

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX11/25 — Medical Certification (Basic Class 2 Medical Certificate) Exemption 2025

Purposes

One purpose of the instrument is to continue to enable a private pilot licence (**PPL**) holder to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, the licence holder holds a current Aviation Medical Certificate (Basic Class 2). That purpose is subject to related circumstances mentioned in the instrument existing and related conditions mentioned in the instrument being met.

To continue to give effect to that purpose, the Civil Aviation Safety Authority (**CASA**) recently made *CASA EX49/24 — Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificate) Exemption 2024 (CASA EX49/24)*.

The other purpose of the instrument is to expand the scope of CASA EX49/24 to enable the following (if related circumstances mentioned in the instrument exist and related conditions mentioned in the instrument are met):

- (a) certain student pilots to conduct particular kinds of solo flights;
- (b) certain licence or rating applicants to perform or not perform particular actions;
- (c) certain recreational pilot licence (**RPL**) holders to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation;
- (d) flight instructors, flight examiners, Part 141 operators, Part 142 operators and heads of operations to perform related activities involving training and flight testing (whichever applies) of the classes of person mentioned in paragraphs (a), (b) and (c).

A constant circumstance that exists in relation to the kinds of pilots, applicants and licence holders mentioned in the preceding paragraph is that, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, they hold a current Aviation Medical Certificate (Basic Class 2).

The circumstances, conditions, student pilots, applicants, licence holders, medical certification requirements, medical exemption requirements, actions and activities are described in more detail under the headings ‘Legislation’ and ‘Content of instrument’.

As the Explanatory Statement for CASA EX49/24 mentions, the instrument continues to be necessary because of delays in amending Part 67 of the *Civil Aviation Safety Regulations 1998 (CASR)* and making subsequent consequential amendments to Part 61 of CASR. Therefore, to ensure that the instrument’s purposes remain in effect, it will be required until those proposed amendments commence.

Legislation

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

CASR — Exemptions (Subpart 11.F)

Each provision mentioned in this section is a provision of CASR.

Subpart 11.F provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160(1) 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), 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), an exemption may be granted on application by a person or on CASA's own initiative.

Subregulations 11.170(3) and 11.175(4) provide that, in deciding whether to (respectively) grant and renew an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to grant an exemption on its own initiative.

Regulation 11.205 provides that CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence (with a maximum penalty of 50 penalty units) not to comply with an obligation imposed by a condition.

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

Part 61 of CASR and related CASR and CAR provisions

Unless otherwise stated, each provision mentioned in this section is a provision of CASR.

Part 61 sets out the licensing scheme for pilots and flight engineers of registered aircraft. Part 61 includes content related to different kinds of licence, rating and endorsement that authorise holders to conduct more specialised aviation activities. Those kinds of rating and endorsement include the following:

- (a) an aircraft class rating;
- (b) a flight activity endorsement, an operational rating and a type rating, each of which is defined in regulation 61.010.

Flight activity endorsements authorise several kinds of aerobatic manoeuvres, spinning manoeuvres, and formation flying — columns 1 and 2 of table 61.1145 set out the different kinds of flight activity endorsement and the activities their holders are authorised to perform.

In Part 1 of the Dictionary, **authorised person** means a person who is appointed under regulation 201.001 to be an authorised person in relation to, relevantly in paragraph (d), a particular provision of CAR.

Regulation 302 of CAR relates to the production of licences and other documents for inspection by an authorised person. Subregulation 302(2) requires the owner or pilot in command of any aircraft to, on demand, produce or cause to be produced for inspection by an authorised person, any certificates, licences, log books or other documents relating to the

aircraft and, if it carries passengers or cargo, the list of names of the passengers or the bills of lading and the manifest, as the case may be. Under subregulation 302(3), an offence against subregulation 302(2) is an offence of strict liability, with a maximum penalty of 5 penalty units.

Also, in Part 1 of the Dictionary:

- **student pilot** means, relevantly in paragraph (a), for aircraft other than Part 131 aircraft—a person who is authorised to pilot an aircraft under regulation 61.112. Part 131 aircraft are balloons and hot air airships – they are not covered by the instrument.
- **class**, relevantly in paragraphs (a) and (c):
 - (a) of aircraft, has the meaning given by regulation 61.020; and
 - ...
 - (c) in relation to medical certificates—means a class of medical certificate mentioned in regulation 67.145.

The definition of **operational rating** in regulation 61.010 defines that term to mean any of 8 kinds of rating: an aerial application rating; an examiner rating; an instructor rating; an instrument rating; a low-level rating; a night visual flight rules rating (expressed as a night VFR rating); a night vision imaging system rating; and a private instrument rating.

Subparts 61.M to 61.R, 61.T, 61.U, 61.X and 61.Y each relates to one of those kinds of rating. However, there are 2 kinds of examiner rating so there is a Subpart for each kind: Subpart 61.U (for a flight examiner rating) and Subpart 61.Y (for a flight engineer examiner rating). In the same way, there are 2 kinds of instructor rating so there is a Subpart for each kind: Subpart 61.T (for a pilot instructor rating) and Subpart 61.X (for a flight engineer instructor rating). Each Subpart includes provisions that authorise, and limit, the activities that holders of the rating are authorised to conduct.

The definition of **flight crew licence** in regulation 61.010 provides that that term means, relevantly in paragraph (a), a pilot licence. The definition of **pilot licence** (also in regulation 61.010) provides that that term means, relevantly in paragraphs (d) and (e), a PPL and an RPL.

Regulation 61.010 also includes the following definitions:

- **conduct**, as a verb, means, in relation to a flight operation—to occupy a flight control seat in an aircraft while the operation takes place.
- **current**, for a recreational aviation medical practitioner's certificate held by:
 - (a) a student pilot—see subregulation 61.114(6); and
 - (b) an RPL holder—see subregulation 61.405(3).
 Those definitions are included in full below, in the description of the relevant provisions of regulation 61.114 and regulation 61.405.
- **flight crew endorsement** means an endorsement granted under Part 61 on a flight crew licence.
- **flight crew rating** means a rating granted under Part 61 on a flight crew licence.
- **flight test**, for a flight crew licence, rating or endorsement, means a test conducted under regulation 61.245 for the licence, rating or endorsement.
- **maximum certificated take-off weight**, for an aircraft, means the maximum take-off weight stated in the aircraft's type certificate, foreign type certificate, supplemental type certificate or foreign supplemental type certificate.

