

Replacement Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 2024

Purpose

The purpose of *CASA EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 2024* (the **new omnibus instrument**) is to continue the policy effect of a range of temporary exemptions from compliance with certain requirements of the *Civil Aviation Safety Regulations 1998 (CASR)*, including:

- (a) certain flight crew licensing requirements imposed by Part 61; and
- (b) certain requirements for aerial application operations imposed by Part 137; and
- (c) certain requirements for aerial work operations imposed by Part 138; and
- (d) certain requirements imposed by Parts 141 and 142, including about nominating alternative persons to carry out the responsibilities of key personnel.

This is achieved by consolidating miscellaneous exemptions that have been granted by the Civil Aviation Safety Authority (**CASA**) in the past to deal with minor unintended consequences of amendments to CASR as they arose, or to deal with anomalies or oversights as they were identified. The exemptions concerned were granted or renewed in the following instruments, both of which were repealed at the end of 31 May 2024 (the **repealed instruments**):

- (a) *CASA EX66/21 — Flight Crew Licensing (Miscellaneous Exemptions) Exemption 2021 (CASA EX66/21)*;
- (b) *CASA EX64/21 — Naming of Alternate Key Personnel (Parts 141 and 142 Operators) Exemption 2021*.

The new omnibus instrument continues the operation of the exemptions, on a temporary basis (from 1 June 2024 to the end of 31 May 2027), as they are still required to ensure the legality of longstanding industry-accepted aviation practices.

The new omnibus instrument also renews a direction that relates to exemptions from compliance with requirements concerning aerial application proficiency checks.

It is expected that eventually the new omnibus instrument will form the policy objectives and evidence base of a package of amendments to CASR to either incorporate the exemptions and the direction or achieve the same policy objectives.

The exemptions and the direction in the new omnibus instrument are in substantially the same terms as those in the repealed instruments, but the opportunity has been taken to make minor improvements to the format and drafting of provisions, including to improve consistency.

The new omnibus instrument also makes consequential amendments to two other legislative instruments that contain references to one of the repealed instruments, so that they refer instead to the new omnibus instrument.

Legislation relevant to the power to make this instrument

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.

Power to grant 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), in deciding whether to grant an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety and, under subregulation 11.175(4), in deciding whether to reissue 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 of CASR 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 (with a maximum penalty of 50 penalty units) 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.

Power to issue directions

Subpart 11.G of CASR provides for CASA to issue directions in relation to matters affecting the safety of air navigation. Under paragraph 11.245(1)(a) of CASR, CASA may, by instrument, issue a direction about any matter affecting the safe navigation and operation of aircraft. Subregulation 11.245(2) of CASR provides that CASA may issue such a direction if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation, if the direction is not inconsistent with the Act, and for the purposes of CASA's functions.

Under paragraph 11.250(a) of CASR, a direction under regulation 11.245 ceases to be in force on the day specified in the direction. Under regulation 11.255 it is an offence of strict liability (with a maximum penalty of 50 penalty units) to contravene a direction under regulation 11.245.

Power to incorporate documents 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.

Power to amend, modify or repeal another instrument

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. Under subsection 13(1) of the LA, subsection 33(3) applies to legislative instruments as if each provision of the instrument were a section of an Act.

Legislation relevant to the exemptions granted by the instrument

On 1 September 2014, new arrangements dealing with flight crew licensing commenced under Part 61 of CASR: see *Civil Aviation Legislation Amendment Regulation 2013 (No. 1)* (the ***flight crew licensing suite of regulations***). Those arrangements replaced:

- (a) the previous regulatory framework under Part 5 of the *Civil Aviation Regulations 1988 (CAR)*; and
- (b) the Civil Aviation Orders (***CAOs***), including *Civil Aviation Order 40.1.7 – Flight instructor (aeroplane) rating*, which related to the flight instructor (aeroplane) rating, and *Civil Aviation Order 40.3.7 – Flight instructor (helicopter) rating*, which related to the flight instructor (helicopter) rating.

Those new arrangements included Part 61 of CASR, which establishes the licensing scheme for flight crew (pilots and flight engineers) of registered aircraft. The scheme in Part 61 establishes various licences, ratings and endorsements.

Background: previous and related instruments

The new omnibus instrument continues the policy effect of a number of exemptions from various requirements of CASR, contained in the two repealed instruments, each of which itself continued the operation of a previous exemption, the operation of which had expired.

The background to and ongoing impact of each exemption contained in the repealed instruments, and being renewed in the new omnibus instrument, was discussed in detail in the Explanatory Statements for the earlier instruments listed in the following Table.

Part of the new omnibus instrument	Original grant of exemption	Status of exemption in May 2024
Part 2	CASA EX116/15 <i>Exemption — logging of time in flight for co-pilots on single-pilot certificated aircraft</i>	Renewed by <i>CASA EX79/18 — Logging of Flight Time as a Pilot (Co-pilots on Single-pilot Certificated Aircraft) Exemption 2018</i> Renewed as Part 2 of CASA EX66/21

Part of the new omnibus instrument	Original grant of exemption	Status of exemption in May 2024
Part 3	<i>CASA EX83/18 — Occupation of Flight Control Seat (Certain Flight Instruction and Examination Activities) Exemption 2018</i>	Renewed as Part 3 of CASA EX66/21
Part 4	<i>CASA EX41/16 Exemption — instrument proficiency check for single-pilot turbojet aeroplane type rating</i>	Renewed by CASA EX93/16 Exemption — instrument proficiency checks for aircraft pilot type ratings Renewed by CASA EX93/18 — Instrument Proficiency Checks for Aircraft Type Ratings Exemption 2018 Renewed and inserted as Part 4 of CASA EX66/21 by amendment made by <i>CASA EX106/21 — Flight Crew Licensing (Miscellaneous Exemptions) Amendment Instrument 2021 (CASA EX106/21)</i>
Part 5	<i>CASA EX97/16 Exemption — CASR Part 16 aircraft flight reviews</i>	Renewed as <i>CASA EX99/18 — Flight Reviews Exemption 2018</i> Renewed and inserted as Part 5 of CASA EX66/21 by amendment made by CASA EX106/21
Part 6	<i>CASA EX140/14 Exemption — flight examiner rating for holders of CAO 82.0 check pilot approvals</i>	Renewed as <i>CASA EX106/16 Exemption — flight examiner rating for holders of CAO 82.0 check pilot approvals</i> Renewed as <i>CASA EX100/18 — Flight Examiner Rating for CAO 82.0 Check Pilots Exemption 2018</i> Renewed and inserted as Part 6 of CASA EX66/21 by amendment made by CASA EX106/21 (which added a further exemption that would apply when <i>Civil Aviation Order 82.0</i> was to be repealed) Part 6 of CASA EX66/21 was renewed and replaced by <i>CASA EX62/22 — Amendment of CASA EX66/21 (Operator Proficiency Checks by Check Pilots) Instrument 2022</i> following the commencement on 2 December 2021 of Parts 121, 133, 135 and 138 of CASR and the amendment of <i>Civil Aviation Order 82.0</i>
Part 7	<i>CASA EX117/14 Exemption — foreign cadet pilots taking flight test for a commercial pilot licence – class 1 medical certificate</i>	Renewed as <i>CASA EX156/15 Exemption – foreign cadet pilots taking flight test for a commercial pilot licence – class 1 medical certificate</i> Renewed as <i>CASA EX101/18 — Foreign Cadet Pilots (Medical Certificate for CPL Flight Test) Exemption 2018</i> Renewed and inserted as Part 7 of CASA EX66/21 by amendment made by CASA EX106/21
Part 8	<i>CASA EX192/15 Exemption — from completion of an approved course of training in MCC</i>	Renewed as <i>CASA EX225/15 Exemption — from completion of an approved course of training in MCC</i> Renewed as <i>CASA EX102/18 — Approved Course of Training (Multi-crew Cooperation) Exemption 2018</i> (which added an exemption) Renewed and inserted as Part 8 of CASA EX66/21 by amendment made by CASA EX106/21
Part 9	<i>CASA EX143/16 Exemption — basic instrument flight training</i>	Renewed as <i>CASA EX103/18 — Basic Instrument Flight Training Exemption 2018</i> Renewed and inserted as Part 9 of CASA EX66/21 by amendment made by CASA EX106/21

Part of the new omnibus instrument	Original grant of exemption	Status of exemption in May 2024
Part 10	CASA EX148/14 Exemption — aerial application proficiency check and operator proficiency check (head of flight operations) — aeroplanes	Renewed as CASA EX162/14 Exemption – aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes Renewed as CASA EX105/16 Exemption – aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes Renewed by CASA EX104/18 — Aerial Application Proficiency Check Instrument 2018 Renewed and inserted as Part 10 of CASA EX66/21 by amendment made by CASA EX106/21
Part 11	CASA EX146/15 Exemption — English language proficiency assessments	Renewed as CASA EX111/18 — English Language Proficiency Assessments Exemption 2018 Renewed and inserted as Part 11 of CASA EX66/21 by amendment made by CASA EX119/21 — Flight Crew Licensing (Further Miscellaneous Exemptions) Amendment Instrument 2021
Part 12	CASA EX160/18 — Instrument Rating Aeronautical Knowledge Examination (IREX) (Certain Applicants for an Air Transport Pilot Licence) Exemption 2018	Renewed and inserted as Part 12 of CASA EX66/21 by amendment made by CASA EX119/21 — Flight Crew Licensing (Further Miscellaneous Exemptions) Amendment Instrument 2021
Part 13	CASA EX79/19 — Differences Training, Class Rating Flight Training and Flight Review (Equivalent Overseas Training) Exemption 2019	Renewed and inserted as Part 13 of CASA EX66/21 by amendment made by CASA EX57/22 – Flight Crew Licensing (Differences Training and Flight Training – Equivalent Overseas Training) Amendment Instrument 2022
Part 14	CASA EX100/20 — Particular Significant Changes Approval Requirements (Part 141 Operators and Relevant Part 142 Operators) Exemption 2020	Renewed and inserted as Part 14 of CASA EX66/21 by amendment made by CASA EX68/22 – Amendment of CASA EX66/21 (Significant Change Approval Requirements – Part 141 Operators and Relevant Part 142 Operators) Instrument 2022
Part 15	CASA EX92/15 Exemption — from certain low-level rating requirements	Renewed as CASA EX48/17 Exemption — from certain low-level rating requirements Renewed as CASA EX73/20 — Low-level Rating Exemption 2020 Renewed and inserted as Part 15 of CASA EX66/21 by amendment made by CASA EX51/23 — Amendment of CASA EX66/21 (Low-level Rating) Instrument 2023
Part 16	CASA EX136/20 — Incendiary Dropping Operations (Aerial Application Rating) Instrument 2020	Renewed and inserted as Part 16 of CASA EX66/21 by amendment made by CASA EX65/23 — Amendment of CASA EX66/21 (For Pilots in Command in Miscellaneous Dropping Operations) Instrument 2023
Part 17	CASA EX20/21 – Flight Instructors and Part 141 Operators (Flight Training – Certain Solo Cross-country Flights) Exemption 2021	Renewed and inserted as Part 17 of CASA EX66/21 by amendment made by CASA EX06/24 – Amendment of CASA EX66/21 (Flight Instructors and Part 141 Operators – Flight Training for Certain Solo Cross-country Flights) Instrument 2024
Part 18	CASA EX89/18 — Naming of Alternate Key Personnel (Part 141 and 142 Operators) Exemption 2018	Renewed as CASA EX64/21 — Naming of Alternate Key Personnel (Parts 141 and 142 Operators) Exemption 2021

Overview of instrument

The following briefly explains the effect of the exemptions in each Part of the new omnibus instrument:

- (a) Part 2 continues to allow pilots who perform co-pilot duties in multi-pilot capable aircraft operated by the holder of an Air Operator’s Certificate (**AO**C) to log their flying

time performing those duties in such aircraft in their personal logbook, and to have that flying time taken to be the equivalent to required flight time for specified purposes under CASR, even though the second pilot is not required for the operation, subject to compliance with a condition about the recording of certain co-pilot time;

- (b) Part 3 continues to exempt relevant pilot licence holders with flight instructor, simulator instructor, or flight examiner ratings from compliance with requirements that would otherwise prevent them allowing certain instructor and examiner activities to be undertaken by qualified persons when they are not occupying a flight control seat of a relevant aircraft or flight simulation training device, subject to compliance with specified conditions imposed in the interests of aviation safety;
- (c) Part 4 continues to exempt certain holders of pilot type ratings from compliance with the requirement to have successfully completed certain instrument proficiency checks in an aircraft type covered by the rating and flown under the instrument flight rules, provided that the holder has successfully completed certain alternative instrument proficiency checks;
- (d) Part 5 continues to exempt pilots who fly several different type-rated and class-rated aircraft from compliance with the requirement to complete a flight review for each specific class rating and each specific pilot type rating held in order to exercise the privileges of the rating, provided that the holder complies with conditions which require completion of a relevant alternative kind of flight review;
- (e) Part 6 continues to exempt check pilots from provisions of CASR that would otherwise require them to hold a flight examiner rating in order to conduct certain operator proficiency checks (*OPCs*), subject to certain conditions;
- (f) Part 7 continues to allow foreign cadet pilots to take a flight test for a commercial pilot licence without holding a class 1 medical certificate (a requirement under Part 61 of CASR), if they comply with specified conditions, including that the pilot holds a current class 2 medical certificate and has met the class 1 medical standard in the pilot's country of residence;
- (g) Part 8 continues to exempt certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in multi-crew cooperation (*MCC*) for the purposes of multi-crew operation, subject to various conditions which, in effect, require a similar level of competence as would otherwise be provided by an approved course of training in MCC;
- (h) Part 9 continues to allow the conduct of basic instrument flight training for pilots by flight instructors who meet an alternative qualification requirement to that set out in Part 61 of CASR, and to recognise that training;
- (i) Part 10 continues to allow the head of flight operations of an aerial application operator to conduct an OPC for the head of flight operations of another aerial application operator, and allows a pilot who holds an aerial application rating, and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, to exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations in an aeroplane, instead of a check conducted by a relevant flight examiner;
- (j) Part 11 continues to allow persons, other than delegates of CASA and flight examiners, to conduct English language proficiency assessments, and continues to allow certain persons to obtain an aeronautical radio operator certificate if they have been assessed as meeting the general English language proficiency (*GELP*) standard in lieu of the aviation English language proficiency (*AELP*) standard, subject to the condition that the

applicant must ensure that the application for the grant of a certificate is accompanied by evidence of the applicant's proficiency standard;

- (k) Part 12 continues to exempt applicants for an air transport pilot licence with the aeroplane category rating who were granted an Australian commercial pilot licence, with an aeroplane category rating and an instrument rating, in accordance with the terms of the *Trans-Tasman Mutual Recognition Act 1997*, from the requirement under Part 61 of CASR to have completed the instrument rating examination identified in the Part 61 Manual of Standards (the **Part 61 MOS**) as "IREX";
- (l) Part 13 continues to exempt the holder of an aircraft class rating from the requirements to complete flight training and a flight review to fly an aircraft of a prescribed type, provided that the holder has completed equivalent flight training conducted by a training provider authorised by the national aviation authority of a recognised foreign State and exempts the holder of a pilot type rating or a flight engineer type rating from the requirement to complete differences training under CASR in order to pilot, or act as the flight engineer of, an aircraft of the model covered by the training, provided that the holder has completed an equivalent training course of an authorised overseas training provider;
- (m) Part 14 continues to exempt Part 141 operators and certain Part 142 operators (namely, the holders of an AOC that authorises a particular Part 142 activity to be conducted in an aircraft) from compliance with requirements in Parts 141 and 142 of CASR that would otherwise require them to obtain CASA's approval of a significant change before adding aircraft to their fleet of training aircraft that are the same kind, or similar in kind, as aircraft they are already using to conduct training;
- (n) Part 15 continues to exempt the holder of a low-level rating from certain recent experience (or recency) and flight review requirements, but only if they have met alternative requirements, and for aerial mustering operations, demonstrated recent competency in aerial mustering within the 12 months before the operation;
- (o) Part 16 continues to exempt the pilot in command of an aircraft in a miscellaneous dropping operation from compliance with requirements to hold an aerial application rating, provided that they instead hold a relevant low-level rating and low-level endorsement;
- (p) Part 17 continues to exempt flight instructors and Part 141 operators from obligations that rely on obsolete concepts of "dual instrument time" and "dual instrument flight time" and would otherwise prevent them from authorising student helicopter pilots to conduct a solo cross-country flight for the first time;
- (q) Part 18 continues to exempt Parts 141 and 142 operators, and persons who apply for a Part 141 certificate or a Part 142 authorisation, from the requirement to name at least one person to carry out the responsibilities of a key personnel position when the holder of the position is absent or unable to carry out the responsibilities, while still requiring operators to cease operations in the event that key personnel are absent from the position or unable to carry out their responsibilities.

