

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### CASA EX49/25 – Community Flights Ltd – Charitable Fundraising – Exemption and Directions Instrument 2025

##### Purpose

The purpose of *CASA EX49/25 – Community Flights Ltd – Charitable Fundraising – Exemption and Directions Instrument 2025* (the **exemption instrument**) is to facilitate a 12 month fundraising drive for Community Flights Ltd (**CFL**) – a registered charity – through joy or scenic flights conducted by CFL’s volunteer pilots. The flights, conducted as private operations, would be for fare-paying passengers, with a proportion of the fare going to the pilots for their direct costs, and the remainder paid to CFL for their charitable purposes.

Although they will be carrying paying passengers on the joy or scenic flights, the volunteer pilots will be exempted from the normal safety requirement to hold an Air Operator’s Certificate (an **AOC**).

To support this outcome, the exemption instrument contains numerous conditions and directions designed to ensure that the safety, integrity and probity of the arrangements are preserved, and that prospective paying passengers are fully informed about the nature, purpose and safety level of the flights.

Under the exemption instrument, the Civil Aviation Safety Authority (**CASA**) is satisfied that an acceptable level of aviation safety is preserved, although it does not equal the higher level of aviation safety that is required for Australian air transport operations, that is actual commercial operations carrying fare-paying passengers.

##### Legislation

Under subsection 27(2) of the *Civil Aviation Act 1988* (the **Act**) an aircraft must not operate in Australian territory unless authorised by an AOC. Under subsection 27(9) of the Act, subsection 27(2) only applies to the operation of an aircraft for a prescribed purpose. Under regulation 119.030 of the *Civil Aviation Safety Regulations 1998* (**CASR**), the operation of an aircraft for an Australian air transport operation is a prescribed purpose.

Paragraph 119.010(1)(a) of CASR relevantly defines an **Australian air transport operation** as an air transport operation conducted by an Australian operator with a registered aircraft.

Under clause 3 in Part 2 of the CASR Dictionary, an **air transport operation** is relevantly defined as any passenger transport operation for hire or reward. Under subclause 75(1) in Part 2 of the CASR Dictionary, a passenger transport operation is simply the operation of an aircraft that involves the carriage of passengers. Under subclause 75(2), certain operations are excluded from the definition of **passenger transport operation**, relevantly, a *cost-sharing flight* (as defined in Part 1 of the CASR Dictionary) where, relevantly, pilot and passengers equally bear the direct costs of the flight, and a *flight with passengers by an individual registered operator* for which no payment or reward is made or given by the passengers.

The effect of these provisions and definitions is that an aircraft operator or a pilot in command must not conduct commercial passenger-carrying operations – that is, relevantly, operations with fare-paying passengers – unless they hold an AOC granted by CASA.

Without an exemption, these provisions would make it unlawful for CFL’s volunteer pilots to participate in CFL’s proposed fundraising.

### **Legislation — exemptions**

Section 98 of the Act empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Subpart 11.F of CASR deals with exemptions. Under subregulation 11.160(1), and for subsection 98(5A) of the Act, CASA may, by instrument, grant an exemption from a provision of CASR in relation to a matter mentioned in subsection 98(5A). Subsection 98(5A) matters are, in effect, those affecting the safety, airworthiness or design of aircraft.

Under subregulation 11.160(2), an exemption may be granted to a person or a class of persons. Under subregulation 11.160(3), CASA may grant an exemption on application, or on its own initiative.

Under subregulation 11.170(3), for an application for an exemption, CASA must regard as paramount the preservation of an acceptable level of safety. For making a decision on its own initiative, CASA is guided by the requirement in subsection 9A(1) of the Act that in exercising its powers and functions CASA must regard the safety of air navigation as the most important consideration. The preservation of an acceptable level of safety remains paramount.

Under regulation 11.205, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition. This is because of the seriousness of the matter, and the potential risks to aviation safety, and the safety of persons in the air or on the grounds that arise from any failure to comply with the conditions of an exemption from what would otherwise be the requirements of the law. The penalty is 50 penalty units.

Under regulation 11.225, CASA must, as soon as practicable, publish on the internet details of all exemptions under Subpart 11.F of CASR.

Under subregulation 11.230(1), an exemption may remain in force for 3 years or for a shorter period specified in the instrument.

