within the class rating.

However, many types of aircraft are sufficiently complex or different from other types as to warrant a pilot undertaking type specific training to be authorised to fly these types. These aircraft are identified as type rated aircraft. Aircraft that are certificated to be flown by more than 1 pilot are examples of type rated aircraft.

Before flying an aircraft, a pilot must be competent in operating the particular aircraft. Consequently, even if the pilot is qualified to fly single-engine aeroplanes covered by the class rating, before flying a different type within the class rating, the pilot must make sure that he or she is are competent to fly the new type, which may have different systems, performance and handling characteristics to the type of aircraft he or she flew when qualifying for the class rating.

Some aircraft, which are designated as type rated aircraft are, nevertheless, sufficiently similar in their characteristics to aircraft included in the class rating as to warrant recognition of ongoing competency checks (flight reviews) done in these type rated aircraft for the purposes of the class rating flight review.

Some aircraft have been included within a class although they are sufficiently complex or have performance characteristics that warrant initial type specific training and a flight review. However, once the pilot has completed that initial type specific training and the flight review, the competency of the pilot to fly the aircraft in the future can effectively be managed as a class rated aircraft.

Several regulations in Part 61 of CASR provide for a legislative instrument to prescribe the types of aircraft for which some of the concessions mentioned above apply.

**Regulation 61.050 — multi-engine aeroplanes included in single-engine aeroplane class**

Under regulation 61.050, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument prescribe aeroplanes that are included in the single-engine aeroplane class.

Aircraft referred to by regulation 61.050 are aircraft that would otherwise be included in the multi-engine aeroplane class rating or type rating. These aircraft are sufficiently like single-engine aeroplanes that separate training and checking is not justified.

CASA has reserved its prescription of multi-engine aeroplanes that are to be included in the single-engine aeroplane class because no relevant aircraft had been identified at the time of making the legislative instrument.

**Regulation 61.055 — type ratings and variants for multi-crew aircraft**

Under subregulation 61.055 (1), for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe for multi-crew aircraft:

- (a) the type ratings that may be granted for multi-crew operations; and
- (b) the aircraft models that are variants of each other; and
- (c) in relation to each variant — the variants for which differences training is required; and
- (d) the type ratings for which the flight review or instrument proficiency check requirements may be met by completion of a single flight review; and
- (e) the type ratings for which the instrument proficiency check requirements may be met by completion of a single instrument proficiency check.

Under subregulation 61.055 (2), for paragraph 98 (5A) (a) of the Act, if 2 or more aircraft models are variants of each other, CASA may, by legislative instrument, prescribe that the models are no longer variants of each other if satisfied that:

- (a) the complexity of one of the models' systems; or

(b) a difference in their performance or handling characteristics; requires the provision of additional flight training to enable a person to pilot an aircraft of that model safely.

Aircraft referred to by regulation 61.055 are aircraft that are operated by 2 pilots and require initial and ongoing type specific training and checking. These aircraft are sufficiently complex, or their performance or handling characteristics are such, that additional training of the pilots to enable them to pilot these aircraft safely is warranted.

In some cases, aircraft types can have variants and the characteristics of the variants can differ, for example, in such areas as operating systems, size or performance. In some cases, the variant differences are such that additional training of the pilots to enable them to pilot variants of the original aircraft type is warranted. In some cases, variants are sufficiently common that additional training and checking is not warranted and completing a proficiency check or a flight review in one variant meets the proficiency check or flight review requirements applicable to the other variants of that type.

**Regulation 61.060 — type ratings for single-pilot aircraft**

Under subregulation 61.060 (1), for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe the following:

- (a) for a type of aircraft that is certificated for single-pilot operation — whether a single-pilot type rating is required; and
- (b) for aircraft for which single-pilot type ratings are required:
  - (i) the type ratings that may be granted for single-pilot operation; and
  - (ii) the aircraft models that are variants of each other; and
  - (iii) in relation to each variant — the variants for which differences training is required; and
- (c) the type ratings for which the flight review or instrument proficiency check requirements may be met by completion of a single flight review; and
- (d) the type ratings for which the instrument proficiency check requirements may be met by completion of a single instrument proficiency check.