Assessment of the impact on aviation safety

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.

In determining whether to grant the exemptions in the new omnibus instrument, CASA has re-evaluated the safety case undertaken when each exemption granted in the repealed

instruments was initially granted, or later consolidated into one of the repealed instruments, and has assessed the impact of the exemptions contained in the new omnibus instrument on aviation safety, in accordance with subregulations 11.170(3) and 11.175(4) of CASR.

CASA is satisfied that, since the new omnibus instrument continues existing exemptions, all of which are of beneficial effect to the exempted persons and the aviation industry, and many of the exemptions are subject to the same conditions imposed on the exemption in the interests of the safety of air navigation, an acceptable level of aviation safety will be preserved, and the safety of air navigation thereby maintained.

Documents incorporated by reference

The new omnibus instrument incorporates provision of the Part 61 MOS, including the International Civil Aviation Organization (*ICAO*) level 6 aviation English language proficiency standards, which are set out in Section 2 of Schedule 8 of the Part 61 MOS. The Part 61 MOS is a legislative instrument made by CASA that sets out matters relating to flight crew licences. It is freely available on the Federal Register of Legislation website <www.legislation.gov.au>.

The new omnibus instrument incorporates the following non-legislative documents by referring to them:

- (a) Civil Aviation Advisory Publication (CAAP) SMS-3(1) *Non-Technical Skills Training and Assessment for Regular Public Transport Operations*;
- (b) training courses in the conduct of basic instrument flight training prepared by CASA;
- (c) the operations manual or exposition of an operator;
- (d) an operator's approved training and checking system.

In accordance with paragraph 15J(2)(c) of the LA, the following table contains a description of the non-legislative documents incorporated by reference into the instrument, how the documents are incorporated, the organisation responsible for them and how they may be obtained.

Document	Description	Manner of incorporation	Operation of provisions that incorporate document	Availability of document
Civil Aviation Advisory Publication SMS-3(1) entitled <i>Non-Technical Skills Training and Assessment for Regular Public Transport Operations (CAAP SMS-3(1))</i>	CAAP SMS-3(1) provides guidance and advice for Australian regular public transport operators to develop training and assessment in non-technical skills.	The whole of CAAP SMS-3(1) is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).	A note to section 39 of the new omnibus instrument provides that the assessment of human factors and non-technical skills (<i>HF&NTS</i>) competencies should be guided by reference to CAAP SMS-3(1). As the document is mentioned in a note, it is for guidance only.	The Civil Aviation Advisory Publications are available for free on the CASA website < www.casa.gov.au >.
Training courses in the conduct of basic instrument flight training	The training courses are published by CASA.	The whole of the course of training is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of	Note 2 to section 45 of the new omnibus instrument provides that the operator may satisfy the requirements of that section by making use of the training courses in the conduct of basic	Training courses are available for free on the CASA website < www.casa.gov.au >.

Document	Description	Manner of incorporation	Operation of provisions that incorporate document	Availability of document
		the Act, despite subsection 14(2) of the LA).	instrument flight training published by CASA from time to time on the CASA website.	
An operator's operations manual or exposition	The operations manual or exposition of an operator, is a document, or suite of documents, that specifies the scope of the operations and activities conducted by the operator, and sets out the plans, processes, procedures, programs and systems implemented by the operator to comply with the civil aviation legislation.	<p>Only the provisions of an operator's operations manual or exposition that are about multi-crew procedures are incorporated. Those provisions are incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA).</p> <p>The definitions of <i>exposition</i> and <i>operations manual</i> in the Dictionary to CASR provide that if the set of documents that form the exposition or operations manual for an aerial work operator changes, a reference to the exposition or operations manual is a reference to the set of documents as changed.</p>	The definition of <i>permissible co-pilot time</i> in section 5 of the new omnibus instrument refers to multi-crew procedures specified in the operations manual or exposition of the holder of an AOC operating an aircraft.	<p>An exposition or operations manual is not publicly or freely available. They are proprietary to the operator and will generally include commercial in confidence information about the operator's business.</p> <p>The incorporated requirements of an operations manual or exposition are at the operator-specific level and apply only to the operator and its personnel.</p> <p>Further, the operator is under obligations to make the operations manual or exposition available to its personnel who have obligations under the document.</p>
An operator's approved training and checking system	Each affected aircraft operator will have an approved training and checking system that was prepared by the operator and approved by CASA.	The whole of an operator's approved training and checking system is incorporated as in force or existing from time to time (which is authorised by subsection 98(5D) of the Act, despite subsection 14(2) of the LA)..	Paragraph 70(f) of the new omnibus instrument provides that the holder of a pilot licence with a low-level rating must not exercise the privileges of the low-level rating unless the holder is successfully participating in an operator's training and checking system for an operation under the rating, being a system for which the operator holds an appropriate approval under regulation 61.040 of CASR.	An operator's approved training and checking system is available to the operator and its pilots who are affected by the new omnibus instrument, but is subject to copyright and may not otherwise be publicly available.

Many of the documents that are held by the operator of an aircraft are available to operators and pilots who are affected by the new omnibus instrument but may not otherwise be publicly available. CASA has incorporated the documents in the new omnibus instrument because aviation safety requires the use of the information and data in the documents by aircraft

operators and pilots and because there are no freely available documents serving the relevant purpose.

The cost of obtaining a copy of the operations manual or exposition of an operator or of an operator's approved training and checking system is a matter for the operator of the aircraft. CASA has no effective control over those costs. However, where practicable, by prior arrangement with CASA, copies of those documents can be made available for viewing free of charge at any office of CASA. Given the large number of documents that fall within the classes of documents listed in the table, it is not practicable for many of these documents to be held and made available by CASA. CASA considers it extremely unlikely that the owner of the document would sell CASA the copyright, so that CASA could make the document freely available, at a price that would be an effective and efficient use of CASA funds.

Content of instrument

Part 1 — Preliminary

Section 1 sets out the name of the new omnibus instrument.

Section 2 provides that the new omnibus instrument commences on 1 June 2024 and is repealed at the end of 31 May 2027.

Section 3 sets out definitions of terms used in more than one Part of the new omnibus instrument. (Terms that are only used in one Part are defined in that Part.)

Section 3 also includes a Note that lists certain terms and expressions in the new omnibus instrument that have the same meaning as they have in the Act or the Dictionary to CASR. These include the term **AOC**, which is defined to mean an Air Operator's Certificate issued under Division 2 of Part III of the Act. The section also includes a number of signpost definitions of terms used in Part 61 of CASR, or defined in regulation 61.010 of CASR.

Section 4 gives effect to the following Schedules of consequential amendments to instruments that refer to one of the repealed instruments (CASA EX66/21):

- (a) Schedule 1, which amends *CASA EX92/22 – Part 137 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2022*;
- (b) Schedule 2, which amends *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*.

Part 2 — Logging of flight time as a pilot (co-pilots on single-pilot certificated aircraft)

Overview of Part 2

Part 2 of the new omnibus instrument sets out exemptions from certain requirements of CASR to allow pilots who perform co-pilot duties in multi-pilot capable aircraft operated by the holder of an AOC to have their flying time performing those duties taken to be flight time for specified purposes under CASR, even though the second pilot is not required for the operation. Permissible co-pilots will be allowed to log their flying time in these aircraft (***permissible co-pilot time***) in their personal logbook.

Permissible co-pilot time in a category of aircraft will be taken to be equivalent to required flight time in the same category of aircraft for an application for an air transport pilot licence (*ATPL*) in the aeroplane, helicopter or powered-lift aircraft category.

Background to Part 2

Part 2 renews exemptions that:

- (a) were originally included in instrument CASA EX116/15 *Exemption — logging of time in flight for co-pilots on single-pilot certificated aircraft*; and
- (b) were then renewed by *CASA EX79/18 — Logging of Flight Time as a Pilot (Co-pilots on Single-pilot Certificated Aircraft) Exemption 2018*; and
- (c) were then renewed by being included as Part 2 of CASA EX66/21 when that instrument was made.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 2 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 2

Section 5 defines terms used in Part 2. A key definition is *permissible co-pilot time* which is defined as time in which a permitted co-pilot performed co-pilot duties in a multi-pilot capable aircraft in accordance with multi-crew procedures specified in the operations manual or exposition (whichever is applicable) of the AOC holder operating the aircraft.

Subsection 6(1) exempts a person who has been a permitted co-pilot from compliance with subregulation 61.345(1) of CASR to the extent that the person must not record in the person's logbook the person's permissible co-pilot time. Subregulation 61.345(1) of CASR requires a person who holds a pilot licence, or a certificate of validation of an overseas flight crew licence that is equivalent to a pilot licence, to keep a personal logbook in accordance with the requirements set out in regulation 61.345. One of those requirements is in subparagraph 61.345(3)(f)(ii), which requires a person to record the flight time (if any) flown in the capacity as co-pilot in the person's logbook for the flight. The exemption is subject to a condition in section 10 that the person to whom the exemption applies must, as soon as practicable after completing each flight as a permitted co-pilot, record the permissible co-pilot time in the person's logbook as if the time was flight time for regulation 61.345 of CASR.

Subsection 7(1) exempts an applicant for an ATPL who was a permitted co-pilot from compliance with paragraph 61.700(3)(d) of CASR. Regulation 61.700 prescribes the general requirements to be satisfied by an applicant for an ATPL including paragraph 61.700(3)(d), which requires the applicant for an ATPL to have met the aeronautical experience requirements of Subpart 61.K of CASR.

The exemption is subject to the condition set out in paragraph 7(2)(a), that the person would meet these requirements for the ATPL if the applicant's permissible co-pilot time were flight time required for the ATPL. That condition operates so that flight time in different categories of aircraft can be used in the manner contemplated in Subpart 61.K. For example, paragraphs 61.705(1)(a) and (b) of CASR operate to permit an applicant for an ATPL with the aeroplane category to rely on up to 650 hours of flight time as a pilot in non-aeroplanes, and this arrangement is intended to be replicated in relation to permissible co-pilot time. A

Note states that the condition has effect so that a permitted co-pilot may submit permissible co-pilot time in support of an application for an ATPL with aeroplane category, an ATPL with helicopter category or an ATPL with powered-lift aircraft category provided the permissible co-pilot time is in the category of aircraft relevant to the ATPL. The exemption is also subject to the condition in section 10.

Subsection 8(1) exempts a person who holds a pilot type rating for a type-rated aircraft and who has been a permitted co-pilot for the type of aircraft from compliance with the condition mentioned in subregulation 61.775(2) of CASR, which provides that the holder of a pilot type rating for a type rated aircraft that is a multi-engine turbine-powered aircraft is authorised to exercise the privileges of the rating as pilot in command only if the holder has at least 25 hours of flight time as pilot of an aircraft covered by the rating. If the holder does not satisfy this condition, the holder is not authorised to exercise the privileges of the rating. The holder is taken to have met this requirement if the holder has at least the number of hours of flight time of the kind specified for each type rating in subregulation 61.775(3) — for instance, for a type rating for a turbojet-powered aeroplane, the holder is taken to have met the requirements if the holder has at least 1 000 hours of flight time as a pilot of a turbojet-powered aeroplane or at least 2 000 hours of flight time, including at least 500 hours of flight time as pilot of a turbojet-powered aeroplane.

The exemption in subsection 8(1) is subject to the condition in paragraph 8(2)(a) that the person would meet the flight time requirements of subregulation 61.775(2) of CASR if the person's permissible co-pilot flight time, in an aircraft covered by the rating, was flight time. The exemption is also subject to the condition in section 10.

Subsection 9(1) exempts an applicant for a night vision imaging system endorsement mentioned in regulation 61.1025 of CASR, who has been a permitted co-pilot for a helicopter, from compliance with paragraph 61.1035(2)(d) (which sets out the requirements for the grant of the night vision imaging system endorsements mentioned in regulation 61.1025) to the extent that it requires compliance with subparagraph 61.1035(4)(b)(i). Paragraph 61.1035(2)(d) and 61.1035(4)(b)(i) require an applicant for an endorsement, before starting the 5 hours of dual flight using night vision goggles mentioned in column 3 of the item, to have completed 250 hours of flight time mentioned in column 3 of an item in table 61.1025.

The exemption in subsection 9(1) is subject to the condition in paragraph 9(2)(a) that the person would meet the flight time requirements of that paragraph if the person's permissible co-pilot flight time, for a helicopter, was flight time. The exemption is also subject to the condition in section 10.

Section 10 sets out a further general condition that applies to each exemption in Part 2. This condition is that the person to whom the exemption applies must, as soon as practicable after completing each flight as a permitted co-pilot, record the permissible co-pilot time in the person's logbook as if the time was flight time for regulation 61.345 of CASR.

Part 3 — Occupation of flight control seat (certain flight instruction and examination activities)

Overview of Part 3

Part 3 of the new omnibus instrument grants exemptions to relevant pilot licence holders with flight instructor, simulator instructor, or flight examiner ratings to permit the conduct of specified instructor and examiner activities by those pilots when not occupying a flight control seat, subject to compliance with specified conditions imposed in the interests of safety and, in particular, enables specified flight training and flight examination activities to be undertaken by qualified persons when they are not occupying a flight control seat of a relevant aircraft or flight simulation training device.

Background to Part 3

Part 3 renews exemptions that:

- (a) were originally included in instrument *CASA EX83/18 — Occupation of Flight Control Seat (Certain Flight Instruction and Examination Activities) Exemption 2018*; and
- (b) were then renewed by being included as Part 3 of CASA EX66/21 when that instrument was made.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 3 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 3

Section 11 defines terms used in Part 3. A key definition is ***single-place aircraft***, which is defined to mean an aircraft that has only 1 flight control seat. This definition would cover both aircraft that have only 1 seat, and aircraft that have 1 flight control seat plus 1 or more non-control seats. (***Flight control seat*** is defined in section 3 to mean each seat from which a flight operation may be conducted by a pilot.)

Subsection 12(1) grants an exemption from compliance with subregulation 61.065(1) of CASR by reference to Table 1 in the subsection. Subregulation 61.065(1) provides that the holder of a flight crew licence must not conduct an activity mentioned in Part 61 while piloting a registered aircraft, acting as flight engineer of a registered aircraft, or acting as an instructor or examiner, unless the holder is authorised under Part 61 to conduct that activity. Subregulation 61.065(2) makes it an offence of strict liability to contravene subregulation (1) unless the offence involves a contravention of regulation 61.385 of CASR.

The exemption is granted to the holder of an authorisation mentioned in column 1 of the table, to the extent that subregulation 61.065(1) requires compliance with the provisions mentioned in column 2 of the table for that item, when the authorisation holder is conducting the activity mentioned in column 3 of the table for the item. The exemption in subsection 12(1) is subject to conditions mentioned in section 13.

Subsection 13(1) requires the authorisation holder to occupy a flight control seat in specified circumstances, and thus operates as a limitation on the scope of the exemption.

The first specified circumstance is when the activity is a proficiency check in an aircraft, which is not a single-place aircraft, unless each flight crew member occupying a flight

control seat is authorised under Part 61 to pilot the aircraft. This ensures that the pilots at the controls have adequate skill and experience for proficiency check operations.

The second specified circumstance is any activity for which the authorisation holder is required to be the pilot in command of the flight in order for the flight to be authorised under the civil aviation legislation.

The third specified circumstance is any activity for which a flight control seat is available to be occupied by the relevant authorisation holder. The exemption does not permit the authorisation holder to occupy a non-control seat if a flight control seat is vacant for the activity.

Subsection 13(2) imposes conditions for flight examination activities in aircraft that are not a single-place aircraft. The authorisation holder, when in the aircraft but not occupying a flight control seat, must be able to observe all matters to be demonstrated by the flight crew members occupying the flight control seat or seats. The new omnibus instrument does not permit an authorisation holder, in relation to an activity in which 2 pilots occupy flight control seats, to conduct the activity from another aircraft, or from the ground. The authorisation holder must also not manipulate an aircraft control or aircraft system accessible from a flight control seat. This is intended to ensure that the authorisation holder does not impact the safe operation of the aircraft by doing anything not expected by the other flight crew, or that can only be safely conducted by the occupant of a flight control seat. This condition is not intended to prevent the authorisation holder from manipulating systems that do not affect the control or safety of the aircraft (such as personal air-conditioning controls).

Subsection 13(3) imposes a condition for flight examination activities in single-place aircraft. Only aerial application proficiency checks are permitted in a single-place aircraft, and only if the authorisation holder is conducting the check at a place that enables the holder to observe the matters to be demonstrated by the pilot of the aircraft for the check.

Subsection 13(4) imposes a condition that ensures that an authorisation holder conducting a relevant activity in a flight simulation training device, when not occupying a flight control seat, is located at a place that enables the holder to observe the matters to be demonstrated by the flight crew members of the aircraft.

