

Replacement Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX111/18 — English Language Proficiency Assessments Exemption 2018

Purpose

Civil aviation regulations require pilots and other personnel who use aeronautical radios to be competent in communicating effectively in English. English language proficiency standards have been established and must be met in order to conduct solo flights, gain flight crew licences and transmit on a radio frequency of a kind that is used for the purpose of ensuring the safety of air navigation (referred to as using an aeronautical radio).

The *Civil Aviation Safety Regulations 1998 (CASR)* make provision for the establishment of English language proficiency standards and for the conduct of English language proficiency assessments, including specifying who is authorised to conduct the assessments.

There are 2 English language proficiency standards, being the aviation English language proficiency (**AELP**) standard, and the general English language proficiency (**GELP**) standard.

For AELP assessments, the regulations require an initial AELP assessment to be conducted by CASA or a flight examiner. In some cases, a further assessment must be conducted by an AELP assessor.

The following people are required to satisfy an English language proficiency standard:

- a student pilot conducting a solo flight;
- an applicant for a flight crew licence;
- an applicant for a flight radio endorsement;
- an applicant for an aeronautical radio operator certificate (**AROC**).

To conduct a solo flight, a student pilot must have been assessed as satisfying the GELP standard or passed an approved course of training in English language proficiency. Pilot instructors and flight training operators are obliged to ensure student pilots have been assessed as satisfying the GELP standard or having completed the course.

Applicants for the recreational pilot licence (**RPL**) must also have been assessed as satisfying the GELP standard or have passed a recognised English language test.

The holders of flight crew licences, other than an RPL, and the holders of an AROC are authorised to use aeronautical radios. The holder of an RPL and a flight radio endorsement is also authorised to use an aeronautical radio. These personnel are required to satisfy the AELP standard.

This instrument allows persons, other than CASA delegates and flight examiners, to conduct English language proficiency assessments. The instrument also allows applicants to obtain an AROC if they have been assessed as meeting the GELP standard in lieu of the AELP standard.

It also recognises that a person who meets the AELP standard also meets the GELP standard.

Legislation

Subsection 98 (1) 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. Subsection 98 (5A) of the Act provides that the regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft.

English language proficiency requirements

On 1 September 2014, the *Civil Aviation Legislation Amendment Regulation 2013 (No. 1)* inserted Parts 61, 64, 141 and 142 into CASR.

Part 61 of CASR establishes the licensing scheme for pilots and flight engineers of registered aircraft. Part 64 establishes the scheme for authorising non-licensed personnel to transmit on aeronautical radios and to taxi aeroplanes.

Part 141 establishes the scheme for conducting recreational, private and commercial pilot flight training (other than certain integrated training courses). That training is conducted by Part 141 operators. Part 142 establishes the scheme for conducting integrated and multi-crew pilot flight training, contracted recurrent training and contracted checking. Those activities are conducted by Part 142 operators.

Under subregulation 61.035 (1) of CASR, CASA may issue a Manual of Standards for Part 61 that sets out matters relating to flight crew licences. Under subregulation 61.035 (2), the Manual of Standards may set out standards for aviation and general English language proficiency. CASA has issued a Manual of Standards for Part 61, entitled the *Part 61 Manual of Standards Instrument 2014* (the **Part 61 MOS**). It includes AELP and GELP standards.

Regulation 61.160 of CASR contains requirements to be met for the grant of a flight crew licence. Under subparagraph 61.160 (b) (ii), for a flight crew licence, other than an RPL, the requirements include that the applicant has a current AELP assessment. Under subparagraph 61.160 (b) (iii), for an RPL, the requirements include that the applicant meets the GELP requirements mentioned in regulation 61.265.

Subregulation 61.235 (2) of CASR sets out criteria for certain applicants to be eligible to take a flight test for a flight crew licence. Under subparagraph 61.235 (2) (a) (v), for a flight crew licence, other than an RPL, the requirements include that the applicant has a current AELP assessment. Under subparagraph 61.235 (2) (a) (vi), for an RPL, the requirements include that the applicant meets the GELP requirements mentioned in regulation 61.265.

Division 61.B.5 (regulations 61.255 to 61.270) of CASR prescribes requirements for English language proficiency.

