

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration) Exemption 2024

Purpose

The purpose of *CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration) Exemption 2024* (the **instrument**) is to provide members of the recreational aviation community with an alternative to the existing classes of medical certificate that they are required to hold, all of which have historically been issued only after a medical assessment by a medical practitioner.

This is achieved by exempting several classes of persons from certain obligations imposed by Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*, which would otherwise require them to be assessed by a medical practitioner and to obtain a class 1 or 2 medical certificate or a recreational aviation medical practitioner's certificate to conduct certain activities in an aircraft. Those persons will be exempt from the obligations that CASR would otherwise impose if they have instead successfully completed an online assessment of their own medical fitness and the Civil Aviation Safety Authority (*CASA*) has acknowledged their completion by giving them a "record of class 5 medical self-declaration".

The following are the key features of the scheme established by the instrument:

- the classes of persons who may be exempt are:
 - student pilots conducting solo flights in an aircraft and the flight instructors who supervise or make assessments of them; and
 - applicants for a recreational pilot licence, or for the grant of a rating other than an operational rating on such a licence, who are undertaking flight tests, as well as flight examiners, Part 141 operators and Part 142 operators involved in such flight tests; and
 - holders of private pilot licences or recreational pilot licences who are exercising the privileges of the licence in a single-pilot operation and pilots in command of aircraft for a flight with flight crew who hold such a licence;
- those persons will be exempt only if they successfully complete an online self-assessment of medical fitness process, which includes the following steps:
 - assessing their own medical fitness in accordance with the *Guidelines – Medical Assessment for Aviation*, a *CASA* publication that outlines the principles of aeromedical risk assessment and the assessment of medical fitness;
 - completing an online medical knowledge test;
 - self-declaring certain matters, including that they:
 - do not have certain disqualifying medical conditions; and
 - are not regularly taking or using a disqualifying medication or substance; and
 - do not have a personal history of problematic use of certain substances; and
 - have not had a private driver licence or medical certificate refused or cancelled on medical grounds;
- *CASA* will acknowledge the successful completion of that online self-assessment process by automatically giving a person who completes the process a record of class 5 medical

- self-declaration, which (unless the holder is required to surrender it earlier by a condition of their exemption) will generally be effective for 5 years, with the following variations:
- for pilots over 40 years old, or with a conditional driver licence (including those who develop a medical condition), a period of 2 years applies;
 - for pilots 75 years old and over, an annual renewal is required;
 - the exemptions are subject to conditions, some of which relate to minimising the risk of pilots experiencing medically induced issues that may lead to in-flight impairment or incapacitation, including requirements that the exempt person:
 - advises CASA of changes in their medical status that may affect aviation safety; and
 - ends a flight as soon as practicable if their efficiency becomes impaired mid-flight for a medical reason; and
 - surrenders their record of class 5 medical self-declaration if it is out-of-date or if their efficiency becomes impaired;
 - other conditions are imposed on the exemptions to limit operations, and are designed to reduce both the likelihood of medical-related risks occurring, and the consequences of risks if they do occur, including conditions:
 - limiting the operations to private operations or permitted class 5 training conducted wholly within Australian territory; and
 - requiring operation only under the visual flight rules (*VFR*) by day; and
 - prohibiting operation above 10 000 feet above mean sea level; and
 - limiting any aircraft's certificated maximum take-off weight to 2 000 kg; and
 - prohibiting the use of a Part 61 operational rating (such as an instructor rating); and
 - prohibiting formation flying and aerobatic manoeuvres; and
 - restricting the number of people on board a flight to no more than two persons;
 - a person will not be able to rely on an exemption, and may commit an offence if they conduct the relevant activity in an aircraft without complying with the normal regulatory requirements of CASR about holding a class 1 or 2 medical certificate, if:
 - the renewal date specified in their record of class 5 medical self-declaration has passed;
 - their medical circumstances change after they complete the online self-assessment of medical fitness process, for instance:
 - they are diagnosed with a disqualifying condition; or
 - they start regularly taking or using a disqualifying medication or substance; or
 - their private driver licence is cancelled for medical reasons; or
 - they breach a direction given by CASA about the consequences of breaching the conditions (for instance, if they operate outside of the operational limitations); or
 - they are found not to have made full and accurate disclosure when they completed the online self-assessment of medical fitness process (which may happen as a result of CASA issuing directions requiring accurate information);
 - a person who does not comply with all of the conditions to which an exemption is subject may be guilty of the strict liability offence created by regulation 11.210 of CASR of failing to comply with the obligations imposed by a condition.

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made CASR.

Exemptions

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160(1) of CASR provides that, for subsection 98(5A) of the Act, CASA may grant an exemption from compliance with a provision of the regulations.

Under subregulation 11.160(2) of CASR, an exemption may be granted to a person or a class of persons and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160(3) of CASR, an exemption may be granted on application by a person or on CASA's own initiative.

Under subregulation 11.170(3) of CASR, in deciding whether to grant an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to grant an exemption on its own initiative.

Regulation 11.205 provides that 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.

Regulation 11.225 of CASR requires an exemption to be published on the internet. Under subregulation 11.230(1), the maximum duration of an exemption is 3 years.

Part 61 of CASR

The operational regulations for different kinds of aviation activities conducted in Australian registered aircraft (CASR Parts 91, 121, 133, 135, 137, 138, 141 and 142) require pilots to hold the licences, ratings and endorsements required by CASR.

