



# Australian Government

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## Civil Aviation Safety Authority

Instrument number CASA EX81/21

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

**[Signed P. Spence]**

Pip Spence  
Director of Aviation Safety

1 October 2021

### **CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021**

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#### **Part 1 Preliminary, Definitions and Application**

##### **1 Name**

This instrument is *CASA EX81/21 – Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

##### **2 Duration**

This instrument:

- (a) commences on 2 December 2021; and
- (b) is repealed at the end of 1 December 2024 (thereby, for paragraph 11.250 (a) of CASR, ceasing to be in force on and from the beginning of 2 December 2024).

##### **3 Definitions**

- (1) In this instrument:

***aircraft*** means an aircraft to which Part 91 of CASR applies.

***CAR*** means the *Civil Aviation Regulations 1988*, as in force immediately before 2 December 2021, and any mention of a provision of CAR refers to that provision as so in force.

***CASR*** means the *Civil Aviation Safety Regulations 1998*.

***medical certificate*** has the meaning given by the CASR Dictionary.

***medical exemption*** has the same meaning as in regulation 61.010 of CASR.

***recreational aviation medical practitioner's certificate*** has the same meaning as in regulation 61.010 of CASR.

***State of the operator*** has the same meaning as “***State***, for an operator”, as given by the CASR Dictionary.

***the Act*** means the *Civil Aviation Act 1988*.

- (2) To avoid doubt, in this instrument, unless a contrary intention appears:
  - (a) words and expressions have the same meaning as in Part 91 of CASR, the CASR Dictionary and the Act, as applicable; and
  - (b) mention of a provision with the prefix “91.” is a reference to that provision as contained in Part 91 of CASR.
- (3) To avoid doubt, any document incorporated into this instrument is so incorporated as it is in force from time to time.

#### **4 Application**

- (1) This instrument applies, according to its terms, to the operator, and the pilot in command, of an aircraft to which Part 91 of CASR applies.
- (2) This instrument also applies, according to its terms, to certain other persons.

### **Part 2 Directions**

#### **5 Flight manual instructions — direction**

The pilot in command for the flight and operation of an aircraft must ensure that any activity in relation to the flight or operation, whether occurring before, during or after the flight, is conducted in a way that meets each requirement or limitation for the activity mentioned in the aircraft flight manual instructions for the aircraft.

#### **6 Recreational aviation medical practitioner’s certificate — direction**

- (1) This section applies if a flight crew member of an aircraft for a flight:
  - (a) does not hold a medical certificate for the flight; but
  - (b) holds one of the following (the *medical document*):
    - (i) a recreational aviation medical practitioner’s certificate;
    - (ii) a medical exemption.
- (2) Subject to subsection (3), the pilot in command of the aircraft for the flight must ensure that, when the aircraft begins the flight, a physical or electronic copy of the medical document is carried on the aircraft.
- (3) Subsection (2) does not apply if:
  - (a) aerobatic manoeuvres will be conducted during the flight; and
  - (b) carriage of the document on the aircraft would present a risk to the safety of the aircraft or persons on board the aircraft.

#### **7 Photographic identity documents — direction**

- (1) In this section:  
*identifier* means each flight crew member document mentioned in paragraph 91.105 (2) (b) that is carried on to an aircraft for a flight.  
*Note* An *identifier* is a particular photographic identification document or a passport.
- (2) The pilot in command of the aircraft for the flight must ensure that, when the aircraft begins the flight, each identifier is one that:
  - (a) has been issued within the 10 years preceding the day of the flight; and
  - (b) has not expired or been cancelled since it was issued.

## 8 Requirements for permitted persons conducting audits — direction

- (1) In this section:

***permitted person*** has the same meaning as in paragraph 91.725 (1) (b), but only with respect to the conduct of an audit.

*Note* Permitted person, in this section, means only a person authorised by the operator of an aircraft to conduct an audit of the operation involved.

- (2) The operator of an aircraft must ensure that a permitted person carried on an aircraft for a flight to audit the operation involved (a ***relevant operation***) has:
- (a) successfully completed training, in accordance with a written syllabus accepted in writing by the operator, for a person to audit the relevant operation; and
  - (b) satisfied the operator that the person is competent in such auditing by possessing the skill, knowledge and experience to audit the particular activity that the person is to audit.
- (3) The pilot in command of a flight must be satisfied that a permitted person on the flight to conduct an audit meets the requirements of subsection (2).
- (4) For subsection (2), the operator must ensure that, as soon as practicable after the operation, a written audit report is:
- (a) received from the permitted person; and
  - (b) assessed to determine whether any changes are required for the safety of the operation.
- (5) Each audit report and its assessment must be retained by the operator for at least 3 years after the date of the assessment.
- (6) In this section, a written syllabus is accepted in writing by the operator if:
- (a) for a syllabus devised by the operator — the syllabus is included in the operator's operations manual, training and checking manual, or exposition (the ***relevant place***); and
  - (b) for a syllabus devised other than by the operator — a reference to the syllabus is included in the operator's relevant place.

