Instrument number CASA EX63/20

I, shane patrick carmody, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160 and 11.185 of the *Civil Aviation Safety Regulations 1998*.

**[Signed S. Carmody]**

Shane Carmody
Director of Aviation Safety

6 April 2020

CASA EX63/20 — Licensing, and Operator Training and Checking (Extensions of Time Due to COVID-19) Exemptions Amendment Instrument 2020 (No. 1)

1 Name

 This instrument is *CASA EX63/20 — Licensing, and Operator Training and Checking (Extensions of Time Due to COVID-19) Exemptions Amendment Instrument 2020 (No. 1)*.

2 Duration

 This instrument:

(a) commences on the day it is registered; and

(b) is repealed at the end of 31 March 2021.

3 Amendment of CASA EX57/20

 Schedule 1 amends *CASA EX57/20 — Licensing, and Operator Training and Checking (Extensions of Time Due to COVID-19) Exemptions Instrument 2020*.

Schedule 1 Amendments

[1] Subsection 3 (1), Definitions

insert

***Part 141 certificate*** means a certificate issued under regulation 141.060 of CASR.

***Part 141 operator*** is the holder of a Part 141 certificate.

***Part 142 authorisation*** has the same meaning as in subregulation 142.015 (5) of CASR.

***Part 142 operator*** is the holder of a Part 142 authorisation.

[2] After subsection 3 (1), Definitions

insert

 (1A) In this instrument, a reference to anything approved by CASA means approved by CASA in writing.

[3] After paragraph 4 (1) (b)

insert

(ba) to a person who:

 (i) is the holder of a Part 141 certificate or a Part 142 authorisation that was in force immediately before the commencement of this instrument; and

 (ii) is not the subject of an active show cause notice; and

(bb) to a person who:

 (i) is the holder of a balloon flight crew licence that was in force immediately before the commencement of this instrument; and

 (ii) is not the subject of an active show cause notice; and

[4] Paragraph 6 (2) (b)

omit

medical certificate

insert

approval

[5] Section 7, the heading

repeal and substitute

7 Exemptions — Flight reviews and recent experience

[6] Subsection 7 (1)

omit

The holder of a flight crew licence

insert

The holder of a flight crew licence or a balloon flight crew licence

[7] Paragraph 7 (3) (f)

repeal and substitute

(f) 61.1060;

(g) regulation 5.143 of CAR.

[8] After paragraph 8 (2) (x)

insert

(y) subregulation 5.04 (1) of CAR;

(z) subregulations 5.07 (1) and (2) of CAR;

(za) regulation 5.56 of CAR.

[9] After subparagraph 8 (3) (a) (i)

insert

 (ia) produce; or

[10] After section 8

insert

8A Exemptions — medical certificates for certain flight tests

 (1) This section applies to each of the following persons (as the case applies):

(a) an applicant for a flight test (a ***relevant flight test***) for a commercial pilot licence or an air transport pilot licence (the ***relevant licence***) who:

 (i) is the holder of a flight crew licence to whom this instrument applies; and

 (ii) any time after 1 January 2018 held a class 1 medical certificate which has expired, or will expire before the applicant takes a relevant flight test in 2020 after the commencement of this instrument; and

 (iii) holds a class 2 medical certificate;

(b) a Part 141 operator and the operator’s head of operations, with respect to an applicant mentioned in paragraph (a);

(c) a Part 142 operator and the operator’s head of operations, with respect to an applicant mentioned in paragraph (a).

 (2) Each person mentioned in subsection (1), is exempted from the requirements of the provisions, mentioned in subsection (3), that apply to the person, in relation to the holding of a valid class 1 medical certificate for the purposes of the provision, but only to the extent mentioned in subsection (4).

 (3) For subsection (2), the provisions are the following;

(a) subparagraphs 61.235 (2) (c) (i) and (4) (b) (ii);

(b) sub-subparagraph 61.1300 (3) (b) (i) (A) and subregulation 61.1300 (5);

(c) subregulation 141.210 (1);

(d) subregulation 142.245 (1).

 (4) For subsection (2), the exemption applies to each provision only to the following extent, namely, for, and for the duration of, a relevant flight test taken in 2020 after the commencement of this instrument.

[11] Subsection 9 (4)

repeal and substitute

 (4) For paragraph (3) (c), the exemption applies to each provision:

(a) if the operator does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020; and

(b) if the operator has an approved safety plan — until the end of 31 March 2021.

[12] Subsection 10 (2)

repeal and substitute

 (2) For subsection (1), the exemption applies to each provision:

(a) if the operator does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020; and

(b) if the operator has an approved safety plan — until the end of 31 March 2021.

[13] Paragraphs 12 (3) (a) and (b)

repeal and substitute

(a) if the DAMP organisation does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020;

(b) if the DAMP organisation has an approved safety plan — until the end of 31 March 2021;

[14] Paragraphs 12 (3) (c)

omit

obligations; and

insert

obligations;

[15] Paragraphs 13 (2) (a) and (b)

repeal and substitute

(a) if the AOC holder does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020;

(b) if the AOC holder has an approved safety plan — until the end of 31 March 2021;

[16] Paragraph 13 (2) (c)

omit

relevant flight crew member,

insert

relevant crew member,

[17] Paragraph 13 (2) (c)

omit

the crew members safety obligations;

insert

the crew member’s safety obligations;

[18] After section 13

insert

14 Exemptions — Parts 141 and 142 operators

 (1) This section applies, as the case requires, to:

(a) a Part 141 operator and a Part 142 operator (an ***operator***); and

(b) an operator’s head of operations.

