

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA 44/25 — Prescription of Singapore as a Recognised Foreign State Instrument 2025

Purpose

The purpose of *CASA 44/25 — Prescription of Singapore as a Recognised Foreign State Instrument 2025* (the **instrument**) is to enable Australian operators to continue to use flight simulation training devices, or flight simulators, that are located in Singapore, to meet their training and checking obligations.

This is achieved by prescribing Singapore as a recognised foreign State for the purposes of Part 61 of the *Civil Aviation Safety Regulations 1998* (**CASR**), which will mean that a pilot can gain aeronautical experience and complete instrument proficiency checks on flight simulation training devices or flight simulators that are qualified, and approved for the purpose, by the national aviation authority of Singapore.

The instrument continues the effect of section 4 of an instrument that will be repealed at the end of 31 July 2025, namely, *CASA 38/22 — Prescription and Approval of Singapore as a Recognised Foreign State Instrument 2022* (the **expiring instrument**). Section 5 of the expiring instrument is not required to be continued as the definition of the term **recognised foreign State** in subsection 1.04(2) of the Part 133 Manual of Standards (**Part 133 MOS**) has been amended.

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. Paragraph 98(5A)(a) of the Act provides that CASR may empower the Civil Aviation Safety Authority (**CASA**) to issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft.

Part 61 of CASR sets out the licensing scheme for pilots of registered aircraft. The scheme includes provisions for pilots to gain aeronautical experience and complete instrument proficiency checks using an approved flight simulation training device or approved flight simulator.

Under regulation 61.010 of CASR, **approved flight simulation training device** is defined to include a flight simulation training device that is qualified, and approved for the purpose, by the national aviation authority of a recognised foreign State. Also, under regulation 61.010, **approved flight simulator** is defined to include a flight simulator that is qualified, and approved for the purpose, by the national aviation authority of a recognised foreign State.

Under regulation 61.010, **recognised foreign State** is defined to mean any of the countries listed in the definition and any other foreign country prescribed by a legislative instrument under regulation 61.047 of CASR. Under regulation 61.047, CASA may, by legislative instrument, prescribe foreign countries as recognised foreign States for paragraph 98(5A)(a) of the Act.

Part MOS

The Part 133 MOS prescribes requirements relating to training and checking that must be completed by a flight crew member for a flight for the purposes of regulation 133.370 of CASR. This includes requirements, under section 12.13 of the Part 133 MOS, about the use of available approved flight simulators that exist in Australia or a recognised foreign State.

The term ***recognised foreign State*** is defined in subsection 1.04(2) of the Part 133 MOS as having the meaning given by regulation 61.010 of CASR.

Background

In 2022, several aircraft operators indicated to CASA their need to have temporary access to flight simulators for B737-8 and A380 aircraft. Those operators had previously used European Union Aviation Safety Agency (***EASA***) state-qualified flight simulation training devices located in Australia and Europe. However, at that time, those (and all other) off-shore flight simulators had been unavailable or impracticable to use due to COVID-19 restrictions.

As there were suitable devices located in Singapore, CASA made the expiring instrument which prescribed Singapore as a recognised foreign State under regulation 61.047 of CASR, to provide urgent temporary access to flight simulators. That instrument will be repealed at the end of 31 July 2025, but operators have expressed an ongoing need to access flight simulators located in Singapore for normal operations or as back-up to Australian flight simulators.

Unlike the expiring instrument, this instrument does not approved Singapore as a recognised foreign State for section 12.13 of the Part 133 MOS as the definition of ***recognised foreign State*** is no longer defined to mean any of the foreign States listed in the definition or “another foreign State approved for this instrument”.

Overview of instrument

The instrument continues the effect of the expiring instrument by remaking it in substantially the same terms for a three-year period ending at the end of 31 July 2028.

Content of instrument

Section 1 sets out the name of the instrument.

Section 2 provides that the instrument commences on 1 August 2025 and is repealed at the end of 31 July 2028.

Section 3 prescribes Singapore as a recognised foreign State under regulation 61.047 of CASR.

Legislation Act 2003 (the LA)

Paragraph 8(2)(b) of the LA provides that if a primary law gives power to do something by legislative instrument then that instrument is a legislative instrument. Regulation 61.047 of CASR provides that, for paragraph 98(5A)(a) of the Act, CASA may, by legislative instrument, prescribe foreign countries as recognised foreign States. The instrument prescribes Singapore as a recognised foreign State under that regulation.

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.

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 (see item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*).

However, the instrument will be repealed at the end of 31 July 2028, which will happen before the sunsetting provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunsetting does not affect parliamentary oversight of the instrument.

Consultation

CASA consulted with the operators affected in relation to the B737-8 and A380 flight simulators before making the expiring instrument. The operators have advised that the requirement for the prescription of Singapore is ongoing. Since the provisions of the instrument are in effect the same as those of the expiring instrument, and will continue the beneficial effects of the expiring instrument, CASA is satisfied that no further consultation is appropriate, necessary or reasonably practicable for the instrument for section 17 of the LA.

Sector risk, economic and cost impact

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

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

- (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 instrument replaces the provisions of the expiring instrument with, in effect, the same provisions. As such, there will be no change to the economic or cost impact on individuals, businesses or the community.

Impact on categories of operations

The instrument is likely to have a beneficial effect on Australian aircraft operators, training providers and pilots by enabling them to continue to use flight simulation training devices, or flight simulators, located in Singapore.

Impact on regional and remote communities

The instrument is likely to have a beneficial effect on regional and remote communities because the aircraft to which the flight simulation training devices, or flight simulators, located in Singapore relate are used by Australian operators to service regional and remote communities. Such services include, but are not limited to, charter flights for fly-in fly-out operations and use as air tankers during the bushfire season.

Office of Impact Analysis (OIA)

An Impact Statement (*IA*) is not required in this case as the instrument is covered by a standing agreement between CASA and OIA under which an IA is not required for approvals (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 a delegate of CASA relying on the power of delegation under subregulation 11.260(1) of CASR.

The instrument commences on 1 August 2025 and will be repealed at the end of 31 July 2028.

Statement of Compatibility with Human Rights

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

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The 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 is to enable Australian operators to continue to use flight simulation training devices, or flight simulators, located in Singapore to meet their training and checking obligations.

This is achieved by prescribing Singapore as a recognised foreign State for the purposes of Part 61 of the *Civil Aviation Safety Regulations 1998*, which will mean that a pilot can gain aeronautical experience and complete instrument proficiency checks on flight simulation training devices or flight simulators that are qualified, and approved for the purpose, by the national aviation authority of Singapore.

The instrument continues the effect of an instrument that will be repealed at the end of 31 July 2025, namely, *CASA 38/22 — Prescription and Approval of Singapore as a Recognised Foreign State Instrument 2022*.

Human rights implications

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

Conclusion

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

Civil Aviation Safety Authority