Under subregulation 11.230(3), an exemption, in force in relation to a particular aircraft owned by a particular person, ceases to be in force when the aircraft ceases to be owned by that person. Under regulation 11.235, an exemption is not transferable (as between operators, aircraft, etc.).

### **Directions**

Under paragraph 11.245(1)(a) of CASR, for subsection 98(5A) of the Act, CASA may, by instrument, issue a direction about any matter affecting the safe navigation and operation of aircraft. Under subregulation 11.245(2), CASA may issue such a direction only if CASA is satisfied that it is necessary in the interests of safety, only if the

direction is not inconsistent with the Act, and only for the purposes of CASA's functions.

Under regulation 11.250, a direction ceases to be in force on a day specified in the instrument or, if no day is specified, 1 year after the instrument commences. Under subregulation 11.255(1), it is a strict liability offence to contravene a direction under regulation 11.245 that is applicable to the person. This is because of the seriousness of the matter, and the potential risks to aviation safety, and the safety of persons in the air or on the grounds that arise from any failure to comply with the requirements of a direction. The penalty is 50 penalty units.

### **Background**

CFL is a registered charity established to facilitate community service flights by volunteer pilots for people in remote and rural areas of Queensland needing medical treatment or services in centres some distance from their homes whose geographical, financial or health circumstances preclude the use of commercial aviation or land-based transport. CFL is not an aircraft operator, but facilitates and coordinates volunteer pilots for the community service flights.

For the purposes of a fundraising campaign, CFL has asked CASA to grant its nominated volunteer pilots exemption from the requirement to hold an AOC. The purpose is to enable the pilots to conduct joy or scenic flights for fare-paying passengers in return for their direct costs being reimbursed from the fares, with the remainder going to CFL for its charitable work.

The expression *direct costs* is defined in the CASR Dictionary as those costs that are actually and necessarily incurred in connection with the flight, without a view to making a profit.

Prior to 2 December 2021 when the flight operations provisions of CASR were significantly amended, limited historical arrangements were in place to permit the conduct of charitable operations without an AOC.

These arrangements did not require notification to CASA when they were used and they lapsed on 2 December 2021 when some regulatory provisions underpinning them were repealed and not replaced with new legislated arrangements.

CASA intends to develop further amendments to CASR designed to appropriately facilitate such charitable operations subject to safety conditions but, in the meantime, such operations are not permitted unless the relevant pilots have the benefit of relevant exemptions.

It is intended that the exemption instrument will provide CASA with important feedback on the conduct of such operations and guide the development of the further CASR amendments.

For this reason, the exemption instrument contains certain conditions and directions to ensure that now, and in the future under legislated arrangements, the safety, the integrity and probity of these operations is preserved, and that prospective passengers are fully informed about the nature, purpose and safety level of the flights.

The conditions and directions are designed to directly and indirectly enhance aviation safety and beneficially affect the safe navigation and operation of relevant aircraft by

reinforcing that a flight is not a passenger air transport operation, nor a self-contained private operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.

### **Conditions and directions**

Full details of the exemption instrument are set out in Appendix 1 and what follows is an overview.

The exemption from the AOC requirement is for the individual volunteer pilots, not CFL which is not an aircraft operator. However, directions are addressed to CFL in its organising role.

The relevant aircraft will be subject to a maximum operational passenger seating capacity of not more than 5, and a maximum take-off weight of not more than 2 700 kg.

The pilot in command must hold an air transport pilot licence or a commercial pilot licence, have appropriate landing and take-off recency within the previous 30 days, and have accumulated significant prescribed flight time hours for the relevant aircraft.

The pilot in command must not participate in more than 4 relevant events before the end of 30 June 2026.

The relevant aircraft must take-off from, and land at, the same certified aerodrome, for a Visual Flight Rules by day flight that must be wholly conducted within a 50 nautical mile radius of the departure aerodrome. Neither aerobatic manoeuvres, flying in formation, nor low flying are permitted.

In addition to any passenger briefing required by Part 91 of CASR, the pilot in command must ensure that each passenger receives a ***passenger advice and acknowledgement statement*** before the flight confirming their knowledge of, and consent to, the nature, purpose and risks of the flight.

The acknowledgement would note, in particular, that, although in granting the exemption CASA regarded as paramount the preservation of a level of aviation safety that is at least acceptable, and imposed conditions necessary in the interests of the safety of air navigation, the flight is **not** governed by the same level of oversight, and is **not** subject to the same safety standards, that would be in place for a commercial passenger-carrying operation. Consequently, the flight, although subject to a range of safety conditions, is associated with a lower level of oversight, and a higher level of safety risk, than would be the case for a commercial passenger-carrying operation.