Part 61 of CASR sets out the licensing scheme for pilots and flight engineers of registered aircraft. Part 61 also includes content related to different kinds of ratings and endorsements that authorise licence holders to conduct more specialised aviation activities. Under Part 61, exercising the privileges of different licences requires the pilot to hold particular kinds of medical authorisations.

Part 67 of CASR

Currently, Part 67 of CASR sets out the requirements relating to medical certification and the requirements for designated aviation medical examiners and designated aviation ophthalmologists that undertake medical assessments. At present, pilots and air traffic controllers must hold a current medical certificate or medical exemption to exercise the privileges of their pilot licence. For pilots, different classes of medical certificates are required to conduct different kinds of operations or hold different kinds of pilot licences. Prior to the making of the instrument, the different kinds of aviation medical options are as follows:

- a class 1 medical certificate;
- a class 2 medical certificate;
- a medical exemption (this is a specific medical document; it is not an exemption in the sense of CASR Part 11);
- a recreational aviation medical practitioner's certificate;

- an aviation medical certificate (**basic class 2**) (which is enabled as an option by *CASA EX69/21 Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificates) Exemption 2021*).

Provisions of CASR that are the subject of the exemptions

The instrument exempts persons from the following obligations under CASR:

- the obligation on a student pilot to hold a class 1 or 2 medical certificate to be authorised to conduct a solo flight in an aircraft other than a recreational aircraft (paragraph 61.114(2)(a));
- the obligation on a student pilot to hold a class 1 or 2 medical certificate or a recreational aviation medical practitioner's certificate to be authorised to conduct a solo flight in a recreational aircraft by day (paragraphs 61.114(4)(a) and (b));
- the obligation on a flight instructor to approve a person to pilot an aircraft as a student pilot only in an authorised way, one aspect of which is compliance with medical certificate requirements for student pilots (subparagraph 61.1225(1)(b)(iii));
- the obligation on an applicant for a recreational pilot licence to hold a class 1 or 2 medical certificate or a current recreational aviation medical practitioner's certificate to be eligible to take a flight test for the licence that is to be conducted in an aircraft (paragraph 61.235(2)(c));
- the obligation on an applicant for a rating on a recreational pilot licence to hold a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate to be eligible to take a flight test for the grant of the rating that is to be conducted in an aircraft (subparagraph 61.235(4)(b)(i));
- the obligation on a flight examiner conducting a flight test in an aircraft for an applicant for a recreational pilot licence to be satisfied that the applicant holds a current medical certificate of the class required for the exercise of the privileges of the licence (subparagraph 61.1300(3)(b)(i));
- the obligation on a flight examiner conducting a flight test in an aircraft for an applicant for a rating on a recreational pilot licence to be satisfied that the applicant holds a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate (subregulation 61.1300(5));
- the obligation on a Part 141 operator and the operator's head of operations to ensure that an applicant for a recreational pilot licence recommended for a flight test by the head of operations, or by a person named in the operator's operation manual as responsible for the authorised Part 141 flight training to which the flight test relates, is eligible to take the flight test under paragraph 61.235(2)(c), which requires an applicant for a recreational pilot licence to hold a class 1 or 2 medical certificate or a current recreational aviation medical practitioner's certificate to be eligible to take a flight test for the licence that is to be conducted in an aircraft (subregulation 141.210(1));
- the obligation on a Part 141 operator and the operator's head of operations to ensure that an applicant for a rating on a recreational pilot licence recommended for a flight test by the head of operations, or by a person named in the operator's operations manual as responsible for the authorised Part 141 flight training to which the flight test relates, is eligible to take the flight test under subparagraph 61.235(4)(b)(i), which requires the rating applicant to hold a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate to be eligible to take a flight test for the grant of the rating that is to be conducted in an aircraft (subregulation 141.210(1));
- the obligation on a Part 142 operator and the operator's head of operations to ensure that a person who is recommended for a flight test by the head of operations, or by a person

named in the operator's exposition as responsible for the Part 142 activity to which the flight test relates, is eligible to take the flight test under paragraph 61.235(2)(c), which requires an applicant for a recreational pilot licence to hold a class 1 or 2 medical certificate or a current recreational aviation medical practitioner's certificate to be eligible to take a flight test for the licence that is to be conducted in an aircraft (regulation 142.245);

- the obligation on a Part 142 operator to not permit a person to fly an aircraft as pilot in command in the conduct of an authorised Part 142 activity for the operator unless the person is authorised under Part 61 to fly the aircraft as pilot in command, including under:
 - paragraph 61.235(2)(c), which requires an applicant for a recreational pilot licence to hold a class 1 or 2 medical certificate or a current recreational aviation medical practitioner's certificate to be eligible to take a flight test for the licence that is to be conducted in an aircraft; or
 - subparagraph 61.235(4)(b)(i), which requires a rating applicant to hold a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate to be eligible to take a flight test for the grant of the rating that is to be conducted in an aircraft (regulation 142.365);
- the obligation on a person who holds a private pilot licence to also hold a current class 1 or 2 medical certificate (subregulation 61.065(1), to the extent that subregulation 61.410(1) creates the requirement);
- the obligation on a person who holds a private pilot licence to carry any current class 1 or 2 medical certificate on a flight that is a single-person operation (paragraph 61.420(b));
- the obligation on a person who holds a recreational pilot licence to also hold a current class 1 or 2 medical certificate (subregulation 61.065(1), to the extent that subregulation 61.405(1) creates the requirement);
- the obligation on a person who holds a recreational pilot licence to carry any current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate on a flight (paragraphs 61.420(b) and (c));
- the obligation on a person who holds a recreational pilot licence to hold a current class 1 or 2 medical certificate if they pilot an aircraft above 10 000 ft above mean sea level (subregulation 61.065(1), to the extent that subregulation 61.465(3) creates the requirement);
- the obligation on a pilot in command of an aircraft for a flight to ensure that the medical certificate of a member of the flight crew who holds a private pilot licence or a recreational pilot licence is carried on the aircraft (subregulation 91.105(1)).