Subsection 13(5) imposes a condition for all activities covered by the exemption in section 12. The authorisation holder, when not occupying a flight control seat, must be able to monitor flight crew use of radiocommunication systems, and must maintain 2-way communications with the flight crew members. The condition applies both to flight examination activities in aircraft, and instructor and examination activities in flight simulation training devices.

Subsection 13(6) defines *proficiency check*.

Part 4 — Instrument proficiency checks for aircraft type ratings

Overview of Part 4

Part 4 of the new omnibus instrument exempts certain holders of pilot type ratings from the requirement to have successfully completed certain instrument proficiency checks (*IPCs*) in

an aircraft type covered by the rating and that is to be flown under the instrument flight rules (the **IFR**), provided that the holder has successfully completed certain alternative IPCs.

Part 4 applies to a person who holds any of the following authorisations:

- (a) a single-pilot turbojet aeroplane type rating for the exercise of the privileges of the rating under the IFR;
- (b) a multi-crew type rating for a particular aircraft category;
- (c) any other pilot type rating for the exercise of the privileges of the rating under the IFR.

Background to Part 4

Part 4 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX41/16 *Exemption — instrument proficiency check for single-pilot turbojet aeroplane type rating*; and
- (b) were then renewed by instrument CASA EX93/16 *Exemption — instrument proficiency checks for aircraft pilot type ratings*; and
- (c) were then renewed by *CASA EX93/18 — Instrument Proficiency Checks for Aircraft Type Ratings Exemption 2018*; and
- (d) were then renewed by being included as Part 4 of CASA EX66/21 when that instrument was amended by CASA EX106/21.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of each exemption in Part 4 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 4

Section 14 defines **IPC** as an instrument proficiency check, which is defined in regulation 61.010 of CASR as an assessment of the pilot's competency to pilot an aircraft under the IFR, against the standards mentioned in the Part 61 MOS.

Subsection 15(1) provides that the holder of a single pilot turbo aeroplane type rating (an **SP type rating holder**), for the exercise of privileges under the IFR, is exempted from subregulation 61.805(3), which requires the pilot of a single-pilot turbojet aeroplane, within the previous 12 months, and using one of the alternatives prescribed, to have completed a check of the pilot's competency conducting IFR in an aircraft covered by the type rating.

Subsection 15(2) also exempts an SP type rating holder from compliance with subregulations 61.805(5) and (6). Under subregulation 61.805(5), for paragraphs 61.805(2)(e) and (f), and (3)(e) and (f), the holder of a pilot type rating successfully completes an IPC for *the relevant aircraft* if, among other things, a particular assessment of the holder's competency is carried out by CASA, a flight examiner or an approved person. Under subregulation 61.805(6), for paragraphs 61.805(2)(e) and (f), and (3)(e) and (f), the IPC must be conducted in a relevant aircraft or an approved flight simulation training device for the proficiency check.

The exemptions in subsections 15(1) and (2) are subject to the conditions in sections 16.

Subsection 16(1) makes it a condition of the exemptions in section 15 that the SP type rating holder must have a valid IPC as if the requirement under subregulation 61.805(3), to have a

valid 12-monthly IPC for the aeroplane type covered by the rating, applied as a requirement to have a valid 24-monthly IPC for any single-pilot turbojet aeroplane type. A Note explains that, for an SP type rating holder, the 12-monthly IPC requirement under subregulations 61.805(1) and (3) may be satisfied by a 24-monthly IPC in any single-pilot turbojet aeroplane type.

Subsection 16(2) makes it a condition of the exemption that the pilot type rating holder's pilot licence records that the holder has a valid IPC in accordance with the condition in subsection 16(1).

Subsection 16(3) makes it a condition of the exemption in subsection 16(1) that subregulations 61.805(5) and (6) of CASR must be complied with as if they applied despite the exemption in subsection 15(2) except that references to "relevant aircraft" for paragraphs 61.805(3)(e) and (f) must be taken to be references to any single-pilot turbojet aeroplane type (rather than the particular single-pilot turbojet aeroplane type covered by the holder's rating).

A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805(5) and (6) that subregulations 61.805(5) and (6) be complied with, but in the particular context of the operation of the exemption.

Subsection 16(4) defines terms used in the section.

Exemptions relating to multi-crew type ratings

Section 17 grants exemptions relating to multi-crew type ratings. Under section 17, the holder of a multi-crew type rating (the **multi-crew type rating holder**) for a particular aircraft category for the exercise of privileges under the IFR is exempted from subregulations 61.805(2), (5) and (6). The exemptions are subject to the conditions in section 18.

Subsection 18(1) makes it a condition of the exemption in section 17 that the multi-crew type rating holder for a particular aircraft category must have a valid IPC, as if the requirements under subregulation 61.805(2) to have a valid 24-monthly IPC for the aircraft type covered by the rating applied as a requirement to have a valid 24-monthly IPC for any multi-crew type-rated aircraft in the same category.

Subsection 18(2) makes it a condition of the exemption that the pilot type rating holder's pilot licence records that the holder has a valid IPC in accordance with the condition in subsection 18(1).

Subsection 18(3) makes it a condition of the exemption that subregulations 61.805(5) and (6) of CASR must be complied with as if they applied despite the exemption in subsection 17(2), except that references to "relevant aircraft" for paragraphs 61.805(2)(e) and (f) must be taken to be references to any multi-crew aircraft type in the same category as that of the multi-crew type rating holder's rating (rather than the particular aircraft type covered by the holder's rating). A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805(5) and (6) that subregulations 61.805(5) and (6) be complied with, but in the particular context of the operation of the exemption.

Exemptions relating to other aircraft type ratings

Section 19 grants exemptions to the holder of a pilot type rating that is not a single-pilot turbojet aeroplane type rating, or a multi-crew type rating for a particular aircraft. Under this section, the holder of a pilot type rating for the exercise of privileges under the IFR is exempted from subregulation 61.805(2). The holder is also exempted from subregulations 61.805(5) and (6). The exemptions are subject to the conditions in section 20.

The section does not apply to SP type rating holders or multi-crew type rating holders, within the meanings of those terms in sections 15 and 17. The exemptions in sections 15 and 17, and the more prescriptive conditions in sections 16 and 18, apply to those rating holders, respectively.

Subsection 20(1) makes it a condition of the exemption in section 19 that the holder mentioned in section 19 must have a valid IPC, as if the requirement under subregulation 61.805(2) to have a valid IPC for the aircraft type covered by the rating applied as a requirement to have a valid IPC for any type-rated aircraft in the same category.

Subsection 20(2) makes it a condition of the exemption that the pilot type rating holder holder's pilot licence records that the holder has a valid IPC in accordance with the condition in subsection 20(1).

Under subsection 20(3), subregulations 61.805(5) and (6) must be complied with as if they applied despite the exemption in subsection 19(3), except that references to "relevant aircraft" for paragraphs 61.805(2)(e) and (f) must be taken to be references to any aircraft type in the same category as that of the relevant type rating holder's rating (rather than the particular aircraft type covered by the holder's rating).

A Note explains that it is therefore a condition of the exemption from the requirements in subregulations 61.805(5) and (6) that subregulations 61.805(5) and (6) be complied with, but in the particular context of the operation of the exemption.

Part 5 — Flight reviews

Overview of Part 5

Part 5 of the new omnibus instrument exempts pilots who fly several different type-rated and class-rated aircraft from compliance with the requirement to complete a flight review for each class or type-rated aircraft. The holders of certain aircraft class ratings and pilot type ratings are exempted from the requirement to complete particular kinds of flight reviews for each specific class rating and each specific pilot type rating held in order to exercise the privileges of the rating, provided that the holder complies with conditions which require completion of a relevant alternative kind of flight review.

Part 5 does not affect special flight review requirements that apply to pilots of Mitsubishi Aircraft MU-2 aeroplanes and Robinson R22 and R44 helicopters.

Background to Part 5

Part 5 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX97/16 *Exemption — CASR Part 61 aircraft flight reviews*; and

- (b) were then renewed by instrument *CASA EX99/18 — Flight Reviews Exemption 2018*; and
- (c) were then renewed by being included as Part 5 of *CASA EX66/21* when that instrument was amended by *CASA EX106/21*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of each exemption in Part 5 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 5

Section 21 provides that Part 5 applies to a person who holds one of the following aircraft class or pilot type ratings under Part 61 of CASR:

- (a) a single-engine aeroplane class rating;
- (b) a multi-engine aeroplane class rating;
- (c) a single-engine aeroplane pilot type rating;
- (d) a multi-engine aeroplane pilot type rating;
- (e) a single-engine helicopter class rating;
- (f) a single-engine helicopter pilot type rating;
- (g) a multi-engine helicopter pilot type rating.

Section 22 activates Table 2, which displays row by row the provision in Part 61 of CASR from which the holder of particular aircraft class rating or pilot type rating is exempted. Each of the provisions exempted from is a provision requiring 1 or other of a particular kind of flight review to have been completed for a particular period. The exemptions apply only to the extent that the pilot must have a prescribed valid flight review for the rating in column 1 of the Table. The exemptions are subject to the conditions and exclusions in section 23.

The relevant provisions are:

- (a) regulation 61.745 of CASR, which provides that the holder of an aircraft class rating must not exercise the privileges of the rating unless the holder has a valid flight review *for the rating*; and
- (b) regulation 61.800 of CASR, which provides that the holder of a pilot type rating is authorised to exercise the privileges of the rating as the pilot in command of an aircraft only if the holder has a valid flight review *for the rating*. The pilot type ratings are prescribed by CASA in *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 9) Instrument 2023*.

Table 2 provides the following acceptable alternative valid flight reviews. Each of items 1 to 7 of the Table is applied in the same way for the various class or type rating holders mentioned in paragraphs 21(a) to (g) above, as follows:

- (a) Under item 1, the holder of a single-engine aeroplane class rating is exempted from the requirement under regulation 61.745 of CASR to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any aeroplane type rating (and not specifically the flight review for the single-engine aeroplane class rating). A Note takes the reader to an explanation of how a pilot may operate a class-rated single-engine aeroplane under the privileges of a multi-engine aeroplane class rating.

- (b) Under item 2, the holder of a multi-engine aeroplane class rating is exempted from the requirement under regulation 61.745 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any multi-engine aeroplane pilot type rating (and not specifically the flight review for the multi-engine aeroplane class rating).
- (c) Under item 3, the holder of a single-engine aeroplane pilot type rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any aeroplane pilot type rating, or under regulation 61.745 for any aeroplane class rating.
- (d) Under item 4, the holder of a multi-engine aeroplane pilot type rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any multi-engine aeroplane pilot type rating, or under regulation 61.745 for the multi-engine aeroplane class rating.
- (e) Under item 5, the holder of a single-engine helicopter class rating is exempted from the requirement under regulation 61.745 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any helicopter pilot type rating.
- (f) Under item 6, the holder of a single-engine helicopter pilot type rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any helicopter pilot type rating, or under regulation 61.745 for the single-engine helicopter class rating.
- (g) Under item 7, the holder of a multi-engine helicopter pilot type rating is exempted from the requirement under regulation 61.800 to have a prescribed valid flight review for that specific rating if the holder has a valid flight review under regulation 61.800 for any multi-engine helicopter pilot type rating.

A Note under the Table explains how, under subregulations 61.375(3) and (4), the holder of a multi-engine aeroplane class rating who has a valid flight review for that rating is authorised to operate aeroplanes covered by the single-engine aeroplane class rating. (Under subregulations 61.375(3) and (4) of CASR, a licence holder is authorised to exercise the privileges of the licence in an aeroplane in the single-engine aeroplane class if the holder is authorised to exercise the privileges of the multi-engine aeroplane class rating. Thus, if the licence holder has a valid flight review for multi-engine aeroplanes, the holder is authorised to operate aeroplanes in the single-engine aeroplane class without requiring a valid single-engine aeroplane class rating flight review.)

Under subsection 22(3), for aviation safety, the exemptions are expressly stated as not to affect the flight review requirements for the holder of the MU-2 single pilot multi-engine aeroplane type rating, as set out in paragraph 6(b) of CASA 62/20.

Under subsection 22(4), the exemptions under Part 5 do not affect the flight review requirements for the holder of a single-engine helicopter class rating for use in the conduct of operations in an R22 or R44 helicopter, as set out in section 8 of CASA 62/20.

Section 23 imposes an additional condition on the exemptions, that the relevant holders' pilot licences must include a record that the holder has completed the applicable flight review required under Table 2 as the pre-condition to the application of the exemption.

Part 6 — Operator proficiency checks by check pilots

Overview of Part 6

Part 6 of the new omnibus instrument exempts check pilots from the requirement to comply with provisions of CASR that would otherwise require them to hold a flight examiner rating in order to conduct certain OPCs.

Background to Part 6

Part 6 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX140/14 *Exemption — flight examiner rating for holders of CAO 82.0 check pilot approvals*; and
- (b) were then renewed as CASA EX106/16 *Exemption — flight examiner rating for holders of CAO 82.0 check pilot approvals*; and
- (c) were then renewed as *CASA EX100/18 — Flight Examiner Rating for CAO 82.0 Check Pilots Exemption 2018*; and
- (d) were then renewed by being included as Part 6 of CASA EX66/21 when that instrument was amended by CASA EX106/21; and
- (e) were then renewed when Part 6 was replaced by amendments made by *CASA EX62/22 — Amendment of CASA EX66/21 (Operator Proficiency Checks by Check Pilots) Instrument 2022*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of each exemption in Part 6 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 6

Section 24 defines **check pilot** as the holder of a pilot licence who:

- (a) holds an approval under regulation 121.010 to conduct a Part 121 proficiency check for an aeroplane of a particular kind; or
- (b) is engaged by the operator of an aircraft to conduct training or a check under paragraph 133.377(2)(a), 135.387(2)(a) or 138.505(2)(a) of CASR.

Those provisions impose the following requirements:

- (a) regulation 133.377 of CASR sets out the requirements for training or checks for flight crew of rotorcraft under Part 133 of CASR. Paragraph 133.377(2)(a) provides that the training or check must be conducted by an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 133 Manual of Standards;
- (b) regulation 135.387 of CASR sets out the requirements for training or checks for flight crew of an aeroplane under Part 135 of CASR. Paragraph 135.387(2)(a) provides that the training or check must be conducted by an individual who is engaged by the operator (whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 135 Manual of Standards;
- (c) regulation 138.505 of CASR sets out the requirements for training or checks for flight crew of an aircraft under Subpart 138.N of CASR. Paragraph 138.505(2)(a) provides that the training or check must be conducted by an individual who is engaged by the operator

(whether by contract or other arrangement) to conduct the training or check and meets the requirements prescribed by the Part 138 Manual of Standards.

Subsection 25(1) exempts a check pilot from compliance with subregulation 61.065(1) (when taken together with subregulation 61.375(7) (as it relates to item 9 of table 61.375) and subparagraph 61.1255(c)(v)) to the extent that the pilot may conduct an OPC for the holder of a pilot licence (mentioned in subparagraph 61.1255(c)(v)) without holding a flight examiner rating. However, the exemption does not authorise the check pilot to conduct an OPC for the purposes of regulation 61.650, 61.695 or 61.880 of CASR.

Subsection 25(2) clarifies that subsection (1) does not authorise the check pilot to conduct an OPC for the purposes of regulation 61.650, 61.695 or 61.880. The scope of the exemption is therefore limited by excluding the conduct of an OPC for the purposes of regulation 61.650 (multi-crew pilot licence instrument proficiency check), regulation 61.695 (air transport pilot licence instrument proficiency check) or regulation 61.880 (instrument rating proficiency check).

Subsection 25(3) provides that the check pilot must comply with the conditions mentioned in section 26.

Section 26 sets out the conditions to which the exemption in subsection 25(1) is subject, which are as follows:

- (a) a check pilot who holds an approval mentioned in paragraph 24(a) may only conduct an OPC for an aeroplane of a kind to which the approval applies;
- (b) a check pilot who is engaged by an operator to conduct training or a check mentioned in paragraph 24(b) may only conduct an OPC for aircraft in respect of which the check pilot has been engaged;
- (c) an OPC must be conducted in accordance with the operator's training and checking responsibilities under the regulations.

Part 7 — Foreign cadet pilots (medical certificate for commercial pilot licence flight test)

Overview of Part 7

Part 7 of the new omnibus instrument allows a foreign cadet pilot to take a flight test for a commercial pilot licence (**CPL**), without holding a class 1 medical certificate, provided that they comply with specified conditions, including that they hold a current class 2 medical certificate and have met the class 1 medical standard in their country of residence.

The instrument does not affect the requirement for the foreign cadet pilot, following successful completion of the flight test for a CPL, to hold all relevant permissions, approvals, ratings, endorsements and medical certificates in accordance with Part 61 of CASR before the pilot flies a registered aircraft in any operation.