Provision is made for a parent or guardian to give the acknowledgement and consent for a person under the age of 18.

CFL, as the organising body, would be subject to a number of safety-related directions. Thus, CFL must not arrange for more than 4 relevant events to be completed before the end of 30 June 2026, and ensure that each relevant event must not last more than 3 consecutive days.

CFL must ensure that each participating pilot in command is qualified to participate and is notified to CASA at least 7 days before the commencement of the event.

CFL must ensure that no more than direct costs (as defined in the CASR Dictionary) are paid to a pilot in command for a relevant flight from the relevant donations for the flight as received by CFL, to the exclusion of any and every other form of hire or reward, in money or money's worth, that may, or could, be paid, or accrue, to the pilot in command from CFL or from any other source.

CFL must also ensure that the entire remainder of the payments of all passengers on the flight are, in the first instance, placed in a CFL bank account for CFL's charitable purposes.

CFL must devise a set of safety procedures for its volunteer pilots to follow to ensure that they comply with this exemption instrument, and must keep in regular contact with each pilot in command during a relevant event to emphasise aviation safety as the first priority of the flights.

CFL must also publish on its website, for potentially relevant passengers, a plain English description of this exemption instrument, including details of the approximate duration and areas of a flight, and the cost to a relevant passenger.

CFL must not notify a participating pilot to CASA unless CFL has established, as a matter of fact, that the pilot's participation is covered by a policy of insurance at least appropriate for private operations carrying passengers in the type and category of the relevant aircraft.

A complimentary direction also requires each pilot in command to ensure their operation of the aircraft is covered by a policy of insurance at least appropriate for private operations carrying passengers in the type and category of the relevant aircraft.

CFL must provide CASA with prescribed data about the flights (for example, number of pilots, flights, passengers and direct costs). This information will be used to assist CASA in the development of the proposed longer-term legislative amendments for charity flights.

Both CFL and the pilots in command must also retain for inspection the prescribed records and documents generated by the arrangements.

### **Safety**

As mentioned above, under the exemption instrument, CASA is satisfied that an acceptable level of aviation safety is preserved, although it does not equal the higher level of aviation safety that is required for Australian air transport operations, that is actual commercial operations carrying fare-paying passengers.

### ***Legislation Act 2003 (the LA)***

Exemptions under Subpart 11.F of CASR are "for subsection 98(5A)" of the Act, that is, for regulations which empower the issue of certain instruments, like exemptions, in relation to "(a) matters affecting the safe navigation and operation, or the maintenance, of aircraft", and "(b) the airworthiness of, or design standards for, aircraft".

The exemption instrument is clearly one in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98(5AA) of the Act, an exemption issued under paragraph 98(5A)(a), for such matters, is a legislative

instrument if expressed to apply in relation to a class of persons, a class of aircraft or a class of aeronautical products (as distinct from a particular person, aircraft or product).

The exemption instrument is generic in nature and applies to a class of persons, namely, the currently unknown participating pilots in command for relevant events. It is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under section 15G, and sections 38 and 42, of the LA.

### **Sunsetting**

As the instrument relates to aviation safety and is made under CASR, that means that Part 4 of Chapter 3 of the LA (the sunseting 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*).

The exemption instrument deals with aviation safety matters that, once identified, require a risk response or treatment plan. 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.

The instrument is repealed at the end of 30 June 2026 (with the recordkeeping provisions only repealed at the end of 30 November 2026), by virtue of the terms of section 3. Thus, in practice, no sunseting avoidance issues arise and there is no impact on parliamentary oversight.

### **Incorporations by reference**

Under subsection 98(5D) of the Act, the exemption instrument may apply, adopt or incorporate any matter contained in any instrument or other writing. A non-legislative instrument may be incorporated into a legislative instrument made under the Act, as that non-legislative instrument exists or is in force at a particular time or from time to time (including a non-legislative instrument that does not exist when the legislative instrument is made). Under paragraph 15J(2)(c) of the LA, the Explanatory Statement must contain a description of the incorporated documents and indicate how they may be obtained.

References to provisions of legislative instruments such as CASR are taken to be as they are in force from time to time, by virtue of paragraph 13(1)(c) of the LA. CASR and all CASA legislative instruments are freely available online on the Federal Register of Legislation.