Regulation 61.255 sets out how AELP assessments are conducted. Under subregulation 61.255 (1), a person may apply, in writing to CASA or an examiner, for an assessment of the person's AELP. Under subregulation 61.255 (2), the applicant passes the assessment if CASA or the examiner is satisfied that the applicant meets the International Civil Aviation Organization (**ICAO**) level 6 AELP standards mentioned in the Part 61 MOS. Under subregulation 61.255 (3), if CASA or the examiner is not satisfied that the applicant meets those standards, CASA or the examiner must refer the application to an AELP assessor, that is, a person approved under regulation 61.270.

Regulation 61.260 specifies the period that a person's AELP assessment is current. For a person whose AELP is assessed as meeting the ICAO level 4 (operational) standards, the AELP assessment is current for 3 years. For a person whose AELP is assessed as meeting the ICAO level 5 (extended) standards, the AELP assessment is current for 6 years. For a person whose AELP is assessed as meeting the ICAO level 6 (expert) standards, the AELP assessment is current indefinitely. Those ICAO AELP standards are prescribed in Annex 1 to the International Convention on Civil Aviation (Chicago Convention) and set out in section 2 of Schedule 8 of the Part 61 MOS.

Regulation 61.265 sets out the requirement for an applicant for an RPL to satisfy the GELP standard. Subregulation 61.265 (1) provides 2 pathways for satisfying the standard. The first pathway is for the applicant to be assessed by CASA or an examiner as meeting the GELP standard in the Part 61 MOS. The second pathway is for the applicant to satisfy the head of operations, or an instructor authorised by the head of operations, of a Part 141 or 142 operator that the applicant has passed 1 of the recognised GELP tests prescribed in the Part 61 MOS, and that the applicant has sufficient GELP to safely exercise the privileges of the licence.

Under regulation 61.270, CASA can approve people who have successfully completed an approved course of training in assessment of aviation English language, to conduct AELP assessments.

Under paragraph 61.275 (1) (d) of CASR, the holder of an overseas flight crew licence is taken to meet the requirements for the grant of an Australian licence with an aircraft category rating if, amongst other things, the applicant's overseas licence states that the applicant meets the ICAO level 4, 5 or 6 AELP standards, or the applicant has a current AELP assessment.

Under subparagraph 61.285 (b) (ii) of CASR, a member or former member of the Australian Defence Force is taken to meet the requirements for the grant of a flight crew licence, rating or endorsement, other than an examiner rating, if, amongst other things, the person has a current AELP assessment.

Under subregulation 61.422 (1) of CASR, the holder of a pilot licence, other than an RPL, is authorised to exercise the privileges of the licence only if the holder has a current AELP assessment.

Under paragraphs 61.495 (2) (d) and 61.500 (4) (c) of CASR, an applicant for a flight radio endorsement must have a current AELP assessment.

Regulation 61.1225 of CASR sets out obligations of flight instructors in relation to approving a person to pilot an aircraft as a student pilot. Subparagraph 61.1225 (2) (b) (iii) makes it an offence for a flight instructor to approve a student pilot to conduct a solo flight if the instructor is not satisfied that the student pilot, amongst other things, meets the requirements in subregulation 61.1225 (3). Subregulation 61.1225 (3) requires that the student has either been assessed by CASA or an examiner as meeting the GELP standard, or completed an approved course of training in English language proficiency.

Regulation 61.1227 of CASR sets out obligations of pilot instructors in relation to approving a person to use an aeronautical radio. The regulation makes it an offence if the instructor approves a person who does not hold a flight crew licence, or holds an RPL but does not hold a flight radio endorsement, to transmit on an aeronautical radio unless the person meets the requirements in subregulation 61.1227 (2). Subregulation 61.1227 (2) requires that the person has either been assessed by CASA or an examiner as meeting the GELP standard, or completed an approved course of training in English language proficiency.

Regulation 64.015 of CASR sets out the requirements for obtaining an AROC. Under paragraphs 64.015 (1) (d) and 64.015 (5) (c), a person is eligible for the grant of an AROC if, amongst other things, the person has a current AELP assessment.

Under subregulation 64.025 (2) of CASR, an application for the grant of an AROC to a person who does not have a foreign qualification must be accompanied by evidence of the applicant's AELP assessment. Under paragraph 64.025 (3) (b), an application for the grant of an AROC to a person who has a foreign qualification must be accompanied by evidence of the applicant's ICAO English language proficiency assessment.

Under subregulation 64.035 (2) of CASR, the holder of an AROC is authorised to make a transmission on an aeronautical radio only if the holder has a current AELP assessment.