Under subregulation 61.060 (2), CASA may prescribe that a single-pilot type rating is required for an aircraft only if satisfied that:

- (a) the complexity of the aircraft's systems; or
- (b) its performance or handling characteristics;

requires the provision of additional flight training to enable a person to pilot an aircraft of that type safely.

Aircraft referred to by regulation 61.060 are aircraft that are operated by 1 pilot and require initial and ongoing type specific training and checking. These aircraft are sufficiently complex, or their performance or handling characteristics are such, that additional training of the pilots to enable them to pilot these aircraft safely is warranted.

In some cases, aircraft types can have variants and the characteristics of the variants can differ. Variants can differ in such areas as operating systems, size or performance. In some cases, the variant differences are such that additional training of the pilots to enable them to pilot these variants of the original aircraft type is warranted.

In some cases, variants are sufficiently common that additional training and checking is not warranted and completing a proficiency check or a flight review in one variant meets the proficiency check or flight review requirements applicable to the other variants of that type.

The *Civil Aviation Legislation Amendment (Flight Crew Licensing) Regulation 2013* was made under section 98 of the Act to amend Part 61 of CASR to include relevant new regulations 61.061, 61.062 and 61.063.

**Regulation 61.061 — types of aircraft where flight review for a pilot type rating meets flight review requirements for a class rating**

Under regulation 61.061, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe types of aircraft for which the conduct of a flight review for a pilot type rating meets the flight review requirements for a class rating.

Aircraft referred to by regulation 61.061 are identified as being sufficiently complex, or have performance or handling characteristics, that warrant initial and ongoing type specific training and checking requirements that must be satisfied before pilots are authorised to fly these types of aircraft. However, completing a flight review or proficiency check in such an aircraft is regarded as being sufficient to ensure the pilot is also competent operating similar aircraft covered by the class rating and, therefore, would be acceptable for the purposes of a relevant class rating flight review. The aircraft type has sufficient commonality with aircraft included in a relevant class rating that justifies this recognition.

**Regulation 61.062 — types of aircraft with additional limitations on class ratings**

Under regulation 61.062, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe types of aircraft for which flight training and a flight review are required under regulation 61.747 for the exercise of the privileges of a class rating. Under subregulation 61.747 (1), the holder of an aircraft class rating may, subject to other requirements, exercise the privileges of the class rating in an aircraft type prescribed under regulation 61.062.

Aircraft referred to by regulation 61.062 are identified as being sufficiently complex or have performance or handling characteristics that warrant initial type specific training and a flight review in the specific type.

However, these types are not so different that ongoing training and checking needs to be type specific. In these cases, the pilot only needs to complete initial type specific training along with a flight review, rather than a flight test, as the means of assessing the pilot's competence in operating that type of aircraft. Thereafter, a flight review in any other aircraft in the same class satisfies the flight review requirements to fly that type of aircraft.

**Regulation 61.063 — types of single-engine helicopters for flight reviews**

Under regulation 61.063, for paragraph 98 (5A) (a) of the Act, CASA may, by legislative instrument, prescribe types of single-engine helicopters that may be used to conduct flight reviews for other types of single-engine helicopters.

Aircraft referred to by regulation 61.063 are identified as being sufficiently complex or have performance characteristics that warrant initial and ongoing type specific training and checking requirements that must be satisfied before pilots are authorised to fly these

types of aircraft. However, completing a flight review in such an aircraft is regarded as acceptable for the purposes of a relevant class rating. The aircraft type has sufficient commonality with aircraft included in a relevant class rating that justifies this recognition.

However, CASA has reserved its prescription of single-engine type rated helicopters that may be used to conduct flight reviews for other single-engine helicopters.

### **The legislative instrument**

For the purposes of the relevant provisions mentioned above, the legislative instrument prescribes the aircraft, ratings, variants and other concessions.

Except for matters reserved, sections 3 to 26 of the legislative instrument are machinery provisions designed to make the schedules take effect in accordance with their terms. As such, the machinery provisions are technical provisions describing the steps to be taken to locate, and the locations of, the various prescriptions set out for the purposes of the legislative instrument. There are 15 schedules, 6 reserved, containing the relevant prescriptions, and they are listed by number and title in Appendix 1.