 (2) An operator and an operator’s head of operations to whom a provision of CASR mentioned in subsection (3) applies is exempt from the provision but only to the extent mentioned in subsection (4).

 (3) For subsection (2), the provisions are the following:

(a) subregulation 141.110 (1) — with respect to the head of operations regarding subparagraphs (4) (b) (i) and (iv);

(b) subregulation 141.175 (1);

(c) subregulation 141.185 (1);

(d) subregulation 141.265 (1);

(e) subregulation 141.290 (1);

(f) subregulation 141.300 (1);

(g) paragraph 142.100 (1) (d) — for the head of operations;

(h) paragraph 142.120 (1) (b) — for the head of operations;

(i) subregulation 142.165 (1);

(j) subregulation 142.225 (1);

(k) subregulation 142.230 (1);

(l) subregulation 142.320 (1);

(m) subregulation 142.345 (1);

(n) subregulation 142.365 (1) — with respect to paragraphs 142.340 (1) (i), (k), and (s);

(o) subregulation 142.375 (1).

 (4) For subsection (2), the exemption applies to each provision only to the following extent:

(a) to the extent that a contravention of, or a failure to comply with, the provision arose strictly and directly from compliance with the terms and conditions of another exemption under this instrument;

(b) if the operator does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020;

(c) if the operator has an approved safety plan — until the end of 31 March 2021.

15 Exemptions – Part 137 operators – operator proficiency checks

 (1) This section applies to each person (an ***operator***) who is the holder of an AOC that authorises the conduct of aerial application operations under Part 137 of CASR.

 (2) An operator to whom a provision of CASR mentioned in subsection (3) applies is exempt from the provision only:

(a) if the requirement in subsection (4) is met; and

(b) for the applicable extension period mentioned in subsection (5).

 (3) For subsection (2), the provisions are the following:

(a) regulation 137.235;

(b) regulation 137.240.

 (4) For paragraph (2) (a), the exemption applies to each provision only if the pilot in command of the operator’s aeroplane held a valid operator proficiency check on 1 March 2020.

 (5) For paragraph (2) (b):

(a) for an operator proficiency check, under the applicable regulation, that expires after 1 March 2020 but on or before 31 July 2020 — the extension period is 3 months from the expiry date;

(b) for an operator proficiency check, under the applicable regulation, that expires after 31 July 2020 but on or before 30 September 2020 — the extension period is 2 months from the expiry date;

(c) for an operator proficiency check, under an applicable regulation, that expires after 30 September 2020 but on or before 30 November 2020 — the extension period is 1 month from the expiry date.

16 Exemptions – Part 137 operators – operations manuals

 (1) Each of the following:

(a) an operator (the ***operator***) to whom Part 137 of CASR applies;

(b) each crew member of the operator (the ***crew members***);

(c) other persons engaged on aerial application operations for the operator (***other persons***);

 is exempted from the applicable requirements of the provisions mentioned in subsection (2), but only to the extent mentioned in subsection (3).

 (2) For subsection (1), the provisions of CASR are:

(a) regulation 137.055;

(b) regulation 137.080;

(c) regulation 137.085.

 (3) For subsection (1), the exemption applies to each provision:

(a) only to the extent that, because of the effect of another exemption in another provision of this instrument:

 (i) the operator would have to amend or revise, and make available, the operations manual to comply with regulation 137.055; or

 (ii) the crew member or other persons would have to comply with instructions in the operations manual that are no longer appropriate solely because of the effect of the other exemptions; and

(b) only if the operator ensures that the crew members and other persons are informed of the applicable effects of this section; and

(c) only in accordance with subsection (4).

 (4) For subparagraph (3) (c), the exemption applies to each provision until the end of 2020.

17 Exemptions — balloon flight instructors

 (1) This section applies to a person (the ***holder***) mentioned in paragraph 4 (1) (bb) who:

(a) is required to hold a flight instructor (balloon) rating that is in force, in order to engage in any of the activities mentioned in paragraph 16.5 of Civil Aviation Order 40.7 (***CAO 40.7***) (***balloon training and checking etc.***); and

(b) on 1 March 2020 — held a flight instructor (balloon) rating that was in force; and

(c) is, or is employed by, a balloon AOC holder authorised to conduct balloon training and checking etc. (a ***relevant AOC holder***).

 (2) A holder to whom a provision of CAO 40.7 mentioned in subsection (3) applies is exempt from the provision but only to the extent mentioned in subsections (3) and (4).

 (3) For subsection (2), the provisions are each of the following provisions of CAO 40.7, to the extent that the provision requires a person to be the holder of a flight instructor (balloon) rating that is in force:

(a) sub-subparagraph 4.6 (b) (ii);

(b) sub-subparagraph 5.2 (d) (ii);

(c) sub-subparagraph 5.7 (b) (ii).

 (4) For subsection (2), the exemption applies to each provision only to the following extent:

(a) to the extent that the holder’s flight instructor (balloon) rating expired after 1 March 2020 and has not been renewed;

(b) an unsuccessful attempt to pass the flight test for renewal of the holder’s flight instructor (balloon) rating has not been made;

(c) if the relevant AOC holder does not have a safety risk mitigation plan approved by CASA (an ***approved safety plan***) — only until the end of 30 June 2020;

(d) if the relevant AOC holder operator has an approved safety plan — until the end of 31 March 2021.