Regulation 141.306 of CASR sets out obligations of Part 141 operators when conducting certain solo flights. An operator commits an offence if a person, who is undertaking authorised Part 141 flight training with the operator, conducts a solo flight for the first time and does not meet all the requirements in subregulation 141.306 (2).

Paragraph 141.306 (2) (c) requires that the person has either been assessed by CASA or an examiner as meeting the GELP standard, or has completed an approved course of training in English language proficiency.

Regulation 142.386 of CASR sets out obligations of Part 142 operators when conducting certain solo flights. An operator commits an offence if a person, who is undertaking authorised Part 142 flight training with the operator, conducts a solo flight for the first time and does not meet all the requirements in subregulation 142.386 (2).

Paragraph 142.386 (2) (c) requires that the person has either been assessed by CASA or an examiner as meeting the GELP standard, or has completed an approved course of training in English language proficiency.

Manual of Standards

The GELP standard is prescribed in the unit entitled *GEL General English language proficiency* in Section 1 of Schedule 2 of the Part 61 MOS (the **GELP unit**).

Subsection 6.2 of the Part 61 MOS provides that the assessment mentioned in subclause 5.1.1 of Section 1 of Schedule 2, and the requirement specified in subclause 5.1.2, are each part of the GELP standard.

Subclause 5.1 of Section 1 of Schedule 2 of the Part 61 MOS provides that a person meets the standard for the GELP unit if the person provided "the following evidence", referring to subclauses 5.1.1 and 5.1.2.

For subclause 5.1.1, the evidence is an assessment report, completed by a person authorised under Part 61 of CASR to perform general English language assessments, that states the candidate satisfies the GELP elements prescribed in clause 2 of the GELP unit. The GELP elements include, for example, the demonstrated ability to pronounce words clearly, use an extensive vocabulary, convey information and speak fluently.

Subclause 5.1.2 requires evidence of meeting 1 of several requirements. Those requirements include, for example, that the person had completed a course of secondary education conducted in an Australian or New Zealand educational institution, has worked in specified English-speaking countries for at least 3 of the previous 5 years, or has completed 1 of the several specified English proficiency tests with the specified minimum grade.

Section 2 of Schedule 8 of the Part 61 MOS contains the rating scales for ICAO levels 4, 5 and 6 AELP standards to be used for AELP assessments.

Exemptions

Subpart 11.F of CASR deals with exemptions. Under subregulation 11.160 (1), and for subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from a provision of CASR in relation to a matter mentioned in subsection 98 (5A).

Subsection 98 (5A) matters are, in effect, those affecting the safety, airworthiness or design of aircraft.

Under subregulation 11.160 (2), an exemption may be granted to a person or a class of persons. Under subregulation 11.160 (3), CASA may grant an exemption on application, or on its own initiative. For the grant or renewal of an exemption, on application by a person, CASA must regard as paramount the preservation of at least an acceptable level of safety. For making a decision on its own initiative, CASA is guided by the same test.

Under regulation 11.205, CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition. Under regulation 11.225, CASA must, as soon as practicable, publish on the Internet details of all exemptions under Subpart 11.F. Under subregulation 11.230 (1), the maximum duration of an exemption is 3 years.

Background

CASA has been working with industry to resolve difficulties conducting English language proficiency assessments that have arisen since the introduction of the flight crew licensing regulations in 2014. In certain situations, there is a shortage of examiners available to conduct the assessments.

Language proficiency assessors approved under regulation 61.270 of CASR are authorised to conduct an assessment only if CASA, or the examiner conducting the assessment under regulation 61.255, is not satisfied the applicant meets the ICAO level 6 standard. However, these assessors are competent conducting assessments at all ICAO levels. An applicant should be able to apply to the holder of a regulation 61.270 approval for an assessment without first being assessed by CASA or an examiner.

Consideration has been given to expanding the group of competent persons who are authorised to conduct the GELP assessment.

CASA considers that it should be able to approve persons such as school teachers, previously qualified instructors and examiners, and others in the aviation community to conduct GELP assessments. By expanding the network of assessors, the cost of administering the assessments is expected to reduce.

A person needs to satisfy the GELP standards for the purposes of undertaking solo flights and when applying for an RPL. According to the regulations, holding a current AELP assessment does not satisfy the GELP standard. Consequently, the holder of an AELP assessment is required to satisfy the GELP standard to conduct solo flights and apply for an RPL. The AELP standard is considered an acceptable means of satisfying the GELP standard.