### **The Schedules**

The list of Schedules in the legislative instrument is as follows:

|             |   |
|-------------|---|
| Schedule 1  | Multi-engine aeroplanes included in the single-engine aeroplane class — RESERVED  |
| Schedule 2  | Multi-crew pilot aeroplane type ratings, variants and differences training  |
| Schedule 3  | Multi-crew pilot helicopter type ratings, variants and differences training   |
| Schedule 4  | Multi-crew type ratings for which flight review met by a single flight review — RESERVED  |
| Schedule 5  | Multi-crew type ratings for which instrument proficiency check met by a single instrument proficiency check — RESERVED  |
| Schedule 6  | Single-pilot type rated aeroplanes, type ratings, variants and differences training   |
| Schedule 7  | Single-pilot type rated helicopters, type ratings, variants and differences training  |
| Schedule 8  | Single-pilot type ratings for which flight review met by a single flight review — RESERVED  |
| Schedule 9  | Single-pilot type ratings for which instrument proficiency check met by a single instrument proficiency check — RESERVED  |
| Schedule 10 | Types of multi-engine aeroplanes for which the conduct of a flight review for a pilot rating meets the flight review requirements for the multi-engine aeroplane class rating     |
| Schedule 11 | Types of single-engine helicopters for which the conduct of a flight review for a pilot rating meets the flight review requirements for the single-engine helicopter class rating |

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|-------------|---|
| Schedule 12 | Types of single-engine aeroplanes for which flight training and flight review are required for exercising the privileges of the single-engine class rating            |
| Schedule 13 | Types of multi-engine aeroplanes for which flight training and flight review are required for exercising the privileges of the multi-engine aeroplane class rating    |
| Schedule 14 | Types of single-engine helicopters for which flight training and flight review are required for exercising the privileges of the single-engine aeroplane class rating |
| Schedule 15 | Types of single-engine helicopters that may be used for flight reviews for other types of single-engine helicopters — RESERVED  |

### ***Legislative Instruments Act 2003***

As mentioned above, under paragraph 98 (5A) (a) of the Act, regulations made for that provision may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if expressed to apply in relation to a class of persons or aircraft.

The various prescriptions made by the legislative instrument apply, not to a particular person or a particular aircraft but to classes of persons and aircraft and, therefore, the instrument is a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42, of the *Legislative Instruments Act 2003* (the **LIA**).

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

The amendment regulation, which contains Part 61 of CASR (and the heads of power for the legislative instrument, as amended by the *Civil Aviation Legislation Amendment (Flight Crew Licensing) Regulation 2013*), was made on 14 February 2013 but does not commence until 1 September 2014. The legislative instrument, however, is made before this commencement, in August 2014. This anticipation of power was on the basis of the preparatory powers conferred on CASA under section 4 of the *Acts Interpretation Act 1901*.

Under section 4 of the *Acts Interpretation Act 1901*, as applied to regulations by paragraph 13 (1) (a) of the LIA, if regulations are made that, at a later commencement time, will confer power to make another legislative instrument, the power to make that other legislative instrument may be exercised before the regulations actually commence. However, the legislative instrument itself may not, in effect, commence until on or after the regulations commence. Thus, the legislative instrument, made in August 2014, commences on 1 September 2014.

### **Consultation**

For section 17 of the LIA, because of its machinery nature, CASA's consultation for the legislative instrument, including in particular the proposed lists of type ratings, was an integral part of the consultation undertaken for the amendment regulation which included Part 61 of CASR. This consultation process was set out in the Explanatory Statement for the amendment regulation (COMLAW, F2013L00218). This amendment package was published on CASA's website and responses to it considered by CASA.

There were no responses specifically in relation to the matters addressed in the legislative instrument.

The list of aircraft ratings in the legislative instrument has been derived from the relevant existing Civil Aviation Orders (**CAOs**), with modifications to accommodate the new aircraft class ratings. These CAOs have been amended regularly and routinely as new aircraft types are introduced into the Australian civil aviation system and others are removed as they are no longer required. The legislative instrument will itself be similarly amended from time to time by amending legislative instruments.

