Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption – aeronautical experience requirements for grant of commercial pilot licences – aeroplane category

**Legislation**

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

Part 61 of the *Civil Aviation Safety Regulations 1998* (***CASR 1998***) commenced on 1 September 2014 and deals with flight crew licencing requirements.

Subregulation 61.610 (1) of CASR 1998 states that an applicant for a commercial pilot licence (***CPL***) with the aeroplane category rating (***CPL(A)***)I s required under paragraph 61.610 (1) (b) to have at least 100 hours of flight time as pilot in command of an aeroplane. For applicants who already hold a CPL, or air transport pilot licence (***ATPL***), with a helicopter category rating (***H***), this is an increase of 40 hours of aeroplane experience over the previous requirement before the introduction of Part 61. Under the equivalent provision in the *Civil Aviation Regulations 1988*, the applicant was only required to have 60 hours of flight time as pilot in command of an aeroplane. It has been decided that the change should not have been made. As a result, this exemption has been issued.

Subregulation 11.160 (1) of CASR 1998 provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations or the Civil Aviation Orders. Under subregulation 11.160 (2), an exemption may be granted to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.205 (1) of CASR 1998, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.225 of CASR 1998, an exemption must be published on the Internet. Under subregulation 11.230 (1), an exemption ceases on the day specified within it (but no longer than 3 years after its commencement) or, if no day is specified, 3 years after commencement.

**Exemption**

The exemption applies to all applicants, who already hold a CPL(H) or ATPL(H), for a CPL(A). It exempts them from compliance with paragraph 61.610 (1) (b) of CASR 1998 and instead only requires them to have 60 hours of flight time as pilot in command of an aeroplane which was the previous requirement under paragraph 5.113 (1) (a) of CAR 1988 before its repeal and replacement.

The instrument is subject to a condition. A person to whom this instrument applies is exempt from paragraph 61.610 (1) (b) only if he or she has at least 100 hours of flight time as pilot in command of registered or recognised aircraft, including at least 60 hours of flight time as pilot in command of aeroplanes. This was the intended effect of that paragraph.

**Legislative Instruments Act**

Subregulation 11.160 (1) of CASR 1998 provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations or Civil Aviation Orders. An instrument issued under paragraph 98 (5A) (a) is a legislative instrument if the instrument is expressed to apply to a class of persons or aircraft. The exemption applies to a class of persons, being all applicants for a CPL(A). The instrument is, therefore, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

**Consultation**

The exemption has been issued by CASA after the unintended effect of paragraph 61.610 (1) (b) was brought to its notice by an applicant for a CPL(A) who had previously required 60 hours of flight time. It is of beneficial effect to all such applicants and correctly states CASA’s preferred policy, pending amendment of the regulation. In these circumstances, it is CASA’s view that it is not necessary or appropriate to undertake any further consultation under section 17 of the LIA.

**Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at Attachment 1.

**Making and Commencement**

The exemption has been made by a delegate of CASA relying on the power of delegation in subregulation 11.260 (1) of CASR 1998.

The exemption commences on the day of registration and expires at the end of December 2017, as if it had been repealed by another instrument.

[Instrument number CASA EX22/15]

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

**Exemption – aeronautical experience requirements for grant of
commercial pilot licences – aeroplane category**

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 instrument applies to all applicants for a commercial pilot licence with the aeroplane category rating, who already hold a commercial pilot licence, or an air transport pilot licence, with the helicopter category rating. These applicants were required under paragraph 61.610 (1) (b) of CASR 1998 to have at least 100 hours of flight time as pilot in command of an aeroplane. The instrument exempts these pilots from that requirement and instead imposes a requirement of 60 hours of flight time as pilot in command of an aeroplane and a total flight time of 100 hours as a pilot in command of registered or recognised aircraft, which would include the 60 hours. This instrument applies what was the intended policy of CASA. It lessens the applicant’s obligation.

**Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Civil Aviation Safety Authority**