No other documents are applied, adopted or incorporated for the purposes of the exemption instrument.

### **Privacy**

CFL must provide CASA with the names of the participating pilots in command and details of their aircraft. The collection of this information is necessary for aviation safety purposes in any necessary checking, surveillance, monitoring and assessing of the proposed pilots and flights. It falls under the exemption in Privacy Principle 3. The protections afforded by the *Privacy Act 1988* will otherwise apply to the collected information.

CASA does not receive the passenger advice and acknowledgement statements of each relevant passenger, or any other details about the passengers for the flights other than the number of them.

Also, for the purpose of assessing the ongoing safety of the flights, CFL is directed to ensure that, not later than 6 weeks after the completion of a relevant event, CASA's Flight Standards Branch is provided, by email using <fsb.corro@CASA.gov.au> and in spreadsheet format, with an audited account of the following for the relevant event:

- (a) the total number of relevant flights conducted;
- (b) the total number of passengers carried;
- (c) for each participating pilot in command:
  - (i) the number of relevant flights conducted by the pilot in command on each day of the relevant event; and
  - (ii) the category, type and class of the aircraft used in each flight; and
  - (iii) the number of passengers carried on each flight; and
  - (iv) the direct cost reimbursement made by CFL to the pilot for each flight.

A Note explains that CASA considers that the prospect of availability, and actual availability, to CASA, and the travelling public should it be requested, of audited accounts from the relevant events is likely to beneficially affect the safe navigation and operation of relevant aircraft by reinforcing to all concerned that a flight is not a passenger air transport operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.

The protections afforded by the *Privacy Act 1988* will apply to all of this data, none of which is required by CASA in other than a de-identified form.

### **Consultation**

Under section 16 of the Act, in performing its functions and exercising its powers, CASA must consult government, industrial, commercial consumer and other relevant bodies and organisations as far as CASA considers such consultation to be appropriate.

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.

Exemptions from regulatory requirements are considered to be beneficial for those to whom they apply, who voluntarily elect to take advantage of them, and who comply with their conditions. It is, therefore, rarely necessary to engage in extensive public consultation on a proposed exemption. However, it is CASA's policy to consult, where possible, in an appropriate way with those parts of the aviation industry most likely to avail themselves of, or be affected by, an exemption so that they may have the opportunity to comment on the possible or likely terms, scope and appropriateness of the exemption.

CASA has been in consultations with CFL throughout the process of developing the exemption instrument. Given the nature of the instrument and CFL's role, CASA considered that no other consultation was necessary or appropriate.

### **Office of Impact Analysis (OIA)**

An Impact Analysis (*IA*) is not required because the instrument is covered by a standing agreement between CASA and OIA under which an IA is not required for exemption or direction instruments (OIA id: 14507).

### **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.

In terms of economic and cost impacts for subsection 9A(3) of the Act, the exemption instrument will enable the charitable fundraising contemplated by CFL while preserving an acceptable level of aviation safety and incentivising relevant pilots to participate and comply with the applicable safety conditions and directions.

#### *Sector risks*

For aviation safety reasons, the exemption instrument is specific to the CFL charitable fundraising exercise and its nominated volunteer pilots.

### **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 exemption instrument, as compared to a baseline that existed on 1 December 2021, since the instrument does not create any new environmental impacts arising from flight operations.

### **Statement of Compatibility with Human Rights**

The Statement in Appendix 2 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The exemption instrument is compatible with human rights: with its aviation safety focus, it promotes the right to life, and its qualification of the right to privacy is limited, reasonable, necessary and proportionate in the interests of aviation safety.



**Making and commencement**

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

The instrument commences on the day after it is registered.

**Details of:****CASA EX49/25 – Community Flights Ltd – Charitable Fundraising – Exemption and Directions Instrument 2025**

---

**1 Name of instrument**

This section names the instrument.

**2 Duration**

Under this section, the instrument commences on the day after it is registered and, subject to section 3, is repealed at the end of 30 June 2026.

**3 Duration for recordkeeping**

- (1) Under this subsection, this section and subsections 8(14) and (15) are repealed at the end of 30 November 2026.
- (2) Under this subsection, for the operation of this section after 30 June 2026, expressions and provisions mentioned in subsections 8(14) and (15) are deemed to have the meaning they had on the commencement of CASA EX49/25.