#### **Office of Best Practice Regulation (OBPR)**

A Regulation Impact Statement (**RIS**) was prepared by CASA for the regulations which constitute the head of power for the legislative instrument, namely, the amendment regulation. This RIS was assessed as adequate by OBPR (OBPR ID: 2777) and applies for the purpose of the legislative instrument. Part 61 of CASR, including the legislative instrument, has been assessed by CASA as generally benefitting the aviation industry because the reduced number of aircraft covered by type ratings has the effect of reducing compliance costs.

#### **Statement of Compatibility with Human Rights**

The Statement in Appendix 2 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The legislative instrument does not directly engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not directly raise any human rights issues. To the extent that it may indirectly limit certain human rights, those limitations are necessary and proportionate in the interests of aviation safety (see Appendix 2).

#### **Commencement and making**

The legislative instrument commences on 1 September 2014. It has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

[Instrument number CASA 186/14]

## Prescribed aircraft, ratings and variants for CASR Part 61 Instrument 2014

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### 1 Commencement

Under this section, the instrument commences on 1 September 2014.

### 2 Definitions etc.

2.1 This subsection contains the following key definitions:

*cell*, for a column of a table in a Schedule of this instrument, means each individual, undivided unit (regardless of its size) into which the column is subdivided.

*CR*, at the end of a type rating designation, means cruise relief.

*CRFE*, at the end of a type rating designation, means cruise relief flight engineer.

*DTR* means differences training required.

*FE*, at the end of a type rating designation, means flight engineer.

*GVFD* means global vision flight deck.

*PEC* means propeller engine control.

*SP*, at the end of a type rating designation, means single-pilot.

2.2 This subsection explains that column 1 of a table in a Schedule of this instrument is for general information only and is not intended to qualify or otherwise affect the meaning or operation of anything else in the Schedule. Column 1 contains information to identify manufacturers and type certificate holders. Since this information can change over time, it is not prescribed in the instrument and is guidance information only.

### 3 Multi-engine aeroplanes in the single-engine aeroplane class

This section is reserved for future use.

### 4 Type ratings — multi-crew aeroplanes

Under this section, for paragraph 61.055 (1) (a) of CASR, each multi-crew aeroplane model mentioned in a cell in column 2 of the table in Schedule 2 has the type rating or type ratings mentioned in the cell in column 4 that corresponds with the cell, or that corresponds with each of the cells, in column 2.

### 5 Type ratings — multi-crew helicopters

Under this section, for paragraph 61.055 (1) (a) of CASR, each multi-crew helicopter model mentioned in a cell in column 2 of the table in Schedule 3 has the type rating or type ratings mentioned in the cell in column 4 that corresponds with the cell, or that corresponds with each of the cells, in column 2.

### 6 Variants — multi-crew aeroplanes

Under this section, for paragraph 61.055 (1) (b) of CASR, where the multi-crew aeroplane models mentioned in 1 or more cells of column 2 of the table in Schedule 2 have the same type rating, or ratings, as mentioned in the corresponding cell in column 4, each model is a variant of the other models.



## **7 Variants — multi-crew helicopters**

Under this section, for paragraph 61.055 (1) (b) of CASR, where the multi-crew helicopter models mentioned in 1 or more cells of column 2 of the table in Schedule 3 have the same type rating, or ratings, as mentioned in the corresponding cell in column 4 of the table, each model is a variant of the other models.

## **8 Differences training — multi-crew aeroplanes**

- 8.1 Under this subsection, for paragraph 61.055 (1) (c) of CASR, if the abbreviation “DTR” appears in a cell of column 3 of the table in Schedule 2 corresponding with variants’ cells in column 2, then differences training is required for a person to exercise the privileges of the rating in a variant that is different from the variant for which the person first received the type rating.
- 8.2 Under this subsection, for subsection 8.1, differences training is not required for a variant that is in the same cell in column 2 as the variant for which the person first received the type rating.

