



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX37/21

I, GRAEME MILLS CRAWFORD, Acting Director of Aviation Safety, on behalf of CASA, make this instrument under regulation 11.160 and subregulation 47.015 (1B) of the *Civil Aviation Safety Regulations 1998*.

[Signed G.M. Crawford]

Graeme M. Crawford
Acting Director of Aviation Safety

1 April 2021

CASA EX37/21 – Educational, Training or Research Use of Certain RPA as if They were Model Aircraft – Prescription and Exemption Instrument 2021

1 Name

This instrument is *CASA EX37/21 – Educational, Training or Research Use of Certain RPA as if They were Model Aircraft – Prescription and Exemption Instrument 2021*.

2 Duration

This instrument:

- (a) commences on 9 April 2021; and
- (b) is repealed at the end of 28 February 2022.

3 Definitions

- (1) In this instrument:

CASR means the *Civil Aviation Safety Regulations 1998*.

relevant class of RPA means the class of RPA mentioned in subsection 5 (2)

- (2) Subject to subsection (1), in this instrument words and phrases have the same meaning as in CASR.

4 Application

This instrument applies to the operator of an RPA within the relevant class of RPA.

Note **Relevant class of RPA** is defined in section 3.

5 Prescription of certain aircraft

- (1) For paragraph 47.015 (1) (i) of CASR, the class of RPA mentioned in subsection (2) (**relevant class of RPA**) is prescribed as not required to be registered.

Note Paragraph 47.015 (1) (i) requires an aircraft to be registered **unless** it is an aircraft that is prescribed by an instrument under subregulation 47.015 (1B). Subregulation 47.015 (1B)

provides that CASA may by instrument prescribe classes of RPA that do not require to be registered. This is such an instrument.

- (2) For subsection (1), the relevant class of RPA is RPA that are micro RPA, very small RPA, and small RPA whose gross weight is not more than 7 kg, that, but for the effect of subregulation 202.466 (1) of CASR would be defined as model aircraft within the meaning of paragraph 101.023 (1) (b) of CASR.

Note The effect of section 5 is that an aircraft within the relevant class of RPA — in practical terms not RPA but “model aircraft” with a gross weight of not more than 7 kg, used in schools or higher education institutions exclusively for education, training or research purposes — is not required to be registered. However, any with a gross weight over 250 g will be required to be registered on and from 1 March 2022 because by then this exemption will have expired and they will become newly defined model aircraft subject to registration as such.

The definition of **model aircraft** within the meaning of paragraph 101.023 (1) (b) is, relevantly, an aircraft that has a gross weight of not more than 7 kg, **and** is being operated in connection with the educational, training or research purposes of:

- (a) a school in relation to which there is an approved authority under the *Australian Education Act 2013*; or
(b) a higher education provider within the meaning of the *Higher Education Support Act 2003*.

However, under subregulation 202.466 (1), this definition of model aircraft in subregulation 101.023 (1) does not apply until the **model aircraft stage 1 application day** — which is defined under subregulation 202.0229 (1) as, in effect, 1 March 2022. In the meantime, a model aircraft is relevantly defined in the CASR Dictionary as an aircraft that is only used for sport or recreation. An aircraft that would be operated within the meaning of paragraph 101.023 (1) (b) (“school/higher education” model aircraft) is almost certainly not an aircraft only used for sport or recreation, and under Part 101 of CASR would, therefore, by default, be considered to be a micro, very small or small RPA (that is with a gross weight of not more than 25 kg). It is not desirable that during the period until 1 March 2022, aircraft that, on and after that date, will unequivocally be “school/higher education” model aircraft, should be treated in all respects as if they were RPA.

6 Exemptions

- (1) The owner and the operator (as the case requires) of each RPA within the relevant class of RPA are exempted from compliance with the requirements of each regulation in Subpart 101.F of CASR, subject to the conditions in section 7.

Note Subpart 101.F of CASR contains rules for the operation of RPA, for remote pilot licences, for certification of RPA operators, and for operation of RPA for hire or reward. The effect of the exemption is that **none** of these RPA rules will have any application to an RPA within the relevant class of RPA which are, in practical terms, not RPA but “model aircraft”. The reason for this is that on and from 1 March 2022, each of these RPA within the relevant class of RPA will legally be a newly defined model aircraft and the rules in Subpart 101.F would not apply to such model aircraft. Therefore, nor should those rules apply now to RPA within the class of RPA that are, in practical terms, “model aircraft”.

- (2) The owner and the operator (as the case requires) of each RPA within the relevant class of RPA are exempted from compliance with the requirements of each regulation in Subpart 101.FA of CASR, subject to the conditions in section 7.

Note Subpart 101.FA of CASR contains rules for excluded RPA, micro RPA and newly defined model aircraft accreditation. The effect of the exemption is that **none** of these accreditation rules will have any **direct** application to an RPA within the relevant class of RPA because such an RPA is not an excluded RPA, not a micro RPA and not a newly defined model aircraft. However, the accreditation rules under Subpart 101.FA will, as intended by this instrument, apply **indirectly** to an RPA within the relevant class of RPA by virtue of the condition in subsection 7 (2).

7 Conditions

- (1) The operator of each RPA within the relevant class of RPA must comply with the requirements of CASR Subpart 101.G — Model aircraft as if:
 - (a) each RPA were a model aircraft; and
 - (b) the requirements of Subpart 101.G — Model aircraft applied to each RPA as they would apply to a model aircraft.
- (2) The operator of each RPA within the relevant class of RPA must comply with the requirements of Subpart 101.FA of CASR as if:
 - (a) each RPA were a model aircraft; and
 - (b) the requirements of Subpart 101.FA applied to each RPA as they would apply to a model aircraft.

Note Thus, the operator of an RPA within the relevant class of RPA must hold a valid accreditation under Subpart 101.FA in order to operate that RPA as a model aircraft. However, under subregulation 101.374E (2) of CASR, accreditation may only be given to a person who is at least 16 years old. Under subregulation 101.374B (2), a person must be accredited (or hold a remote pilot licence (a **RePL**)) in order to operate a model aircraft of gross weight of more than 250 g. However, under subregulation 101.374B (4), persons who are under 16 may operate a model aircraft if supervised by a person who is at least 18 years old and is relevantly accredited or holds a relevant RePL.

- (3) The operator of each RPA within the relevant class of RPA must not operate the RPA:
 - (a) other than in accordance with the requirements of Subpart 101.G, as if the RPA were a model aircraft to which the Subpart applies; or
 - (b) for any purpose other than in connection with the educational, training or research purposes of:
 - (i) a school in relation to which there is an approved authority under the *Australian Education Act 2013*; or
 - (ii) a higher education provider within the meaning of the *Higher Education Support Act 2003*; or
 - (c) for, or on behalf of, any entity other than a school or higher education provider mentioned in subparagraph (b) (i) or (b) (ii), or for any purpose other than the educational, training or research purposes of that school or higher education provider.
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