Background to Part 7

Part 7 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX117/14 *Exemption – foreign cadet pilots taking flight test for a commercial pilot licence – class 1 medical certificate*; and

- (b) were then renewed by instrument CASA EX156/15 *Exemption – foreign cadet pilots taking flight test for a commercial pilot licence – class 1 medical certificate*; and
- (c) were then renewed by instrument CASA EX101/18 — *Foreign Cadet Pilots (Medical Certificate for CPL Flight Test) Exemption 2018*; and
- (d) were then renewed by being included as Part 7 of CASA EX66/21 when that instrument was amended by CASA EX106/21.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of each exemption in Part 7 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 7

Part 7 applies to a **foreign cadet pilot**, defined in section 27 as a person who:

- (a) is not a citizen of Australia; and
- (b) is not a permanent resident of Australia; and
- (c) is a student registered to undergo flight training with a Part 141 operator or a Part 142 operator; and
- (d) is undertaking training for a CPL under the sponsorship of a foreign aircraft operator; and
- (e) takes a flight test for a CPL.

Subsection 28(1) provides that a foreign cadet pilot is exempt from the requirement in paragraph 61.235(2)(c) of CASR to the extent that it requires the pilot to hold a current class 1 medical certificate to be eligible to take a flight test for a CPL, subject to the conditions in section 29.

Subsection 29(1) makes it a condition of the exemption in section 28 that foreign cadet pilots must hold a class 2 medical certificate and have met the class 1 medical standard in the pilot's country of residence. The requirement to hold a class 2 medical certificate reflects the requirement that was in regulation 5.07 of CAR before the commencement of Part 61 of CASR. It is expected that, before receiving sponsorship from an airline, the cadet pilot will have completed medical checks to meet the class 1 medical standard in their home country, consistent with the requirement of Part 7. National aviation authorities may administer the requirement to hold a class 1 medical assessment by issuing a class 1 medical certificate or, if a certificate is not issued, by requiring that the pilot pass a class 1 medical examination to show that the pilot meets the class 1 medical standard.

Subsection 29(2) provides that it is a condition of the exemption in subsection 28(1) that the flight test must be organised by the training provider as part of the pilot's registration.

Part 8 — Approved course of training (multi-crew cooperation)

Overview of Part 8

Part 8 exempts certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in MCC for the purposes of multi-crew operation, subject to various conditions which, in effect, require a similar level of competence as would otherwise be provided by an approved course of training in MCC. The conditions on the exemption provide alternative requirements to be satisfied, being:

- (a) an ADF equivalent course; or
- (b) holding of a multi-crew pilot licence; or
- (c) other alternative requirements, including a course approved by the European Union Aviation Safety Agency.

Background to Part 8

Part 8 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX192/15 *Exemption — from completion of an approved course of training in MCC*; and
- (b) were then renewed by instrument CASA EX225/15 *Exemption — from completion of an approved course of training in MCC*; and
- (c) were then renewed by instrument CASA EX102/18 — *Approved Course of Training (Multi-crew Cooperation) Exemption 2018*; and
- (d) were then renewed by being included as Part 8 of CASA EX66/21 when that instrument was amended by CASA EX106/21.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 8 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 8

Section 30 contains definitions of **ADF** (the Australian Defence Force) and **approved course of training in MCC**, which is defined to mean an approved course of training in MCC. Regulation 61.010 of CASR defines an **approved course of training**, for a provision of Part 61 of CASR, as, among other things, a course of training for which the provider holds an approval under regulation 61.040 to provide the course.

Section 31 provides that a member or former member of the ADF (the **applicant**) who applies for the grant of an ATPL is exempt from the requirement under subparagraph 61.285(f)(ii) of CASR to complete an approved course of training in MCC. Under subparagraph 61.285(f)(ii), a member or former member of the ADF is taken to meet the requirements under Part 61 for the grant of an ATPL if the member completes, among other things, an approved course of training in MCC.

Section 32 makes it a condition of that exemption that the applicant must have successfully completed a course of training conducted by the ADF for a multi-crew pilot operational conversion qualification. Compliance with this must be evidenced by giving CASA a copy of the relevant ADF qualification.

Section 33 provides that the holder of a multi-crew pilot licence with an aircraft category rating who applies for the grant of an ATPL is exempt from the requirement under paragraph 61.700(3)(e) of CASR to complete an approved course of training in MCC. Regulation 61.700 sets out requirements for the grant of ATPLs, and paragraph 61.700(3)(e) provides that a (non-ADF) applicant for an ATPL must complete an approved course of training in MCC.

Section 34 provides that the holder of a CPL with an aircraft category rating who applies for the grant of an ATPL is exempt from the requirement under paragraph 61.700(3)(e) to

complete an approved course of training in MCC. Regulation 61.700 sets out requirements for the grant of ATPLs, and paragraph 61.700(3)(e) provides that a (non-ADF) applicant for an ATPL must complete an approved course of training in MCC.

Section 35 provides that the holder of a PPL is exempt from the requirement under subregulation 61.510(1) that to exercise the privileges of the licence in a multi-crew operation, the holder must have completed an approved course of training in MCC. Subregulation 61.510(1) provides that the holder of a PPL is authorised to exercise the privileges of the licence in a multi-crew operation only if the holder has completed an approved course of training in MCC.

Section 36 provides that the holder of a CPL is exempt from the requirement under subregulation 61.575(1) of CASR that to exercise the privileges of the licence in a multi-crew operation, the holder must have completed an approved course of training in MCC.

Section 37 provides that the holder of a single-pilot (*SP*) type rating is exempt from the requirement under paragraph 61.785(1)(b) of CASR that to exercise the privileges of the SP type rating in a multi-crew operation, the holder must have completed an approved course of training in MCC if the holder does not hold a multi-crew type rating.

Section 38 provides that each exemption under sections 34, 35, 36 and 37 is subject to the condition that the applicant or holder satisfies at least one of the alternative requirements set out in section 39, provides evidence of compliance with the requirement as set out in section 40 and complies with any other requirement in section 40 that relates to the requirement.

Section 39 sets out the alternative requirements to be satisfied. Each of the following would be considered by CASA to be an alternative means of compliance:

- (a) MCC training approved by the European Union Aviation Safety Agency;
- (b) the training required to qualify for an EASA type rating for a multi-crew certificated aircraft;
- (c) holding a type rating and having at least 50 hours' experience during the last 3 years as a pilot in multi-crew operations conducted by an Australian AOC holder engaged in regular public transport operations in accordance with *Civil Aviation Order 82.3* (as in force when the multi-crew operations were conducted) or *Civil Aviation Order 82.5* (as in force when the multi-crew operations were conducted), each of which imposed pilot HF&NTS training obligations on relevant high capacity and low capacity regular public transport AOC holders through their mandatory HF&NTS programs;
- (d) holding a type rating and having at least 100 hours' experience during the last 3 years as a pilot in multi-crew operations conducted by an Australian AOC holder engaged in charter operations in accordance with *Civil Aviation Order 82.1 - Conditions on air operators' certificates authorising charter operations & aerial work operations (CAO 82.1)* (as in force when the multi-crew operations were conducted), plus successful completion, within the last 3 years, of 2 OPCs which included assessment of HF&NTS competencies — although *Civil Aviation Order 82.1* for charter operations does not impose pilot HF&NTS training obligations on the AOC holder, the relevant OPCs constitute a component of this alternative means of compliance. A Note explains that the assessment of HF&NTS competencies should be guided by reference to CAAP

SMS-3(1), which is also the HF&NTS guidance document for regular public transport operations;

- (e) training, qualifications or experience, or a combination of these, which CASA has approved to be at least equivalent to any of the alternative requirements mentioned in items (a) to (d). It is important to note that CASA, not the applicant, the holder or the head of flying operations, makes the decision about equivalence, based on the evidence it receives and its assessment of the requirements of aviation safety. A person who relies on this must obtain the appropriate certificate from CASA. Under regulation 201.004 of CASR, a decision by CASA to refuse to issue a certificate of equivalence under this provision is subject to merits review by the Administrative Review Tribunal.

Section 40 sets out the evidence and other requirements for sections 38 and 39. The evidence required is as follows:

- (a) for paragraph 39(1)(a), a copy of a course completion certificate issued to the person by an EASA-approved training provider and a copy of the EASA approval held by the approved training provider that shows the approval is valid and current;
- (b) for paragraph 39(1)(b), a copy of the person's current EASA flight crew licence endorsed with the multi-crew type rating for a multi-crew certificated aircraft and logbook evidence of the person having exercised the privileges of the rating following the grant of the rating;
- (c) for paragraph 39(1)(c), a copy of the person's current CASA flight crew licence endorsed with a multi-crew type rating and logbook evidence of the person's experience as a pilot in multi-crew operations for an Australian AOC holder engaged in regular public transport operations in accordance with *Civil Aviation Order 82.3* (as in force when the multi-crew operations were conducted) or *Civil Aviation Order 82.5* (as in force when the multi-crew operations were conducted);
- (d) for paragraph 39(1)(d), a copy of the person's current CASA flight crew licence endorsed with a multi-crew type rating and logbook evidence of the person having at least 100 hours' experience as a pilot in multi-crew operations for an Australian AOC holder engaged in charter operations in accordance with *Civil Aviation Order 82.1 – Conditions on air operators' certificates authorising charter operations & aerial work operations* (as in force when the multi-crew operations were conducted), plus evidence of the successful completion of 2 OPCs which included assessment of HF&NTS competencies;
- (e) for paragraph 39(1)(e), evidence of successful completion of training, qualifications or experience, or a combination of these, and a CASA certificate of equivalence.

Under paragraph 40(1)(f), particular types of evidence in logbooks or other documents must be endorsed by the holder of a flight examiner rating or the head of the flying operations part, or the head of training and checking, of the relevant AOC holder or other operator, to whom the logbook entries or other documents relate.

Paragraph 40(1)(g) specifies the person to whom the evidence must be supplied. An applicant for an ATPL must supply the evidence to CASA. The holder of a PPL, a CPL, or an SP type rating without a multi-crew type rating (as the case may be) conducting multi-crew operations must supply the evidence to the head of the flying operations part of the AOC holder or other operator for whom the pilot operates a multi-crew aircraft.

Paragraph 40(1)(h) requires an applicant or the holder of the relevant licence or rating to, on written request, supply CASA with any information or documents CASA considers necessary to determine the appropriate application, or the continued application, of the exemption to the applicant or holder.

Part 9 — Basic instrument flight training

Overview of Part 9

Part 9 allows flight instructors who meet an alternative qualification requirement to that set out in Part 61 of CASR to conduct basic instrument flight training (***BIF training***) and recognises that training. The Part applies to the following persons:

- (a) a flight instructor who holds a grade 1 training endorsement, grade 2 training endorsement or grade 3 training endorsement for a specified category;
- (b) a flight instructor who conducts a training course in the conduct of BIF training who does not hold an instrument rating training endorsement or a night VFR rating training endorsement;
- (c) an applicant for a flight crew licence, rating or endorsement who receives BIF training from certain flight instructors.

Background to Part 9

Part 9 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX143/16 *Exemption — basic instrument flight training*; and
- (b) were then renewed as instrument *CASA EX103/18 — Basic Instrument Flight Training Exemption 2018*; and
- (c) were then renewed by being included as Part 9 of CASA EX66/21 when that instrument was amended by CASA EX106/21.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 9 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 9

Section 41 defines terms used in Part 9. ***BIF training*** is defined to mean basic instrument flight training within the meaning of regulation 61.010 of CASR (which defines ***basic instrument flight training*** to mean flight training in the units of competency for instrument flight mentioned in the Part 61 MOS for the grant of a PPL or CPL) and ***specified category*** is defined to mean a category of aircraft for which a flight instructor holds a grade 1 training endorsement, grade 2 training endorsement or grade 3 training endorsement.

Subsection 42(1) provides that the exemption in subsection 42(2) applies to flight instructors who hold a grade 1, 2 or 3 training endorsement, have successfully completed a training course in the conduct of BIF training and have been assessed as competent to conduct BIF training. The requirements of the training course are set out in section 45.

Under subsection 42(2), the flight instructor is exempted from compliance with subregulation 61.065(1), which is the general requirement that the holder of a flight crew licence must be authorised under Part 61 to conduct an activity. The exemption only applies

to the extent that subregulation 61.065(1) prohibits the flight instructor from conducting BIF training in the specified category of aircraft for which the person holds the grade 1, 2 or 3 training endorsement. Therefore, under this exemption, a flight instructor who meets the alternative qualification requirements may conduct BIF training in the relevant category of aircraft without holding an instrument rating training endorsement or a night VFR rating training endorsement.

Section 43 applies to a flight instructor who conducts a training course in the conduct of BIF training that meets the requirements of section 45. Under subsection 43(2), the flight instructor is exempt from compliance with subregulation 61.065(1), but only to the extent that subregulation 61.065(1) prohibits the flight instructor from conducting the training course in the specified category of aircraft. Therefore, under this exemption, flight instructors are not prohibited from conducting the training course if they meet the requirements of section 45, including holding a grade 1 training endorsement for the relevant category of aircraft.

Section 44 applies to applicants for a flight crew licence, rating or endorsement who receive BIF training from a flight instructor who fulfils the requirements for the exemption in subsection 42(1). Under subregulation 44(2), applicants are exempt from compliance with paragraph 61.195(2)(b) of CASR in relation to the BIF training. That paragraph provides that an applicant for a flight crew licence, a flight crew rating or flight crew endorsement (other than a design feature endorsement or a flight activity endorsement) only meets the requirement to have completed flight training for the licence, rating or endorsement if the training is conducted by an instructor for a Part 141 or 142 operator that is authorised to conduct flight training for the licence, rating or endorsement or the holder of an approval under regulation 141.035 or 142.040 to conduct the training. Therefore, under the exemption, the training does not need to have been conducted by an instructor or approval holder that is authorised under CASR to conduct the training.

Section 45 sets out the requirements for the training course that the flight instructor must complete. The course will train the flight instructor in the conduct of BIF training. Under paragraph 45(a), the course must be conducted by an instructor for a Part 141 operator or a Part 142 operator that can conduct training for the grant of a PPL or a CPL.

Paragraph 45(b) requires the training to be conducted as if it were flight training under the relevant Part of CASR, being either Part 141 or Part 142. This condition, therefore, requires the Part 141 operator or Part 142 operator to comply with requirements in the relevant Part, including record-keeping requirements and requirements about training in HF&NTS.

Under paragraph 45(c), the flight instructor who is conducting the course must hold a grade 1 training endorsement and be authorised by the head of operations of the relevant Part 141 operator or Part 142 operator. The flight instructor must also hold an instrument rating training endorsement or a night VFR rating training endorsement, or have held, immediately before 1 September 2014, a suitable similar authorisation under Part 5 of CAR or the CAOs. A person who held one of those qualifications was authorised to conduct BIF training.

The minimum length and content of the course are described in paragraphs 45(d) and (e). Paragraph 45(e) refers to the relevant units of competency in the Part 61 MOS.

Part 10 — Aerial application proficiency check

Overview of Part 10

Part 10 allows the head of flight operations of an aerial application operator to continue to conduct an OPC for the head of flight operations of another aerial application operator. It also allows a pilot, who holds an aerial application rating and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, to exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations of an aerial application operator, instead of a check conducted by a relevant flight examiner.

Part 10 includes a direction requiring a head of flight operations, who conducts an OPC for another head of flight operations, to notify CASA in writing about the check. It is expected that the head of flight operations conducting the check will provide information to CASA that includes the names of the relevant pilots and operators and the date of the check.

Background to Part 10

Part 10 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX148/14 *Exemption – aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes*; and
- (b) were then renewed as instrument CASA EX162/14 *Exemption – aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes*; and
- (c) were then renewed as instrument CASA EX105/16 *Exemption – aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes*; and
- (d) were then renewed as instrument *CASA EX104/18 — Aerial Application Proficiency Check Instrument 2018*; and
- (e) were then renewed by being included as Part 10 of CASA EX66/21 when that instrument was amended by CASA EX106/21.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 10 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 10

Section 46 provides that, in Part 10, ***aerial application endorsement*** has the meaning given by regulation 61.010 of CASR and defines ***aerial application operator*** as an operator that holds an AOC that authorises the use of an aeroplane in aerial application operations.

Section 47 grants an exemption that applies if the head of flight operations of an aerial application operator (the first aerial application operator) has satisfactorily completed an OPC conducted by the head of flight operations of another aerial application operator. It provides that the first aerial application operator and that operator's head of flight operations are exempt from compliance with subregulations 137.240(3) and (4) of CASR, which provide that an OPC for the operator's head of flight operations must be conducted by a flight examiner or instructor authorised under Part 61 of CASR to conduct aerial application operations.

Section 48 provides that the holder of an aerial application rating who also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, and who has successfully completed an OPC that was conducted by the head of flight operations of an aerial application operator, is exempt from compliance with the requirement in paragraph 61.1110(2)(c) of CASR. That paragraph provides that the holder is taken to have a valid aerial application proficiency check if the holder successfully completes an OPC that covers operations under the rating, and the OPC is conducted by a flight examiner who holds an aerial application rating flight test endorsement.