## **9 Differences training — multi-crew helicopters**

- 9.1 Under this subsection, for paragraph 61.055 (1) (c) of CASR, if the abbreviation “DTR” appears in a cell of column 3 of the table in Schedule 3 corresponding with the variants’ cells in column 2, then differences training is required for a person to exercise the privileges of the rating in a variant that is different from the variant for which the person first received the type rating.
- 9.2 Under this subsection, for subsection 9.1, differences training is not required for a variant that is in the same cell in column 2 as the variant for which the person first received the type rating.

## **10 Multi-crew type ratings for which flight review or instrument proficiency check met by a single flight review**

This section is reserved for future use.

## **11 Multi-crew type ratings for which instrument proficiency check met by a single instrument proficiency check**

This section is reserved for future use.

## **12 Aeroplanes requiring a single-pilot type rating**

Under this section, for paragraph 61.060 (1) (a) of CASR, for each aeroplane type certificated for single-pilot operation and mentioned in a cell in column 2 of the table in Schedule 6, a single-pilot type rating is required.

## **13 Helicopters requiring a single-pilot type rating**

Under this section, for paragraph 61.060 (1) (a) of CASR, for each helicopter type certificated for single-pilot operation and mentioned in a cell in column 2 of the table in Schedule 7, a single-pilot type rating is required.

## **14 Type ratings — single-pilot aeroplanes**

Under this section, for subparagraph 61.060 (1) (b) (i) of CASR, for each aeroplane type certificated for single-pilot operation and mentioned in a cell in column 2 of the table in Schedule 6, the type rating or type ratings that may be granted are as mentioned in the cell in column 4 that corresponds with the cell, or that corresponds with each of the cells, in column 2.

**15 Type ratings — single-pilot helicopters**

Under this section, for subparagraph 61.060 (1) (b) (i) of CASR, for each helicopter type certificated for single-pilot operation and mentioned in a cell in column 2 of the table in Schedule 7, the type rating or type ratings that may be granted are as mentioned in the cell in column 4 that corresponds with the cell, or that corresponds with each of the cells, in column 2.

**16 Variants — single-pilot aeroplanes**

Under this section, for subparagraph 61.060 (1) (b) (ii) of CASR, where the single-pilot aeroplane models mentioned in 1 or more cells of column 2 of the table in Schedule 6 have the same type rating, or ratings, as mentioned in the corresponding cell in column 4, each model is a variant of the other models.

**17 Variants — single-pilot helicopters**

Under this section, for subparagraph 61.060 (1) (b) (ii) of CASR, where the single-pilot helicopter models mentioned in 1 or more cells of column 2 of the table in Schedule 7 have the same type rating, or ratings, as mentioned in the corresponding cell in column 4, each model is a variant of the other models.

**18 Differences training — single-pilot aeroplanes**

- 18.1 Under this subsection, for subparagraph 61.060 (1) (b) (iii) of CASR, if the abbreviation “DTR” appears in a cell of column 3 of the table in Schedule 6 corresponding with the variants’ cells in column 2, then differences training is required for a person to exercise the privileges of the rating in a variant that is different from the variant for which the person first received the type rating.
- 18.2 Under this subsection, for subsection 18.1, differences training is not required for a variant that is in the same cell in column 2 as the variant for which the person first received the type rating.

**19 Differences training — single-pilot helicopters**

- 19.1 Under this subsection, for subparagraph 61.060 (1) (b) (iii) of CASR, if the abbreviation “DTR” appears in a cell of column 3 of the table in Schedule 7 corresponding with the variants’ cells in column 2, then differences training is required for a person to exercise the privileges of the rating in a variant that is different from the variant for which the person first received the type rating.
- 19.2 Under this subsection, for subsection 19.1, differences training is not required for a variant that is in the same cell in column 2 as the variant for which the person first received the type rating.

**20 Single-pilot type ratings for which flight review met by a single flight review**

This section is reserved for future use.

**21 Single-pilot type ratings for which instrument proficiency check met by a single instrument proficiency check**

This section is reserved for future use.

