



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX73/23

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

28 July 2023

CASA EX73/23 — Registration of Exempt Aircraft (Operators, Prospective Owners and Initial Owners) Instrument 2023

1 Name

This instrument is *CASA EX73/23 — Registration of Exempt Aircraft (Operators, Prospective Owners and Initial Owners) Instrument 2023*.

2 Duration

This instrument:

- (a) commences on the day after it is registered; and
- (b) is repealed at the end of 30 June 2026.

Note For the purposes of regulation 11.250 of CASR, the direction in section 9 ceases to be in force at the end of 30 June 2026.

3 Definitions

Note In this instrument, certain terms and expressions have the same meaning as they have in the *Civil Aviation Act 1988* and the regulations. These include: **aeroplane**, **aircraft**, **Australian air transport operation**, **Australian Civil Aircraft Register**, **EASA**, **FARs** and **multi-engine aeroplane**.

In this instrument:

exempt aircraft means a new turbine-engine aeroplane:

- (a) to which Part 121 (other than Subpart 121.Z) of CASR applies; and
- (b) that its manufacturer will operate for production flight testing, customer demonstration flights and other pre-delivery activities:
 - (i) if the manufacturer is located in the European Union — in a foreign country in the European Union; or

- (ii) otherwise — in the foreign country in which the aeroplane was manufactured.

Note Under subregulation 121.005(1) of CASR, Part 121 (other than Subpart 121.Z) applies to the operation of a multi-engine aeroplane for an Australian air transport operation if either or both of the following apply in relation to the aeroplane:

- (a) it has a maximum operational passenger seat configuration of more than 9;
- (b) it has a maximum take-off weight of more than 8,618 kg.

initial owner means a person:

- (a) who has purchased an exempt aircraft from its manufacturer; and
- (b) to whom the manufacturer has transferred ownership of the exempt aircraft.

intervening period means the period:

- (a) beginning when the exempt aircraft is registered in reliance on the exemption in subsection 4(1); and
- (b) ending immediately before the manufacturer transfers ownership of the exempt aircraft to the initial owner.

operator means the operator of an exempt aircraft.

prospective owner means a person:

- (a) who has purchased an exempt aircraft from its manufacturer; and
- (b) to whom the manufacturer has not transferred ownership of the exempt aircraft.

Note An operator may be the same person as, or a different person from, a prospective owner and an initial owner.

4 Exemption — prospective owners of unregistered exempt aircraft

- (1) A prospective owner is, in relation to an exempt aircraft that has not been registered in reliance on the exemption in this subsection, exempt from compliance with the following provisions of CASR:
 - (a) subregulation 47.060(1);
 - (b) subregulations 47.060(2) to (4), to the extent that the subregulations require an application to register an unregistered aircraft to be made by, or include information about:
 - (i) the owner of the aircraft; or
 - (ii) a person acting on behalf of, and at the direction or request of, the owner;
 - (c) regulation 47.065, to the extent that the regulation requires information to be included in the application about:
 - (i) the owner of the aircraft; or
 - (ii) a person acting on behalf of the owner;
 - (d) subregulation 47.080(1).

Note 1 The intended effect of subsection 4(1) is that a prospective owner may:

- (a) make an application for registration of an exempt aircraft in accordance with regulation 47.060 of CASR as if it were the owner of the aircraft or a person acting on behalf of, and at the direction or request of, the owner; and
- (b) instead of including in the application particular information mentioned in regulation 47.065 of CASR related to the owner of an aircraft — include particular information related to the prospective owner or a person acting on behalf of the prospective owner.

Note 2 Under subregulation 47.080(1) of CASR, CASA must register an aircraft if the application for the registration of the aircraft is made in accordance with regulation 47.060. Subregulation 47.060(1) of CASR provides that an application to register an unregistered aircraft may be made by the owner or a person who is acting on behalf of, and at the direction or request of, the owner. Subregulations 47.060(2) to (4) of CASR set out requirements for an application for registration including, relevantly in paragraph (3)(b), that it must include the information set out in regulation 47.065. The information mentioned in regulation 47.065 of CASR includes, relevantly, the following:

- (a) in paragraphs (a) and (b), the name and address of, respectively, the owner of the aircraft and a person making an application for registration on behalf of the owner;
 - (b) in paragraph (aa), if the aircraft is owned by more than 1 person — the name and signature of the owner who is appointed to act on behalf of the owners.
- (2) The exemption in subsection (1) is subject to the conditions mentioned in section 7.

5 Exemption — prospective owners of registered exempt aircraft

A prospective owner is, in relation to an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1), exempt from compliance with CAR and CASR, other than Part 11 of CASR.

6 Exemption — operators of registered exempt aircraft

- (1) An operator is, in relation to an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1), exempt from compliance with CAR and CASR, other than the following provisions:
- (a) Part 11 of CASR;
 - (b) in relation to applying to CASA for approval of a proposed maintenance program for the aircraft — regulations 42.970 and 42.975 of CASR;
 - (c) in relation to applying to CASA for approval of a proposed reliability program for the aircraft — regulation 42.1045 of CASR.