This section is designed to ensure the appropriate retention of prescribed records.

**4 Definitions**

The section provides key definitions, including in particular the following:

**notification** means an up-to-date, written and dated, notice to CASA's Flight Standards Branch, sent by email, and signed by, or on behalf of, the Chief Executive Officer of Community Flights Ltd (the **CEO**):

- (a) identifying each pilot in command of an aircraft who is approved in writing by the CEO, or a person acting on behalf of the CEO, as a participant to operate an aircraft (the **relevant aircraft**) for the relevant event; and
- (b) identifying the make, model and registration number of the pilot in command's aircraft; and
- (c) stating that the CEO has received a declaration from the pilot in command (the **pilot declaration**) that:
  - (i) they have a copy of this instrument on board the aircraft; and
  - (ii) they solemnly undertake to comply with its conditions; and
- (d) identifying each pilot (if any) who is considered by the CEO to have, or to have been, withdrawn from participating in the event.

**pilot in command** means each pilot in command operating a relevant aircraft whose name:

- (a) has been notified to CASA in a notification; and
- (b) has not been notified to CASA by the CEO, or a person acting on behalf of the CEO, as a pilot who is no longer participating in a relevant event.

**relevant event** means each discrete occasion arranged by CFL, that complies with the requirements and conditions of the instrument, to raise funds for their charitable purposes.

**relevant flight** means a flight, by a pilot in command, in a relevant aircraft, during a relevant event, to carry a relevant passenger under an arrangement in which CFL arranges:

- (a) for the operator to provide the passenger with a flight in accordance with the requirements and conditions of this instrument; and
- (b) for the operator to be paid, from the payments made by all passengers on the flight, nothing more than the direct costs of the flight, as agreed between the operator and CFL, to the exclusion of any and every other form of hire or reward, in money or money's worth, that may, or could, be paid, or accrue, to the operator from CFL or from any other source whatsoever; and
- (c) for the entire remainder of the payments made by all passengers on the flights mentioned in paragraph (b) to be placed, in the first instance, in a CFL bank account for CFL's charitable purposes.

**relevant passenger** means an individual by or for whom a sum of money, as stipulated by CFL, has been paid in return for which CFL will arrange a relevant flight in accordance with this instrument.

## 5 Application

Under this section, the instrument applies, according to its terms, to:

- (a) each pilot in command of a particular aircraft who is named in an up-to-date notification as a participant in a relevant event; and
- (b) CFL.

## 6 Exemption

Under this section, each pilot in command, in their capacity as an operator, is exempted from compliance with Part 119 of CASR.

A Note explains that in general terms, the effect of this exemption is that, although carrying paying passengers, each pilot in command is not required to hold an otherwise required AOC for the particular aircraft, or comply with requirements specifically related to the holding of such an AOC. However, each pilot in command must comply with the conditions in the exemption instrument, and the other applicable requirements of CASR, for example, Part 91 and Part 61.

## 7 Conditions

This section sets out the conditions under which the exemption is granted to each participating pilot in command. Thus, the exemption under section 6 is subject to the following:

### The aircraft

- (a) the relevant aircraft for a flight must have a maximum operational passenger seating capacity of not more than 5;
- (b) the relevant aircraft must have a maximum take-off weight of not more than 2 700 kg;
- (c) the relevant aircraft must be type certificated in the normal, commuter or transport category;

### The pilot in command

- (d) the pilot in command must hold an air transport pilot licence or a commercial pilot licence;

- (e) the pilot in command must have conducted at least one take-off and one landing in an aircraft of the same type and the same category as the relevant aircraft, in the 30 days immediately before the flight;
- (f) the pilot in command must have at least:
  - (i) 150 hours of flight time as a pilot in command (**PIC**) of an aeroplane or helicopter (as applicable for the relevant flight); and
  - (ii) if the relevant aircraft is a multi-engine aircraft — 25 hours of flight time as PIC of a multi-engine aircraft; and
  - (iii) 10 hours of flight time on the same type or class of aircraft as the relevant aircraft;
- (g) the pilot in command must not participate in more than 4 relevant events before the end of 30 June 2026;
- (h) the pilot in command must have a copy of this instrument on board the relevant aircraft during a flight;