Section 49 includes a related direction requiring a head of flight operations, who conducts an OPC for another head of flight operations, to notify CASA in writing about the check.

Part 11 — English language proficiency assessments

Overview of Part 11

Part 11 of the new omnibus instrument:

- (a) allows persons, other than delegates of CASA and flight examiners, to conduct English language proficiency assessments; and
- (b) allows applicants to obtain an aeronautical radio operator certificate (**AROC**) if they have been assessed as meeting the GELP standard in lieu of the AELP standard. The condition on the exemption is that the applicant must ensure that the application for the grant of an AROC is accompanied by evidence of the applicant's AELP or GELP; and
- (c) recognises that a person who meets the AELP standard also meets the GELP standard.

Part 11 applies to the following persons:

- (a) persons who apply, in writing, to an AELP assessor for an assessment of their AELP;
- (b) persons who have a current AELP assessment;
- (c) alternative AELP assessment holders;
- (d) GELP holders;
- (e) flight instructors;
- (f) flight training operators.

Background to Part 11

Part 11 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX146/15 Exemption — English language proficiency assessments*; and
- (b) were then renewed as instrument *CASA EX111/18 — English Language Proficiency Assessments Exemption 2018*; and
- (c) were then renewed by being included as Part 11 of *CASA EX66/21* when that instrument was amended by *CASA EX119/21 — Flight Crew Licensing (Further Miscellaneous Exemptions) Amendment Instrument 2021*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 11 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 11

Section 50 defines terms used in the Part, including *alternative AELP assessment holder*, which is defined to mean an individual who applied, in writing, to an approved person for an assessment of the individual's AELP, and has been assessed by the approved person as meeting the ICAO level 6 standard, which is set out in full in subclause 3.1 of section 2 of Schedule 8 of the Part 61 MOS.

ELP assessment holder is defined in section 50 to mean alternative AELP assessment holders, GELP holders and people who have a current AELP assessment.

Subsections 50(2) and (3) set out when a person is a *GELP holder*. A *GELP holder* is defined as a person who provides an assessment report described in subsection 50(2) or provides evidence of the person meeting the requirement mentioned in subclause 5.1.2 of the GELP unit in Schedule 2 of the Part 61 MOS and has sufficient GELP for flight or radio communication purposes as assessed by an assessor mentioned in subsection 50(4).

If the person provides an assessment report, the report must state that the person is able to perform each of the elements mentioned in clause 2 of the GELP unit according to the performance criteria mentioned for the element and within the range of variables mentioned in clause 3 of the GELP unit. This requirement reflects the requirements in subsection 8.5 of the Part 61 MOS and subclause 5.1.1 of the GELP unit, but does not include the requirement that the report be completed by a person authorised under Part 61 of CASR to perform general English language assessments.

Instead, under subsection 50(4), the assessment report must have been completed by CASA, an examiner, or an approved person. An *approved person* is a person approved by CASA under section 51 of the instrument to conduct an assessment of a person's AELP or GELP. Therefore, to become a GELP holder, a person can provide either the assessment report in accordance with subsection 50(2), or evidence mentioned in subclause 5.1.2 of the GELP unit plus sufficient GELP for flight or radio communication purposes in accordance with subsection 50(3). The person is not required to provide both an assessment report and the evidence mentioned in subclause 5.1.2 of the GELP unit.

Section 51 provides for CASA to approve a person to conduct assessments of individuals' AELP or GELP. The person approved by CASA becomes an *approved person* for the purposes of Part 11. The types of people that CASA may consider approving under section 51 include schoolteachers, previously qualified instructors and examiners, and other suitably qualified persons in the aviation community. In accordance with regulation 201.004 of CASR, a decision by CASA to refuse to approve a person under section 51 is subject to merits review by the Administrative Review Tribunal.

The exemptions in section 52 allow a person to apply directly to an AELP assessor who has been approved under regulation 61.270 of CASR for an AELP assessment. It exempts a person who applies directly to an AELP assessor from the requirements in subregulations 61.255(1), (2) and (3). It therefore removes the need for a person to apply to, and be assessed by, CASA or an examiner before being referred to an AELP assessor.

Paragraph 52(a) exempts a person who applies, in writing, to an AELP assessor for an assessment of the person's AELP from compliance with subparagraph 61.160(b)(ii) of CASR, which requires CASA to grant a flight crew licence to an applicant for a flight crew

licence other than a recreational pilot licence (*RPL*) if the applicant has a current AELP assessment, to the extent that it requires compliance with subregulations 61.255(1), (2) and (3).

Paragraph 52(b) exempts such a person who applies, in writing, to an AELP assessor for an assessment of the person's AELP from compliance with the requirements in:

- (a) subregulations 61.255(1) and (2) of CASR, which provide that an applicant for assessment of the person's AELP passes the assessment only if CASA or the examiner is satisfied that the applicant meets the ICAO level 6 AELP standards mentioned in the Part 61 MOS; and
- (b) subregulation 61.255(3) of CASR, which provides that, if CASA or the examiner of an applicant for assessment of the person's AELP is not satisfied that the applicant meets the ICAO level 6 AELP standards that are set out in full in the Part 61 MOS, CASA or the examiner must refer the application to an AELP assessor.

The exemptions in section 53 exempt a person who has a current AELP assessment from certain requirements that relate to the GELP of a person seeking an RPL. In effect, the exemptions remove the requirement for a person who has a current AELP assessment to meet the relevant GELP requirements. The relevant provisions are as follows:

- (a) subparagraph 61.160(b)(iii), which provides that CASA must grant a flight crew licence to an applicant for an RPL if, amongst other requirements, the applicant meets the GELP requirements mentioned in regulation 61.265;
- (b) subparagraph 61.235(2)(a)(vi), which provides that an applicant for an RPL, other than an applicant who is eligible for the licence under subregulation 61.275(1) (Overseas flight crew authorisations—recognition), is eligible to take a flight test for the licence only if the applicant meets the GELP requirements mentioned in regulation 61.265;
- (c) regulation 61.265, which sets out the requirement for an applicant for an RPL to satisfy the GELP standard. The first pathway for satisfying the standard is for the applicant to be assessed by CASA or an examiner as meeting the GELP standard in the Part 61 MOS. The second pathway is for the applicant to satisfy the head of operations, or an instructor authorised by the head of operations, of a Part 141 or 142 operator that the applicant has passed one of the recognised GELP tests prescribed in the Part 61 MOS, and that the applicant has sufficient GELP to safely exercise the privileges of the licence.

Section 54 exempts alternative AELP assessment holders from various provisions of CASR that would otherwise be satisfied by a person holding a current AELP assessment or, for the provisions relating to an RPL, meeting the GELP requirements. The exemptions in section 54 apply to alternative AELP assessment holders, that is, individuals who have applied, in writing, to a person approved by CASA under section 51, and have been assessed by the approved person as meeting the ICAO level 6 standards in the Part 61 MOS.

The effect of the exemptions in section 54 is to deem a person as meeting the relevant English language proficiency requirement if the person has been assessed as having English language proficiency at the expert level by a person approved by CASA. The relevant provisions are as follows:

- (a) subparagraph 61.160(b)(ii), which provides that for a flight crew licence, other than an RPL, the applicant must have a current AELP assessment;

- (b) subparagraph 61.160(b)(iii), which provides that, for the grant of an RPL, the applicant must meet the GELP requirements mentioned in regulation 61.265;
- (c) subparagraph 61.235(2)(a)(v), which provides that, for a flight crew licence other than an RPL, the requirements for when an applicant is eligible to take the flight test for the licence include that the applicant has a current AELP assessment;
- (d) subparagraph 61.235(2)(a)(vi), which provides that an applicant for an RPL, other than an applicant who is eligible for the licence under subregulation 61.275(1) (Overseas flight crew authorisations—recognition), is eligible to take a flight test for the licence only if the applicant meets the GELP requirements mentioned in regulation 61.265;
- (e) regulation 61.265, which sets out the requirement for an applicant for an RPL to satisfy the GELP standard. The first pathway for satisfying the standard is for the applicant to be assessed by CASA or an examiner as meeting the GELP standard in the Part 61 MOS. The second pathway is for the applicant to satisfy the head of operations, or an instructor authorised by the head of operations, of a Part 141 or 142 operator that the applicant has passed one of the recognised GELP tests prescribed in the Part 61 MOS, and that the applicant has sufficient GELP to safely exercise the privileges of the licence;
- (f) paragraph 61.275(1)(d), which provides that the holder of an overseas flight crew licence (*the applicant*) is taken to meet the requirements under Part 61 for the grant of a flight crew licence (an Australian licence) with an aircraft category rating if the applicant's overseas licence states that the applicant meets the ICAO level 4, 5 or 6 AELP standards or the applicant has a current AELP assessment;
- (g) subparagraph 61.285(b)(ii), which provides that, for a member or former member of the ADF to be taken to meet the requirements under Part 61 for the grant of a flight crew licence, rating or endorsement, other than an examiner rating, the member must hold, or have held, a flight crew qualification granted by the ADF that CASA is satisfied is at least equivalent to the licence, rating or endorsement and have a current AELP assessment;
- (h) subregulation 61.422(1), which provides that the holder of a pilot licence other than an RPL is authorised to exercise the privileges of the licence only if the holder has a current AELP assessment;
- (i) paragraph 61.495(2)(d), which requires an applicant for an RPL endorsement that is a flight radio endorsement (other than a person who is eligible to be granted an RPL endorsement under regulation 61.500) to have a current AELP assessment;
- (j) paragraph 61.500(4)(c), which provides that an applicant for a flight radio endorsement is eligible to be granted the endorsement only if the applicant has a current AELP assessment;
- (k) paragraph 64.015(1)(d), which provides that a person is eligible for the grant of an AROC only if the person has a current AELP assessment;
- (l) paragraph 64.015(5)(c), which provides that a person seeking an AROC relying on a foreign qualification is eligible for the grant of an AROC only if the person holds a foreign qualification that includes a statement to the effect that the person meets an ICAO level 4, 5 or 6 AELP standard specified in the Part 61 MOS or the person has a current AELP assessment;
- (m) subregulation 64.025(2), which provides that an application for the grant of an AROC relying on the training and assessment mentioned in subregulation 64.015(1) must be accompanied by evidence of the applicant's AELP assessment;

- (n) paragraph 64.025(3)(b), which provides that an application for the grant of an AROC relying on a foreign qualification must be accompanied by evidence of the applicant's ICAO English language proficiency assessment (unless the qualification includes a statement to the effect that the person meets the ICAO level 4, 5 or 6 AELP standard);
- (o) subregulation 64.035(2), which provides that the holder of an AROC is authorised to transmit on an aviation safety radio frequency only if the holder has a current AELP assessment.

Subsection 54(2) provides that the exemptions from compliance with the requirements in subregulation 64.025(2) and paragraph 64.025(3)(b) of CASR are subject to the condition in section 57.

The exemptions in section 55 apply to a GELP holder, that is a person who has evidence of meeting the requirement in subclause 5.1.2 of the GELP unit in the Part 61 MOS, or has been assessed as meeting the elements in the GELP unit by CASA, an examiner, an approved person, the head of operations of a Part 141 or 142 operator, or the holder of a pilot instructor rating and a grade 1 training endorsement who has been nominated by the head of operations of a Part 141 or 142 operator.

Section 55 exempts a GELP holder from the requirements in subparagraph 61.160(b)(iii), subparagraph 61.235(2)(a)(vi) and regulation 61.265 of CASR. Those provisions relate to the GELP of a person seeking an RPL. In effect, the exemption deems that a GELP holder will have met the relevant GELP requirements in regulation 61.265 of CASR. The relevant provisions of CASR the subject of the exemptions are described above in relation to section 54.

Section 55 also exempts a GELP holder from the requirements in regulations 64.015, 64.025 and 64.035 of CASR to have a current AELP assessment. Those provisions relate to the requirements for obtaining an AROC and transmitting on an aeronautical radio. CASA considers that it is unnecessary for a person to have a current AELP assessment to obtain an AROC and use an aeronautical radio. The GELP standard is more appropriate. The relevant provisions of CASR the subject of the exemptions are paragraphs 64.015(1)(d) and (5)(c), subregulation 64.025(2), paragraph 64.025(3)(b) and subregulation 64.035(2), which are described above in relation to section 54.

Section 55, therefore, allows for a person's GELP to be assessed by a broader group of people, including persons approved by CASA under section 51. It also effectively deems a person who meets one of the requirements in paragraphs 5.1.2(a) to (f) of the GELP unit to have met the English language proficiency requirements of the specified provisions of CASR.

Subsection 55(2) provides that the exemptions from compliance with the requirements in subregulation 64.025(2) and paragraph 64.025(3)(b) are subject to the condition in section 57.

Section 56 provides exemptions for flight instructors, pilot instructors and Parts 141 and 142 operators in relation to ELP assessment holders. In effect, it allows flight instructors, pilot instructors and Parts 141 and 142 operators to recognise English language proficiency assessments conducted by a broader range of people than is allowed by the regulations, and to recognise qualifications or work experience mentioned in subclause 5.1.2 of the GELP unit.

Subsection 56(1) exempts a flight instructor from subparagraph 61.1225(2)(b)(iii) of CASR. Regulation 61.1225 of CASR sets out obligations of flight instructors in relation to approving a person to pilot an aircraft as a student pilot. Subparagraph 61.1225(2)(b)(iii) makes it an offence for a flight instructor to approve a student pilot to conduct a solo flight if the instructor is not satisfied that the student pilot, amongst other things, meets the requirements in subregulation 61.1225(3). Subregulation 61.1225(3) requires that the student has either been assessed by CASA or an examiner as meeting the GELP standard, or completed an approved course of training in English language proficiency. Subsection 56(1) therefore allows a flight instructor to approve a student pilot to conduct a solo flight if the student is an ELP assessment holder.

Subsection 56(2) exempts a pilot instructor from compliance with regulation 61.1227 of CASR, which sets out obligations of pilot instructors in relation to approving a person to use an aeronautical radio and makes it an offence if the instructor approves a person who does not hold a flight crew licence, or holds an RPL but does not hold a flight radio endorsement, to transmit on an aeronautical radio unless the person meets the requirements in subregulation 61.1227(2). That subregulation requires that the person has either been assessed by CASA or an examiner as meeting the GELP standard, or completed an approved course of training in English language proficiency. Subsection 56(2) therefore allows a pilot instructor to approve a person who does not hold a flight crew licence, or the holder of an RPL who does not hold a flight radio endorsement, to operate an aeronautical radio if the person is an ELP assessment holder.

Subsection 56(3) exempts Part 141 operators from paragraph 141.306(2)(c) of CASR in relation to an ELP assessment holder. Subregulation 141.306(1) sets out obligations of Part 141 operators when conducting certain solo flights and provides that an operator commits an offence if a person who is undertaking authorised Part 141 flight training with the operator conducts a solo flight for the first time and does not meet all the requirements in subregulation 141.306(2). Paragraph 141.306(2)(c) requires that a student pilot has either been assessed by CASA or an examiner as meeting the GELP standard, or has completed an approved course of training in English language proficiency.

Subsection 56(4) exempts a Part 142 operator from compliance with paragraph 142.386(2)(c) of CASR in relation to an ELP assessment holder. Regulation 142.386 of CASR sets out obligations of Part 142 operators when conducting certain solo flights. An operator commits an offence if a person, who is undertaking authorised Part 142 flight training with the operator, conducts a solo flight for the first time and does not meet all the requirements in subregulation 142.386(2). Paragraph 142.386(2)(c) requires that a student pilot has either been assessed by CASA or an examiner as meeting the GELP standard, or has completed an approved course of training in English language proficiency.

Subsections 57(3) and (4) therefore allow Parts 141 and 142 operators to permit a student pilot to conduct a solo flight for the first time if the student, amongst other things, is an ELP assessment holder.

Section 57 imposes a condition on the exemptions from compliance with subregulation 64.025(2) or paragraph 64.025(3)(b) of CASR, which require that an application for an AROC is accompanied by evidence of specific types of English language proficiency assessment. Instead, under the condition, the applicant's application for the grant of an AROC must be accompanied by evidence of the applicant's AELP or GELP, which

may be an assessment obtained from a broader range of persons or evidence of the qualifications or work experience mentioned in subclause 5.1.2 of the GELP unit.

Part 12 — Instrument rating aeronautical knowledge examination (IREX) (certain applicants for an air transport pilot licence)

Overview of Part 12

Part 12 of the new omnibus instrument exempts certain applicants for an air transport pilot licence with the aeroplane category rating (an *ATPL(A)*) from the requirement, under Part 61 of CASR, to have completed the instrument rating examination identified in the Part 61 MOS as “IREX”. The exemption applies to applicants who were granted a CPL, with an aeroplane category rating and an instrument rating, in accordance with the terms of the *Trans-Tasman Mutual Recognition Act 1997*.