## 9 Requirements for crew members carrying out audits, checks, examinations etc. — direction

- (1) In this section:

***crew member*** has the same meaning as in paragraph (c) of the definition of crew member in the CASR Dictionary, but only with respect to a crew member as authorised by the aircraft operator to conduct an audit.

*Note* Crew member, for this section, means only a person authorised by CASA under the Regulations, or by the operator, to carry out an audit of a crew member mentioned in paragraph (a) or (b) of the definition of ***crew member*** in the CASR Dictionary.

- (2) The operator of an aircraft must ensure that a crew member carried on an aircraft for a flight to audit a person mentioned in paragraph (a) or (b) of the definition of ***crew member*** in the CASR Dictionary (a ***relevant person***) has:
- (a) successfully completed training, in accordance with a written syllabus accepted in writing by the operator, for a person to audit the relevant operation; and
  - (b) satisfied the operator that the crew member is competent in such auditing by possessing the skill, knowledge and experience to audit the particular activity that the person is to audit.

- (3) The pilot in command of a flight must be satisfied that a crew member (within the meaning of this section) on the flight to conduct an audit meets the requirements of subsection (2).
- (4) For subsection (2), the operator must ensure that, as soon as practicable after the flight, a written report of the audit is:
  - (a) received from the crew member; and
  - (b) assessed to determine whether any changes are required for the safety of the operation.
- (5) Each audit report and each audit assessment must be retained by the operator for at least 3 years after the date of the assessment.
- (6) In this section, a written syllabus is accepted in writing by the operator if:
  - (a) for a syllabus devised by the operator — the syllabus is included in the operator's operations manual, training and checking manual, or exposition (the ***relevant place***); and
  - (b) for a syllabus devised other than by the operator — a reference to the syllabus is included in the operator's relevant place.

## **10 Training for a foreign class rating or a type rating — direction**

- (1) In this section:  
***permitted person***, for this section, has the same meaning as in subregulation 91.725 (1).  
*Note* In general terms only, a permitted person means a crew member, a person authorised to audit or supervise the operation, or an authorised person carrying out a particular examination, inspection or test.
- (2) This section applies to the pilot in command of an aircraft flight to train a flight crew member for the aircraft class rating, type rating, or foreign equivalent, to be granted under a law of a foreign country.
- (3) For the flight, the pilot in command:
  - (a) may only carry permitted persons; and
  - (b) must not carry more than 4 permitted persons (inclusive of the pilot in command).
- (4) This section does not affect the operation of regulation 91.725 according to its terms.

## **11 RESERVED**

### **Part 3 Exemptions and related directions**

## **12 Maintaining a continuous watch for ATS standard visual signals — exemption**

- (1) This section applies to the pilot in command of an aircraft that is part of aerodrome traffic at a controlled aerodrome (a ***relevant aircraft***).
- (2) The pilot in command is exempted from compliance with subregulations 91.405 (1) and (6), but only to the extent of the requirement under paragraph 91.405 (2) (a) (the requirement that a ***continuous watch*** for instructions given visually by Air Traffic Services for the aerodrome using standard visual signals must be maintained).

- (3) The exemption in subsection (2) is subject to the condition that, if it is not possible to maintain the continuous listening watch mentioned in paragraph 91.405 (2) (b), the pilot in command must maintain *a watch* for instructions given visually by Air Traffic Services for the aerodrome using standard visual signals.

### **13 Safety when rotorcraft operating on the ground — exemption**

- (1) This section applies to a person who operates a foreign registered rotorcraft on the ground.
- (2) The person is exempted from compliance with regulation 91.430, but only to the extent of the requirement, under subparagraph 91.430 (2) (a) (ii), that the person must be authorised to pilot the rotorcraft by the rotorcraft's State of registry.
- (3) The exemption in subsection (2) is subject to the condition that the person must be authorised to pilot the rotorcraft by the State of the operator.

### **14 Pilot permission for carriage of animals — exemption and direction**

- (1) This section applies to a person who brings an animal onto an aircraft for a flight (the *relevant flight*) that is:
  - (a) an Australian air transport operation; or
  - (b) an aerial work operation conducted by an aerial work operator.
- (2) The person is exempted from compliance with the following:
  - (a) subregulation 91.620 (1);
  - (b) subregulation 91.620 (8), but only to the extent of a contravention of subregulation 91.620 (1).
- (3) Each exemption in subsection (2) is subject to the condition that the person has permission to bring the animal onto the aircraft for the relevant flight, from:
  - (a) the relevant Australian air transport operator; or
  - (b) the relevant aerial work operator.

#### **Direction to operator**

- (4) The relevant operator may give the person permission provided that the operator and the relevant pilot in command take reasonable steps to ensure that the carriage of the animal does not have an adverse effect on the safety of air navigation.