### **The flight**

- (i) the relevant aircraft must take-off from, and land at, the same certified aerodrome;
- (j) the flight must be wholly conducted within a 50 nautical mile radius of the departure aerodrome;
- (k) the flight must be conducted under the Visual Flight Rules by day;
- (l) the flight must not involve the conduct of any aerobatic manoeuvres, flying in formation, or low flying;

### **The passenger advice and acknowledgement statement**

- (m) in addition to any passenger briefing required by Part 91 of CASR, the pilot in command for a relevant flight must ensure that each passenger receives, electronically, or in easily legible hard copy, the following, standalone, written document (the ***passenger advice and acknowledgement statement***) at least 24 hours before a flight:

#### **Passenger Advice Statement**

1. The Civil Aviation Safety Authority (**CASA**) requires that:
  - (a) as a passenger in the aircraft to be used for Community Flights Ltd (**CFL**) fundraising purposes, you are given this statement at least 24 hours before the flight; and
  - (b) I, as the pilot in command of the aircraft, collect it and the signed acknowledgement from you before the flight commences.
2. This flight is a specific fundraising flight on behalf of CFL.
3. It is conducted under the requirements and conditions of an exemption instrument granted by CASA.
4. The exemption instrument is available to view on the CASA website (*CASA EX49/25 – Community Flights – Charitable Fundraising – Exemption and Directions Instrument 2025*, at <CASA.gov.au>).
5. In granting the exemption, CASA:
  - (a) regarded as paramount the preservation of a level of aviation safety that is at least acceptable; and
  - (b) has imposed conditions that are necessary in the interests of the safety of air navigation.

6. As such, the flight is **not** governed by the same level of oversight, and is **not** subject to the same safety standards, that would be in place for a commercial passenger-carrying operation.
7. Although the flight is subject to a range of safety conditions, the flight is, therefore, associated with a lower level of oversight, and a higher level of safety risk, than would be the case for a commercial passenger-carrying operation.

#### **Passenger Acknowledgement**

I acknowledge that I have read and understand the above passenger advice:

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

*If the passenger is under 18 years of age, this passenger acknowledgement must be signed by that person's parent or legal guardian:*

I [print name] \_\_\_\_\_ of  
[address] \_\_\_\_\_

\_\_\_\_\_ am the parent or legal guardian of the passenger named below:

I acknowledge that, as the parent or legal guardian of the passenger, I have read and understand the above passenger advice:

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

- (n) before a flight commences, the pilot in command must have the signed, and dated, passenger advice and acknowledgement statement from each passenger (or, if a passenger is a person under the age of 18 years old, from the parent or legal guardian of the passenger);
- (o) before a flight commences, the pilot in command must leave each signed and dated passenger advice and acknowledgement statement for the flight with a responsible person at the departure certified aerodrome.

#### **The responsible person**

- (2) For paragraph (1)(o), a responsible person is a representative of CFL or another person who will ensure that CFL receive each of the passenger advice and acknowledgement statements for the flight.

## **8 Directions**

Under this section, CFL and the pilots in command are given certain directions by CASA as follows:

#### **Number and extent of relevant events**

- (1) CFL is directed that it must not arrange for more than 4 relevant events to be completed before the end of 30 June 2026.
- (2) CFL is directed that each relevant event must not last for more than 3 consecutive days.

**Notifications**

- (3) CFL is directed to ensure that each pilot in command:
  - (a) who participates in the relevant event; or
  - (b) who withdraws, or is withdrawn, from such participation;
 is notified to CASA in a notification.
- (4) CFL is directed to ensure that the initial notification of a relevant event is provided to CASA at least 7 days before the commencement of the event.

**Pilot compliance**

- (5) CFL is directed to ensure that each pilot in command mentioned in a notification:
  - (a) has complied with the applicable requirements and conditions of this instrument at the time of notification; and
  - (b) complies with the applicable requirements and conditions of this instrument at all times during each relevant event in which the pilot participates; and
  - (c) if CFL learns of the pilot's non-compliance with any of the requirements and conditions of this instrument:
    - (i) is immediately withdrawn from participation in the relevant event by CFL; and
    - (ii) is the subject of written information to CASA by CFL, outlining the non-compliance, within 3 working days of the withdrawal.

**Pilot reimbursement**

- (6) CFL is directed to ensure that:
  - (a) no more than direct costs are paid to a pilot in command for a relevant flight from the relevant donations for the flight as received by CFL, to the exclusion of any and every other form of hire or reward, in money or money's worth, that may, or could, be paid, or accrue, to the pilot in command from CFL or from any other source whatsoever; and
  - (b) the entire remainder of the payments of all passengers on the flight mentioned in paragraph (a) are, in the first instance, placed in a CFL bank account for CFL's charitable purposes.