- **medical exemption** means:
 - (a) for the conduct of a solo flight by a student pilot—an approval under regulation 61.040 to conduct the solo flight without holding a current medical certificate or recreational aviation medical practitioner’s certificate; and
 - (b) for the exercise of the privileges of a flight crew licence or rating—an approval under regulation 61.040 to exercise the privileges of the licence or rating without holding a current medical certificate or recreational aviation medical practitioner’s certificate.
- **medical practitioner** means a person entitled to practise as a medical practitioner under a law of a State or Territory.
- **multi-crew**, in relation to an aircraft, means that the aircraft is certificated for operation by a crew of at least 2 pilots.
- **multi-crew operation** means an operation that requires at least 2 pilots in:
 - (a) a multi-crew aircraft; or
 - (b) an aircraft that is equipped, and required by CAR or CASR, to be operated by a crew of at least 2 pilots.
- **pilot**, used as a noun, means a person authorised under Part 61 to manipulate the flight controls of an aircraft during flight.
- **pilot**, used as a verb, means:
 - (a) to manipulate the flight controls of an aircraft during flight; or
 - (b) to occupy a flight control seat in an aircraft during flight.
- **privilege**, in relation to a flight crew licence, rating or endorsement, means an activity that the holder of the licence, rating or endorsement is authorised, under Part 61, to conduct.
- **rating** means a flight crew rating.
- **recreational aircraft** means a single-engine aircraft that:
 - (a) is certificated for single-pilot operation; and
 - (b) has a maximum certificated take-off weight of less than 1 500 kg; and
 - (c) is not rocket-powered or turbine-powered.
- **recreational aviation medical practitioner’s certificate** means a certificate from a medical practitioner to the effect that the holder meets the modified Austroads medical standards.
- **single-pilot operation** means an operation in an aircraft, other than a multi-crew operation.
- **solo**, in relation to a flight of an aircraft, means a flight in which the pilot is the sole occupant of the aircraft.
- **type rating** means, relevantly in paragraph (a), a pilot type rating.

Regulation 61.015 defines a **category** of aircraft for Part 61. Under that regulation, each of the following is a category of aircraft:

- (a) aeroplane;
- (b) helicopter;
- (c) powered-lift aircraft;
- (d) gyroplane;
- (e) airship.

Regulation 61.020 defines a **class** of aircraft for Part 61. Under subregulation 61.020(1), each of the following is a **class** of aircraft:

- (a) single-engine aeroplane;

- (b) multi-engine aeroplane;
- (c) single-engine helicopter;
- (ca) powered-lift aircraft;
- (d) single-engine gyroplane;
- (e) airship.

Subregulation 61.020(2) provides that, for Part 61, the single-engine aeroplane class includes:

- (a) multi-engine centre-line thrust aeroplanes; and
- (b) multi-engine aeroplanes that are prescribed by a legislative instrument under regulation 61.050 (Prescription of multi-engine aeroplanes included in single-engine aeroplane class).

At the time of preparing this explanatory statement, the legislative instrument titled *Part 61 Flight Crew Licensing (Prescribed Aircraft and Type Ratings) (Edition 10) Instrument 2025* does not, for the purposes of regulation 61.050, prescribe any multi-engine aeroplanes to be included in the single-engine aeroplane class. Instead, the related provisions of that instrument – section 4 and Schedule 1 – are reserved for future use.

Regulation 67.145 provides that there are the following 3 classes of medical certificate:

- (a) class 1 medical certificate;
- (b) class 2 medical certificate;
- (c) class 3 medical certificate.

The definition of **relevant medical standard** in regulation 67.010 and regulation 67.155 are mentioned in the following paragraph because:

- (a) they relate to a class 2 medical certificate; and
- (b) the standard for a **medical standard basic class 2** is, in this Explanatory Statement, expressed as an alternative to the medical standard for a class 2 medical certificate.

Therefore, while identifying those provisions for easy reference, this Explanatory Statement does not describe in detail the operation of regulation 67.155 or the criteria for medical standard 2, set out in table 67.155.

Paragraph (b) of the definition of **relevant medical standard** in regulation 67.010 provides that that term means, for a class 2 medical certificate — medical standard 2. Regulation 67.010 defines **medical standard 2** as the standard set out in table 67.155. Regulation 67.155 is composed of provisions related to who meets medical standard 2, including the criteria for medical standard 2 set out in table 67.155.

Under subregulation 61.065(1), the holder of a flight crew licence commits an offence if:

- (a) the holder conducts an activity mentioned in Part 61 while:
 - (i) piloting a registered aircraft; or
 - (ii) acting as a flight engineer of a registered aircraft; or
 - (iii) acting as an examiner or instructor; and
- (b) the holder is not authorised under Part 61 to conduct the activity.

Regulation 61.112 relates to flying as a student pilot.

Subregulation 61.112(1) provides that, subject to regulations 61.113 to 61.115, a person who does not hold a pilot licence is authorised to pilot an aircraft if:

- (a) the pilot in command of the aircraft is a flight instructor and the flight is for the purpose of the person receiving flight training; or
- (b) the flight is for a flight test for a pilot licence, or a rating or endorsement on a pilot licence, for the person; or
- (c) the flight is:
 - (i) approved by, and conducted under the supervision of, a flight instructor authorised by a Part 141 or 142 operator to conduct the supervision; and
 - (ii) conducted under the VFR; and
 - (iii) conducted in accordance with the flight instructor's approval.

Subregulation 61.112(2) provides that, subject to regulations 61.113 to 61.115, the holder of an RPL is authorised to pilot a recreational aircraft under the VFR at night, or a non-recreational aircraft, if:

- (a) the pilot in command of the aircraft is a flight instructor and the flight is for the purpose of receiving flight training; or
- (b) the flight is for a flight test for another pilot licence or a rating or endorsement on a pilot licence; or
- (c) the flight is:
 - (i) approved by, and conducted under the supervision of, a flight instructor authorised by a Part 141 or 142 operator to conduct the supervision; and
 - (ii) conducted under the VFR; and
 - (iii) conducted in accordance with the flight instructor's approval.

Subregulation 61.112(3) provides, for subparagraphs 61.112(1)(c)(i) and 61.112(2)(c)(i), that a flight is conducted under the supervision of a flight instructor if the instructor meets the requirements mentioned in paragraphs 61.112(3)(a), (b) and (c), which may include circumstances in which the instructor is not on board the aircraft.

Subregulation 61.112(4) provides, for regulations 61.405 to 61.415 (which are about medical requirements), that piloting an aircraft in accordance with subregulation 61.112(3) does not constitute the exercise of the privileges of a pilot licence.

Subregulation 61.114(1) provides that subregulation 61.114(2) applies to:

- (a) the conduct of a solo flight in an aircraft other than a recreational aircraft; or
- (b) the conduct of a solo flight in a recreational aircraft under the VFR at night.