The language proficiency standard for the AROC is currently the AELP standard, and that includes testing in aeronautical terminology. Terminology that is relevant to the AROC is addressed in the AROC specific training course that is mandated by Part 64 of CASR. Therefore, the AELP standard is considered unnecessary for the AROC and the GELP standard would be more appropriate.

The GELP standard in the Part 61 MOS does not clearly state whether a person is required to provide the evidence mentioned in both subclauses 5.1.1 and 5.1.2 of Section 1 of Schedule 2 to meet the standard. It is CASA's view that a person meets the GELP standard if the person provides evidence mentioned in either, and not necessarily both, of those subclauses.

These issues were addressed by CASA by granting the exemptions in instrument CASA EX146/15, which expires at the end of September 2018.

Instrument

This instrument continues the arrangements under CASA EX146/15.

Section 1 gives the instrument the name *CASA EX111/18 — English Language Proficiency Assessments Exemption 2018*.

Section 2 of the instrument provides that the instrument commences on 1 October 2018 and is repealed at the end of 30 September 2021.

Section 3 of the instrument contains definitions for the instrument. It introduces new concepts of an **alternative AELP assessment holder**, an **approved person**, an **ELP assessment holder** and a **GELP holder**.

An **approved person** is a person approved by CASA under section 4 of the instrument to conduct an assessment of a person's AELP or GELP.

An **alternative AELP assessment holder** is an individual who applied, in writing, to an approved person for an assessment of the individual's AELP, and has been assessed by the approved person as meeting the ICAO level 6 standard in the Part 61 MOS.

Under subsection 3 (1), a **GELP holder** is defined in subsections 3 (2) and (3) as a person who: provides an assessment report described in subsection 3 (2); or provides evidence of the person meeting the requirement mentioned in subclause 5.1.2 of the GELP unit and has sufficient GELP for flight or radio communication purposes as assessed by an assessor mentioned in subsection 3 (4).

If the person provides an assessment report, the report must state that the person is able to perform each of the elements mentioned in clause 2 of the GELP unit according to the performance criteria mentioned for the element and within the range of variables mentioned in clause 3 of the GELP unit. This requirement reflects the requirements in subsection 8.5 of the Part 61 MOS and subclause 5.1.1 of the GELP unit, but does not include the requirement that the report be completed by a person authorised under Part 61 of CASR to perform general English language assessments.

Instead, under subsection 3 (2) of the instrument, the assessment report must have been completed by CASA, an examiner, or an approved person. Therefore, to become a GELP holder, a person can provide either the assessment report in accordance with subsection 3 (2), or evidence mentioned in subclause 5.1.2 of the GELP unit plus sufficient GELP for flight

and/or radio communication purposes in accordance with subsection 3 (3). The person is not required to provide both an assessment report and the evidence mentioned in subclause 5.1.2 of the GELP unit.

An **ELP assessment holder** is a person who either has a current AELP assessment conducted under regulation 61.255 of CASR or is an alternative AELP assessment holder or a GELP holder, as those terms are defined in section 3.

The term **GELP unit** is defined to mean the unit entitled *GEL General English language proficiency* in Section 1 of Schedule 2 of the Part 61 MOS.

Section 3 has signpost definitions of the terms **aviation English language proficiency assessment** and **aviation English language proficiency assessor** that point to the definitions of those terms in regulation 61.010 of CASR. Regulation 61.010 of CASR defines **aviation English language proficiency assessment** to mean an AELP assessment conducted under regulation 61.255 of CASR. Regulation 61.010 of CASR defines **aviation English language proficiency assessor** to mean the holder of an approval under regulation 61.270 of CASR to conduct an AELP assessment.

Section 3 also contains definitions of the abbreviated terms **AELP**, **GELP** and **MOS**.

Section 4 of the instrument provides for CASA to approve a person to conduct assessments of individuals' AELP or GELP. The person approved by CASA becomes an **approved person** for the purposes of the instrument. A decision by CASA to refuse to approve a person under section 4 is subject to merits review by the Administrative Appeals Tribunal.

The exemptions in section 5 of this instrument allow a person to apply directly to an AELP assessor who has been approved under regulation 61.270 of CASR for an AELP assessment. It exempts a person who applies directly to an AELP assessor from the requirements in subregulations 61.255 (1), (2) and (3). It therefore removes the need for a person to apply to, and be assessed by, CASA or an examiner before being referred to an AELP assessor.

