

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA 18/25 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2025

Purpose

CASA 09/19 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Instrument 2019 (CASA 09/19) places conditions on the licences of flight crew members that conduct community service flights and establishes safety measures in relation to pilot licensing, medical fitness, aeronautical experience, operational and notification requirements. The instrument also excludes aircraft that have a lower standard of airworthiness from community service flights. The measures were established to mitigate risk factors associated with community service flights that are not usually present in baseline private operations. In 2022, CASA 09/19 was amended to include a mechanism whereby the approved requirements and procedures of a community service flights entity may be used by a pilot in place of the conditions in CASA 09/19.

The purpose of *CASA 18/25 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2025* (the **amending instrument**) is to amend CASA 09/19 to extend its operation to the end of 31 March 2026 and make minor consequential amendments. The scheme is otherwise unchanged.

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 the *Civil Aviation Safety Regulations 1998 (CASR)*.

Regulation 11.068 of CASR allows CASA, for subsection 98 (5A) of the Act, to issue a legislative instrument that imposes a condition relating to a matter mentioned in that subsection on a specified class of authorisations. Authorisations include flight crew licences, ratings and endorsements. Under regulation 11.077 of CASR, it is an offence of strict liability (with a maximum penalty of 50 penalty units) to contravene a condition imposed under regulation 11.068.

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 *Legislation Act 2003* (the *LA*), subsection 33 (3) applies to legislative instruments as if each provision of the instrument were a section of an Act.

Background

Community service flights are non-emergency flights that primarily transport people to specialist medical treatment and are coordinated, arranged or facilitated by an entity for a charitable purpose or community service purpose. The purpose of CASA 09/19 was to

address higher risks associated with community service flights when compared to standard private flights. The risks arise by reason of, and in relation to:

- pressure on pilots, which can be self-induced, to start or complete a flight because of a passenger's medical condition or their treatment schedule
- the community service flight may require a pilot to operate at unfamiliar locations and in varying weather conditions
- the absence of organisational oversight of safety support from a certified air operator, and a lack of organisational risk mitigators
- the unique nature of the relationships between the parties differing from other non-commercial circumstances.

Since 2011, community service flight accidents have resulted in 6 fatalities. To take account of the elevated risks, CASA decided to establish appropriate minimum safety standards for community service flights. The intention of CASA 09/19 was to introduce reasonable and proportionate additional safety measures.

In early 2022, CASA conducted a review of operations conducted between 2019-2022, which led to some changes to the conditions within CASA 09/19 and its extension until March 2025. These amendments were made by *CASA 19/22 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2022*.

Overview of instrument

In accordance with subsection 33 (3) of the *Acts Interpretation Act 1901*, the amending instrument amends CASA 09/19 to extend its operation for approximately another 12 months and to make minor consequential amendments. The instrument otherwise makes no change to the scheme.

In 2025, CASA assessed data from relevant external sources (such as flight plans from Airservices Australia and incident and accident data from the Australian Transport Safety Bureau) and is satisfied that community service flight operations conducted in accordance with CASA 09/19 are occurring at an acceptable level of safety, therefore supporting the extension of the instrument.

Content of instrument

Section 1

This section provides the citation of the amending instrument as *CASA 18/25 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2025*.

Section 2

This section provides for the amending instrument to commence at the time it is registered.

Section 3

This section provides that CASA 09/19 is amended as set out in Schedule 1.

Schedule 1

Schedule 1 sets out the amendments.

Item 1

This item substitute section 2 to provide that the instrument is repealed at the end of 31 March 2026, therefore extending the operation of the instrument which would otherwise repeal at the end of 18 March 2025.

Item 2

Subsection 7 (2) of CASA 09/19 provides that, to avoid doubt, the provisions in *CASA EX69/21 — Medical Certification (Private Pilot Licence Holders with Basic Class 2 Medical Certificate) Exemption 2021* do not apply to the holder of a flight crew licence who operates an aircraft for a community service flight. The provision clarifies that the “Basic Class 2” medical certificate available under that instrument does not meet the requirement under Part 61 of CASR to hold a class 2 medical certificate (and is not a subset of that class).