Under subregulation 61.114(2), a student pilot is authorised to conduct the flight only if:

- (a) the student pilot:
 - (i) holds a class 1 or 2 medical certificate; and
 - (ii) carries the medical certificate on the flight; or
- (b) the student pilot:
 - (i) holds a medical exemption for the flight; and
 - (ii) carries a copy of the exemption on the flight.

Subregulation 61.114(3) provides that subregulation 61.114(4) applies to the conduct of a solo flight in a recreational aircraft by day, other than by the holder of an RPL.

Under subregulation 61.114(4), a student pilot is authorised to conduct the flight only if:

- (a) the student pilot:
 - (i) holds a class 1 or 2 medical certificate; and
 - (ii) carries the medical certificate on the flight; or
- (b) the student pilot:
 - (i) holds a current recreational aviation medical practitioner's certificate; and
 - (ii) meets the requirements mentioned in subregulation (5); or
- (c) the student pilot:
 - (i) holds a medical exemption for the flight; and
 - (ii) carries a copy of the exemption on the flight.

Subregulation 61.114(5) sets out, for subparagraph 61.114(b)(ii), that the requirements are as follows:

- (a) the student pilot must have:
 - (i) given CASA a copy of the student pilot's recreational aviation medical practitioner's certificate; and
 - (ii) received from CASA a written acknowledgement of the receipt of the copy;
- (b) the student pilot must carry a copy of the certificate and acknowledgement on the flight;
- (c) the student pilot must comply with any limitations or conditions stated on the certificate;
- (d) the student pilot must meet the modified Austroads medical standards.

Subregulation 61.114(6) defines **current** in regulation 61.114 as shown below.

current: a recreational aviation medical practitioner's certificate for a student pilot is current for the shortest of the following periods:

- (a) the period beginning on the day the certificate is signed by the medical practitioner and ending 24 months after that day;
- (b) if, when the student pilot conducts a solo flight the student pilot is at least 65—the period beginning on the day the certificate is signed by the medical practitioner and ending 12 months after that day;
- (c) if the certificate states the period for which it applies—the period beginning on the day the certificate is signed by the medical practitioner and ending at the end of the stated period.

Under subregulation 61.118(1), CASA may direct a student pilot to produce for CASA's inspection the student pilot's medical certificate or recreational aviation medical practitioner's medical certificate.

Under subregulation 61.118(2), the student pilot commits a strict liability offence (with a maximum penalty of 50 penalty units) if CASA directs the student pilot to produce a document under subregulation 61.118(1) and the student pilot does not produce the document before the earlier of the following:

- (a) when the student pilot next conducts a solo flight;
- (b) within 7 days after the direction is given.

Subregulation 61.235(1) provides that subregulation (2) applies to an applicant for a flight crew licence, other than an applicant who is eligible for the licence under subregulation 61.275(1) (Overseas flight crew authorisations—recognition).

Subregulation 61.235(2) sets out, for subregulation 61.235(1), the requirements that the applicant for the flight crew licence must meet to be eligible to take a flight test for the licence.

Relevantly in:

- (a) paragraph 61.235(2)(a), the applicant is eligible to take the flight test for the licence only if the applicant has met the following requirements for the grant of the licence: minimum age, examination, flight training, aeronautical experience and English language proficiency; and
- (b) paragraph 61.235(2)(aa), for a flight crew licence other than an air transport pilot licence—a person mentioned in subregulation 61.235(5), (6) or (7) has certified in writing that the applicant has met the requirements mentioned in paragraph (a).

Also, relevantly in paragraph 61.235(2)(c), if the flight test for the licence is to be conducted in an aircraft, the applicant is eligible to take the flight test only if:

- (i) the applicant holds a current medical certificate of the class required for the exercise of the privileges of the licence; or
- (ii) if the test is for an RPL—the applicant holds a current recreational aviation medical practitioner's certificate; or
- (iii) the applicant holds a medical exemption for the exercise of the privileges of the licence.

Subregulation 61.235(3) provides that subregulation (4) applies to an applicant for a flight crew rating, other than an applicant who is eligible for the rating under subregulation 61.275(2) or (3) (Overseas flight crew authorisations—recognition).

Subregulation 61.235(4) sets out, for subregulation 61.235(3), the requirements that the applicant for the flight crew rating must meet to be eligible to take a flight test for the rating.

Relevantly in paragraph 61.235(4)(a), the applicant is eligible to take the flight test for the rating only if a person mentioned in subregulation 61.235(5), (6) or (7) has certified in writing that the applicant has:

- (i) if the application is for an operational rating—passed the aeronautical knowledge examination for the rating; and
- (ii) met the flight training requirements for the grant of the rating; and
- (iii) met the aeronautical experience requirements for the rating.

Also, relevantly in paragraph 61.235(4)(b), if the flight test for the rating is to be conducted in an aircraft, the applicant is eligible to take the flight test only if:

- (i) the applicant holds a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate; or
- (ii) the applicant holds a medical exemption for the exercise of the privileges of the licence.

Under subregulation 61.235(5) and (6), for paragraphs 61.235(2)(aa) and 61.235(4)(a), if the applicant's training provider is a Part 141 operator or Part 142 operator, the person is:

- (a) the operator's head of operations; or
- (b) a person named in the operator's operations manual or exposition as responsible for the flight training to which the flight test relates.

Under subregulation 61.235(7), for paragraphs (2)(aa) and (4)(a), if the applicant's training provider is the holder of an approval under regulation 141.035 or 142.040 to conduct the

training, the person is the approval holder. However, subregulation 61.235(7) does not apply to the instrument because the scope of the related exemptions does not include training providers who hold an approval under either of those regulations.

Subregulation 61.405(1) provides that the holder of an RPL is authorised to exercise the privileges of the licence only if the holder also holds:

- (a) a current class 1 or 2 medical certificate; or
- (b) a current recreational aviation medical practitioner's certificate and meets the requirements in subregulation (2), which include meeting the modified Austroads medical standards; or
- (c) a medical exemption for the exercise of the privileges of the licence.

Subregulation 61.405(3) defines **current** in regulation 61.405 as shown below.

current: a recreational aviation medical practitioner's certificate for the holder of an RPL is current for the shortest of the following periods:

- (a) the period beginning on the day the certificate was signed by the medical practitioner and ending 24 months after that day;
- (b) if, when the holder exercises the privileges of the licence, the holder is at least 65—the period beginning on the day the certificate was signed by the medical practitioner and ending 12 months after that day;
- (c) if the certificate states the period for which it applies—the period beginning on the day the certificate was signed by the medical practitioner and ending at the end of the stated period.

Under subregulation 61.410(1), the holder of a PPL is authorised to exercise the privileges of the licence only if the holder also holds:

- (a) a current class 1 or 2 medical certificate; or
- (b) a medical exemption for the exercise of the privileges of the licence.