The exemptions in section 6 exempt a person who has a current AELP assessment from the requirements in subparagraph 61.160 (b) (iii), subparagraph 61.235 (2) (a) (vi) and regulation 61.265 of CASR. Those provisions relate to the GELP of a person seeking an RPL. In effect, the exemption removes the requirement for a person who has a current AELP assessment to meet the relevant GELP requirements.

The exemptions in section 7 apply to alternative AELP assessment holders, that is, individuals who have applied, in writing, to a person approved by CASA under section 4, and have been assessed by the approved person as meeting the ICAO level 6 standards in the Part 61 MOS. Section 7 exempts alternative AELP assessment holders from various provisions of CASR that would otherwise be satisfied by a person holding a current AELP assessment or, for the provisions relating to an RPL, meeting the GELP requirements.

The effect of the exemptions in section 7 is to deem a person as meeting the relevant English language proficiency requirement if the person has been assessed as having English language proficiency at the expert level by a person approved by CASA.

The exemptions in section 8 apply to a GELP holder, that is a person who has evidence of meeting the requirement in subclause 5.1.2 of the GELP unit, or has been assessed as meeting the elements in the GELP unit by CASA, an examiner, an approved person, the head of operations of a Part 141 or 142 operator, or the holder of a pilot instructor rating and a grade 1

training endorsement who has been nominated by the head of operations of a Part 141 or 142 operator.

Section 8 exempts a GELP holder from the requirements in subparagraph 61.160 (b) (iii), subparagraph 61.235 (2) (a) (vi) and regulation 61.265 of CASR. Those provisions relate to the GELP of a person seeking an RPL. In effect, the exemption deems that a GELP holder will have met the relevant GELP requirements in regulation 61.265 of CASR.

Section 8 also exempts a GELP holder from the requirements in regulations 64.015, 64.025 and 64.035 of CASR to have a current AELP assessment. Those provisions relate to the requirements for obtaining an AROC and transmitting on an aeronautical radio. CASA considers that it is unnecessary for a person to have a current AELP assessment to obtain an AROC and use an aeronautical radio. The GELP standard is more appropriate.

Section 8, therefore, allows for a person's GELP to be assessed by a broader group of people, including persons approved by CASA under section 4 of this instrument. It also effectively deems a person who meets one of the requirements in paragraphs 5.1.2 (a) to (f) of the GELP unit to have met the English language proficiency requirements of the specified provisions of CASR.

Section 9 provides an exemption for flight instructors, pilot instructors and Part 141 and 142 operators in relation to ELP assessment holders. The term ***ELP assessment holder*** is defined in section 3 of the instrument to mean alternative AELP assessment holders, GELP holders and people who have a current AELP assessment. The terms ***GELP holder*** and ***alternative AELP assessment holder*** are also defined in section 3 of this instrument. In effect, it allows flight instructors, pilot instructors and Part 141 and 142 operators to recognise English language proficiency assessments conducted by a broader range of people than is allowed by the regulations, and to recognise qualifications or work experience mentioned in subclause 5.1.2 of the GELP unit.

Subsection 9 (1) exempts a flight instructor from subparagraph 61.1225 (2) (b) (iii) of CASR. It therefore allows a flight instructor to approve a student pilot to conduct a solo flight if the student is an ELP assessment holder.

Subsection 9 (2) exempts a pilot instructor from compliance with regulation 61.1227 of CASR. It therefore allows a pilot instructor to approve a person who does not hold a flight crew licence, or the holder of an RPL who does not hold a flight radio endorsement, to use an aeronautical radio if the person is an ELP assessment holder.

Subsection 9 (3) exempts Part 141 operators from paragraph 141.306 (2) (c) of CASR, and subsection 9 (4) exempts Part 142 operators from paragraph 142.386 (2) (c) of CASR. They therefore allow Part 141 and 142 operators to permit a student pilot to conduct a solo flight for the first time if the student, amongst other things, is an ELP assessment holder.

Section 10 of the instrument imposes a condition on the exemption from compliance with subregulation 64.025 (2) or paragraph 64.025 (3) (b) of CASR. Those provisions of regulation 64.025 require that an application for an AROC is accompanied by evidence of specific types of English language proficiency assessment. Instead, under the condition, the applicant's application for the grant of an AROC must be accompanied by evidence of the applicant's AELP or GELP, which may be an assessment obtained from a broader range of persons or evidence of the qualifications or work experience mentioned in subclause 5.1.2 of the GELP unit.