Documents incorporated by reference

Under subsection 14(1) of the *Legislation Act 2003* (the *LA*), a legislative instrument may make provision in relation to matters by applying, adopting, or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting, or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences.

Under subsection 14(2) of the *LA*, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting, or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

However, subsection 98(5D) of the Act provides that, despite section 14 of the LA, a legislative instrument made under the Act or the regulations may apply, adopt, or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

The instrument incorporates the *Guidelines – Medical Assessment for Aviation* (which are called *Aviation Medical Guidelines* in the instrument) which are published by CASA. These guidelines have been developed with reference to the Austroads *Assessing fitness to drive* medical standards, with specific consideration of the flying task and the aviation environment and specific relevance to aviation safety. The Aviation Medical Guidelines set out the medical requirements for the proposed online self-assessment of medical fitness.

The Aviation Medical Guidelines are designed to provide pilots with information on the principles of aeromedical risk assessment and guidance for the assessment of medical fitness to be able to complete a medical self-assessment and to make a self-declaration. The guidelines are also intended to guide healthcare practitioners in the provision of appropriate advice to pilots on their medical self-assessments.

Section 6 of the instrument sets out the steps involved in successfully completing an online self-assessment of medical fitness, which include the relevant person being provided with a copy of the Aviation Medical Guidelines and declaring that they have read and understood them and that they referred to them in the process of completing the online self-assessment of their medical fitness.

The Aviation Medical Guidelines are incorporated as in force from time to time, which is permitted by subsection 98(5D) of the Act. Those guidelines are published on the CASA website, meaning they are available for free to the public.

Background

Medical standards underpin the assurance of acceptable levels of aviation safety by minimising the risk of pilots experiencing medical-induced issues that may lead to in-flight impairment or incapacitation. Part 67 of CASR sets out the requirements relating to medical certification. To date, there have been various approaches to medical certification that have been aimed towards providing improved access to a more contemporary and simplified medical certificate process whilst still ensuring safety for pilots, passengers and third parties. The introduction of the aviation medical certificate (Basic class 2) (which is enabled as an option by *CASA EX69/21 Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificates) Exemption 2021*) was an initial step towards providing a medical certificate for pilots conducting private operations that was more commensurate with these operations than the other classes of medical certificates. This instrument introduces a medical self-declaration scheme that provides an acceptable level of aviation safety for lower risk aviation activities that is more accessible to pilots with a more streamlined process.

The introduction of a streamlined self-assessment and self-declaration medical pathway is a key initiative from CASA's Part 67 reform workplan and the CASA General Aviation Workplan.

The acceptable levels of risk associated with the self-declaration scheme will be managed through operational limitations, medical limitations, and self-declared medical assurances.

Overview of instrument

The following is an overview of each Part of the instrument:

- Part 1 contains preliminary matters specifying who the instrument applies to and defining key terms used in the instrument.
- Part 2 sets out the steps involved in completing the online self-assessment of medical fitness.
- Part 3 exempts a student pilot conducting a solo flight in an aircraft from obligations regarding medical certificates if they have successfully completed the online self-assessment of medical fitness process described in Part 2 and CASA has acknowledged that with a record of class 5 medical self-declaration. Part 3 also sets out conditions to which the exemption is subject.
- Part 4 grants similar exemptions to, and imposes similar conditions on, applicants for a recreational pilot licence or for the grant of a rating other than an operational rating on such a licence who are undertaking flight tests.
- Part 5 grants similar exemptions to, and imposes similar conditions on, holders of a private pilot licence or a recreational pilot licence and a pilot in command of a flight crew with flight crew members who hold a private pilot licence and are exempted from obligations regarding medical certificates.

Content of instrument

Part 1 — Preliminary

Section 1 names the instrument.

Section 2 sets out the duration of the instrument. The instrument commences on 9 February 2024 and is repealed at the end of 8 February 2027. The instrument is intended to operate on an interim basis, after which CASR will be amended to establish the scheme in the regulations.

Section 3 lists the persons to whom the instrument applies, namely each of the following, for so long as they are engaged in certain private operations or permitted class 5 training:

- student pilots conducting solo flights in an aircraft, and the flight instructors who supervise or make assessments of them;
- applicants for a recreational pilot licence, or for the grant of a rating other than an operational rating on such a licence, who are undertaking flight tests, the flight examiners who conduct assessments of them and Part 141 operators or Part 142 operators who conduct authorised Part 141 flight training or authorised Part 142 activities of them, as the case may be, and their heads of operation;
- holders of private pilot licences or recreational pilot licences who are exercising the privileges of the licence in a single-pilot operation and pilots in command of aircraft for a flight with flight crew, where one or more of the flight crew holds such a licence.