Under subregulation 61.465(2), the holder of an RPL is authorised to pilot an aircraft carrying more than one passenger only if the holder:

- (a) also holds a current class 1 or 2 medical certificate; or
- (b) is accompanied by another pilot who:
 - (i) holds a current class 1 or 2 medical certificate; and
 - (ii) occupies a flight control seat in the aircraft; and
 - (iii) is authorised to pilot the aircraft.

Regulation 61.750 sets out the requirements for the grant of aircraft class ratings. Under subregulation 61.750(1), an applicant for an aircraft class rating must hold:

- (a) a pilot licence; and
- (b) the aircraft category rating for the aircraft category to which aircraft of that class belong.

Subregulation 61.750(3) provides that the applicant for an aircraft class rating must also have

- (a) completed flight training for the rating; and
- (b) passed the flight test mentioned in the Part 61 Manual of Standards for the aircraft class rating in an aircraft of the class covered by the rating.

Under subregulation 61.1225(1), a flight instructor commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) the instructor approves a person to pilot an aircraft as a student pilot; and

- (b) the approval is not authorised by the provisions mentioned in paragraph 61.1225(1)(b).

Those provisions include, relevantly in subparagraph 61.1225(1)(b)(iii), regulation 61.114 (Solo flights—medical certificate requirements for student pilots).

Under subregulation 61.1300(3), a flight examiner commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) the examiner conducts a flight test for a pilot licence in an aircraft; and
- (b) when the test begins, the examiner is not satisfied that:
 - (i) if the test is for a licence other than an RPL—the applicant holds:
 - (A) a current medical certificate of the class required for the exercise of the privileges of the licence; or
 - (B) a medical exemption to exercise of the privileges of the licence; or
 - (ii) if the test is for an RPL—the applicant holds:
 - (A) a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate; or
 - (B) a medical exemption for the exercise of the privileges of the licence.

Under subregulation 61.1300(5) of CASR, a flight examiner commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) the examiner conducts a flight test for a rating or endorsement on a pilot licence in an aircraft; and
- (b) when the test begins, the examiner is not satisfied that the applicant holds: a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate; or a medical exemption for the exercise of the privileges of the rating.

Part 141 of CASR

Under subregulation 141.210(1), a Part 141 operator and the operator's head of operations each commit an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person is recommended for a flight test by:
 - (i) the head of operations; or
 - (ii) a person named in the operator's operations manual as responsible for the authorised Part 141 flight training to which the flight test relates; and
- (b) the person is not eligible under regulation 61.235 to undertake the test.

Under subregulation 141.290(1), a Part 141 operator commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person flies an aircraft used in the operator's authorised Part 141 flight training as pilot in command; and
- (b) the person is not authorised under Part 61 to fly the aircraft as pilot in command.

Under subregulation 141.300(1), a Part 141 operator commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person flies an aircraft used in the operator's authorised Part 141 flight training as pilot in command; and
- (b) the operator authorises the carriage of a passenger on the flight; and
- (c) the person is not authorised under Part 61 to fly the aircraft as pilot in command with a passenger on board.

Part 142 of CASR

Under subregulation 142.245(1), a Part 142 operator and the operator's head of operations each commit an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person is recommended for a flight test by:
 - (i) the head of operations; or
 - (ii) a person named in the operator's exposition as responsible for the Part 142 activity to which the flight test relates; and
- (b) the person is not eligible under regulation 61.235 to undertake the test.

Under subregulation 142.365(1), a Part 142 operator commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person flies an aircraft as pilot in command in the conduct of an authorised Part 142 activity for the operator; and
- (b) the person is not authorised under Part 61 to fly the aircraft as pilot in command.

Under subregulation 142.375(1), a Part 142 operator commits an offence of strict liability (with a maximum penalty of 50 penalty units) if:

- (a) a person flies an aircraft used in an authorised Part 142 activity for the operator as pilot in command; and
- (b) the operator authorises the carriage of a passenger on the flight; and
- (c) the person is not authorised under Part 61 to fly the aircraft as pilot in command with a passenger on board.

Background

The instrument repeals and replaces CASA EX49/24, an instrument that itself repealed and replaced *CASA EX69/21 — Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificate) Exemption 2021 (CASA EX69/21)* in substantially similar terms. Previously, CASA EX69/21 renewed *CASA EX65/18 — Private Pilot Licence Medical Certification (Basic Class 2 Medical Certificate) Exemption 2018 (CASA EX65/18)*.

In particular, the instrument includes an exemption and related conditions that operate in substantially the same way as the exemption and conditions in CASA EX49/24.

The instrument enables the same kind of PPL holder to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation if related circumstances mentioned in the instrument exist and related conditions mentioned in the instrument are met.

CASA EX49/24 is expressed to repeal at the end of 28 February 2025.

The Explanatory Statements for CASA EX49/24 and CASA EX69/21 together include the following information that continues to be relevant:

Feedback from private pilots in the aviation industry has identified that the aviation-specific medical standards are unnecessarily onerous, and access to specialised aviation doctors that assess compliance against those standards is unnecessarily difficult and expensive.

CASA has determined that private pilots engaged in low risk flying activities, and carrying small numbers of passengers, should be permitted to exercise the privileges of their private pilot licence if they meet the Austroads medical standard that applies to drivers of heavy vehicles, public passenger vehicles or vehicles carrying dangerous goods. CASA will issue pilots who meet that

standard, on application and based on certification from a medical practitioner, an Aviation Medical Certificate (Basic Class 2). CASA made [CASA EX65/18] to give effect to that position.

CASA has established a related Technical Working Group (*TWG*) and, in December 2020, tabled a discussion paper at a TWG meeting. Following the post-implementation review (*PIR*) of Part 67 of CASR, the TWG will be able to consider and assess the implementation and outcomes of the Aviation Medical Certificate (Basic Class 2).

CASA expected that the PIR of Part 67 of CASR would have incorporated the principles underlying the medical standard basic class 2 before the repeal of CASA EX65/18 on 30 June 2021. The PIR of Part 67 of CASR was deferred for several reasons, including the impacts of the COVID-19 pandemic on the aviation sector. CASA made CASA EX69/21 to renew the provisions in CASA EX65/18.

CASA intends Part 67 of CASR to include provisions related to the medical standard basic class 2 and the Aviation Medical Certificate (Basic Class 2) and intends to make related consequential amendments of Part 61 of CASR. TWG meetings will review, develop and update the policy for Part 67 of CASR. [The] policy development process is continuing.

Overview of instrument

The instrument is intended to continue to enable a PPL holder to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, the licence holder holds a current Aviation Medical Certificate (Basic Class 2). That intention is subject to related circumstances mentioned in the instrument existing and related conditions mentioned in the instrument being met.