**22 Aircraft types for which flight review for a pilot type rating meets flight review requirements for a class rating**

- 22.1 Under this subsection, for regulation 61.061 of CASR, the flight review requirements for the multi-engine aeroplane class rating are met by a flight

review for a multi-engine aeroplane pilot type rating in a multi-engine aeroplane that is mentioned in a cell in column 2 of the table in Schedule 10.

- 22.2 Under this subsection, for regulation 61.061 of CASR, the flight review requirements for the single-engine helicopter class rating are met by a flight review for a single-engine helicopter pilot type rating in a single-engine helicopter that is mentioned in a cell in column 2 of the table in Schedule 11.

**23 Aircraft types for which flight training and flight review are required for exercise of privileges of a class rating — single-engine aeroplanes**

Under this section, for regulation 61.062 of CASR, each single-engine aeroplane model mentioned in a cell of column 2 of the table in Schedule 12, is a model for which flight training and a flight review are required under regulation 61.747 of CASR to exercise the privileges of the single-engine aeroplane class rating in the model.

**24 Aircraft types for which flight training and flight review are required for exercise of privileges of a class rating — multi-engine aeroplanes**

Under this section, for regulation 61.062 of CASR, each multi-engine aeroplane model mentioned in a cell of column 2 of the table in Schedule 13, is a model for which flight training and a flight review are required under regulation 61.747 of CASR to exercise of the privileges of the multi-engine aeroplane class rating in the model.

**25 Aircraft types for which flight training and flight review are required for exercise of privileges of a class rating — single-engine helicopters**

Under this section, for regulation 61.062 of CASR, each single-engine helicopter model mentioned in a cell of column 2 of the table in Schedule 14, is a model for which flight training and a flight review are required under regulation 61.747 of CASR for the exercise of the privileges of the single-engine helicopter class rating in the model.

**26 Types of single-engine helicopters that may be used for flight reviews for other types of single-engine helicopter**

This section is reserved for future use.

**The Schedules**

The Schedules are as set out above under the heading ‘The legislative Instrument — The Schedules’

## Statement of Compatibility with Human Rights

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

### ***Civil Aviation Safety Regulations 1998***

#### **Prescribed aircraft, ratings and variants for CASR Part 61 Instrument 2014**

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**

This legislative instrument prescribes different types of aircraft for relevant provisions in Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*. Part 61 contains regulations for flight crew licensing, including the various requirements for flight crew licences, ratings and endorsements. These requirements, which include flight training in units of competency, aeronautical knowledge examinations, flight tests, flight reviews and proficiency checks, are predicated on types and classes of aircraft and operations, including whether aircraft are variants of other aircraft, and whether in such cases, differences training is required if privileges are safely to be exercised in a variant. These requirements are consistent with Australia's obligations of conformity to the Chicago Convention on International Civil Aviation, its Protocols and Annexes. A fundamental rationale behind Part 61 of CASR is that a pilot may be authorised to fly a particular type of aircraft only if he or she has undertaken sufficient training and competency assessment. Within the range of available aircraft types, some can be grouped together and treated in a common way under Part 61 such that undertaking training and being assessed to operate one type of aircraft may satisfy the training requirements for a number of other types of aircraft if they have similar characteristics and performance. Several regulations in Part 61 of CASR provide for a legislative instrument to prescribe the types of aircraft for which these kinds of concessions apply. The legislative instrument is, therefore, essentially a machinery instrument made under, and for the purposes of, Part 61 of CASR, furnishing the prescriptions of aircraft required for the provisions of Part 61 of CASR to operate with their concessionary effect where applicable.

#### **Human rights implications**

To the extent that certain aircraft are not prescribed, it might be said that the right to work, equality and non-discrimination under the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights (ICESCR) are engaged for pilots of such aircraft since they cannot access some of the flight review and proficiency check concessions that the legislative instrument might otherwise provide. However, such differential treatment arises from the requirements of aviation safety for the particular types of specialised aircraft involved and is consistent with honouring the safety obligations imposed by the *Civil Aviation Act 1988*.

#### **Conclusion**

The 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*. To the extent that it may also limit human rights, those limitations are reasonable and proportionate in the interests of aviation safety.