Section 4 contains definitions of key terms and expressions used in the instrument to support the implementation of the scheme that are not already defined in CASR. Other terms and expressions are defined in the Dictionary in Schedule 1.

The following are some significant terms:

- **Aviation Medical Guidelines** is defined to mean the document entitled *Guidelines – Medical Assessment for Aviation*, published by CASA, as in force from time to time. A note makes it clear to the reader that, at the commencement of the instrument, the 1st edition (dated December 2023) of the Guidelines was available to view or download on CASA’s website at <https://casa.gov.au>.
- **online self-assessment of medical fitness process** is defined to mean the process described in section 6 of the instrument.
- **record of class 5 medical self-declaration** is defined to mean the document given to a person by CASA to acknowledge that the person has successfully completed the online self-assessment of medical fitness process.
- **renewal date**, in relation to a person’s record of class 5 medical self-declaration, means the date specified in the record as the date when the exemptions in the instrument will stop applying to the person (unless the person has been earlier required to surrender the record by a condition mentioned in subsection 11(2), 21(2) or 29(2)). The renewal date will generally be 5 years after the date of successful completion of the online self-assessment process. However, for pilots over 40 years old, or with a conditional driver licence (including those who develop a disqualifying medical condition), a period of 2 years applies. For pilots 75 years old and over, an annual renewal is required.
- **successfully completed the online self-assessment of medical fitness process** has the meaning given by section 6 of the instrument.

Part 2 — Online self-assessment of medical fitness

Part 2 sets out the steps involved in completing the online self-assessment of medical fitness process. If a person successfully completes the process, CASA will automatically acknowledge that completion by giving the person a record of class 5 medical self-declaration.

Section 5 provides that a person is eligible to apply for the online self-assessment of medical fitness only if the person is at least 16 years old.

Section 6 sets out the steps involved in a person successfully completing the online self-assessment of medical fitness process, which include the following:

- applying to CASA online and including with that application all the information required by the approved form or by the instrument;
- declaring that they have read and understood the Aviation Medical Guidelines provided to them and that they have referred to them in the process of completing the online self-assessment of their medical fitness;
- passing an online medical knowledge check;
- declaring that they have referred to and followed medical guidance;
- making full and accurate disclosure of certain health matters existing at the time of the self-assessment, including:
 - the state of the person’s health generally; and
 - the medical conditions, or symptoms of possible medical conditions, that the person is aware of having (if any); and
 - the medical treatment they have received during the 2 years before the self-assessment; and

- the medications or substances (if any) that the person has taken or used in the last 2 years; and
- any change in health, medical conditions, symptoms or medications or substances taken or used (if any) since last seeing a medical practitioner.

Part 3 — Exemptions relating to student pilots

Exemptions of student pilots conducting solo flights

Section 7 exempts a student pilot conducting a solo flight in an aircraft other than a recreational aircraft from the obligation to hold a class 1 or 2 medical certificate to be authorised to conduct a solo flight in an aircraft if they hold a record of class 5 medical self-declaration, as long as the pilot has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 10 to 14.

Section 8 exempts a student pilot conducting a solo flight in a recreational aircraft from the obligation to hold a class 1 or 2 medical certificate or a recreational aviation medical practitioner's certificate to be authorised to conduct a solo flight in an aircraft if they hold a record of class 5 medical self-declaration, as long as the pilot has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 10 to 14

Exemption relating to flight instructors of student pilots conducting solo flights

Section 9 exempts a flight instructor approving a student pilot from obligations regarding medical certificates held by a student pilot if they hold a record of class 5 medical self-declaration, as long as the pilot has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the flight instructor being satisfied that the student pilot concerned will comply with the conditions mentioned in subsection 12(1), section 13 and subsection 14(1).

Exemptions are subject to conditions

Sections 10 to 14 set out conditions to which the exemptions in sections 7 and 8 are subject.

A student pilot who does not comply with all of the conditions to which the exemption is subject (set out in sections 10 to 14) may be guilty of the offence of failure to comply with the obligations imposed by a condition to which an exemption is subject — see regulation 11.210 of CASR.

If a student pilot is found not to have made full and accurate disclosure when they completed the online self-assessment of medical fitness process (which may happen as a result of CASA issuing directions requiring accurate information), they may be guilty of an offence if they continue to undertake solo flights in an aircraft without obtaining a class 1 or 2 medical certificate.

Section 10 makes the exemptions in sections 7 and 8 subject to operational conditions:

- requiring a flight in an aircraft conducted by a person who holds a private pilot licence or a recreational pilot licence to be a private operation or permitted class 5 training that is conducted:
 - under the VFR by day; and
 - below an altitude of 10 000 feet; and

- wholly within Australian territory; and
- in an aircraft with a maximum take-off weight of 2 000 kg or less; and
- prohibiting flying in formation and the conduct of aerobatic manoeuvres.

Section 11 makes it a condition of the exemptions in sections 7 and 8 that a student pilot must notify CASA of the following matters, and surrender their record of class 5 medical self-declaration, if any of the following occur:

- they have a medically significant condition that has lasted for more than 60 days and that impairs their ability to conduct a solo flight in an aircraft;
- they have a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo required medical examination;
- they are clinically diagnosed with a disqualifying medical condition or are regularly taking or using a disqualifying medication or substance;
- they are experiencing problematic use of a substance.