The instrument is also intended to expand the scope of CASA EX49/24 to enable the following (if related circumstances mentioned in the instrument exist and related conditions mentioned in the instrument are met):

- (a) certain student pilots to conduct particular kinds of solo flights;
- (b) certain licence or rating applicants to perform or not perform particular actions;
- (c) certain RPL holders to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation;
- (d) flight instructors, flight examiners, Part 141 operators, Part 142 operators and heads of operations to perform related activities involving training and flight testing (whichever applies) of the classes of person mentioned in paragraphs (a), (b) and (c).

During the period that CASA EX65/18, CASA EX69/21 and CASA EX49/24 have been in force, CASA has not identified any negative effects on aviation safety related to the operations covered by those instruments. CASA has also assessed that the additional exemptions provided for in this instrument would, with the related conditions, not have any identifiable negative effects on aviation safety.

In accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the *AIA*), the instrument repeals CASA EX49/24, which is no longer required with the making of this instrument.

Documents incorporated by reference

Under subsection 14(1) of the *Legislation Act 2003* (the *LA*), a legislative instrument may make provision in relation to matters by applying, adopting or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences. Under subsection 14(2) of the *LA*, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. However, subsection 98(5D) of the Act provides that, despite section 14 of the *LA*, a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

The instrument incorporates by reference:

- (a) a ***Fitness Report*** in relation to the kinds of student pilots, PPL applicants, RPL applicants, rating applicants, PPL holders and RPL holders mentioned in the instrument; and
- (b) the commercial vehicle driver medical standards that apply to drivers of heavy vehicles, public passenger vehicles or vehicles carrying dangerous goods, published by Austroads.

A Fitness Report, in relation to an individual in a class of persons mentioned in the preceding paragraph, is a completed version of CASA Form 1474, *Health Assessment against the Commercial Austroads Standard – Aviation Medical Certificate (Basic Class 2)*. Once completed in relation to the individual, the form becomes a Fitness Report. A Fitness Report exists only in the form in which it is completed by a medical practitioner for a particular individual. A Fitness Report is incorporated by reference as existing on the date that it is completed by the medical practitioner. The examining medical practitioner gives a copy of the Fitness Report to the individual to whom the Fitness Report relates. However, because the Fitness Report contains health information about the individual to whom it relates, it is not freely available to others, or to view or download on a website.

The commercial vehicle driver medical standards that apply to drivers of heavy vehicles, public passenger vehicles or vehicles carrying dangerous goods are in the publication titled *Assessing fitness to drive for commercial and private vehicle drivers, 6th edition, 2022*. In accordance with subsection 98(5D) of the Act, the instrument incorporates those standards as existing from time to time. The publication that includes those standards is freely available to view or download by searching for the publication title on the Austroads Publications page, located at <<https://austroads.com.au/publications>>.

Content of instrument

Section 1 names the instrument.

Section 2 sets out the duration of the instrument.

Section 3 repeals CASA EX49/24.

Section 4 contains definitions. In particular, the following provisions in section 4 signpost several definitions located in the Act, CAR or CASR:

- (a) the note below the section heading;
- (b) the following definitions:
 - ***category*** of aircraft;
 - ***conduct***, as a verb, in relation to a flight operation;
 - ***current***, for a recreational aviation medical practitioner's certificate;
 - ***flight activity endorsement***;
 - ***maximum certificated take-off weight***;
 - ***medical exemption***;
 - ***operational rating***;
 - ***Part 142 activity***;
 - ***pilot***, used as a noun;
 - ***pilot licence***;
 - ***privilege***, in relation to a flight crew licence, rating or endorsement;
 - ***rating***;
 - ***recreational aircraft***;
 - ***recreational aviation medical practitioner's certificate***.

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

Note 1 below the definition of ***medical standard basic class 2*** in section 4 is intended to assist primary users of the instrument by clarifying the relationship between that definition and assessing a person as meeting that standard. In particular, the note describes the extent to which, to be assessed as meeting that standard, a person must meet the commercial vehicle medical standards for an unconditional licence.

Note 2 below the definition of ***medical standard basic class 2*** in section 4 is a signpost note, intended to assist users of the instrument to:

- (a) identify the publication containing the commercial vehicle driver medical standards mentioned in that definition; and
- (b) locate a freely available version of that publication online.

Student pilots

Subsection 5(1) provides that section 5 applies to a student pilot who holds a current Aviation Medical Certificate (Basic Class 2).

Subsection 5(2) exempts a student pilot of that kind from compliance with subregulation 61.114(2) of CASR, to the extent that the subregulation requires that, to be authorised to conduct a solo flight in an aircraft other than a recreational aircraft the student pilot must hold:

- (a) a class 1 or 2 medical certificate; or
- (b) a medical exemption for the flight.

Subsection 5(3) exempts a student pilot of that kind from compliance with subregulation 61.114(4) of CASR, to the extent that the subregulation requires that, to be authorised to conduct a solo flight in a recreational aircraft by day, the student pilot must hold:

- (a) a class 1 or 2 medical certificate; or
- (b) a medical exemption for the flight.

Subsection 5(4) exempts a student pilot of that kind from compliance with subregulation 61.118(2) of CASR, to the extent that the subsection requires the student pilot to produce their medical certificate.

Subsection 5(5) provides that the exemption in subsection (2) is subject to the conditions mentioned in section 6.

Subsection 5(6) provides that the exemptions in subsection (3) and (4) are subject to the conditions mentioned in:

- (a) subsections 6(1) and (2); and
- (b) paragraphs 6(3)(a), (b) and (c); and
- (c) subsection 6(4).

The note below subsection 5(6) is a signpost note, intended to assist users of the instrument to identify the reasons for the differences between the conditions for the exemptions in subsections 5(2), (3) and (4).

Subsections 6(1), (2), (3) and (4) impose conditions on a student pilot of that kind, restricting the circumstances in which they can commence and conduct a solo flight and requiring them to produce related documents for inspection by a CASA officer within specified timeframes.

The note below subsection 6(3) is a signpost note, intended to assist users of the instrument to identify the general requirements for student pilots in regulation 61.113 of CASR, including a requirement that a student pilot is not authorised to carry passengers.

Subsection 7(1) provides that subsection 7(2) applies if:

- (a) a flight instructor approves a person to conduct a solo flight in an aircraft as a student pilot (the *student pilot*); and
- (b) the student pilot holds a current Aviation Medical Certificate (Basic Class 2).

Subsection 7(2) exempts the flight instructor from compliance with subparagraph 61.1225(1)(b)(iii) of CASR.

The note below subsection 7(2) is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption, subparagraph 61.1225(1)(b)(iii) and regulation 61.114.