A Note explains that CASA considers that this direction is likely to beneficially affect the safe navigation and operation of relevant aircraft by reinforcing to all concerned that a flight is not a passenger air transport operation, nor a self-contained private operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.

**Safety procedures and descriptions**

- (7) CFL is directed to devise and implement a fail-safe procedure to ensure that, for each flight, CFL will obtain each signed and dated passenger advice and acknowledgement statement from the relevant responsible person.
- (8) CFL is directed to prepare, and provide for each pilot in command, a set of procedures, not inconsistent with this instrument, to assist pilots in command to comply with this instrument.
- (9) CFL is directed to prepare, and publish on its website, for potentially relevant passengers, a plain English description of the purpose and methodology of this instrument, including details of the approximate duration and areas of a flight, and the cost to a relevant passenger.

- (10) CFL is directed to keep in regular contact with each pilot in command during a relevant event in order to emphasise that aviation safety is the first priority of each flight in a relevant event.
- (11) CFL is directed to immediately notify CASA with the known details of any incident or accident that occurs during a relevant flight.

**Insurance**

- (12) CFL is directed to ensure that a pilot in command is not notified to CASA unless CFL has established, as a matter of fact, that the pilot's operation of the proposed relevant aircraft for the purposes of this instrument is covered by a policy of insurance at least appropriate for private operations carrying passengers in the type and category of the relevant aircraft.

A Note similar to that mentioned above is inserted here.

**Audited accounts**

- (13) CFL is directed to ensure that, not later than 6 weeks after the completion of a relevant event, CASA's Flight Standards Branch is provided, in an email, and in spreadsheet format, with an audited account of the following for the relevant event:
  - (a) the total number of relevant flights conducted;
  - (b) the total number of passengers carried;
  - (c) for each participating pilot in command:
    - (i) the number of relevant flights conducted by the pilot in command on each day of the relevant event; and
    - (ii) the category, type and class of the aircraft used in each flight; and
    - (iii) the number of passengers carried on each flight; and
    - (iv) the direct cost reimbursement made by CFL to the pilot for each flight.

A Note explains that use of email, with spreadsheet attachment, is required.

A second Note explains that CASA considers that the prospect of availability, and actual availability, to CASA, and the travelling public should it be requested, of de-identified audited accounts from the relevant events is likely to beneficially affect the safe navigation and operation of relevant aircraft by reinforcing to all concerned that a flight is not a passenger air transport operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.

**Preservation of records — CFL**

- (14) For each flight, CFL is directed to keep the following records in safe custody, and available on written demand by CASA, until the end of 30 November 2026:
  - (a) the relevant pilot declarations mentioned in paragraph (c) of the definition of *notification* in section 3;
  - (b) all of the passenger advice and acknowledgement statements mentioned in section 6;
  - (c) all of the material mentioned in subsections 8(7), 8(8) and 8(9);
  - (d) all of the records for each flight provided to it by the pilot in command under subsection 8(15).

**Preservation of records — each pilot in command**

- (15) The pilot in command is directed to:
  - (a) keep, until the end of 30 November 2026, for each flight, records of:
    - (i) the information described in paragraph 8(13)(c); and

- (ii) the passenger advice and acknowledgement statements of each relevant passenger; and
- (b) provide copies of those records to CFL not later than 7 days after the completion of a relevant event.

**Pilot in command insurance**

- (16) The pilot in command is directed to ensure that, for each relevant flight, their operation of the relevant aircraft for the purposes of this instrument is covered by a policy of insurance at least appropriate for private operations carrying passengers in the type and category of the relevant aircraft.

A note explains that CASA considers that this direction is likely to beneficially affect the safe navigation and operation of relevant aircraft by reinforcing to all concerned that a flight is not a passenger air transport operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.



## Statement of Compatibility with Human Rights

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

### CASA EX49/25 – Community Flights Ltd – Charitable Fundraising – Exemption and Directions 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

The purpose of the legislative instrument, *CASA EX49/25 – Community Flights Ltd – Charitable Fundraising – Exemption and Directions Instrument 2025* (the **exemption instrument**), is to facilitate a 12 month fundraising drive for Community Flights Ltd (**CFL**) – a registered charity – through joy or scenic flights conducted by CFL’s volunteer pilots. The flights, conducted as private operations, would be for fare-paying passengers, with a proportion of the fare going to the pilots for their direct costs, and the remainder paid to CFL for their charitable purposes.