The section also requires a record of class 5 medical self-declaration to be surrendered if the renewal date specified in it has passed.

Section 12 makes it a condition of the exemptions in sections 7 and 8 that a student pilot:

- must not commence a solo flight in an aircraft unless they continue to be medically fit; and
- must cease any solo flight they are conducting in an aircraft, if:
 - there are any changes in their health circumstances which may affect their ability to continue to conduct the solo flight or may otherwise have an impact on aviation safety; or
 - any issue arises in flight that causes them to have reduced capacity to control the aircraft for any period, or to change the flight plan, such as land early, divert or change altitude; and
- must notify CASA within 30 days if the licence holder knows or has reasonable grounds to believe that they have a medically significant condition that impairs their ability to conduct a solo flight in an aircraft and that condition has lasted for more than 30 days.

Section 13 makes it a condition of the exemption of a student pilot who needs correcting lenses that they must not conduct a solo flight in an aircraft unless they have acceptable correcting lenses available for use and a spare pair of spectacles for each pair of correcting lenses that the student pilot requires.

Section 14 makes it a condition of the exemptions in sections 7 and 8 that a student pilot must:

- carry their record of class 5 medical self-declaration on any solo flight in an aircraft; and
- make their record of class 5 medical self-declaration available for inspection by any authorised person who requests to inspect it.

Part 4 — Exemptions relating to applicants for recreational pilot licences or for ratings on such licences

Exemption of applicants for recreational pilot licences and ratings on them

Section 15 exempts an applicant for a recreational pilot licence undertaking a flight test in an aircraft from the obligation to hold a class 1 or 2 medical certificate or a current recreational aviation medical practitioner's certificate to be authorised to undertake a flight test in an aircraft if CASA has given the applicant a record of class 5 medical self-declaration to acknowledge their successful completion of the online self-assessment of medical fitness process, as long as the applicant has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 20 to 24.

Section 16 exempts a rating applicant undertaking a flight test in an aircraft from the obligation to hold a class 1 or 2 medical certificate or a recreational aviation medical practitioner's certificate to be authorised to undertake a flight test in an aircraft if they hold a record of class 5 medical self-declaration, as long as the rating applicant has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 20 to 24.

Exemption relating to flight examiners of applicants

Section 17 exempts flight examiners for recreational pilot licence applicants or rating applicants from obligations regarding medical certificates held by a recreational pilot applicant or rating applicant who has been given a record of class 5 medical self-declaration as long as the applicant has not been required to surrender the record and the renewal date specified in the record has not passed.

The exemptions are subject to the flight examiner being satisfied that the recreational pilot licence applicant or rating applicant concerned will comply with the conditions mentioned in subsection 22(1), section 23 and subsection 24(1).

Section 18 exempts a Part 141 operator conducting authorised Part 141 flight training of a recreational pilot licence applicant or rating applicant who has been provided with a record of class 5 medical self-declaration that has not been surrendered or expired, and the operator's head of operations, from compliance with certain obligations regarding medical certificates. The exemption is subject to the Part 141 operator being satisfied that the recreational pilot licence applicant or rating applicant concerned will comply with the conditions mentioned in subsection 22(1), section 23 and subsection 24(1).

Section 19 makes similar provision for Part 142 operators conducting authorised Part 142 flight training of an applicant. The exemption is subject to the Part 142 operator being satisfied that the applicant concerned will comply with the conditions mentioned in subsection 22(1), section 23 and subsection 24(1).

Exemptions are subject to conditions

Sections 20 to 24 set out conditions to which the exemptions in sections 15 to 19 are subject, either in full or in part.

Section 20 makes the exemptions in sections 15 and 16 subject to operational conditions:

- requiring a flight test in an aircraft undertaken by a recreational pilot licence applicant or rating applicant to be a private operation or permitted class 5 training that is conducted:
 - under the VFR by day; and
 - below an altitude of 10 000 feet; and
 - wholly within Australian territory; and
 - in an aircraft with a maximum take-off weight of 2 000 kg or less; and
- prohibiting flying in formation and the conduct of aerobatic manoeuvres; and
- prohibiting a flight test from involving more than two persons being on board the aircraft.

Section 21 makes it a condition of the exemptions in sections 15 and 16 that a recreational pilot licence applicant or rating applicant must notify CASA of the following matters, and surrender their record of class 5 medical self-declaration, if any of the following occur:

- they have a medically significant condition that has lasted for more than 60 days and that impairs their ability to undertake a flight test in an aircraft;
- they have a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo required medical examination;
- they are clinically diagnosed with a disqualifying medical condition or are regularly taking or using a disqualifying medication or substance;
- they are experiencing problematic use of a substance.

The section also requires a record of class 5 medical self-declaration to be surrendered if the renewal date specified in it has passed.

Section 22 makes it a condition of the exemptions in sections 15 and 16 that a recreational pilot licence applicant or rating applicant:

- must not commence a flight test in an aircraft unless they continue to be medically fit; and
- must cease any flight test they are undertaking in an aircraft, if:
 - there are any changes in their health circumstances which may affect their ability to continue to undertake the flight test or may otherwise have an impact on aviation safety; or
 - any issue arises in flight that causes them to have reduced capacity to control the aircraft for any period, or to change the flight plan, such as land early, divert or change altitude; and
- must notify CASA within 30 days if they know or have reasonable grounds to believe that they have a medically significant condition that impairs their ability to undertake a flight test in an aircraft and that condition has lasted for more than 30 days.

For the exemptions in sections 17, 18 and 19, subsection 22(1) makes it a condition that the relevant flight examiner, Part 141 operator or Part 142 operator, or their head of operations, as the case may be, is reasonably satisfied that the recreational pilot licence applicant or rating applicant concerned will not commence a flight test in an aircraft unless they continue to be medically fit.

Section 23 makes it a condition of the exemption of a recreational pilot licence applicant or rating applicant who needs correcting lenses that they must not commence a flight test in an aircraft unless they have acceptable correcting lenses available for use and a spare pair of

spectacles for each pair of correcting lenses that the person requires. This condition applies to the exemptions in sections 17, 18 and 19, as well as those in sections 15 and 16.

Section 24 makes it a condition of the exemptions in sections 15 and 16 that a recreational pilot licence applicant or rating applicant must:

- carry their record of class 5 medical self-declaration on any flight test in an aircraft; and
- make their record of class 5 medical self-declaration available for inspection by any authorised person who requests to inspect it.

For the exemptions in sections 17, 18 and 19, subsection 24(1) makes it a condition that the flight examiner is reasonably satisfied that the recreational pilot licence applicant or rating applicant concerned will carry their record of class 5 medical self-declaration on any flight test in an aircraft.

Part 5 — Exemptions relating to holders of a private pilot licence or a recreational pilot licence

Exemptions of holders of private pilot licences and recreational pilot licences

Section 25 exempts the holder of a private pilot licence from the obligation to hold, and to carry on a flight, a medical certificate to be authorised to exercise the privileges of their licence in a single-pilot operation if they hold a record of class 5 medical self-declaration as long as the holder of the licence has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 28 to 32.

Subsection 26(1) exempts the holder of a recreational pilot licence from the obligation to hold a medical certificate to be authorised to exercise the privileges of their licence in a single-pilot operation if they hold a record of class 5 medical self-declaration as long as the holder has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 28 to 32.

Subsection 26(2) exempts the holder of a recreational pilot licence from the obligation to carry any current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate on the flight to be authorised to exercise the privileges of the licence if they hold a record of class 5 medical self-declaration as long as the holder has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 28 to 32.

Subsection 26(3) exempts the holder of a recreational pilot licence from the obligation to hold a medical certificate to be authorised to pilot an aircraft above 10 000 ft above mean sea level if they hold a record of class 5 medical self-declaration, as long as the holder has not been required to surrender the record and the renewal date specified in the record has not passed. The exemption is expressed to be subject to the conditions in sections 28 to 32.

Exemptions of pilots in command of certain flight crews

Section 27 exempts a pilot in command of a flight crew with flight crew members who hold a private pilot licence from obligations regarding medical certificates if the flight crew member holds a record of class 5 medical self-declaration that has not been surrendered or expired.

The exemption is expressed to be subject to the conditions in subsection 30(1), section 31 and subsection 32(1). A pilot in command is responsible for satisfying themselves that the holder of the private pilot licence or recreational pilot licence concerned complies with the conditions.

Exemptions are subject to conditions

Sections 28 to 32 set out conditions to which the exemptions in sections 25 and 26 are subject.

A person relying on the exemptions who does not comply with all of the conditions to which the exemption is subject (set out in sections 28 to 32) may be guilty of the offence in regulation 11.210 of CASR.

If a person who holds a private pilot licence or recreational pilot licence is found not to have made full and accurate disclosure when they completed the online self-assessment of medical fitness process (which may happen as a result of CASA issuing directions requiring accurate information) they may also be guilty of an offence.

Sections 28 to 32 set out conditions to which the exemptions in sections 25, 26 and 27 are subject.

Section 28 makes the exemptions in sections 25 and 26 subject to operational conditions:

- requiring a flight in an aircraft conducted by a person who holds a private pilot licence or a recreational pilot licence to be a private operation or permitted class 5 training that is conducted:
 - under the VFR by day; and
 - below an altitude of 10 000 feet; and
 - wholly within Australian territory; and
 - in an aircraft with a maximum take-off weight of 2 000 kg or less; and
- prohibiting flying in formation and the conduct of aerobatic manoeuvres; and
- prohibiting more than two persons being on board the aircraft during a flight; and
- prohibiting the holder of the licence from exercising the privileges of their licence in conjunction with an operational rating.

However, none of those conditions or prohibitions limit the exercise of the privileges of the holder of a private pilot licence or a recreational pilot licence in a single-pilot operation if a flight control seat on the aircraft for the operation is occupied by a person who is authorised under CASR to conduct the operation as pilot in command; and holds a current class 1 or 2 medical certificate.

Section 29 makes it a condition of the exemptions in sections 25 and 26 that a person who holds a private pilot licence or a recreational pilot licence must notify CASA of the following matters, and surrender their record of class 5 medical self-declaration, if any of the following occur:

- they have a medically significant condition that has lasted for more than 60 days and that impairs their ability to exercise the privileges of their licence in a single-pilot operation;
- they have a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo required medical examination;

- they are clinically diagnosed with a disqualifying medical condition or are regularly taking or using a disqualifying medication or substance;
- they are experiencing problematic use of a substance.