Private pilot licence applicants

Subsection 8(1) provides that section 8 applies to a person:

- (a) who has applied to CASA for:
 - (i) the grant of a PPL; or
 - (ii) an additional aircraft category rating for an existing PPL; and
- (b) who holds a current Aviation Medical Certificate (Basic Class 2).

Subsection 8(2) exempts an applicant of that kind from compliance with paragraph 61.235(2)(c) of CASR, to the extent that the paragraph requires that, to be eligible to take a flight test for the licence that is to be conducted in an aircraft, the applicant must hold:

- (a) a current medical certificate of the class required for the exercise of the privileges of the licence; or
- (b) a medical exemption for the exercise of the privileges of the licence.

The note below subsection 8(2) is a signpost note, intended to assist users of the instrument to identify related requirements, located in subregulation 61.730(3), that an applicant for an aircraft category rating for an existing pilot licence must meet.

Subsection 8(3) provides that the exemption in subsection (2) is subject to the conditions mentioned in section 9.

The note below subsection 8(3) is a signpost note, intended to assist users of the instrument to identify related exemptions in the instrument applying to:

- (a) a Part 141 operator in relation to an applicant mentioned in subsection 8(1); and
- (b) a Part 142 operator in relation to that kind of applicant.

Subsections 9(1), (2) and (3) impose conditions on an applicant of that kind, restricting the circumstances in which they can commence and conduct a flight test for the grant of the licence or rating and requiring them to produce related documents for inspection by an authorised CASA officer within specified timeframes.

Section 10 exempts a flight examiner from compliance with subparagraph 61.1300(3)(b)(i) of CASR, in relation to a flight test conducted in an aircraft, if:

- (a) the flight test is for the grant of the licence or additional aircraft category rating mentioned in paragraph 10(a); and
- (b) the applicant for the licence or rating holds a current Aviation Medical Certificate (Basic Class 2).

The note below section 10 is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subparagraph 61.1300(3)(b)(i).

Recreational pilot licence applicants

Subsection 11(1) provides that section 11 applies to a person:

- (a) who has applied to CASA for:
 - (i) the grant of an RPL; or
 - (ii) an additional aircraft category rating for an existing RPL; and
- (b) who holds a current Aviation Medical Certificate (Basic Class 2).

Subsection 11(2) exempts an applicant of that kind from compliance with paragraph 61.235(2)(c) of CASR.

The note below subsection 11(2) is a signpost note, intended to assist users of the instrument to identify related requirements, located in subregulation 61.730(3), that an applicant for an aircraft category rating for an existing pilot licence must meet.

Subsection 11(3) provides that the exemption in subsection (2) is subject to the conditions mentioned in section 12.

The note below subsection 11(3) is a signpost note, intended to assist users of the instrument to identify related exemptions in the instrument applying to a Part 141 operator in relation to an applicant mentioned in subsection 11(1).

Subsections 12(1), (2) and (3) impose conditions on an applicant of that kind, restricting the circumstances in which they can commence and conduct a flight test for the grant of the licence or rating and requiring them to produce related documents for inspection by an authorised CASA officer within specified timeframes.

Section 13 exempts a flight examiner from compliance with subparagraph 61.1300(3)(b)(ii) of CASR, in relation to a flight test conducted in an aircraft, if:

- (a) the flight test is for the grant of the licence or additional aircraft category rating mentioned in paragraph 13(a); and
- (b) the applicant for the licence or rating holds a current Aviation Medical Certificate (Basic Class 2).

The note below section 13 is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subparagraph 61.1300(3)(b)(ii).

Aircraft class rating and pilot type rating applicants

Subsection 14(1) provides that section 14 applies to a person:

- (a) who has applied to CASA for the grant of an aircraft class rating or a pilot type rating; and
- (b) who holds a current Aviation Medical Certificate (Basic Class 2).

Subsection 14(2) exempts an applicant of that kind from compliance with subregulation 61.235(4) of CASR, to the extent that the subregulation requires that, to be eligible to take a flight test for the grant of the rating that is to be conducted in an aircraft, the applicant must hold:

- (a) a current class 1 or 2 medical certificate or recreational aviation medical practitioner's certificate (whichever applies); or
- (b) a medical exemption for the exercise of the privileges of the licence.

Subsection 14(3) provides that the exemption in subsection (2) is subject to the conditions mentioned in section 15.

The note below subsection 14(3) is a signpost note, intended to assist users of the instrument to identify related exemptions in the instrument applying to:

- (a) a Part 141 operator in relation to an applicant mentioned in subsection 14(1); and
- (b) a Part 142 operator in relation to that kind of applicant.

Subsections 15(1), (2) and (3) impose conditions on an applicant of that kind, restricting the circumstances in which they can commence and conduct a flight test for the grant of the

rating and requiring them to produce related documents for inspection by an authorised CASA officer within specified timeframes.

Section 15A exempts a flight examiner from compliance with subregulation 61.1300(5) of CASR, in relation to a flight test conducted in an aircraft, if:

- (a) the flight test is for the grant of an aircraft class rating or a pilot type rating to the holder of a pilot licence; and
- (b) the applicant for the licence or rating holds a current Aviation Medical Certificate (Basic Class 2).

The note below section 15A is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subregulation 61.1300(5).

Private pilot licence holders

Subsection 16(1) provides that section 16 applies to a person (the *private pilot licence holder*) who:

- (a) holds:
 - (i) a PPL; and
 - (ii) a current Aviation Medical Certificate (Basic Class 2); and
- (b) exercises the privileges of the licence in an aircraft that is certificated for single-pilot operation.

Subsection 16(2) exempts the private pilot licence holder from compliance with subregulation 61.065(1) of CASR, to the extent that the subregulation requires that, to be authorised under Part 61 of CASR to exercise the privileges of the licence, the holder must meet the requirement mentioned in subregulation 61.410(1) of CASR.

The note below subsection 16(2) is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subregulation 61.410(1) of CASR.

Subsection 16(3) provides that the exemption in subsection (2) is subject to the conditions mentioned in sections 17 and 18.

Subsections 17(1) to (6) and subsections 18(1) and (2) impose conditions on the private pilot licence holder:

- (a) restricting the circumstances in which they can:
 - (i) commence and conduct a flight; and
 - (ii) exercise the privileges of their licence; and
- (b) requiring them to produce related documents for inspection by an authorised CASA officer within specified timeframes; and
- (c) requiring them to carry particular documents during the flight; and
- (d) requiring them, before commencing the flight, to inform the following persons of the matters mentioned in subsection 18(2):
 - (i) for each passenger who has a legal guardian — the passenger's legal guardian;
 - (ii) each other passenger.

Together, subsections 18(1) and (2) are intended to enable each passenger or passenger's legal guardian, in the knowledge that the pilot was assessed against the Austroads commercial vehicle driver medical standards and holds an Aviation Medical Certificate

(Basic Class 2), instead of a standard medical certificate, to make an informed decision, before the flight commences, about whether to remain on the flight.