Although they will be carrying paying passengers on the joy or scenic flights, the volunteer pilots will be exempted from the normal safety requirement to hold an Air Operator’s Certificate.

To support this outcome, the exemption instrument contains numerous conditions and directions designed to ensure that the safety, integrity and probity of the arrangements are preserved, and that prospective-paying passengers are fully informed about the nature, purpose and safety level of the flights.

Under the exemption instrument, CASA is satisfied that an acceptable level of aviation safety is preserved, although it does not equal the higher level of aviation safety that is required for Australian air transport operations, that is actual commercial operations carrying fare-paying passengers.

#### Human rights implications

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

- the right to life under Article 6 of the International Covenant on Civil and Political Rights (the **ICCPR**)
- the right to protection against arbitrary and unlawful interference with privacy, under Article 17 of the ICCPR.

#### *Right to life under the ICCPR*

This engagement is in the context of CASA’s statutory purpose. The aim of CASA and its regulatory framework is to uphold aviation safety by prescribing the conduct of individuals and organisations involved in civil aviation operations, including flight operations. It is, therefore, a threshold requirement for all CASA legislative instruments

that they preserve, promote and enhance aviation safety and, thereby, contribute to safe and healthy working conditions for crew, passengers, and ground staff.

The instrument sets out significant conditions and directions for the safety of CFL's proposed charitable fundraising using volunteer pilots in passenger-carrying private operations.

### ***Right to Privacy***

The right to the protections against arbitrary and unlawful interferences with privacy, contained in Article 17 of the ICCPR, provides that no-one shall be subjected to arbitrary or unlawful interference with his or her privacy, nor to unlawful attacks on their honour and reputation. The right to privacy may be engaged when personal information is collected, used and stored.

CFL must provide CASA with the names of the participating pilots in command and details of their aircraft. The collection of this information is necessary for aviation safety purposes in any necessary checking, surveillance, monitoring and assessing of the proposed pilots and flights. It falls under the exemption in Privacy Principle 3. The protections afforded by the *Privacy Act 1988* will otherwise apply to the collected information.

CASA does not receive the passenger advice and acknowledgement statements of each relevant passenger, or any other details about the passengers for the flights other than the number of them.

Also, for the purpose of assessing the ongoing safety of the flights, CFL is directed to ensure that, not later than 6 weeks after the completion of a relevant event, CASA's Flight Standards Branch is provided, in an email, and in spreadsheet format, with an audited account of the following for the relevant event:

- (a) the total number of relevant flights conducted;
- (b) the total number of passengers carried;
- (c) for each participating pilot in command:
  - (i) the number of relevant flights conducted by the pilot in command on each day of the relevant event; and
  - (ii) the category, type and class of the aircraft used in each flight; and
  - (iii) the number of passengers carried on each flight; and
  - (iv) the direct cost reimbursement made by CFL to the pilot for each flight.

A Note explains that CASA considers that the prospect of availability, and actual availability, to CASA, and the travelling public should it be requested, of de-identified audited accounts from the relevant events is likely to beneficially affect the safe navigation and operation of relevant aircraft by reinforcing to all concerned that a flight is not a passenger air transport operation, but a hybrid operation in which safety conditions and other directions, combined, will achieve an acceptable level of safety for relevant passengers but not equivalent to that which would pertain in a passenger air transport operation.

The protections afforded by the *Privacy Act 1988* will apply to all of this data, none of which is required by CASA in other than a de-identified form.

To the extent that the provisions under the exemption instrument limit the rights protected under Article 17 of the ICCPR, the limitations are necessary to protect aviation safety. Thus, the limitations imposed on the Article 17 rights are reasonable and proportionate to ensure the proper administration and enforcement of Australia's aviation safety system.

**Human rights implications**

This legislative instrument is compatible with human rights and to the extent that it may engage certain rights it does so in a way that promotes the right to life and for the right to privacy qualifies the right only in a way that is considered to be limited, reasonable, necessary and proportionate in the interests of aviation safety.

**Conclusion**

This legislative instrument is compatible with human rights.

**Civil Aviation Safety Authority**