The section also requires a record of class 5 medical self-declaration to be surrendered if the renewal date specified in it has passed.

Section 30 makes it a condition of the exemptions in sections 25 and 26 that a person who holds a private pilot licence or a recreational pilot licence:

- must not commence a flight in an aircraft unless they continue to be medically fit; and
- must cease any flight they are conducting in an aircraft, if:
 - there are any changes in their health circumstances which may affect their ability to continue to conduct the flight or may otherwise have an impact on aviation safety; or
 - any issue arises in flight that causes them to have reduced capacity to control the aircraft for any period, or to change the flight plan, such as land early, divert or change altitude; and
- must notify CASA within 30 days if the licence holder knows or has reasonable grounds to believe that they have a medically significant condition that impairs their ability to conduct a flight in an aircraft and that condition has lasted for more than 30 days.

For the exemption in section 27, subsection 30(1) makes it a condition that the relevant pilot in command is reasonably satisfied that the recreational pilot licence applicant or rating applicant concerned will not commence a flight in an aircraft unless the licence holder continues to be medically fit.

Section 31 makes it a condition of the exemptions in sections 25, 26 and 27 that the holder of a private pilot licence or recreational pilot licence who needs correcting lenses must not commence exercising the privileges of their licence in a single-pilot operation in an aircraft unless they have acceptable correcting lenses available for use and a spare pair of spectacles for each pair of correcting lenses that the person requires.

Section 32 makes it a condition of the exemptions in sections 25 and 26 that a person who holds a private pilot licence or a recreational pilot licence must:

- carry their record of class 5 medical self-declaration on any flight in an aircraft; and
- make their record of class 5 medical self-declaration available for inspection by any authorised person who requests to inspect it.

For the exemption in section 27, subsection 32(1) makes it a condition that a person who holds a private pilot licence or a recreational pilot licence must carry their record of class 5 medical self-declaration on any flight in an aircraft.

Schedule 1 — Dictionary

Schedule 1 is a Dictionary that contains definitions of terms and expressions used in the instrument to support the implementation of the scheme that are not already defined in the Act, CAR or CASR.

The Dictionary includes a note listing terms and phrases that are defined in the Act or CASR, such as Australian territory, which is defined in the Act. The Dictionary also signposts several definitions located in the Act, CAR or CASR, such as *class* which is defined to mean

a class mentioned in regulation 67.145 of CASR. Consistent with paragraph 13(1)(b) of the LA and the definitions of *enabling legislation* and *primary law* in the LA, each of those definitions has the same meaning as in the Act or CASR (whichever applies), as in force from time to time.

Legislation Act 2003

Paragraph 98(5A)(a) of the Act provides that the regulations may empower CASA to 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. The instrument applies to various classes of persons (listed in section 3) and is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Sunsetting

Part 4 of Chapter 3 of the LA (the *sunsetting provisions*) does not apply to the instrument because the instrument relates to aviation safety and is made under CASR (item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). However, the instrument will be repealed when CASR is amended to establish in the regulations the scheme set out in the instrument, which will occur before the sunsetting provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunsetting does not affect parliamentary oversight of the instrument.

Consultation

The scheme established by the instrument has been developed with input from the aviation community, including the Aviation Medicine Technical Working Group (*TWG*). In August 2022, the Aviation Medicine TWG considered the options for the modernisation of aviation medical certification in Australia for pilots conducting private operations in view of the industry consultation and expert advice to date. Accordingly, the Aviation Safety Advisory Panel (*ASAP*) recommended the introduction of a self-declaration scheme.

There have been three public consultations relating the scheme reflected in the instrument:

- from December 2016 to May 2017 — the focus of this consultation was to investigate possible changes in standards for medical certification of pilots; and
- from May to June 2022 — the focus of the consultation was to explore measures to simplify and modernise CASA’s overall approach to medical certification; and
- from 27 October 2023 to 17 November 2023 — this consultation was of a draft of the instrument and related supporting materials. CASA considered the feedback provided during the public consultation as part of its finalisation of the record of class 5 medical self-declaration scheme and there was general support from the recreational aviation sector for the scheme.

CASA has engaged with the Aviation Medicine TWG. In August 2022, the Aviation Medicine TWG considered the options for the modernisation of aviation medical certification in Australia for pilots conducting private operations in view of the industry consultation and expert advice to date. Accordingly, the ASAP recommended the introduction of a

self-declaration scheme. A meeting with TWG to discuss the outcomes from the consultation phase was held on 13 December 2023.

CASA is satisfied that no further consultation is appropriate or reasonably practicable for the instrument for section 17 of the LA.

Sector risk, economic and cost impact

Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A(3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

- consider the economic and cost impact on individuals, businesses, and the community of the standards; and
- take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses, and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution, and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The economic and cost impact of the instrument has been determined by:

- the identification of individuals and businesses affected by the instrument; and
- consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements; and
- a valuation of the impact, in terms of direct costs on individuals and businesses affected by the instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government; and
- a valuation of the impact the different requirements would have on the production, distribution, and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly; and
- consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the instrument, that are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

In terms of financial cost impact, the proposed medical self-declaration scheme is expected to provide a positive financial benefit to pilots who undertake private or recreational flights that fall within the operational limitations of the record of class 5 medical self-declaration. This is on the assumption that eligible applicants can complete their medical self-assessment and do not require a medical consultation to inform their self-assessment. The relevant costs of a record of class 5 medical self-declaration for an applicant relate to three factors: the time taken to read the guidance material and other documentation and complete the eLearning module, the time associated with applying for the record of class 5 medical self-declaration and completing the declaration and the CASA application fee.