Recreational pilot licence holders

Subsection 19(1) provides that section 19 applies to a person (the *recreational pilot licence holder*) who holds:

- (a) an RPL; and
- (b) a current Aviation Medical Certificate (Basic Class 2).

Subsection 19(2) exempts the recreational pilot licence holder from compliance with subregulation 61.065(1) of CASR, to the extent that the subregulation requires that, to be authorised under Part 61 of CASR to exercise the privileges of the licence, the holder must (as required by subregulation 61.405(1) of CASR) also hold:

- (a) a current class 1 or 2 medical certificate; or
- (b) a current recreational aviation medical practitioner's certificate; or
- (c) a medical exemption for the exercise of the privileges of the licence.

The note below subsection 19(2) is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subregulation 61.405(1) of CASR.

Subsection 19(3) exempts the recreational pilot licence holder from compliance with subregulation 61.065(1) of CASR, to the extent that the subregulation requires that, to be authorised under Part 61 of CASR to exercise the privileges of the licence, the holder must also meet the requirement mentioned in subregulation 61.465(2) of CASR.

The note below subsection 19(3) is a signpost note, intended to assist users of the instrument to identify the relationship between the exemption and subregulation 61.465(2) of CASR.

Subsection 19(4) provides that the exemptions in subsections (2) and (3) are subject to the conditions mentioned in sections 20 and 21.

Subsections 20(1) to (6) and subsections 21(1) and (2) impose conditions on the recreational pilot licence holder:

- (a) restricting the circumstances in which they can:
 - (i) commence and conduct a flight; and
 - (ii) exercise the privileges of their licence; and
- (b) requiring them to produce related documents for inspection by an authorised CASA officer within specified timeframes; and
- (c) requiring them to carry particular documents during the flight; and
- (d) requiring them, before commencing the flight, to inform the following persons of the matters mentioned in subsection 21(2):
 - (i) for each passenger who has a legal guardian — the passenger's legal guardian;
 - (ii) each other passenger.

Together, subsections 21(1) and (2) are intended to enable each passenger or passenger's legal guardian, in the knowledge that the pilot was assessed against the Austroads commercial vehicle driver medical standards and holds an Aviation Medical Certificate (Basic Class 2), instead of a standard medical certificate, to make an informed decision, before the flight commences, about whether to remain on the flight.

Part 141 operators and Part 142 operators

Subsection 22(1) provides that subsection 22(2) applies if a Part 141 operator conducts authorised Part 141 flight training for the grant of a licence or rating mentioned in paragraph 22(1)(a), (b) or (c).

Subsection 22(2) exempts the Part 141 operator from compliance with subregulation 141.210(1) of CASR, to the extent that the subregulation requires the Part 141 operator to ensure that the applicant for the licence or rating is eligible under the medical certificate requirements in paragraph 61.235(2)(c) or (4)(b) (whichever applies) of CASR to undertake a flight test.

Subsection 22(3) provides that subsection 22(4) applies to the head of operations of a Part 141 operator who is providing authorised Part 141 flight training to a person mentioned in subsection 22(1).

Subsection 22(4) exempts the head of operations from compliance with subregulation 141.210(1) of CASR, to the extent that the subregulation requires the head of operations to ensure that the person is eligible under the medical certificate requirements in paragraph 61.235(2)(c) or (4)(b) (whichever applies) of CASR to undertake a flight test.

Subsection 22(5) provides that subsections 22(6) and (7) apply if a person who is undertaking a Part 141 operator's authorised Part 141 flight training flies an aircraft, used by the operator in the training, as pilot in command.

Subsection 22(6) exempts the Part 141 operator from compliance with regulation 141.290 of CASR, which requires the Part 141 operator not to authorise a person to fly an aircraft used in the operator's authorised Part 141 flight training as pilot in command unless the person is authorised under Part 61 of CASR to fly the aircraft as pilot in command. The exemption only applies to the extent that the person is exempted by the instrument from compliance with a provision of Part 61.

Subsection 22(7) exempts the Part 141 operator from compliance with regulation 141.300 of CASR, which requires the Part 141 operator not to authorise the carriage of a passenger on a flight by a person unless the person is authorised under Part 61 of CASR to fly the aircraft as pilot in command with a passenger on board. The exemption only applies to the extent that the person is exempted by the instrument from compliance with a provision of Part 61.

Subsection 23(1) provides that subsection 23(2) applies if a Part 142 operator conducts a Part 142 activity involving training for the grant of a licence or rating mentioned in subparagraph 23(1)(a).

Subsection 23(2) exempts the Part 142 operator from compliance with subregulation 142.245(1) of CASR, to the extent that the subregulation requires the Part 142 operator to ensure that the applicant for the licence or rating is eligible under the medical certificate requirements in paragraph 61.235(2)(c) or (4)(b) (whichever applies) of CASR to undertake a flight test.

Subsection 23(3) provides that subsection 23(4) applies to the head of operations of a Part 142 operator who is conducting a Part 142 activity involving provision of training to a person mentioned in subsection 23(1).

Subsection 23(4) exempts the head of operations from compliance with subregulation 142.245(1) of CASR, to the extent that the subregulation requires the head of operations to ensure that the person is eligible under the medical certificate requirements in paragraph 61.235(2)(c) or (4)(b) (whichever applies) of CASR to undertake a flight test.

Subsection 23(5) provides that subsections 23(6) and (7) apply if a person who is undertaking training that is an authorised Part 142 activity flies an aircraft, used by a Part 142 operator in the training, as pilot in command.

Subsection 23(6) exempts the Part 142 operator from compliance with regulation 142.365 of CASR, which requires the Part 142 operator not to authorise a person to fly an aircraft as pilot in command in the conduct of an authorised Part 142 activity for the operator unless the person is authorised under Part 61 of CASR to fly the aircraft as pilot in command. The exemption only applies to the extent that the person is exempted by the instrument from compliance with a provision of Part 61.

Subsection 23(7) exempts the Part 142 operator from compliance with regulation 142.375 of CASR, which requires the Part 142 operator not to authorise the carriage of a passenger on a flight by a person unless the person is authorised under Part 61 of CASR to fly the aircraft as pilot in command with a passenger on board. The exemption only applies to the extent that the person is exempted by the instrument from compliance with a provision of Part 61.

The LA and the Act

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. This instrument repeals instrument CASA EX49/24 that is a legislative instrument. This instrument is, therefore, also a legislative instrument, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Paragraph 98(5A)(a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft. Additionally, paragraph 98(5AA)(a) of the Act provides that an instrument issued under paragraph 98(5A)(a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. The instrument applies to various classes of person, being student pilots, PPL or RPL applicants, rating applicants, PPL or RPL holders, flight instructors, flight examiners, Part 141 operators and Part 142 operators.