Instrument CASA EX69/21 has subsequently been repealed and the scheme established under that instrument is currently enabled by *CASA EX11/25 — Medical Certification (Basic Class 2 Medical Certificate) Exemption 2025*. The amendment in item 2 omits the reference to the repealed instrument and replaces it with a reference to the current instrument.

Item 3

Item 3 substitutes the note to subsection 7 (2), so that it now refers to the correct instrument, for the same reasons as discussed above. The note explains that a Basic Class 2 medical certificate is not a class 1 or 2 medical certificate.

Legislation Act 2003

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. The amending instrument amends CASA 09/19 that is a legislative instrument and is, therefore, also a legislative instrument, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Sunsetting

As the amending 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 (as per item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*).

In this case, the amending instrument amends CASA 09/19 and is almost immediately spent and repealed in accordance with the automatic repeal provisions in section 48A of the LA. CASA 09/19 itself will be repealed at the end of 31 March 2026. Thus, in practice, no sunset avoidance issues arise and there is no impact on Parliamentary oversight.

Consultation

The amending instrument is beneficial to the entities currently involved with coordinating, arranging or facilitating community service flights as it extends the scheme for approximately another year and does not otherwise make any substantive changes. CASA sent a draft of the instrument to Little Wings and Angel Flight, who are currently the principal entities involved with community service flights. No adverse comment was received from these entities.

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.

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

- (a) the identification of individuals and businesses affected by the instrument; and
- (b) consideration of how the requirements to be imposed on individuals and businesses under the 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 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 instrument, that are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

The requirements of CASA 09/19 apply to pilots who undertake community service flights and also affects the operations of entities that coordinate, arrange or facilitate these flights. As the amending instrument extends the existing scheme which continues 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.

Impact on categories of operations

The instrument impacts operations defined as community service flights in CASA 09/19 but makes no change to the current impacts.

Impact on regional and remote communities

Analysis conducted using feedback from organisations facilitating community service flights identified that community service flights continue to primarily transport persons from regional areas to capital cities (and the subsequent return of those persons).

Office of Impact Analysis (OIA)

Overall the proposed instrument extends the existing community service flight provisions, thereby avoiding economic and cost impacts on persons using community service flights, aircraft operators conducting the flights and organisations facilitating the flights. CASA assesses that this instrument has only minor economic and cost impacts on individuals, business and the community. At the time CASA 09/19 was made, the Office of Best Practice Regulation (as the OIA was then known) had assessed that a Regulation Impact Statement for the conditions applying to a pilot's licence, in relation to community service flights, was not required (OBPR ID: 24818). The amendment instrument replaces a cross-reference to a now expired exemption instrument and changes a repeal date. An Impact Analysis (*IA*) is not required for amendments that involve correcting minor errors or making minor drafting clarifications (OIA ID: 22726).

Statement of Compatibility with Human Rights

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

Making and commencement

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

The instrument commences at the time it is registered and is automatically repealed in accordance with section 48A of the LA.

Statement of Compatibility with Human Rights

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

CASA 18/25 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 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

CASA 09/19 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Instrument 2019 (CASA 09/19) places conditions on the licences of flight crew members that conduct community service flights and establishes safety measures in relation to pilot licensing, medical fitness, aeronautical experience, operational and notification requirements. The instrument also excludes aircraft that have a lower standard of airworthiness from community service flights. The measures were established to mitigate risk factors associated with community service flights that are not usually present in baseline private operations.

The purpose of *CASA 18/25 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Amendment Instrument 2025* (the **amending instrument**) is to amend *CASA 09/19* to extend its operation to the end of 31 March 2026 and make minor consequential amendments.

CASA has assessed data available from external sources (such as Airservices Australia and the Australian Transport Safety Bureau) and is satisfied that community service flight operations, conducted in accordance with *CASA 09/19*, are occurring at an acceptable level of safety, therefore supporting the extension of the instrument.

In accordance with subsection 33 (3) of the *Acts Interpretation Act 1901*, the instrument amends *CASA 09/19* to extend its operation for approximately another 12 months and to make minor consequential amendments. The amending instrument otherwise makes no change to the scheme.

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