Background to Part 12

Part 12 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX160/18 — Instrument Rating Aeronautical Knowledge Examination (IREX) (Certain Applicants for an Air Transport Pilot Licence) Exemption 2018*; and
- (b) were then renewed by being included as Part 12 of *CASA EX66/21* when that instrument was amended by *CASA EX119/21 — Flight Crew Licensing (Further Miscellaneous Exemptions) Amendment Instrument 2021*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 12 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 12

Section 58 defines terms used in Part 12. **IREX** is defined to mean the examination of aeronautical knowledge for an instrument rating described in Unit 2.1.1 of Section 2.1 of Appendix 2 of Schedule 3 of the Part 61 MOS.

Section 59 grants exemptions to relevant applicants, defined in subsection 59(1) to mean applicants for the grant of an *ATPL(A)* who have been granted a CPL, with the aeroplane category rating and an instrument rating, in accordance with the *Trans-Tasman Mutual Recognition Act 1997*.

Subsection 59(2) exempts a relevant applicant who is taking the *ATPL(A)* flight test from the operation of subparagraph 61.235(2)(a)(ii) of CASR, which provides that an applicant for a flight crew licence is eligible to take a flight test for the licence only if the applicant has passed the aeronautical knowledge examination for the licence. The exemption makes a relevant applicant eligible to take the flight test for the *ATPL(A)* without having passed the IREX, despite regulations 61.235 and 61.240. Under regulation 61.240, an applicant for a flight crew licence is taken not to have passed the flight test if, when the applicant took the flight test, the applicant was not eligible under regulation 61.235 to take the flight test. The exemption is granted only to the extent that the subparagraph requires the applicant to have passed the IREX in order to be eligible to take the flight test. The effect of the exemption is intended to ensure that a relevant applicant is not deemed not to have passed the flight test by operation of regulation 61.240 of CASR, because the applicant has not passed the IREX.

Subsection 59(3) exempts a relevant applicant from subparagraph 61.160(b)(i), and paragraphs 61.700(3)(a) and (c), of CASR. Subparagraph 61.160(b)(i) requires CASA to grant a flight crew licence to an applicant for the licence if the applicant meets the requirements mentioned in Part 61 for the grant of the licence and paragraphs 61.700(3)(a) and (c) require an applicant for an ATPL to have passed the aeronautical knowledge examination for the ATPL and the associated aircraft category rating and passed the flight test mentioned in the Part 61 MOS for the ATPL and the associated aircraft category rating.

The exemption is granted only to the extent that the provisions require the applicant to have passed the IREX in order to be eligible to be granted the ATPL(A). The effect of the exemption is intended to ensure that a relevant applicant is eligible to be granted the ATPL(A) despite not having passed the IREX. Notably, the exemption in subsection 59(3) is intended to ensure that a relevant applicant meets the requirement to have passed the flight test even if the person would otherwise have been deemed not to have passed the flight test by operation of regulation 61.240 of CASR because the applicant has not passed the IREX.

Section 60 provides an exemption to flight examiners who conduct flight tests for relevant applicants so that the examiner does not commit the offence in subregulation 61.1300(1) of CASR in respect of a relevant applicant who has not passed the IREX. Section 60 exempts a flight examiner from compliance with that subregulation, in relation to the conduct of the flight test for an ATPL(A) taken by a relevant applicant to the extent that subparagraph 61.1300(1)(b)(ii) requires the flight examiner to be satisfied that the relevant applicant has passed the IREX. The exemptions are not intended to affect any other requirements for the eligibility to take the ATPL(A) flight test, or eligibility criteria for the grant of the ATPL(A).

Part 13 — Differences training, class rating flight training and flight review (equivalent overseas training)

Overview of Part 13

Part 13 of the new omnibus instrument exempts the holder of an aircraft class rating from the requirements to complete flight training and a flight review to fly an aircraft of a prescribed type, provided that the holder has completed equivalent flight training conducted by a training provider authorised by the national aviation authority of a recognised foreign State. It also exempts the holder of a pilot type rating or a flight engineer type rating from the requirement to complete differences training under CASR in order to pilot, or act as the flight engineer of, an aircraft of the model covered by the training, provided that the holder has completed an equivalent training course of an authorised overseas training provider.

Each exemption only applies if the holder of the rating has also been assessed by the authorised overseas training provider or, for the holder of an aircraft class rating, by a person authorised by the national aviation authority of the recognised foreign State, as competent in relation to an aircraft of the model covered by the training, and the holder has provided specified documentation to that effect to CASA.

Background to Part 13

Part 13 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX79/19 — Differences Training, Class Rating Flight Training and Flight Review (Equivalent Overseas Training) Exemption 2019*; and
- (b) were renewed by being included as Part 13 of CASA EX66/21 when that instrument was amended by *CASA EX57/22 – Flight Crew Licensing (Differences Training and Flight Training – Equivalent Overseas Training) Amendment Instrument 2022*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 13 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 13

Section 61 sets out definitions of terms used in Part 13 and refers to the definition of ***recognised foreign State*** in section 61.010 of CASR, which lists countries that are recognised foreign States and states that it also includes any other foreign country prescribed by a legislative instrument under regulation 61.047 of CASR.

Section 62 exempts the holder of an aircraft class rating from compliance with regulation 61.747 of CASR to the extent that it requires the holder to have completed the flight training mentioned in subregulation 61.747(3) of CASR for the aircraft type and a flight review in an aircraft of the type or an approved flight simulator for the flight review. The exemption applies if the holder has completed the equivalent flight training for an aircraft of the prescribed type and given CASA documentation showing the person has completed the equivalent flight training and has been assessed by a person authorised by the national aviation authority of the recognised foreign State to conduct the assessment as competent to fly an aircraft of the prescribed type.

Section 63 exempts the holder of a pilot type rating from compliance with regulation 61.780 of CASR to the extent that it requires the holder to have completed differences training for another aircraft model covered by the rating (the ***second variant***) to exercise the privileges of the rating in an aircraft of the second variant. The exemption applies if the holder has passed the required flight test for the rating in an aircraft model covered by the rating (the ***first variant***) or an approved flight simulator for the first variant, completed an equivalent training course for the second variant, and given CASA documentation, from the overseas training provider that conducted the equivalent training course for the second variant, showing the person has completed the course and has been assessed by the provider as competent to pilot an aircraft of the model covered by the training.

Section 64 exempts the holder of a flight engineer type rating from compliance with regulation 61.1370 of CASR to the extent that it requires the holder to have completed differences training for another aircraft model covered by the rating (the ***second variant***) to exercise the privileges of the rating in an aircraft of the second variant. The exemption applies if the holder has passed the required flight test for the rating in an aircraft model covered by the rating (the ***first variant***) or a flight simulator that represents the first variant, completed an equivalent training course for the second variant, and given CASA documentation, from the overseas training provider that conducted the equivalent training course for the second variant, showing the person has completed the course and has been

assessed by the provider as competent to act as the flight engineer of an aircraft of the model covered by the training.

Part 14 — Significant change approval requirements (Part 141 operators and certain Part 142 operators)

Overview of Part 14

Part 14 of the new omnibus instrument exempts Part 141 operators and certain Part 142 operators from compliance with requirements in Parts 141 and 142 of CASR that would otherwise require them to obtain CASA's approval of a significant change before adding aircraft to their fleet of training aircraft that are the same kind, or similar in kind, as aircraft they are already using to conduct training.

Background to Part 14

Part 14 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX100/20 — Particular Significant Changes Approval Requirements (Part 141 Operators and Relevant Part 142 Operators) Exemption 2020*; and
- (b) were then renewed by being included as Part 14 of *CASA EX66/21* when that instrument was amended by *CASA EX68/22 – Amendment of CASA EX66/21 (Significant Change Approval Requirements – Part 141 Operators and Relevant Part 142 Operators) Instrument 2022*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 14 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 14

Section 65 exempts a Part 141 operator from compliance with particular provisions of CASR, to the extent that each provision requires the Part 141 operator to have obtained CASA's approval of a significant change mentioned in subparagraph (a)(ix) of the definition of **significant change** in regulation 141.025 of CASR. Under subparagraph (a)(ix), for an operator that conducts training in aircraft, a significant change includes a change in relation to the kinds of aircraft used to conduct the training. The relevant provisions from which a Part 141 operator is exempt are as follows:

- (a) subregulation 141.085(1) of CASR, which provides that a Part 141 operator must not make a significant change unless CASA has approved the change;
- (b) subregulation 141.095(1) of CASR, which provides that a Part 141 operator commits a strict liability offence if the operator makes a change and the change is not made in accordance with the process described in the operator's operations manual for making changes;
- (c) regulation 141.265 of CASR, which makes it an offence for a Part 141 operator to contravene a provision of its operations manual.

Section 66 exempts a **relevant Part 142 operator**, defined as the holder of an AOC that authorises the conduct of a Part 142 activity in an aircraft, from compliance with particular provisions of CASR. Subsection 66(2) provides that a relevant Part 142 operator is exempt from compliance with specified provisions of CASR, to the extent that each provision requires the relevant Part 142 operator to have or obtain CASA's approval of a significant

change mentioned in subparagraph (a)(xi) of the definition of *significant change* in regulation 142.030 of CASR.

Regulation 142.030 of CASR provides that *significant change*, for a Part 142 operator, means a change in relation to any of several kinds of information, processes, training and activities including, relevantly in subparagraph (a)(xi), if the operator conducts the activities in aircraft, a change in the kinds of aircraft used to conduct the activities. The relevant provisions from which a Part 142 operator is exempt are as follows:

- (a) subregulation 142.140(1) of CASR, which provides that a Part 142 operator must not make a significant change unless CASA has approved the change;
- (b) subregulation 142.150(1), which provides that a Part 142 operator must not make a change unless the change is made in accordance with the process described in the operator's exposition for making changes;
- (c) regulation 142.345, which makes it a strict liability offence for a Part 142 operator to contravene a provision of its exposition.

Sections 65 and 66 are to be read as subject to the exclusions in section 67. To ensure continuing aviation safety, the instrument does not apply, and CASA approvals continue to be required, in relation to the following aircraft operated by a Part 141 operator or relevant Part 142 operator:

- (a) multi-crew aircraft with the type ratings that may be granted for multi-crew operation prescribed, for paragraph 61.055(1)(a) of CASR, in a legislative instrument made by CASA;
- (b) a variant model of an aircraft of the kind mentioned in paragraph (a) that requires differences training;
- (c) a type of aircraft that is certificated for single-pilot operation and for which single-pilot type ratings are required, with the type ratings that may be granted for single-pilot operation prescribed, for subparagraph 61.060(1)(b)(i) of CASR, in a legislative instrument made by CASA;
- (d) a variant model of an aircraft of the type mentioned in paragraph (c) that requires differences training;
- (e) an aircraft covered by a class rating, being the first aircraft of that class to be used by the operator in authorised Part 141 flight training or a Part 142 activity;
- (f) a type of aircraft prescribed in an instrument made by CASA under regulation 61.062 of CASR;
- (g) a pressurised aircraft, being the first pressurised aircraft to be used by the operator in authorised Part 141 flight training or a Part 142 activity;
- (h) a turbine-engined aircraft, being the first turbine-engined aircraft to be used by the operator in authorised Part 141 flight training or a Part 142 activity.

Part 15 — Low-level rating

Overview of Part 15

Part 15 of the new omnibus instrument exempts the holder of a low-level rating from certain recent experience (*recency*) and flight review requirements, but only if alternative recent experience and flight review requirements are met. The exemption in combination with the conditions to which it is subject has the effect that the recurrence period for the range of

options available (a flight review or a flight review equivalent) would be set at 24 months instead of 12 months and that the holder of a low-level rating with an aerial mustering endorsement can carry out aerial mustering operations without the required recent experience but only if they have demonstrated recent competency in aerial mustering through an OPC or a low-level flight review within the 12 months before the operation.

Background to Part 15

Part 15 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument CASA EX92/15 *Exemption — from certain low-level rating requirements*; and
- (b) were then renewed by instrument CASA EX48/17 *Exemption — from certain low-level rating requirements*; and
- (c) were then renewed by instrument CASA EX73/20 — *Low-level Rating Exemption 2020*; and
- (d) were then renewed by being included as Part 15 of CASA EX66/21 when that instrument was amended by *CASA EX51/23 — Amendment of CASA EX66/21 (Low-level Rating) Instrument 2023*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 15 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments

Content of Part 15

Section 68 defines **low-level rating** as having the same meaning as in Part 61 of CASR.

Section 69 provides that the holder of a pilot licence with a low-level rating is exempt from compliance with the requirements of the following provisions of CASR:

- (a) regulation 61.1040, which provides that the holder of a pilot licence with a low-level rating is authorised to conduct low-level operations, to the extent that it requires compliance with regulations 61.1055 and 61.1060;
- (b) regulation 61.1055, which requires a pilot to have recent experience or a flight review within the previous 6 months to be able to conduct low-level operations, such as aerial mustering;
- (c) regulation 61.1060, which makes the exercise of the privileges of a low-level rating subject to a flight review requirement. The holder of a low-level rating is authorised to exercise the privileges of the rating only if the holder has, within the previous 12 months, successfully completed a flight review for the rating.

The requirements in regulations 61.1055 and 61.1060 do not distinguish between aerial mustering operations and other low-level operations.

Sections 70 and 71 set out conditions on the exemption in section 69.

Section 70 makes it a condition of the exemption in section 69 that the holder must not exercise the privileges of the low-level rating unless, within 24 months before exercising the privileges, the holder:

- (a) has successfully completed a flight review for the rating; or
- (b) has passed a flight test for the rating; or

- (c) has passed a flight test for the grant of a low-level endorsement (as long as it is more than 6 months after passing the flight test for the rating); or
- (d) has successfully completed an aerial application proficiency check under regulation 61.1110 of CASR; or
- (e) has successfully completed an OPC that covers:
 - (i) operations under the rating; or
 - (ii) operations under the aerial application rating; or
- (f) is successfully participating in an operator's training and checking system for an operation under the rating, being a system for which the operator holds an appropriate approval under regulation 61.040 of CASR.

Section 71 makes it a condition of the exemption in section 69 that, if the low-level rating has an aerial mustering endorsement, the holder must not engage in an aerial mustering operation unless, within 12 months before the operation, the holder has:

- (a) completed 20 hours of aerial mustering operations; or
- (b) been assessed as competent to conduct aerial mustering operations by a flight instructor who holds a low-level training endorsement; or
- (c) successfully completed an OPC in low-level operations covering aerial mustering operations; or
- (d) successfully completed a low-level flight review covering aerial mustering operations.

Part 16 — Miscellaneous dropping operations

Overview of Part 16

Part 16 of the new omnibus instrument continues to exempt the pilot in command of an aircraft in a miscellaneous dropping operation from compliance with requirements that would otherwise apply to a miscellaneous dropping operation so that the pilot in command of an aircraft in a miscellaneous dropping operation is not required to hold an aerial application rating but must instead hold a relevant low-level rating and low-level endorsement.

Background to Part 16

Part 16 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX136/20 — Incendiary Dropping Operations (Aerial Application Rating) Instrument 2020*; and
- (b) were then renewed by being included as Part 16 of *CASA EX66/21* when that instrument was amended by *CASA EX65/23 — Amendment of CASA EX66/21 (for Pilots in Command in Miscellaneous Dropping Operations) Instrument 2023*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 16 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 16

Section 72 defines terms used in the Part. In particular, ***miscellaneous dropping operation*** means an operation that involves, or involves training for, dropping relevant articles from an aircraft in flight below 500 ft, but does not include any operation that involves spraying or

broadcasting any substance. *Relevant articles* is defined by way of a list. That list does not include any substance that may be sprayed or broadcast.

Section 73 provides that the pilot in command of an aircraft in a miscellaneous dropping operation is exempted from compliance with requirements in the following provisions of CASR:

- (a) subparagraph 61.065(1)(a)(i), which provides that the holder of a flight crew licence must not conduct an activity mentioned in Part 61 while piloting a registered aircraft unless the holder is authorised under Part 61 to conduct the activity;
- (b) subregulation 61.065(2), which makes it a strict liability offence to contravene subparagraph 61.065(1)(a)(i);
- (c) subregulation 61.375(7), which provides that the holder of a pilot licence is authorised to conduct an activity mentioned in column 1 of an item in table 61.375 in the exercise of the privileges of the licence only if the holder also holds the rating mentioned in column 2 of the item. For the conduct of an aerial application operation below 500 ft above ground or water level, item 6 of table 61.375 requires the pilot to hold an aerial application rating.