### **15 Communication monitoring in controlled airspace — exemption**

- (1) This section applies to the pilot in command of an aircraft for a flight (a *relevant aircraft*) if:
  - (a) during the flight, the relevant aircraft is flown in controlled airspace; and
  - (b) while flying in that airspace, the pilot in command does not continuously monitor the primary communications medium used by air traffic control.
- (2) The pilot in command is exempted from compliance with regulation 91.635.
- (3) The exemption in subsection (2) is subject to the condition that the pilot in command must ensure that, when the relevant aircraft is flying in controlled airspace, the primary communications medium used by air traffic control in that airspace is continuously monitored by:
  - (a) the pilot in command; or
  - (b) another pilot who occupies a pilot seat in the aircraft.

## 16 Training for certain activity ratings or endorsements — exemption

- (1) In this section:

***permitted person***, for this section, has the same meaning as in subregulation 91.725 (1).

*Note* In general terms only, a permitted person means a crew member, a person authorised to audit or supervise the operation, or an authorised person carrying out a particular examination, inspection or test.

- (2) This section applies to the pilot in command of an aircraft for a flight (the ***relevant aircraft***) who permits the training mentioned in subparagraph 91.725 (2) (b) (iv) that is:
- (a) the training mentioned in Part 61 of CASR for the grant of a low-level rating or an aerial application rating; or
  - (b) other training for the grant of an equivalent qualification under a law of a foreign country.
- (3) The pilot in command is exempted from compliance with each of the following:
- (a) subregulation 91.725 (2), but only to the extent that it applies for an activity mentioned in subparagraph (b) (iv) that is the training mentioned in subsection (2);
  - (b) paragraph 91.725 (4) (b), but only to the extent that it applies to the training mentioned in subsection (2);
  - (c) subregulation 91.725 (5), but only to the extent of a contravention of paragraph 91.725 (4) (b).
- (4) Each exemption in subsection (3) is subject to the condition that the pilot in command:
- (a) may only carry permitted persons; and
  - (b) must not carry more than 4 permitted persons (inclusive of the pilot in command).

## 17 Rotorcraft simulation of emergency and abnormal situations — exemption

- (1) In this section:

***permitted person***, for this section, has the same meaning as in subregulation 91.725 (1).

*Note* In general terms only, a permitted person means a crew member, a person authorised to audit or supervise the operation, or an authorised person carrying out a particular examination, inspection or test.

- (2) This section applies to the pilot in command of a rotorcraft for a flight who permits the simulation (other than verbally) of an emergency or abnormal situation that may affect the handling characteristics of the rotorcraft.
- (3) The pilot in command is exempted from compliance with each of the following:
- (a) subregulation 91.725 (2), but only to the extent that it applies for an activity mentioned in subparagraph 91.725 (2) (b) (ii);
  - (b) paragraph 91.725 (4) (b), but only to the extent that it applies for an activity mentioned in subparagraph 91.725 (2) (b) (ii);
  - (c) subregulation 91.725 (5), but only to the extent of a contravention of a provision as mentioned in, and qualified by, this subsection.
- (4) Each exemption in subsection (3) is subject to the condition that the pilot in command:

- (a) may only carry permitted persons; and
- (b) must not carry more than 3 permitted persons (inclusive of the pilot in command), but may carry 4 permitted persons if the pilot in command is satisfied that the presence of a fourth permitted person is essential for the safe conduct of the flight.

## **18 Multi-engine rotorcraft – simulation of engine failure at night – exemption**

- (1) This section applies to the pilot in command of a multi-engine rotorcraft for a flight at night in VMC for the purpose of:
  - (a) pilot training, checking or testing; or
  - (b) aircrew training, checking or testing; or
  - (c) other training, checking or testing;during which:
  - (d) a failure of one of the rotorcraft's engines is simulated; and
  - (e) persons other than flight crew members are carried; and
  - (f) the rotorcraft is not flown within the circling area of an aerodrome in accordance with subparagraph 91.775 (2) (f) (i).
- (2) The pilot in command is exempted from compliance with subregulation 91.775 (1), but only to the extent of the requirements mentioned in the following:
  - (a) paragraphs 91.775 (2) (b), (c) and (f);
  - (b) subregulation 91.775 (3), but only to the extent of a contravention of paragraph 91.775 (2) (b), (c), or (f).
- (3) Each exemption in subsection (2) is subject to the following conditions:
  - (a) the requirements of regulation 91.775, other than those under the provisions mentioned in subsection (2), must be complied with for the flight;
  - (b) the pilot in command, and any pilot undergoing training, checking or testing, must each use the aircraft's NVIS as the primary means of terrain avoidance for safe air navigation by means of visual surface reference external to the aircraft;
  - (c) the use of NVIS is in accordance with all of the requirements of the civil aviation legislation for NVIS;
  - (d) only crew members necessary for achieving the purposes of the flight may be on board the rotorcraft during the flight;
  - (e) for paragraph (d), sufficient crew members must be on board if more than one kind of crew member is undergoing training, checking or testing.

*Note* The exemption does not affect the application of the provisions of regulation 91.775 for which no exemptions are provided, nor does it affect the other NVIS-related requirements contained in the civil aviation legislation, such as the CASR Part 91 operational NVIS requirements or the CASR Part 61 NVIS rating requirements.