With the new medical self-declaration scheme, given that medical assessment by an AME is not mandatory, there is likely to be a reduction in the demand for medical assessment by

Designated Aviation Medical Examiners (**DAMEs**). However, the benefits to the aviation community of the new scheme would outweigh the reduction in business for DAMEs.

The proposed record of class 5 medical self-declaration is unlikely to result in any significant increase in commercial aviation activity as the savings for a medical examination are a small percentage of the operating costs of private aircraft. However, any increased participation in private aviation operations are expected to have knock-on effects to aviation operators in flying training and maintenance.

Without a significant change in the level of aviation activity, there will be no broader impact of the proposed record of class 5 medical self-declaration in terms of increasing the level of economic activity in non-aviation sectors (such as tourism). If the record of class 5 medical self-declaration scheme does not significantly induce an increase in aviation activity, there will be no significant change in the consumption of aviation goods or services nor will there be “multiplier effects” to other sectors of the economy. Similarly, any reduction in consultations for DAMEs or general practitioners (**GPs**) is unlikely to have an impact on economic activity as the pilots are likely to redirect the savings to the purchase of other goods or services.

Impact on categories of operations

In relation to private pilot licences, the record of class 5 medical self-declaration offers a pathway for pilots seeking a recreational pilot licence to be able to fly for recreation, or as an entry point for those looking to be able to commence flight training, or to explore a career pathway. A holder of a private pilot licence will be able to use a record of class 5 medical self-declaration (noting the applicable operational limitations) instead of the currently required class 1, class 2, or recreational aviation medical practitioner’s certificate.

In relation to air traffic management, with the proposed access to controlled and non-controlled airspace, there may be a potential increase in the number of recreational aircraft flying in controlled airspace.

Impact on regional and remote communities

The record of class 5 medical self-declaration policy is anticipated to provide more opportunities to pilots across Australia to access an online, streamlined medical self-declaration scheme to be eligible to conduct private operations. The proposed record of class 5 medical self-declaration may have a more significant positive impact in regional or rural areas where there are greater travelling times to DAMEs or GPs.

Office of Impact Analysis (OIA)

As discussed above, in accordance with subsection 9A(3) of the Act, an evaluation of the potential economic and cost impact associated with the policy proposal has been undertaken.

An Impact Analysis (**IA**) is not required in this case, as the exemption is covered by a standing agreement between CASA and OIA under which an IA is not required for exemptions (OIA id: 14507).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Making and commencement

The instrument has been made by the Director of Aviation Safety in accordance with subsection 73(2) of the Act.

The instrument commences on 9 February 2024 and is repealed at the end of 8 February 2027.

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

**CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration)
 Exemption 2024**

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 purpose of *CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration) Exemption 2024* (the **instrument**) is to provide members of the recreational aviation community with an alternative to the existing classes of medical certificate that they are required to hold, all of which are issued only after a medical assessment by a medical practitioner.

This is achieved by:

- exempting certain persons who make self-declarations about their medical fitness from the obligation that would otherwise be imposed on them by Part 61 of the *Civil Aviation Safety Regulations 1998* to hold an existing class of medical certificate (that is, a class 1 or class 2 medical certificate or a recreational aviation medical practitioner’s certificate), all of which are issued by a medical practitioner after examination; and
- establishing a scheme in which a person who successfully completes the online process (which involves detail disclosure about medical history and driver licensing history) will automatically be provided with a record of class 5 medical self-declaration by the Civil Aviation Safety Authority (**CASA**) and be exempt from obligations regarding class 1 and class 2 medical certificates; and
- setting out the conditions to which exemptions concerning the holder of a record of class 5 medical self-declaration are subject, some of which involve providing further information to CASA about medical conditions that emerge later.

Human rights implications

This legislative instrument engages with the right to privacy.

The right to protection against arbitrary and unlawful interference with privacy, contained in Article 17 of the International Covenant on Civil and Political Rights, provides that no-one shall be subjected to arbitrary or unlawful interference with their privacy.

The right to privacy is engaged by requirements in the instrument that require a person seeking to rely on the exemption in the instrument to provide medical information about themselves in the course of completing the online self-assessment of medical fitness process and at later times if further medical conditions emerge.

The protections afforded by the *Privacy Act 1988* continue to apply.

The requirements are necessary in order to ensure proper administration and enforcement of Australia's aviation safety system, as modified by the legislative instrument. Any potential limitation on the right to privacy is necessary, reasonable, and proportionate in promoting the objective of preserving an acceptable level of aviation safety while lowering the medical certification standards for the affected kinds of aircraft operations.

Conclusion

To the extent that the instrument engages with human rights, those engagements are reasonable, necessary, and proportionate in order to ensure the safety of aviation operations and to promote the integrity of the aviation safety system and, therefore, promote the rights to life and health.

Civil Aviation Safety Authority