The exemptions apply only to the extent that:

- (a) the miscellaneous dropping operation is an aerial application operation below 500 ft for which item 6 in Table 61.375 requires the pilot in command to hold an aerial application rating; and
- (b) if the pilot in command is not employed to conduct the miscellaneous dropping operation for an operator under Part 137 of CASR, or for an aerial work operator under Part 138 of CASR — the pilot conducts the miscellaneous dropping operation in accordance with the requirements and limitations that apply to a limited aerial work operation under Part 138 of CASR.

Paragraph 73(1)(e) is designed to introduce an additional safety component into miscellaneous dropping operations that are conducted by a pilot who is not operating in association with an operator under Part 137, or by a certificated aerial work operator under Part 138.

Under subsection 73(2), the pilot in command of an aircraft in a miscellaneous dropping operation is exempted from compliance with subregulation 138.500(2) of CASR, which provides that the pilot in command of an aircraft for a flight involving an aerial work operation must not perform a duty as pilot in command for the flight if the pilot is not qualified under subregulation 138.500(1) as pilot in command for the flight. However, the exemption is:

- (a) only with respect to subparagraph 138.500(1)(a)(i), which makes it one aspect of qualification as pilot in command of an Australian aircraft for a flight involving an aerial work operation that the pilot is authorised under Part 61 to carry out, in relation to the flight, the duties assigned to the pilot by the operator of the flight; and
- (b) only to the extent that the miscellaneous dropping operation is an aerial work operation in the form of a dispensing operation below 500 ft, for which item 6 in Table 61.375 requires the pilot in command to hold an aerial application rating.

Section 74 provides that the exemptions under section 73 are subject to the following conditions:

- (a) the pilot in command must hold a low-level rating and a low-level endorsement for the category of aircraft used in the miscellaneous dropping operation;
- (b) the pilot in command must comply with the requirements imposed on a pilot in command under:
 - (i) Part 137 of CASR — if the aeroplane operator is an operator under Part 137 of CASR; or
 - (ii) Part 138 of CASR — if the aircraft operator conducts aerial work operations (whether or not the operator holds an aerial work certificate authorising the operations).

Since all miscellaneous dropping operations will be either an aerial application operation in an aeroplane under Part 137 of CASR, or a dispensing operation as part of an aerial work operation under Part 138 of CASR, paragraph 74(b) is intended to ensure that the benefit of the exemption is subject to the usual requirements for such operations.

A Note contains references to related Part 137 and Part 138 operator exemptions in other instruments.

Part 17 — Flight training – certain solo cross-country flights

Overview of Part 17

Part 17 of the new omnibus instrument renews the exemptions granted to flight instructors and Part 141 operators from obligations under CASR that would otherwise apply when authorising a student helicopter pilot to conduct a solo cross-country flight for the first time that rely on obsolete “dual instrument time” and “dual instrument flight time” requirements.

Background to Part 17

Part 17 of the new omnibus instrument renews exemptions that were:

- (a) originally included in instrument *CASA EX20/21 – Flight Instructors and Part 141 Operators (Flight Training – Certain Solo Cross-country Flights) Exemption 2021*; and
- (b) subsequently included as Part 17 of *CASA EX66/21* when that instrument was amended by *CASA EX06/24 – Amendment of CASA EX66/21 (Flight Instructors and Part 141 Operators – Flight Training for Certain Solo Cross-country Flights) Instrument 2024*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 17 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 17

Section 75 defines **cross-country flight** as having the same meaning as in regulation 61.010 of CASR, where it is defined as a flight along a pre-planned route during which the pilot uses geometry, topography or radio navigation aids to determine the aircraft’s position and course.

Flight instructors and Part 141 operators commit an offence under subregulation 61.1225(4) or paragraph 141.305(3)(c) or 141.305(6)(b) of CASR when authorising a pilot to conduct their first solo cross-country flight and the pilot has not completed at least 2 hours of dual

instrument time of which at least 1 hour must be instrument flight time. Sections 76 and 77 contain exemptions that are required because these provisions of CASR contain obsolete references to “dual instrument time” and “dual instrument flight time” requirements. Those concepts are no longer an aspect of the scheme in Part 61 of CASR, making it impossible for flight instructors and Part 141 operators to comply with the obligations created by the provisions.

Section 76 grants exemptions relating to a student pilot receiving training, other than integrated training, for a private or commercial pilot licence with the helicopter category rating who has completed the training in relation to the competency standards mentioned in element *H6.4 – Land, take off and manoeuvre in a confined area* in section 4 of Schedule 2 of the Part 61 MOS. The exemptions apply to the conduct of a solo cross-country flight in a helicopter.

Paragraph 76(1)(a) exempts a flight instructor from compliance with paragraph 61.1225(4)(c). That paragraph imposes an obligation on flight instructors in relation to a cross-country flight, namely the flight instructor must also be satisfied that the student has completed at least 2 hours of dual instrument time, 1 hour of which is conducted during dual instrument flight time.

Paragraph 76(1)(b) exempts a Part 141 operator from compliance with paragraph 141.305(3)(c), which requires a student pilot to have completed the dual instrument time requirements stated in the paragraph before conducting a solo cross-country flight for the first time as part of authorised Part 141 flight training with the operator.

Section 77 grants exemptions relating to a student who is receiving flight training for the grant of a recreational navigation endorsement for an RPL with the helicopter category rating, conducted in a helicopter, and has completed the training in relation to the competency standards mentioned in element *H6.4 – Land, take off and manoeuvre in a confined area* in section 4 of Schedule 2 of the Part 61 MOS.

Paragraph 77(1)(a) exempts flight instructors from compliance with paragraph 61.1225(4)(c), which imposes an obligation on a flight instructor in relation to a cross-country flight, namely the flight instructor must be satisfied that the student has completed at least 2 hours of dual instrument time, 1 hour of which is conducted during dual instrument flight time.

Paragraph 77(1)(b) exempts a Part 141 operator from compliance with paragraph 141.305(3)(c). Subregulation 141.305(3) provides that a Part 141 operator commits an offence if a student pilot who is undertaking authorised Part 141 flight training with the operator conducts a solo cross-country flight for the first time and the student pilot does not meet the requirements in the subregulation. Paragraph 141.3059(3)(c) includes a requirement that the student pilot must have completed at least 2 hours of dual instrument time, 1 hour of which is conducted during dual instrument flight time.

Paragraph 77(1)(c) exempts Part 141 operators from compliance with paragraph 141.305(6)(b), which, as far as is relevant, makes it an offence for a Part 141 operator to allow the holder of a pilot licence who is receiving flight training from the operator for a recreational navigation endorsement to conduct a solo cross-country flight for the first time if the holder has not completed at least 2 hours of dual instrument time, 1 hour of which is conducted during dual instrument flight time.

Part 18 — Naming of alternative key personnel by Parts 141 and 142 operators

Overview of Part 18

Part 18 of the new omnibus instrument exempts Parts 141 and 142 operators, and persons who apply for a Part 141 certificate or a Part 142 authorisation, from having to name at least one person to carry out the responsibilities of a key personnel position when the holder of the position is absent or unable to carry out the responsibilities, which will allow smaller operators, and those who provide occasional flight training and do not always have staff available to be nominated in their operations manual, to manage absences of key personnel in certain circumstances without being required to have standby personnel. The exemption only exempts operators from the requirement to *name* an alternative person for key positions that would otherwise allow operations to continue. Operators would be expected to cease operations in the event that key personnel are absent from the position or unable to carry out their responsibilities.

Background to Part 18

Part 18 of the new omnibus instrument renews exemptions that:

- (a) were originally included in instrument *CASA EX89/18 — Naming of Alternate Key Personnel (Part 141 and 142 Operators) Exemption 2018*; and
- (b) were then renewed in instrument *CASA EX64/21 — Naming of Alternate Key Personnel (Parts 141 and 142 Operators) Exemption 2021*.

The Explanatory Statements for those legislative instruments provide further detail about the background to, and ongoing impact of, each exemption in Part 18 of the new omnibus instrument, which is in substantially the same terms as those legislative instruments.

Content of Part 18

Section 78 exempts Parts 141 and 142 operators, and persons who apply for a Part 141 certificate or a Part 142 authorisation, from compliance with the applicable requirement in CASR to name, for each of the operator's key personnel, a person authorised to carry out the responsibilities of the position when the position holder is absent from the position or unable to carry out the position's responsibilities.

Regulation 141.020 of CASR defines **key personnel** for a Part 141 operator as the persons that hold, or carry out the responsibilities of, the positions of chief executive officer and head of operations in the operator's organisation. Regulation 142.025 of CASR defines key personnel for a Part 142 operator as the persons that hold, or carry out the responsibilities of, the positions of chief executive officer and head of operations and, if the operator conducts specified kinds of activities, safety manager and quality assurance manager.

Subsection 78(1) exempts a person who applies for a Part 141 certificate or who is a Part 141 operator from compliance with subparagraph 141.260(1)(e)(iv) of CASR, which requires the operations manual for a Part 141 operator to include the name of each person authorised to carry out the responsibilities of each key personnel position when the holder of the position is absent or cannot carry out their responsibilities. Subparagraph 141.260(1)(e)(v) requires that the manual include a description of how the operator will manage the responsibilities of the position in either of these circumstances. It is an offence under regulation 141.265 of CASR for a Part 141 operator to contravene a provision of its operations manual.

Subsection 78(2) exempts a person who is a Part 142 operator, or who applies for a Part 142 authorisation, from compliance with the requirement in subparagraph 142.340(1)(e)(iv) of CASR, which provides that the exposition for a Part 142 operator must include the name of each person authorised to carry out the responsibilities of each of the key personnel of the operator when that position holder is absent from the position or cannot carry out the responsibilities of their position. Subparagraph 142.340(1)(e)(v) of CASR requires that the exposition include a description of how the operator will manage the responsibilities of the position in either of these circumstances. It is an offence under regulation 142.345 of CASR for a Part 142 operator to contravene a provision of its exposition.

Section 78 also include a Note reminding operators that, even if they do not name alternate key personnel in their operations manual or exposition, they must still describe in it, and follow, procedures for the management of the responsibilities of each key personnel position in the circumstances mentioned. The Note makes it clear that a procedure may be that the operator will not conduct operations in those circumstances. A second note points out that it is an offence under CASR not to comply with a provision of an operations manual or exposition.

Schedule 1 Amendment of CASA EX92/22

Item [1] omits the definition of *CASA EX66/21* in *CASA EX92/22 – Part 137 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2022* and inserts a definition that refers to the new omnibus instrument.

Items [2] and [3] update references to one of the repealed instruments (CASA EX66/21), to refer instead to the new omnibus instrument.

Schedule 2 Amendment of CASA EX86/21

Item [1] omits the definition of *CASA EX66/21* in *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021* and inserts a definition that refers to the new omnibus instrument.

Items [2] and [3] update references to one of the repealed instruments (CASA EX66/21), to refer instead to the new omnibus instrument.

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 new omnibus instrument applies to several classes of persons, including relevant applicants and flight examiners conducting flight tests for relevant applicants, applicants for various civil aviation authorisations, pilot instructors, flight instructors, Part 141 operators and Part 142 operators.

Additionally, paragraph 10(1)(d) of the LA provides that an instrument will be a legislative instrument if it includes a provision that amends or repeals another legislative instrument. Schedules 1 and 2 to the new omnibus instrument amend two other instruments to update

references to one of the repealed instruments, which was registered as a legislative instrument.

The new omnibus instrument 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 new omnibus instrument, because the new omnibus 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*). Generally speaking, item 15, when invoked, is necessary in order to ensure that, in the interests of aviation safety, a relevant instrument has enduring effect, certainty and clarity for aviation operators both domestic and international.

However, the new omnibus instrument will be repealed at the end of 31 May 2027, which will occur before the sunsetting provisions would have repealed the new omnibus instrument if they had applied. Alternatively, the new omnibus instrument will be repealed when CASR is amended to incorporate the exemptions. Any renewal of the exemptions in the new omnibus instrument, or amendment to CASR, 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 new omnibus instrument.

Consultation

Under section 17 of the LA, before a legislative instrument is made, CASA must be satisfied that it has undertaken any consultation it considers appropriate and practicable in order to draw on relevant expertise and involve persons likely to be affected by the proposals.

Consultation was carried out when each exemption was included in the repealed instruments or first granted in a predecessor instrument and all comments were taken into account before CASA decided to grant the initial exemption instrument on each matter. CASA has considered whether further consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA, having regard to the following:

- (a) the new omnibus instrument continues the effect of existing exemptions that address anomalies, in particular, minor unintended consequences of the making of Part 61 of CASR;
- (b) the continuation of each exemption ensures the legality of long-standing, industry-accepted aviation practices which CASA does not intend to prohibit;
- (c) CASA has not received any feedback from industry that the exemptions, the conditions to which they are subject or the direction in the instrument are not appropriate or are no longer required;
- (d) the exemptions apply to a limited number of operators and individuals within the wider aviation industry;
- (e) the exemptions are considered to be beneficial for the pilots and operators to whom they apply, who voluntarily elect to take advantage of them, and who comply with their conditions.

In these circumstances, it is CASA's view that the exemptions remain appropriate to the relevant portions of the aviation industry. CASA is satisfied that no further consultation is appropriate or reasonably practicable for the new omnibus instrument for section 17 of the

LA. CASA will undertake public consultation before CASR is amended to incorporate the policy effect of the exemptions into the regulations.

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:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) 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 new omnibus instrument has been determined by:

- (a) the identification of individuals and businesses affected by the new omnibus instrument; and
- (b) consideration of how the requirements to be imposed on individuals and businesses under the new omnibus instrument will be different compared to existing requirements; and
- (c) a valuation of the impact, in terms of direct costs on individuals and businesses affected by the new omnibus instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government; and
- (d) 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
- (e) consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the new omnibus instrument, that are relevant if the new omnibus 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 new omnibus instrument.

As the new omnibus instrument replaces two expiring instruments with the same (or largely the same) provisions and conditions, there will be no change of economic or cost impact on individuals, businesses or the community.

The new omnibus instrument will not require the individuals or businesses that benefit from it to meet new requirements and will be cost neutral.

Impact on categories of operations

The new omnibus instrument is likely to have a beneficial effect in each of the categories of operations to which it relates. A more detailed discussion of the categories to which each Part of the instrument relates, and the beneficial effect on the persons affected by the exemptions in each Part, is provided in the explanation of the contents of each Part.

Impact on regional and remote communities

The new omnibus instrument is not likely to have a specific impact on operators in regional or remote communities in Australia. The exemptions, when initially made, likely had a generalised beneficial effect on regional, remote and urban communities.

There are no identified rural, remote or regional impacts that differ in any really material way from the general economic and cost impacts, or sector risks described above. However, smaller operators, more likely to be located in rural and regional areas, will benefit as described above.

Environmental impact

Under subsection 9A(2) of the Act, while regarding the safety of air navigation as the most important consideration, CASA must exercise its powers and perform its functions in a manner that ensures that, as far as practicable, the environment is protected from the effects and associated effects of the operation and use of aircraft.

It is not anticipated there will be any negative environmental impacts as a result of the new omnibus instrument since it does not create any new environmental impacts arising from flight operations.

Collection, use and disclosure of personal information

Provisions that enable the collection, use and disclosure of personal information

Section 40 and 49 of the instrument provide for CASA or an aircraft operator to collect certain personal information from applicants and pilots who wish to take advantage of the exemptions in the instrument.

The type of information that may be collected or disclosed

Section 38 makes it a condition of the exemptions in section 34 to 37 that the relevant applicant or holder of the licence or rating provides evidence that they satisfy one of the alternative requirements in accordance with section 40. Section 40 sets out the evidence to be provided to CASA by applicants. The type of evidence may include copies of course completion certificates, Australian and foreign flight crew licences, logbooks, or evidence of completing checks, training, qualifications or experience. The applicant or licence holder must also, on written request, supply CASA with any information or documents CASA considers necessary to determine the appropriate application, or the continued application, of the exemption to the applicant or holder.

Subparagraph 40(1)(g)(ii) requires holders of specified licences and ratings to supply evidence to the head of the flying operations part of an AOC holder or other operator for whom the pilot operates a multi-crew aircraft. The type of evidence may include copies of course completion certificates, Australian and foreign flight crew licences, logbooks, or evidence of completing checks, training, qualifications or experience.

The direction in section 49 applies when the head of flight operations of an aerial work operator takes advantage of the exemption in section 47 to have an OPC conducted by the head of flight operations of another aerial work operator, instead of by an authorised flight examiner or flight instructor. Section 49 requires the head of flight operations conducting the check to notify CASA, in writing, of the check.

Why the provisions that enable the collection, use and disclosure of personal information are considered necessary and appropriate

The collection of information relating to an applicant or licence or rating holder under the instrument is necessary for CASA to perform its function (conferred by paragraph 9(1)(a) of the Act) of conducting the safety regulation of civil air operations in Australian territory, in accordance with the Act and the regulations. The information that must be collected by CASA relates to competency matters that would affect an applicant's, or licence holder's, ongoing ability to conduct aircraft operations. The information is collected by CASA to achieve the legitimate objective of ensuring that pilots meet certain competency standards in order to protect aviation safety.