Note 1 Under subregulation 42.970(1) of CASR, the person responsible for continuing airworthiness for an aircraft may apply to CASA for approval of a proposed maintenance program for the aircraft. Under subregulation 42.970(2) of CASR, the person responsible for continuing airworthiness for an aircraft must apply to CASA for approval of a proposed maintenance program for the aircraft if a circumstance mentioned in paragraph 42.970(2)(a), (b) or (c) exists. Regulation 42.975 requires that an application to CASA for approval of a proposed maintenance program must:

- (a) be in writing; and
- (b) include a copy of the program; and
- (c) if the program does not comply with particular requirements mentioned in paragraph (c) — include the technical justification for the non-compliance.

Note 2 Under regulation 42.1045(1) of CASR, the person responsible for continuing airworthiness for an aircraft to which regulation 42.155 applies may apply to CASA, in writing, for approval of a proposed reliability program for the aircraft. Under subregulation 42.1045(2) of CASR, the application must include a copy of the program. Subregulation 42.155(2) sets out the aircraft to which regulation 42.155 applies.

- (2) The exemption in subsection (1) is subject to the condition mentioned in section 8.
- (3) This section ceases to apply to the operator at the time the manufacturer transfers ownership of the exempt aircraft to its initial owner.

7 Conditions — prospective owners of unregistered exempt aircraft

- (1) A prospective owner must ensure that an application for registration of an exempt aircraft made in reliance on the exemption in subsection 4(1) includes:
 - (a) a letter from its manufacturer confirming the manufacturer's agreement to the aircraft being registered on the Australian Civil Aircraft Register before its transfer of ownership; and
 - (b) a certificate (however described), issued by the national aviation authority of the foreign country in which the aircraft was manufactured, stating that the aircraft is not registered.
- (2) A prospective owner must, within 24 hours of becoming aware that they will not apply for registration of an exempt aircraft in reliance on the exemption in subsection 4(1) for any reason, notify CASA of that fact, in writing.
- (3) If the ownership of an exempt aircraft that is registered in reliance on the exemption in subsection 4(1) is not transferred to an initial owner before the repeal of this instrument, the registration of the aircraft is taken to have lapsed.
- (4) A prospective owner must, within 24 hours of becoming aware that ownership of the exempt aircraft will be transferred to a person other than the prospective owner during the intervening period, notify CASA of that fact, in writing.

8 Condition — operators of registered exempt aircraft

An operator must ensure that an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1) is operated:

- (a) by its manufacturer in accordance with the manufacturer's production approval certificate (however described) issued by the national aviation authority of the foreign country in which the aircraft was manufactured, as the certificate exists from time to time; and
- (b) for production flight testing, customer demonstration flights and other pre-delivery activities:
 - (i) if the activities mentioned in paragraph (b) are carried out in a foreign country in the European Union — in accordance with the related legislation of the foreign country in which the activities are carried out, as in force from time to time; or
 - (ii) otherwise — in accordance with the related legislation of the foreign country in which the aircraft was manufactured, as in force from time to time.

Note 1 At the time of making this instrument, the most common manufacturers of exempt aircraft are the following:

- (a) Airbus S.A.S of Blagnac, France (***Airbus***);
- (b) The Boeing Company of Arlington, Virginia, United States of America (***Boeing***);
- (c) Empresa Brasileira de Aeronáutica S.A. of São José dos Campos, São Paulo, Brazil (***Embraer***).

At the time of making this instrument, the production approval certificate issued to Airbus is freely available to view or download at <https://www.airbus.com/sites/g/files/jlcbta136/files/2021-11/Airbus-certificate-EASA-21G-0001.pdf>. However, the production approval certificates issued to Boeing and Embraer are not freely available to view or download and CASA cannot reliably obtain copies of those certificates with a view to making them available to a user of the instrument.

Note 2 At the time this instrument is made, examples of legislation of the kind mentioned in paragraph 8(b), include, but are not necessarily limited to, the following:

- (a) *Commission Regulation (EU) No 748/2012*, freely available to view or download at <https://www.easa.europa.eu/en/document-library/regulations/consolidated-version-commission-regulation-eu-no-7482012>;
- (b) *FARs, Part 21—Certification Procedures for Products and Articles*, freely available to view or download at <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-C/part-21>

Note 3 This information is intended to assist operators and prospective owners with forward planning of related operations. An operator or prospective owner who intends a foreign pilot to fly an exempt aircraft after it has been registered in reliance on the exemption in subsection 4(1), must ensure that the foreign pilot completes an aviation security status check. Completing that process is part of applying for a certificate of validation in accordance with the following relevant Australian legislation:

- (a) in the *Civil Aviation Act 1988* — paragraph 20AB(1)(a) and the definition of ***civil aviation authorisation*** in section 3;
- (b) in the *Civil Aviation Safety Regulations 1998* — subregulations 91.105(1) and (4), subparagraph 91.105(2)(a)(ii) and the definition of ***certificate of validation*** in regulation 61.010;
- (c) in the *Aviation Transport Security Regulations 2005* — subregulation 6.54(2) and regulations 6.56, 6.56A and 6.57.

9 Direction — initial owners

An initial owner must, within 24 hours after the manufacturer transfers ownership of an exempt aircraft that is registered in reliance on the exemption in subsection 4(1), provide CASA with:

- (a) a copy of the bill of sale issued by the manufacturer for the aircraft; and
- (b) written notice confirming the transfer, as well as the time and date of the transfer.

Note An initial owner may be the same person as, or a different person from, an operator.