Renewal of CASA EX146/15 and expected amendments to CASR

The exemption is expressed to commence on 1 October 2018, which is immediately after the repeal of the previous exemption on this topic, CASA EX146/15.

The exemption is expressed to operate until it is repealed at the end of 30 September 2021. However, the exemption is an interim measure, pending substantive amendments to relevant provisions of CASR which will remove the need for the exemption. These amendments will be part of a larger set of amendments to Part 61 and related Parts of CASR for which CASA has provided drafting instructions to the Office of Parliamentary Counsel (**OPC**). It is expected that, subject to the capacity of OPC to produce them in the context of competing priorities arising from government drafting demands, the amendments will be made and in force within the next 12 months to 2 years.

Legislation Act 2003 (the LA)

Paragraph 98 (5A) (a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft.

Additionally, paragraph 98 (5AA) (a) of the Act provides that an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. This instrument applies to several classes of persons, including applicants for various civil aviation authorisations, pilot instructors, flight instructors, Part 141 operators and Part 142 operators. The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

The proposals reflected in this instrument were discussed with representatives of the aviation industry at meetings of the Flight Crew Licensing Subcommittee of the Standards Consultative Committee in November 2014 and March 2015. The Subcommittee supported the proposals.

At the request of the aviation industry, CASA EX146/15 was issued to remove unnecessary restrictions on the assessment of English language proficiency for student pilots, applicants for flight crew licences, and applicants for AROCs. It is of beneficial effect to the industry and only has an administrative effect, since these persons are still required to satisfy English language proficiency standards that are prescribed in the Part 61 MOS.

CASA EX111/18 continues the exemption in CASA EX146/15. CASA has not received any adverse feedback from industry that the exemptions and the conditions on the exemption are not appropriate. CASA understands that the exemptions remain appropriate for the aviation industry. In these circumstances, it is CASA's view that it is not necessary or appropriate to undertake any consultation under section 17 of the LA.

Statement of Compatibility with Human Rights

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

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (**RIS**) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required for exemptions (OBPR id: 14507).

Making and commencement

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

The instrument commences on 1 October 2018 and ceases when it is repealed at the end of 30 September 2021.

Statement of Compatibility with Human Rights

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

CASA EX111/18 — English Language Proficiency Assessments Exemption 2018

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

The legislative instrument allows persons, in addition to CASA and flight examiners, to conduct English language proficiency assessments for student pilots, applicants for pilot licences, and applicants for aeronautical radio operator certificates (**AROC**). Those assessments are required under various provisions, including Part 61 (Flight crew licensing), of the *Civil Aviation Safety Regulations 1998 (CASR)*.

The instrument also provides for applicants for an AROC to meet the general English language proficiency (**GELP**) standard, instead of the aviation English language proficiency standard.

The legislative instrument affects the GELP standard in the Part 61 Manual of Standards (the **Part 61 MOS**) made under Part 61 of CASR. The Part 61 MOS provides that a person meets the GELP standard if the person provides the evidence mentioned in subclauses 5.1.1 and 5.1.2 of the GELP unit set out in the Part 61 MOS. Subclause 5.1.1 requires an assessment report that states the person satisfies the prescribed GELP elements. Subclause 5.1.2 requires evidence of meeting 1 of several requirements relating to qualifications or work experience. Under this legislative instrument, a person is required to provide the evidence mentioned in either subclause 5.1.1 or 5.1.2 to satisfy the GELP standard, rather than providing the evidence mentioned in both of those subclauses.

The legislative instrument also provides corresponding exemptions for flight training organisations and instructors to allow them to recognise the English language proficiency assessments and options under the GELP standard provided for by the instrument.

The purpose of the instrument is to provide greater flexibility and potentially reduced costs in the administration of the English language proficiency standards for pilots and people operating aeronautical radios.

Human rights implications

Right to work

The right to work, contained in Article 6 (1) of the International Covenant on Economic, Social and Cultural Rights, includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept. The right to work is promoted by this

instrument as it provides administrative flexibility for pilots and aeronautical radio operators to obtain the civil aviation authorisations that are necessary to perform their duties.

Other rights

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

Conclusion

This legislative instrument is compatible with human rights as it does not adversely impact any human rights.

Civil Aviation Safety Authority