The requirements to provide personal information to CASA in the instrument are not more onerous than those that apply to applicants and pilots who conduct operations in accordance with CASR.

The collection, use and disclosure to CASA of information is necessary in each particular circumstance under the instrument. The nature of a scheme which provides for flight crew licensing necessitates the collection of personal information about the person applying for, or exercising the privileges of, flight crew licences and ratings and the use of that information to audit and enforce the scheme.

Whether applicants and pilots seek to take advantage of the exemptions in the instrument and to provide the required personal information to CASA or an operator is purely voluntary. If an applicant or pilot does not wish to provide the required personal information, compliance with the prescribed requirements in CASR continues to be an available option.

The protections afforded by the *Privacy Act 1988* (the **Privacy Act**), continue to apply:

- (a) to CASA; and
- (b) to the head of the flying operations part of an aircraft operator, to the extent that the operator is an entity or an APP entity under the Privacy Act.

The safeguards in place to protect the personal information

CASA has safeguards in place to protect the confidentiality of the information collected under the provisions of the instrument that require the supply of personal information.

When an application is made for a flight crew licence or rating, the applicant is provided with a privacy declaration about the processes that CASA has in place to protect the relevant personal information in their application records, which the applicant is required to accept as part of the process.

As a Commonwealth government agency, CASA must comply with the Privacy Act, which establishes a privacy protection framework that protects the information collected from persons seeking the benefit of the exemption and limits its use and disclosure. CASA must

also comply with the *Privacy (Australian Government Agencies — Governance) APP Code 2017* (the **Privacy Code**). In each case the relevant information is “personal information”, within the meaning of section 6 of the Privacy Act, but is not “sensitive information”, as defined in section 6 of the Privacy Act.

The obligations under the Privacy Act include obligations to comply with the Australian Privacy Principles set out in Schedule 1 to the Privacy Act. In particular, under paragraph 3.1 of Australian Privacy Principle 3, CASA must not collect personal information about an individual unless the information is reasonably necessary for, or directly related to, one or more of the entity’s functions or activities. The collection of the personal information under the instrument is reasonably necessary for, or directly related to, CASA’s function of conducting the safety regulation of civil air operations in Australian territory.

There are also safeguards set out in policy. CASA’s *Privacy Policy – Directive*, effective from October 2023 to October 2026, deals with CASA’s collection, holding, use and disclosure of personal information and requires CASA officers to ensure compliance with the following:

- (a) applicable privacy laws, including the Privacy Act;
- (b) the CASA privacy policy available on CASA’s website, which outlines CASA’s personal information handling practices and complaint handling process;
- (c) the Privacy Code.

Under CASA’s privacy policy, CASA will take reasonable steps to ensure that any personal information it collects and uses is up-to-date, complete, and secure.

Office of Impact Analysis (OIA)

An Impact Analysis (**IA**) is not required in this case, as the exemptions are covered by a standing agreement between CASA and OIA under which an IA is not required for exemptions (OIA id: OIA23-06252).

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 new omnibus instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260(1) of CASR.

The new omnibus instrument commences on 1 June 2024 and is repealed at the end of 31 May 2027.

Statement of Compatibility with Human Rights

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

CASA EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 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 EX32/24 — Flight Crew Licensing and Other Matters (Miscellaneous Exemptions) Instrument 2024* (the **legislative instrument**) is to continue the policy effect of a range of temporary exemptions from compliance with certain requirements of the *Civil Aviation Safety Regulations 1998 (CASR)*.

This is achieved by consolidating miscellaneous exemptions that have been granted by the Civil Aviation Safety Authority (**CASA**) in the past to deal with minor unintended consequences of amendments to CASR as they arose, or to deal with anomalies or oversights as they were identified. The legislative instrument continues the operation of the exemptions, on a temporary basis (from 1 June 2024 to 31 May 2027) in substantially the same terms as those in the repealed instruments, but the opportunity has been taken to make minor improvements to the format and drafting of provisions, including to improve their consistency.

The following briefly explains the effect of each Part of the legislative instrument:

- (a) Part 2 continues to allow pilots who perform co-pilot duties in multi-pilot capable aircraft operated by the holder of an Air Operator's Certificate (**AOC**) to log their flying time performing those duties in such aircraft in their personal logbook, and to have that flying time taken to be the equivalent to required flight time for specified purposes under CASR, even though the second pilot is not required for the operation, subject to compliance with a condition about the recording of certain co-pilot time;
- (b) Part 3 continues to exempt relevant pilot licence holders with flight instructor, simulator instructor, or flight examiner ratings from compliance with requirements that would otherwise prevent them allowing certain instructor and examiner activities to be undertaken by qualified persons when they are not occupying a flight control seat of a relevant aircraft or flight simulation training device, subject to compliance with specified conditions imposed in the interests of aviation safety;
- (c) Part 4 continues to exempt certain holders of pilot type ratings from compliance with the requirement to have successfully completed certain instrument proficiency checks in an aircraft type covered by the rating and flown under the instrument flight rules, provided that the holder has successfully completed certain alternative instrument proficiency checks;

- (d) Part 5 continues to exempt pilots who fly several different type-rated and class-rated aircraft from compliance with the requirement to complete a flight review for each specific class rating and each specific pilot type rating held in order to exercise the privileges of the rating, provided that the holder complies with conditions which require completion of a relevant alternative kind of flight review;
- (e) Part 6 continues to exempt check pilots from provisions of CASR that would otherwise require them to hold a flight examiner rating in order to conduct certain operator proficiency checks (**OPCs**), subject to certain conditions;
- (f) Part 7 continues to allow foreign cadet pilots to take a flight test for a commercial pilot licence without holding a class 1 medical certificate (a requirement under Part 61 of CASR), if they comply with specified conditions, including that the pilot holds a current class 2 medical certificate and has met the class 1 medical standard in the pilot's country of residence;
- (g) Part 8 continues to exempt certain pilot licence applicants and pilot licence holders from the requirement to complete an approved course of training in multi-crew cooperation for the purposes of multi-crew operation, subject to various conditions which, in effect, require a similar level of competence as would otherwise be provided by an approved course of training in multi-crew cooperation;
- (h) Part 9 continues to allow the conduct of basic instrument flight training for pilots by flight instructors who meet an alternative qualification requirement to that set out in Part 61 of CASR, and recognises that training;
- (i) Part 10 continues to allow the head of flight operations of an aerial application operator to conduct an OPC for the head of flight operations of another aerial application operator, and allows a pilot who holds an aerial application rating, and also holds either an aeroplane aerial application endorsement or aeroplane firefighting endorsement, to exercise the privileges of the aerial application rating if the pilot successfully completes an OPC conducted by the head of flight operations in an aeroplane, instead of a check conducted by a relevant flight examiner;
- (j) Part 11 continues to allow persons, other than delegates of CASA and flight examiners, to conduct English language proficiency assessments and continues to allow certain persons to obtain an aeronautical radio operator certificate if they have been assessed as meeting the general English language proficiency standard in lieu of the aviation English language proficiency standard, subject to the condition that the applicant must ensure that the application for the grant of a certificate is accompanied by evidence of the applicant's proficiency standard;
- (k) Part 12 continues to allow applicants for an air transport pilot licence with the aeroplane category rating who were granted an Australian commercial pilot licence with an aeroplane category rating and an instrument rating, in accordance with the terms of the *Trans-Tasman Mutual Recognition Act 1997*, from the requirement under Part 61 of CASR to have completed the instrument rating examination identified in the Part 61 Manual of Standards as "IREX";
- (l) Part 13 continues to exempt the holder of an aircraft class rating from the requirements to complete flight training and a flight review to fly an aircraft of a prescribed type, provided that the holder has completed equivalent flight training conducted by a training provider authorised by the national aviation authority of a recognised foreign State, and exempts the holder of a pilot type rating or a flight engineer type rating from the requirement to complete differences training under CASR in order to pilot, or act as the flight engineer of, an aircraft of the model covered by the training, provided that the

holder has completed an equivalent training course of an authorised overseas training provider;

- (m) Part 14 continues to exempt Part 141 operators and certain Part 142 operators (namely, the holders of an AOC that authorises a particular Part 142 activity to be conducted in an aircraft) from compliance with requirements in Parts 141 and 142 of CASR that would otherwise require them to obtain CASA’s approval of a significant change before adding aircraft to their fleet of training aircraft that are the same kind, or similar in kind, as aircraft they are already using to conduct training;
- (n) Part 15 continues to exempt the holder of a low-level rating from certain recent experience (or recency) and flight review requirements, but only if they have met other requirements. For aerial mustering operations, the holder must have demonstrated recent competency in aerial mustering within the 12 months before the operation;
- (o) Part 16 continues to exempt the pilot in command of an aircraft in a miscellaneous dropping operation from compliance with requirements to hold an aerial application rating, provide that they instead hold a relevant low-level rating and low-level endorsement;
- (p) Part 17 continues to exempt flight instructors and Part 141 operators from obligations that rely on obsolete concepts of “dual instrument time” and “dual instrument flight time” that would otherwise prevent them from authorising student helicopter pilots to conduct a solo cross-country flight for the first time;
- (q) Part 18 continues to exempt Parts 141 and 142 operators, and persons who apply for a Part 141 certificate or a Part 142 authorisation, from the requirement to name at least one person to carry out the responsibilities of a key personnel position when the holder of the position is absent or unable to carry out the responsibilities, while still requiring operators to cease operations in the event that key personnel are absent from the position or unable to carry out their responsibilities.

Human rights implications

The legislative instrument engages the human rights and freedoms recognised or declared in the following international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*:

- (a) the International Covenant on Civil and Political Rights (the *ICCPR*);
- (b) the International Covenant on Economic, Social and Cultural Rights (the *ICESCR*).

The relevant Parts of the legislative instrument are discussed below.

The Parts of the legislative instrument not mentioned below do not engage any of the applicable rights or freedoms, and are compatible with human rights, as they do not raise any human rights issues.

(a) Right to life under the ICCPR

Part 16 of the legislative instrument engages with the right to life under Article 6 of the ICCPR. Part 16 is compatible with human rights and to the extent that it may indirectly engage certain rights it does so in a way that promotes the right to life and promotes safe and healthy working conditions on board relevant aircraft. The measures in Part 16 are considered to be reasonable, necessary and proportionate in the interests of aviation safety.

(b) Right to work under the ICESCR

Parts 11, 12 and 13 of the legislative instrument engage the right to work in Article 6(1) of the ICESCR. The right to work includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept.

The right to work is promoted by Parts 11, 12 and 13 as follows:

- (a) the exemptions in Part 11 that relate to English language proficiency standards provide administrative flexibility for pilots and aeronautical radio operators to obtain the civil aviation authorisations that are necessary to perform their duties;
- (b) the exemptions in Part 12 from the requirement for relevant applicants to pass the IREX in order to be eligible to take the flight test for the air transport pilot licence with the aeroplane category rating (*ATPL(A)*) or to be eligible to be granted an *ATPL(A)* reduces the costs for such applicants to upgrade their qualifications to the *ATPL(A)* and, therefore, to choose to perform work using that qualification;
- (c) Part 13 promotes the right to work by enabling pilots to fly, and flight engineers to act as the flight engineer of, models of aircraft for which they would normally have to complete differences training required under CASR, provided they have completed equivalent training overseas;
- (d) Part 13 also promotes the right to work of holders of aircraft class ratings who complete equivalent flight training overseas to fly aircraft of a prescribed type;
- (e) the exemptions in Part 13 are also of benefit to the aviation industry more generally as there will be a larger pool of pilots and flight engineers who can operate aircraft of particular models, who may be employed by aircraft operators;
- (f) Part 13 includes safeguards to address any risk to the life and health of pilots, flight engineers and other persons carried in aircraft flown by pilots or flight engineers who have completed such overseas training by ensuring the exemptions only apply if CASA has been given documentation showing that the training the person completed was conducted by a training provider authorised by the national aviation authority of a recognised foreign State, and that the person has been assessed by that provider, or, for the holder of a class rating, by a person authorised by the national aviation authority of the recognised foreign State, as competent in relation to an aircraft of that model.

(c) Right to safe and healthy working conditions under the ICESCR

Parts 13 and 16 of the legislative instrument engage with the right to safe and healthy working conditions under Article 7 of the ICESCR.

Part 13 includes safeguards to address any risk to the life and health of pilots, flight engineers and other persons carried in aircraft flown by pilots or flight engineers who have completed such overseas training by ensuring the exemptions only apply if CASA has been given documentation showing that the training the person completed was conducted by a training provider authorised by the national aviation authority of a recognised foreign State under CASR, and the person has been assessed by that provider, or, for the holder of a class rating, by a person authorised by the national aviation authority of the recognised foreign State, as competent in relation to an aircraft of that model.

The effect of the exemption in Part 16 is to permit miscellaneous dropping operations below 500 ft provided the pilot in command of the relevant aircraft holds a relevant low-level rating and low-level endorsement, rather than an aerial application rating. The full range of training and skills under an aerial application rating are not required for miscellaneous dropping

operations below 500 ft, but the conditions in Part 16 are designed to ensure that an acceptable level of aviation safety is preserved for working pilots in such operations.

(d) Right to privacy under the ICCPR

Parts 8 and 10 of the legislative instrument engages the right to privacy.

That right, contained in Article 17 of the ICCPR, provides that no-one shall be subjected to arbitrary or unlawful interference with their privacy. The right created by Article 17:

- (a) includes the right to protection against unlawful or arbitrary interferences with an individual's privacy; and
- (b) requires respect for private and confidential information, including the storing, use and sharing of such information, and the right to control the dissemination of private information.

The right in Article 17 may be subject to permissible limitations, where these limitations are authorised by law and are not arbitrary. In order for limitations not to be arbitrary, they must seek to achieve a legitimate objective and be reasonable, necessary and proportionate to this purpose.

Provisions that enable the collection, use and disclosure of personal information

The instrument engages with that right to privacy by including conditions and directions that provide for CASA or an aircraft operator to collect certain personal information from applicants and pilots who wish to take advantage of the exemptions in the instrument.

The type of information that may be collected or disclosed

The type of personal information that CASA may collect under Part 8 include copies of course completion certificates, Australian and foreign flight crew licences, logbooks, or evidence of completing checks, training, qualifications or experience. The applicant or licence holder must also, on written request, supply CASA with any information or documents CASA considers necessary to determine the appropriate application, or the continued application, of the exemption to the applicant or holder.

Part 8 requires holders of specified licences and ratings to supply evidence to the head of the flying operations part of an AOC holder or other operator for whom the pilot operates a multi-crew aircraft. The type of evidence may include copies of course completion certificates, Australian and foreign flight crew licences, logbooks, or evidence of completing checks, training, qualifications or experience.

The direction in Part 10 applies when the head of flight operations of an aerial work operator takes advantage of the exemption allowing an OPC to be conducted by the head of flight operations of another aerial work operator, instead of by an authorised flight examiner or flight instructor. It requires the head of flight operations conducting the check to notify CASA, in writing, of the check.

Why the provisions that enable the collection, use and disclosure of personal information are considered necessary and appropriate

The collection of information relating to an applicant or licence or rating holder under the instrument is necessary for CASA to perform its function (conferred by paragraph 9(1)(a) of the Act) of conducting the safety regulation of civil air operations in Australian territory, in

accordance with the Act and the regulations. The information that must be collected by CASA relates to competency matters that would affect an applicant's, or licence holder's, ongoing ability to conduct aircraft operations. The information is collected by CASA to achieve the legitimate objective of ensuring that pilots meet certain competency standards in order to protect aviation safety.

The requirements to provide personal information to CASA in the instrument are not more onerous than those that apply to applicants and pilots who conduct operations in accordance with CASR.

The collection, use and disclosure to CASA of information is necessary in each particular circumstance under the instrument. The nature of a scheme which provides for flight crew licensing necessitates the collection of personal information about the person applying for, or exercising the privileges of, flight crew licences and ratings and the use of that information to audit and enforce the scheme.

Whether applicants and pilots seek to take advantage of the exemptions in the instrument and to provide the required personal information to CASA or an operator is purely voluntary. If an applicant or pilot does not wish to provide the required personal information, compliance with the prescribed requirements in CASR continues to be an available option.

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

- (a) to CASA; and
- (b) to the head of the flying operations part of an aircraft operator, to the extent that the operator is an entity or an APP entity under the *Privacy Act 1988*.

Conclusion

The legislative instrument is compatible with human rights.

To the extent that the legislative instrument may engage certain rights it does so in a way that protects aviation safety, promotes the right to life and promotes safe and healthy working conditions on board relevant aircraft. These measures are considered to be reasonable, necessary and proportionate in the interests of aviation safety.

Civil Aviation Safety Authority