The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Under subsection 14(1) of 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, 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.

Under subsection 33(3) of the AIA, 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 paragraph 13(1)(a) of the LA, if enabling legislation confers on a person the power to make, relevantly, a legislative instrument, then, unless the contrary intention appears, subsection 33(3) of the AIA applies to the legislative instrument as if it were an Act and each provision of the instrument were a section of an Act.

Sunsetting

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to the instrument (item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). However, this instrument will be repealed at the end of 31 January 2028, which will occur before the sunseting provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunseting does not affect parliamentary oversight of this instrument.

Consultation

Between December 2016 and March 2017, CASA conducted initial consultation by seeking aviation industry and broader community responses to a related discussion paper. Subsequently, CASA developed a policy in consultation with stakeholders from the aviation industry and the medical profession. In November 2017, the final policy was considered and supported by the Aviation Safety Advisory Panel, a body of aviation industry representatives covering all industry sectors. In December 2017, the policy was publicly announced, including on CASA social media channels and in the CASA briefing newsletter that was distributed to a large number of aviation industry subscribers.

By remaking the exemption and conditions in CASA EX49/24, the instrument continues an existing arrangement that is beneficial to PPL holders who, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, hold a current Aviation Medical Certificate (Basic Class 2).

The instrument also expands the scope of that beneficial arrangement to enable the following:

- (a) certain student pilots to conduct particular kinds of solo flights;
- (b) certain licence or rating applicants to perform or not perform particular actions;
- (c) certain RPL holders to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation;
- (d) flight instructors, flight examiners, Part 141 operators, Part 142 operators and heads of operations to perform related activities involving training and flight testing (whichever applies) of the classes of person mentioned in paragraphs (a), (b) and (c).

The initial consultation did not expressly address those expanded matters. However, CASA identified the need to expand the scope of the beneficial arrangement through assessing the operational application of:

- (a) CASA EX65/18, during the 3 years it was in operation; and
- (b) CASA EX69/21, during the 3 years it was in operation;
- (c) CASA EX49/24, since it was made in August 2024.

By enabling individuals and businesses to offer particular kinds of solo flight or flight test, the instrument would expand the range of training activities that the aviation industry is able to provide. Therefore, the instrument would be beneficial to the aviation industry, as well as to aspiring and existing pilots.

Under those circumstances, and because CASA will undertake consultation in relation to the proposed amendments of Part 67 of CASR, CASA is satisfied that no further consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA.

Sector risk, economic and cost impact

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

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

- (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.

As the instrument includes an exemption and related conditions that operate in substantially the same way as the exemption and conditions in CASA EX49/24, there will be no related change in the economic or cost impact on individuals, businesses or the community.

However, the instrument expands the scope of that existing beneficial arrangement to enable:

- (a) certain student pilots to conduct particular kinds of solo flights;
- (b) certain licence or rating applicants to take particular kinds of flight tests;
- (c) certain RPL holders to commence particular kinds of flights.

Therefore, the instrument would be likely to have a beneficial economic effect on individuals and businesses offering those kinds of solo flights, flight tests and flights. Consequently, there may be beneficial effects on related businesses

By expanding the range of training activities that the aviation industry can provide, the instrument would be beneficial to the aviation industry, as well as to aspiring and existing pilots.

Impact on categories of operations

The instrument is likely to have a beneficial effect on particular flight training schools (Part 141 operators and Part 142 operators) by allowing them to provide the solo flights, flight tests and flights mentioned in the instrument, if the related circumstances exist and the related conditions are met. Consequently, there may be beneficial effects on related businesses.

Impact on regional and remote communities

The instrument is likely to have a beneficial effect on any regional communities in which those particular flight training schools (Part 141 operators and Part 142 operators) and related businesses are located. The reason is that the instrument will encourage the kinds of student pilots and other licence applicants and holders that it mentions to visit those communities.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) is not required in this case, as the exemption is covered by a standing agreement between CASA and the OIA under which an IA is not required for exemptions (OIA reference number: 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*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

Making and commencement

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

The instrument commences on the day after it is registered and will be repealed at the end of 31 January 2028.

Statement of Compatibility with Human Rights

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

CASA EX11/25 — Medical Certification (Basic Class 2 Medical Certificate) Exemption 2025

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 instrument continues to enable a private pilot licence holder to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, the licence holder holds a current Aviation Medical Certificate (Basic Class 2). That purpose is subject to related circumstances mentioned in the instrument existing and related conditions mentioned in the instrument being met.

To continue to give effect to that purpose, the Civil Aviation Safety Authority (*CASA*) recently made *CASA EX49/24 — Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificate) Exemption 2024 (CASA EX49/24)*.

The instrument also expands the scope of *CASA EX49/24* to enable:

- (a) student pilots to conduct particular kinds of solo flights if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, they hold a current Aviation Medical Certificate (Basic Class 2);
- (b) certain licence or rating applicants to perform or not perform particular actions if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, they hold a current Aviation Medical Certificate (Basic Class 2);
- (c) certain recreational pilot licence holders to exercise the privileges of their licence in an aircraft that is certificated for single-pilot operation if, instead of meeting particular regulatory requirements related to medical certification or medical exemptions, they hold a current Aviation Medical Certificate (Basic Class 2);
- (d) flight instructors, flight examiners, Part 141 operators, Part 142 operators and heads of operations to perform related activities involving training and flight testing (whichever applies) of the classes of person mentioned in paragraphs (a), (b) and (c).

The instrument exempts the following 13 classes of person from compliance with particular provisions of CASR, in most cases to the extent mentioned in the related provision of the instrument:

- (a) certain student pilots – see section 5;
- (b) flight instructors of those student pilots – see section 7;
- (c) certain private pilot licence applicants – see section 8;
- (d) flight examiners of those private pilot licence applicants – see section 10;
- (e) certain recreational pilot licence applicants – see section 11;
- (f) flight examiners of those recreational pilot licence applicants – see section 13;
- (g) certain rating applicants – see section 14;

- (h) flight examiners of those rating applicants – see section 15A;
- (i) certain private pilot licence holders – see section 16;
- (j) certain recreational pilot licence holders – see section 19;
- (k) Part 141 operators if particular circumstances exist – see subsections 22(1), (2), (5), (6) and (7);
- (l) heads of operations of Part 141 operators if particular circumstances exist – see subsections 22(3) and (4);
- (m) Part 142 operators if particular circumstances exist – see subsections 23(1), (2), (5), (6) and (7);
- (n) heads of operations of Part 142 operators if particular circumstances exist – see subsections 23(3) and (4).

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority