

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX65/25 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2025

Purpose

The purpose of *CASA EX65/25 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2025* (the **instrument**) is to repeal, vary and replace *CASA EX55/22 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2022* (**CASA EX55/22**).

The purposes of repealing, varying and replacing CASA EX55/22 are as follows:

- (a) to continue to permit specified kinds of pilots to fly certain ultralight aircraft under the control of, or with the authorisation of, a flight training school approved by the Civil Aviation Safety Authority (**CASA**) (an **approved flight training school**):
 - (i) in Class D airspace at the controlled aerodrome where the approved flight training school carries out flight training; and
 - (ii) without meeting certain licensing and competency requirements under Part 61 of the *Civil Aviation Safety Regulations 1998* (**CASR**);
- (b) to provide those specified kinds of pilots with the option of applying for a record of class 5 medical self-declaration (as an alternative to obtaining one of the kinds of medical certificates they are otherwise required to hold, each of which is issued only after a medical assessment by a medical practitioner);
- (c) to add to those medical certificates a “record of class 5 medical self-declaration”, recently made available to members of the recreational aviation community by *CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration) Exemption 2024* (**CASA EX01/24**);
- (d) to add conditions based on those in CASA EX01/24, varied to refer to:
 - (i) a particular subset of, respectively, Recreational Aviation Australia Limited (**RAAus**) pilots and RAAus restricted pilots; or
 - (ii) an approved flight training school; or
 - (iii) the chief flying instructor (**CFI**) of an approved flight training school;
- (e) to add relevant definitions included in, or based on the content of, CASA EX01/24;
- (f) to make the instrument easier to follow for its primary users and for closer consistency with CASA EX01/24 — relocating the definitions to the Dictionary in Schedule 1;
- (g) to make consequential amendments.

Class D airspace is controlled airspace that is also used by passenger transport aircraft. However, the continued removal of the need to meet existing licensing and competency requirements, and the variation of CASA EX55/22 described in the preceding paragraph, are offset by retaining, varying and adding the following:

- (a) conditions imposed in the interests of aviation safety;
- (b) directions issued about matters affecting the safe navigation and operation of aircraft.

The instrument also includes updates to take account of CASA approving an exposition developed by RAAus, including a later version of the document defined in CASA EX55/22 as the ***RAAus Operations Manual***, since CASA EX55/22 was made.

The variations of CASA EX55/22 and the broader operation of the instrument are described in more detail below under the headings “Background” and “Content of instrument”.

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.

CASR — Exemptions (Division 11.F.1)

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

Division 11.F.1 provides for the granting of exemptions from particular provisions of, relevantly, Civil Aviation Orders. Paragraph 11.160(1)(b) provides that, for subsection 98(5A) of the Act, CASA may grant an exemption from a provision of a Civil Aviation Order in relation to a matter mentioned in that subsection. Paragraph 98(5A)(a) of the Act mentions, relevantly, “matters affecting the safe navigation and operation, or the maintenance, of aircraft”.

Under subregulation 11.160(2), CASA may grant an exemption 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), CASA may grant an exemption either on application by a person or on its own initiative.

Under subregulation 11.175(4), in deciding whether to 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 renew 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 the obligations imposed by a condition.

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

CASR — Directions (Subpart 11.G)

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

Subpart 11.G provides for CASA to issue directions in relation to matters affecting the safety of air navigation. Paragraph 11.245(1)(a) provides that, 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. However, subregulation 11.245(2) provides that CASA may issue a direction of that kind:

- (a) only if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation; and
- (b) only if the direction is not inconsistent with the Act; and
- (c) only for the purposes of CASA's functions.

CASA's functions are set out in section 9 of the Act. Those functions include, relevantly at paragraph 9(1)(a), conducting the safety regulation of civil air operations in Australian territory, in accordance with the Act and the regulations.

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

CASR — Part 149 and related Part 11 provisions

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

Part 149 relates to approved self-administering aviation organisations.

Part 1 of the CASR Dictionary defines **ASAO** (short for approved self-administering aviation organisation) as a person who holds an ASAO certificate that is in force and **ASAO certificate** as a certificate issued by CASA under regulation 149.075.

Under subregulation 149.015(1), a person must not perform an aviation administration function if the person does not hold an ASAO certificate authorising the person to perform the function.

Subregulation 149.015(2) provides that subregulation 149.015(1) does not apply if the person is otherwise permitted, under these Regulations, to perform the function. However, RAAus is authorised, under its ASAO certificate, to administer the flights to which the instrument relates.

Under subregulation 149.015(3), a person commits a strict liability offence (with a maximum penalty of 50 penalty units) if the person contravenes subregulation 149.015(1).

Subregulation 149.075(1) provides that, subject to regulations 11.055 and 149.060, CASA must issue an ASAO certificate to an applicant if CASA is satisfied:

- (a) that the applicant's proposed exposition complies with regulation 149.340; and
- (b) about the matters in relation to the applicant's organisation mentioned in paragraph 149.075(1)(b).

Subregulation 149.075(2) provides that, if CASA decides to issue the ASAO certificate, CASA must determine:

- (a) the aviation administration functions that the applicant is authorised to perform, including, respectively in subparagraphs 149.075(2)(a)(i), (ii) and (iii):
 - (i) the kinds of aircraft (if any) that the applicant is authorised to administer; and
 - (ii) the activities that the applicant is authorised to administer; and

- (iii) the ASAO enforcement powers (if any) that the ASAO may exercise; and
- (b) the period (not exceeding 5 years) for which the certificate is in force.

Regulation 11.055 sets out criteria that apply to CASA when granting an authorisation.

Regulation 11.056 provides that CASA may grant an authorisation, other than an authorisation to which subregulation 11.055(1B) applies or an experimental certificate, subject to any condition that CASA is satisfied is necessary in the interests of the safety of air navigation.

Under regulation 11.077, a person commits a strict liability offence (with a maximum penalty of 50 penalty units) if the person contravenes a condition imposed under, relevantly, regulation 11.056.

Regulation 149.060 relates to CASA imposing limits on the number of ASAO certificates that may be issued.

Under regulation 149.080, if CASA issues an ASAO certificate to the applicant, CASA is taken to have also approved the applicant's proposed exposition.

Under subregulation 149.110(1), a change to an ASAO's exposition must be approved by CASA under regulation 149.115 before the change is made. However, under subregulation 149.110(2), subregulation (1) does not apply if the change is of a kind specified in the ASAO's exposition in accordance with paragraph 149.340(h).

Regulation 149.115 enables CASA to approve a change to the ASAO's exposition following an application by an ASAO for that approval.

Under subregulation 149.120(1), if CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice given to an ASAO, direct the ASAO to change its exposition in particular ways mentioned in paragraphs 149.120(1)(a), (b) and (c).

Under subregulation 149.120(2), CASA may, by written notice given to an ASAO, direct the ASAO to remove any of the key personnel of the ASAO from the person's position if CASA is satisfied that the person is not:

- (a) carrying out the responsibilities of the position; or
- (b) if the person is the accountable manager of the ASAO's organisation — properly managing matters for which the person is accountable.

Under subregulation 149.120(3), a notice under regulation 149.120 must state the time within which the direction must be complied with.

Under subregulation 149.120(4), if CASA gives an ASAO a direction under regulation 149.120, the ASAO must comply with the direction within the time specified in the notice.

Under subregulation 149.120(5), it is a strict liability offence (with a maximum penalty of 50 penalty units) if the ASAO contravenes subregulation 149.120(4).

Regulation 149.340 sets out the content that an exposition for an ASAO must include. The content that an ASAO's exposition must include under regulation 149.340 is not limited to the following content:

- (a) under paragraph 149.340(h) — the kinds of changes that do not require approval by CASA;
- (b) under paragraph 149.340(i) — the ASAO's process for managing changes to the ASAO's exposition that do not require approval by CASA, including:
 - (i) procedures for notifying the ASAO's personnel and CASA of such changes; and
 - (ii) the period within which such changes are to be so notified.

However, that content is particularly relevant to the discussion of changes made to the RAAus exposition, located on pages 16 and 17 of this Explanatory Statement.

Civil Aviation Order 95.55 (CAO 95.55)

Unless otherwise stated, each provision mentioned in this section is a provision of CAO 95.55.

CAO 95.55 provides exemptions that enable operation of certain light sport aircraft, lightweight aeroplanes and, relevantly, ultralight aeroplanes under a less onerous regulatory scheme than the scheme that ordinarily applies under CASR and the *Civil Aviation Regulations 1988*. Among other requirements, aeroplanes relying on the regulatory scheme in CAO 95.55 must be listed with a sport aviation body (in accordance with the definition of ***listed*** in section 5).

Under Part 1 of the CASR Dictionary, ***sport aviation body*** means:

- (a) a body named in paragraphs (a) to (f) of that definition including, relevantly in paragraph (d), RAAus; or
- (b) an ASAO; or
- (c) a body established in a Contracting State to administer sport aviation in that State.

The exemptions in CAO 95.55 also place a series of conditions on pilots who fly relevant aeroplanes in reliance on those exemptions. In particular, the combined effect of paragraph 9A.1 and subparagraphs 9A.3(c) and (d) is that a person must not operate an aeroplane to which CAO 95.55 applies in, relevantly, Class D airspace unless, respectively:

- (a) the pilot in command holds a pilot licence with an aircraft category rating, the valid privileges of which include operating in controlled airspace and at a controlled aerodrome; and
- (b) the pilot in command has a valid flight review for the aircraft's class rating under Part 61 of CASR.

The Legislation Act 2003 (the LA) and the Act

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, 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.

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 EX55/22 that was registered as 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.

The Acts Interpretation Act 1901 (the AIA) and the LA

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 subsection 13(1) of the LA, subsection 33(3) of the AIA applies to legislative instruments as if each provision of the instrument were a section of an Act.

Background

Australian sport aviation operates under a system of self-administration. That system requires sport aviation bodies to register and administer the operation of various sport and recreational aircraft and sport aviation activities. All sport aviation bodies are overseen by CASA.

As well as being named in the definition of *sport aviation body* in Part 1 of the CASR Dictionary, RAAus is also:

- (a) an ASAO; and
- (b) the only sport aviation body with CASA's authorisation to administer the flights to which the instrument relates.

On 2 December 2021, Schedules 1 to 3 to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019* commenced. Relevantly, Schedule 1 to those Regulations repealed and substituted Part 103 of CASR.

Under Part 1 of the CASR Dictionary, **Part 103 Manual of Standards** means the Manual of Standards issued by CASA under regulation 103.015. For the purposes of subsection 98(5A) of the Act, regulation 103.015 of CASR confers discretionary power on CASA to issue a Manual of Standards for Part 103 of CASR, prescribing matters:

- (a) required or permitted by these Regulations to be prescribed by the Part 103 Manual of Standards; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

The instrument repeals, renews and varies CASA EX55/22. CASA EX55/22 repealed, renewed and varied *CASA EX86/19 – Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2019 (CASA EX86/19)*. Renewing

CASA EX55/22 is required because the proposed Part 103 Manual of Standards has not commenced as anticipated and continues to be developed in response to industry feedback.

The Explanatory Statement (the **ES**) for CASA EX55/22 includes the following information about the relationship between the need for CASA EX55/22 and the development of the Part 103 Manual of Standards:

The instrument repeals, renews and varies CASA EX86/19. Renewing CASA EX86/19 is required because the proposed Part 103 Manual of Standards did not commence as anticipated on 2 December 2021 and is currently being developed in response to industry feedback.

In response to that feedback, in November 2021 CASA decided to defer making the Part 103 Manual of Standards. Since then:

- (a) CASA's Aviation Safety Advisory Panel (ASAP) has established a Technical Working Group (TWG) made up of Part 103 stakeholders to provide advice regarding the Part 103 Manual of Standards; and
- (b) the TWG has been working with CASA.

After it completes its advice, the TWG will provide that advice and related recommendations to the ASAP.

CASA intends to include provisions in the proposed Part 103 Manual of Standards to give effect to the policy related to the instrument. CASA will not need to issue instruments of the same kind after those provisions of the proposed Part 103 Manual of Standards commence.

CASA is confident that the proposed Part 103 Manual of Standards will commence before the exemptions in the instrument cease to be in force on 31 July 2025. However, because the related TWG processes have not concluded, CASA cannot anticipate with any certainty when the proposed Part 103 Manual of Standards will commence. For that reason, CASA cannot include the commencement of the Part 103 Manual of Standards as an event giving rise to the repeal of the instrument. However, CASA will repeal the instrument if, when it is made, the Part 103 Manual of Standards includes content that:

- (a) has the same effect as the instrument as a whole; and
- (b) commences before the exemptions in the instrument cease to be in force.

CASA continues to intend to include provisions in the proposed Part 103 Manual of Standards to give effect to the policy related to the instrument. Consequently, it remains that CASA will not need to issue instruments of the same kind after those provisions of the proposed Part 103 Manual of Standards commence.

CASA's Flight Standards Branch continues to incorporate the feedback from Part 103 stakeholders on the TWG to develop the latest draft of the Part 103 Manual of Standards.

It is probable that the TWG will provide its advice and recommendations to the ASAP later in 2025. After the TWG reports back to the ASAP that they are satisfied with the draft

Part 103 Manual of Standards, a consultation draft will be distributed to relevant members of the aviation industry.

Based on the progress in developing the Part 103 Manual of Standards since CASA EX55/22 commenced, CASA is confident that the proposed Part 103 Manual of Standards will commence before the exemptions in the instrument cease to be in force on 31 July 2028. However, because the related TWG processes have not concluded, CASA continues to be unable to anticipate with any certainty when the proposed Part 103 Manual of Standards will commence. Therefore, CASA continues to be unable to include the commencement of the Part 103 Manual of Standards as an event giving rise to the repeal of the instrument. However, CASA will repeal the instrument if, when it is made, the Part 103 Manual of Standards includes content that:

- (a) has the same effect as the instrument as a whole; and
- (b) commences before the exemptions in the instrument cease to be in force.

CASA EX55/22 (like CASA EX86/19) permitted specified kinds of pilots to fly certain ultralight aircraft under the control of, or with the authorisation of, a flight training school approved by CASA (an *approved flight training school*):

- (a) in Class D airspace at the controlled aerodrome where the approved flight training school carries out flight training; and
- (b) without meeting certain licensing and competency requirements under Part 61 of CASR.

To accommodate the record retention requirements mentioned in section 20 of CASA EX55/22, that instrument is expressed to be repealed at the earlier of:

- (a) the end of the period of 5 years following the repeal of CAO 95.55; and
- (b) the end of 31 July 2030.

However, the remaining provisions of CASA EX55/22 cease to be in force or (in the case of the conditions on the exemptions) to have effect at the end of 31 July 2025.

CASA EX55/22, as existing immediately before the instrument commenced, defines and incorporates by reference the RAAus operations manual. Since CASA EX55/22 commenced, CASA has approved an exposition for RAAus as an ASAO that includes a later version of the document defined in CASA EX55/22 as the *RAAus operations manual*. Consequently, the instrument:

- (a) substitutes the definition of *RAAus Operations Manual* with a definition of *RAAus exposition*; and
- (b) replaces the references to “the RAAus Operations Manual” with references to “the RAAus exposition”; and
- (c) adds some related signpost notes.

Subsections 6(1) and 13(1) of CASA EX55/22 exempt particular classes of persons from compliance with subparagraphs 9.2(d) and (e) of the version of CAO 95.55 that was in force at the time CASA EX55/22 commenced. However, the ways the instrument varies CASA EX55/22 include revising those exemption provisions to reflect relevant amendments and renumbering of CAO 95.55 that have taken place since CASA EX55/22 commenced. Other ways the instrument varies CASA EX55/22 are described in more detail under the heading “Content of instrument”.

Subparagraphs 9A.3(c) and (d) of CAO 95.55 require that a person must not operate an aeroplane to which CAO 95.55 applies to fly in Class A, B, C or D airspace, or a restricted area, unless the pilot in command meets specified requirements related to the pilot in command's licence, rating, privileges and valid flight review under Part 61 of CASR.

There is a limited range of circumstances in which CASA considers it appropriate to relax the requirements in subparagraphs 9A.3(c) and (d) of CAO 95.55 in relation to the flight in controlled airspace of aeroplanes listed with RAAus. Those circumstances include, subject to conditions, flights in Class D airspace at the controlled aerodrome where an approved flight training school carries out flight training.

After CASA EX86/19 commenced on 3 September 2019, CASA issued instruments of approval in accordance with section 5 of that instrument to 15 flight training schools. At the time CASA EX55/22 commenced, 11 of those flight training schools were approval holders.

Since CASA EX55/22 commenced on 1 August 2022, CASA has issued instruments of approval in accordance with section 5 of that instrument to 8 flight training schools, of which 6 are existing approval holders.

The instruments of approval held by existing approval holders are expressed to repeal on the repeal of CASA EX55/22. Therefore, CASA has made arrangements to issue renewed instruments of approval to the related flight training schools, expressed to commence immediately after the instrument commences.

Overview of instrument

The instrument is intended to continue to permit specified kinds of pilots to fly certain ultralight aircraft under the control of, or with the authorisation of an approved flight training school:

- (a) in Class D airspace at the controlled aerodrome where the approved flight training school carries out flight training; and
- (b) without meeting certain licensing and competency requirements under Part 61 of CASR.

The instrument is also intended to provide those specified kinds of pilots with the option of applying for a record of class 5 medical self-declaration (as an alternative to obtaining one of the kinds of medical certificates they are otherwise required to hold, each of which is issued only after a medical assessment by a medical practitioner).

CASA has assessed that the following preserves an acceptable level of aviation safety:

- (a) the conditions and directions in CASA EX55/22, retained in the instrument;
- (b) providing the pilots to whom the instrument applies with the option of applying for a record of class 5 medical self-declaration (as an alternative to obtaining one of the kinds of medical certificates mentioned in the preceding paragraph);
- (c) related conditions and directions added in the interests of aviation safety.

In addition, CASA maintains oversight of RAAus and the approved flight training schools by performing ongoing surveillance in accordance with the *CASA Surveillance Manual*. Based on that assessment and ongoing surveillance, CASA is satisfied that the instrument will not have a negative impact on the aviation safety of the related operations.

In accordance with subsection 33(3) of the AIA, the instrument repeals CASA EX55/22, which is no longer required with the making of the instrument.

Collection, use and disclosure of personal information and health information

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

Several provisions of the instrument provide for CASA to collect certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration, as an alternative to other medical certification, so as to take advantage of the exemptions created by the instrument.

Unlike CASA EX01/24, several provisions in the instrument provide for the CFI of an approved flight training school to collect, and disclose to CASA, certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration for the reasons mentioned in the preceding paragraph.

The type of information that may be collected or disclosed

Information that CASA collects is as follows:

- (a) section 5B sets out the steps involved in a person successfully completing the online self-assessment of medical fitness process, and requires the person to make full and accurate disclosures of health matters, and to make certain declarations about their medical history, and specifically refers to certain health information, summarised as follows:
 - (i) the state of the person's health generally;
 - (ii) their past and current medical conditions;
 - (iii) symptoms of possible medical conditions;
 - (iv) medications and substances that the person may be taking;
 - (v) changes in health, medical conditions, symptoms or medications or substances taken or used since last seeing a medical practitioner;
- (b) if a person has successfully completed an online assessment of their own medical fitness, and CASA has acknowledged their completion by giving them a record of class 5 medical self-declaration, subsections 7A(3) and 15A(3) make it a condition of the exemptions in subsections 6(1) and 13(1), respectively, that the person must notify CASA if:
 - (i) they know, or have reasonable grounds to believe, that they have a medically significant condition that has lasted for more than 60 days and that impairs their ability to conduct a relevant solo training flight or a relevant private hire flight (whichever applies); or
 - (ii) they have had a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo a required medical examination; or
 - (iii) they have been clinically diagnosed with a disqualifying medical condition; or
 - (iv) they are regularly taking or using a disqualifying medication or substance; or
 - (v) they are experiencing problematic use of a substance;

- (c) subparagraphs (i) and (ii) describe the notification requirements that the CFI of an approved flight training school must comply with in relation to particular information about an RAAus restricted pilot – or an RAAus pilot – who holds a current record of class 5 medical self-declaration but does not hold one of the kinds of medical certificates they are otherwise required to hold (each of which is issued only after a medical assessment by a medical practitioner):
 - (i) the combined effect of subsections 10(2) and 10(4) and paragraph 10(5)(b) is that the CFI of the approved flight training school must notify CASA, in writing, as soon as practicable (but no later than 7 days) after the CFI knows, or has reasonable grounds to believe, that an RAAus restricted pilot in that subset has a medically significant condition that impairs their ability to fly a relevant solo training flight; and
 - (ii) the combined effect of subsections 14(2) and 14(4) and paragraph 14(5)(b) is that the CFI of an approved flight training school must take the same action in relation to an RAAus pilot in that subset if the CFI knows, or has reasonable grounds to believe, that the RAAus pilot has a medically significant condition that impairs their ability to conduct a relevant private hire flight.

Information that a CFI collects or discloses to CASA is as follows:

- (a) the combined effect of subsections 7A(1) and 7A(5) is that an RAAus restricted pilot in that subset must, before performing either of two particular actions that are important for aviation safety, notify the CFI of an approved flight training school that they have been required to surrender their record of class 5 medical self-declaration because:
 - (i) its renewal date has passed; or
 - (ii) they are required to notify CASA of a health circumstance or licence refusal or cancellation mentioned in subsection 7A(3);
- (b) the combined effect of subsections 15A(1) and 15A(5) is that an RAAus pilot in that subset must, before performing either of two particular actions that are important for aviation safety, notify the CFI of an approved flight training school that they have been required to surrender their record of class 5 medical self-declaration because:
 - (i) its renewal date has passed; or
 - (ii) they are required to notify CASA of a health circumstance or licence refusal or cancellation mentioned in subsection 15A(3);
- (c) the combined effect of subsections 10(4), 10(5) and 11(1A) is that the CFI of an approved flight training school who knows, or has reasonable grounds to believe, that an RAAus restricted pilot in that subset has a medically significant condition that impairs their ability to fly a relevant solo training flight, must:
 - (i) enter, in writing, in the school's records that, in relation to the RAAus restricted pilot, the CFI knew, or had reasonable grounds to believe those matters (along with the related reasons); and
 - (ii) notify CASA, in writing, as soon as practicable (but no later than 7 days) after the CFI knows, or has reasonable grounds to believe, those matters;
- (d) the combined effect of subsections 14(4), 14(5) and 16(1A) is that the CFI of an approved flight training school must take the same actions in relation to an RAAus pilot in that subset if the CFI knows, or has reasonable grounds to believe, that the RAAus

pilot has a medically significant condition that impairs their ability to conduct a relevant private hire flight.

Consequential paragraphs added to the directions in subsections 20(1) and (2) require an approved flight training school to retain those records for a minimum of 5 years from the date the school completes the assessment of, respectively, an RAAus restricted pilot and an RAAus pilot for the purposes of the instrument.

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

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

The instrument does not create stand-alone powers for CASA or CFIs of approved flight training schools to collect information. Instead, it expands the application of existing exemptions in CASA EX55/22 to include RAAus restricted pilots and RAAus pilots who have successfully completed an online assessment of their own medical fitness and been given a record of class 5 medical self-declaration. Expanding the scope of those exemptions provides to RAAus restricted pilots and RAAus pilots an alternative to one of the existing kinds of medical certificates they are required to hold, each of which is issued only after a medical assessment by a medical practitioner.

The requirements to provide health information to CASA in the instrument are not more onerous than those that apply to pilots who undertake medical assessment and obtain a medical certificate under Part 61 or 67 of CASR.

The collection, use and disclosure to CASA of information is necessary in each particular circumstance under the instrument. The nature of a scheme which provides for self-assessment of medical fitness necessitates the collection of health information about the person undertaking the self-assessment (under section 5B of the instrument) and the use of that information to audit and enforce the self-assessment process.

Whether RAAus restricted pilots and RAAus pilots decide to seek a record of class 5 medical self-determination – and to provide the required personal and health information to CASA or the CFI of an approved flight training school – is purely voluntary. If an RAAus restricted pilot or an RAAus pilot does not wish to provide the required personal and health information, the exemptions in the instrument that require them to hold a medical certificate issued only after a medical assessment by a medical practitioner continue to be available options.

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

(a) to CASA; and

- (b) to an approved flight training school, to the extent that the approved flight training school is an entity or an APP entity under the Privacy Act.

The safeguards in place to protect the personal and health information

CASA has safeguards in place to protect the confidentiality of the information collected under the provisions of the instrument that engage the right to protection of privacy (namely section 5B, subsections 7A(3) and (9), paragraphs 10(5)(b) and 14(5)(b) and subsections 15A(3) and (9)).

CASA has the following processes to protect the relevant personal information and health information:

- (a) all medical information is held in CASA's Medical Records System (**MRS**);
- (b) MRS is "locked down" to prevent unauthorised viewing or editing: the system is available for use only by internal staff who require access to undertake medical assessments or related administrative tasks or to validate medical information;
- (c) Designated Aviation Medical Examiners (**DAMEs**) also have access to MRS. However, they can only view files that relate to the specific applicant who they are examining;
- (d) MRS is accessed externally via the myCASA portal which uses two-factor authentication to enter, that is, myID.

When an application is made to complete the online self-assessment of medical fitness process, and obtain a record of class 5 medical self-declaration, the applicant is provided with a privacy declaration about the processes that CASA has in place to protect the relevant personal information and health information in their application records, which the applicant is required to accept as part of the online self-assessment process. At the time the instrument was made, the privacy declaration included the following words:

CASA will store the application records in an individual medical file within its Medical Records System. CASA employs security controls to ensure information within these files is only accessed by officers of CASA's Aviation Medicine Branch and by any relevant designated aviation medical examiner.

The application records may be provided to other CASA personnel who reasonably require them, such as employees of Legal, International and Regulatory Affairs or Flight Crew Licensing. Where the records raise medical issues, CASA may disclose them to external medical specialists for a review of those issues. It may also disclose them to recreational aviation administration organisations to facilitate their responsibilities for overseeing sport and recreation aviation activities.

The declaration refers to CASA disclosing information to recreational aviation administration organisations. The type of information disclosed would, in most cases, be in general terms, for example, that a specified person had completed the online self-assessment of medical fitness process, without disclosing what was declared, or that a specified person had surrendered their record of medical self-declaration, without specifying the medical diagnosis that gave rise to the surrender. Also, CASA will generally not disclose information relating to a person, either to an external medical specialist or to a recreational aviation administration organisation, without the consent of the person.

As a Commonwealth government agency, CASA must comply with the Privacy Act, which establishes a privacy protection framework that protects the information collected from persons seeking the benefit of the exemption and limits its use and disclosure. CASA must also comply with the *Privacy (Australian Government Agencies — Governance) APP Code 2017* (the **Privacy Code**). In each case the relevant information is “personal information”, within the meaning of section 6 of the Privacy Act and is “health information” within the meaning of section 6FA of that Act. Section 6FA defines health information to mean, among other things, information or an opinion about the health, including an illness, disability, or injury (at any time) of an individual. The information is also “sensitive information”, that is defined in section 6 of the Privacy Act to include health information about an individual.

The obligations under the Privacy Act include obligations to comply with the Australian Privacy Principles set out in Schedule 1 to the Privacy Act. In particular, under paragraph 3.3(a) of Australian Privacy Principle (**APP**) 3, CASA must not collect sensitive information about an individual unless:

- (a) the individual consents to the collection of the information; and
- (b) relevantly in subparagraph 3.3(a)(i) of APP 3 — the information is reasonably necessary for, or directly related to, one or more of CASA’s functions or activities.

The instrument satisfies those preconditions. Participation in the self-assessment process and any subsequent disclosure of health information of an individual under this instrument is by consent of that individual. The instrument requires a person seeking to rely on an exemption in the instrument – on the basis of holding a current record of class 5 medical self-declaration but not one of the kinds of medical certificates they are otherwise required to hold – to provide only information relevant to their continued fitness to conduct a relevant solo training flight or a relevant private hire flight (whichever applies). That information is required by CASA so that it may perform its function (conferred by paragraph 9(1)(a) of the Act) of conducting the safety regulation of civil air operations in Australian territory, in accordance with the Act and the regulations.

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

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

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

Documents incorporated by reference

The instrument incorporates by reference, the following:

- (a) requirements of the *Part 61 Manual of Standards Instrument 2014* (the **Part 61 MOS**), as in force from time to time;
- (b) provisions of:

- (i) CAO 95.55, as in force from time to time; and
- (ii) any instrument that remakes CAO 95.55, as the remade instrument is in force from time to time.

The Part 61 MOS sets out requirements for Part 61 of CASR relating to, relevantly, pilot licensing. The Part 61 MOS and CAO 95.55 are both disallowable legislative instruments and both are freely available on the Federal Register of Legislation (the **FRL**).

The instrument also incorporates by reference matters in the following:

- (a) *CASA EX11/25 — Medical Certification (Basic Class 2 Medical Certificate) Exemption 2025*. CASA EX11/25 is a disallowable legislative instrument and is freely available on the FRL;
- (b) *CASA OAR 086/25 — Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument 2025 (the **Determination**)*, as in force from time to time. The Determination makes determinations about volumes of airspace (including volumes of airspace of a specified class) and is a legislative instrument made under regulation 5 of the *Airspace Regulations 2007*. Under paragraph (a) of item 3 of the table in regulation 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the Determination (being a determination made under regulation 5 of the *Airspace Regulations 2007*) is not a disallowable legislative instrument and is, therefore, not subject to paragraph 14(1)(a) of the LA. However, in accordance with subsection 98(5D) of the Act, the Determination (and any subsequent determination made under regulation 5 of the *Airspace Regulations 2007*) may be applied, adopted or incorporated, as in force from time to time (even if the subsequent determination does not exist when this instrument is made). The Determination is freely available on the FRL, as would be any subsequent determination made under regulation 5 of the *Airspace Regulations 2007*;
- (c) the Austroads publication titled *Assessing fitness to drive for commercial and private vehicle drivers*, 6th edition, 2022. At the time of making this instrument, that publication is freely available to view or download by searching for the publication title on the Austroads Publications page, located at <<https://austroads.gov.au/publications>>;
- (d) the *Guidelines – Medical Assessment for Aviation*, as published by CASA from time to time (defined in the instrument as the **Aviation Medical Guidelines**). New Part 2A of the instrument sets out the steps involved in a person successfully completing an online self-assessment of medical fitness process. Within new Part 2A, paragraphs 5B(c), (d) and (g) provide that successful completion of that process includes, respectively, that the person has:
 - (i) been provided with a copy of the Aviation Medical Guidelines; and
 - (ii) declared that they have read and understood those Guidelines; and
 - (iii) made full and accurate disclosure of the following health matters existing at the time of the self-assessment, whether or not the matters are covered by those Guidelines;
- (e) the RAAus exposition, composed of the set of documents set out in the following table.

Item	Document
1	<i>RAAus Management Policy Recruitment and Selection Policy</i>
2	<i>RAAus Management Policy Staff Disciplinary Policy</i>
3	<i>Recreational Aviation Australia Airworthiness and Maintenance Administration Manual</i>

Item	Document
4	<i>Recreational Aviation Australia Audit Policy and Procedures Manual</i>
5	<i>Recreational Aviation Australia Exposition</i>
6	<i>Recreational Aviation Australia Flight Operations Department Procedures Manual</i>
7	<i>Recreational Aviation Australia Flight Operations Manual</i>
8	<i>Recreational Aviation Australia Inc Syllabus of Flight Training</i>
9	<i>Recreational Aviation Australia Job Description – Assistant Head of Airworthiness & Maintenance</i>
10	<i>Recreational Aviation Australia Job Description – Assistant Head of Flight Operations</i>
11	<i>Recreational Aviation Australia Job Description – Chief of Aviation</i>
12	<i>Recreational Aviation Australia Job Description – Head of Airworthiness and Maintenance</i>
13	<i>Recreational Aviation Australia Job Description – Head of Flight Operations</i>
14	<i>Recreational Aviation Australia Job Description – Head of Safety</i>
15	<i>Recreational Aviation Australia Management Policy Document Records and Retention Management</i>
16	<i>Recreational Aviation Australia Management Policy Fatigue Management</i>
17	<i>Recreational Aviation Australia Management Policy Higher Duties Allowance</i>
18	<i>Recreational Aviation Australia Occurrence and Complaint Handling Manual</i>
19	<i>Recreational Aviation Australia Organisational Chart</i>
20	<i>Recreational Aviation Australia RAAus Change Management Manual (CMM)</i>
21	<i>Recreational Aviation Australia RAAus Risk Management Manual (RMM)</i>
22	<i>Recreational Aviation Australia Safety Manual</i>
23	<i>Recreational Aviation Australia Technical Manual</i>

The ES for CASA EX01/24 includes the following information related to incorporating by reference the Aviation Medical Guidelines:

Those guidelines have been developed with reference to the Austroads *Assessing fitness to drive* medical standards, with specific consideration of the flying task and the aviation environment and specific relevance to aviation safety. The Aviation Medical Guidelines set out the medical requirements for the proposed online self-assessment of medical fitness.

The Aviation Medical Guidelines are designed to provide pilots with information on the principles of aeromedical risk assessment and guidance for the assessment of medical fitness to be able to complete a medical self-assessment and to make a self-declaration. The guidelines are also intended to guide healthcare practitioners in the provision of appropriate advice to pilots on their medical self-assessments.

At the time of preparing this instrument, the *Aviation Medical Guidelines* are published on the CASA website (<https://www.casa.gov.au>), where they are freely available by searching for “Guidelines – Medical Assessment for Aviation”.

At the time of preparing this instrument:

- (a) all of the documents that form a part of the RAAus exposition mentioned in the preceding table have been approved by CASA under regulation 149.080 of CASR; and

- (b) the documents mentioned in items 5, 6, 7 and 23 of that table include changes approved by CASA under regulation 149.115 of CASR; and
- (c) the document mentioned in item 7 of that table includes changes directed by CASA under regulation 149.120 of CASR; and
- (d) the documents mentioned in items 1, 2, 4, 5, 11, 15, 16, 17, 18, 19, 21, 22 and 23 of that table include changes made without CASA's approval in accordance with the process mentioned in paragraph 149.340(i) of CASR; and
- (e) in some instances RAAus has, at the same time, requested changes under regulation 149.115 of CASR and notified CASA of changes made in accordance with the process mentioned in paragraph 149.340(i) of CASR; and
- (f) the documents that form a part of the RAAus exposition, other than the documents mentioned in items 3 and 6 of the preceding table, are freely available in a document located on the "Resources" page of the RAAus website (<https://raaus.com.au>), under the heading "CASR Part 149". To access the freely available documents, take the following steps:
 - (i) click on the link "RAAus CASR Part 149 Exposition" to open the document mentioned in item 5 of the preceding table;
 - (ii) after opening that document, locate Appendix A;
 - (iii) identify the particular document being sought and click on its related link.

The following documents that form a part of the RAAus exposition are for internal RAAus use only and, therefore, are not freely available:

- (a) *Recreational Aviation Australia Airworthiness and Maintenance Administration Manual*;
- (b) *Recreational Aviation Australia Flight Operations Department Procedures Manual*.

However, CASA can, upon request, provide (free of charge) an electronic copy of any document that forms part of the RAAus exposition and is not freely available on the internet.

Content of instrument

Part 1 — Preliminary

Section 1 names the instrument.

Section 2 sets out the duration of the instrument.

The note located immediately below section 2 sets out when the provisions of the instrument apply and cease to be in force or to have effect. In particular, paragraphs (a) and (b) of the note set out, for regulation 11.250 of CASR, when the directions in the provisions of the instrument mentioned in those paragraphs cease to be in force.

Section 3 repeals CASA EX55/22.

Subsection 4(1) provides that the Dictionary in Schedule 1 consists of 2 parts.

The note below subsection 4(1) is an informative and signpost note, intended to:

- (a) inform users of the instrument that a Schedule to the instrument (and, therefore, the Dictionary) is taken to form part of the instrument; and

- (b) assist those users to identify and locate related content of, respectively, the AIA and the LA.

Subsection 4(2) provides Part 1 of the Dictionary contains:

- (a) references to certain terms and expressions that have the same meaning as they have in the Act and the regulations; and
- (b) definitions of certain words or expressions.

Subsection 4(3) provides that Part 2 of the Dictionary interprets certain other references or expressions not contained or defined in Part 1.

Part 2 — Approval of flight training schools

Section 5 relates to approval by CASA of a flight training school that has been first approved by RAAus in accordance with the RAAus exposition.

Subsections 5(1) and (2) enable CASA, after receiving a written application from a person that operates a flight training school of the kind described in the preceding paragraph, to approve the flight training school for one or more of the following kinds of flights, each of which is defined in the Dictionary in Schedule 1 to the instrument:

- (a) a *relevant private hire flight*;
- (b) a *relevant solo training flight*.

Subsection 5(3) sets out matters that CASA must consider in deciding whether to grant an approval to a person of the kind mentioned in the preceding paragraph, without limiting the matters that CASA may consider in making that decision.

The instrument is intended to operate in conjunction with approvals of flight training schools granted by CASA, by instrument in writing, in accordance with section 5. CASA has made arrangements to issue renewed instruments of approval to existing approval holders, expressed to commence immediately after the instrument commences. As the need for the instrument to cover additional RAAus flight training schools arises in the future, CASA may issue more instruments of approval in accordance with section 5.

A decision by CASA to refuse to approve a person under section 5 is subject to merits review by the Administrative Review Tribunal under section 31 of the Act or regulation 201.004 (Table 201.004, item 1) of CASR.

Part 2A — Online self-assessment of medical fitness

New Part 2A is composed of sections 5A and 5B. Apart from a few minor variations, Part 2A is expressed in the same way as Part 2 of CASA EX01/24. Part 2A sets out the steps involved in completing the online self-assessment of medical fitness process. If a person successfully completes the process, CASA will automatically acknowledge that completion by giving the person a record of class 5 medical self-declaration.

Section 5A provides that a person is eligible to apply for the online self-assessment of medical fitness only if the person is at least 16 years old.

Section 5B sets out the steps involved in a person successfully completing the online self-assessment of medical fitness process. Those steps include, but are not limited to, the following:

- (a) applying to CASA in the approved application form on the online portal identified on the CASA website;
- (b) including with the application all the information required by the approved form or by the instrument;
- (c) making full and accurate disclosure of certain health matters existing at the time of the self-assessment, whether or not the matters are covered by the Aviation Medical Guidelines.

Part 3 — Relevant solo training flights by RAAus restricted pilots

Section 6 is composed of an exemption for relevant solo training flights by RAAus restricted pilots, a provision making the exemption subject to particular conditions and a provision mentioning when the exemption ceases to be in force.

The instrument makes the following variations of section 6 of CASA EX55/22:

- (a) updating subsection 6(1) to refer to provisions of CAO 95.55 that were renumbered after CASA EX55/22 commenced;
- (b) dividing subsection 6(2) into two paragraphs and adding a new paragraph (b) — those variations are described in more detail below;
- (c) revising the date on which the exemption ceases to be in force.

The exemption in subsection 6(1) covers each of the following:

- (a) the entity with control of relevant aeroplanes — an approved flight training school, if approved for a relevant solo training flight;
- (b) the RAAus restricted pilot flying the relevant solo training flight.

An ***RAAus restricted pilot*** is defined to be the holder of a particular kind of certificate issued by, or under the delegated authority of, RAAus who is authorised by an approved flight training school to fly a relevant solo training flight. The instrument permits relevant solo training flights by RAAus restricted pilots:

- (a) only under the supervision of an approved flight training school; and
- (b) only if criteria specified in the instrument, which are intended to ensure that the flight can be flown safely, have been met.

Under subsection 6(2), the exemption in subsection 6(1):

- (a) is subject to the conditions mentioned in sections 7 and 8, subsection 10(1) and section 19 (described below); and
- (b) if the circumstances in paragraph 6(2)(b) exist — is also subject to the conditions mentioned in section 7A and subsections 10(3), (4) and (5).

Under subsection 6(3), the exemption in subsection 6(1) ceases to be in force at the end of 31 July 2028.

Section 7 imposes conditions on an RAAus restricted pilot not to fly a relevant solo training flight unless the RAAus restricted pilot meets specified medical certification and aeronautical radio licensing requirements.

The instrument makes the following variations of section 7 of CASA EX55/22:

- (a) inserting a new subparagraph 7(a)(iiia), giving RAAus restricted pilots the alternative of holding a current record of class 5 medical self-declaration (instead of a current certificate already mentioned);
- (b) making consequential amendments to the following, so that they refer to a current record of class 5 medical self-declaration (along with the certificates and documents already mentioned):
 - (i) the section heading;
 - (ii) the opening words of paragraph 7(a).

New section 7A is composed of an application provision, a disapplication provision and some conditions. Those conditions are based on conditions in CASA EX01/24, varied to refer to the following:

- (a) a particular subset of RAAus restricted pilots;
- (b) an approved flight training school;
- (c) the CFI of an approved flight training school;
- (d) a relevant solo training flight.

Under subsection 7A(1), section 7A is expressed to apply in relation to an RAAus restricted pilot who holds a current record of class 5 medical self-declaration only (not a current certificate of a kind mentioned in subparagraph 7(a)(i), (ii), (iii) or (iv)). Subsequent references to an RAAus restricted pilot of that kind, mentioned in describing the operation of particular provisions in section 7A, use the expression “an RAAus restricted pilot in that subset”.

Subsection 7A(2) provides that an RAAus restricted pilot in that subset must not fly a relevant aeroplane of an approved flight training school for a relevant solo training flight at the controlled aerodrome where the school carries out flight training unless:

- (a) CASA has given the RAAus restricted pilot a record of class 5 medical self-declaration to acknowledge their successful completion of the online self-assessment of medical fitness process; and
- (b) the RAAus restricted pilot has not been required to surrender the record by the condition mentioned in subsection 7A(4); and
- (c) the relevant solo training flight is operated by the school before the renewal date specified in the record has passed.

Each of the following expressions mentioned in the next paragraph is defined in the Dictionary in Schedule 1 to the instrument:

- (a) ***disqualifying medical condition***;
- (b) ***disqualifying medication or substance***;
- (c) ***medically significant condition***;
- (d) ***private driver licence***;

(e) *problematic use of a substance.*

Subsection 7A(3) provides that an RAAus restricted pilot in that subset must notify CASA within 30 days if the RAAus restricted pilot:

- (a) knows, or has reasonable grounds to believe, that they have a medically significant condition of the kind described in paragraph 7A(3)(a); or
- (b) has a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo a required medical examination; or
- (c) is clinically diagnosed with a disqualifying medical condition; or
- (d) is regularly taking or using a disqualifying medication or substance; or
- (e) is experiencing problematic use of a substance.

Subsection 7A(4) provides that an RAAus restricted pilot in that subset must surrender their record of class 5 medical self-declaration to CASA as soon as practicable if:

- (a) the renewal date specified in their record of class 5 medical self-declaration has passed; or
- (b) the RAAus restricted pilot is required to notify CASA of any matter mentioned in subsection 7A(3).

Subsection 7A(5) provides that an RAAus restricted pilot in that subset who has been required to surrender their record of class 5 medical self-declaration by the condition mentioned in subsection (4) must notify the CFI of an approved flight training school that they have been required to surrender their record before taking an action mentioned in paragraph 7A(5)(a) or (b).

The note below subsection 7A(5), matching the expression of the same kind of notes in CASA EX01/24, informs users of the instrument that such a notification:

- (a) is important for aviation safety purposes; and
- (b) indicates to CASA willingness to comply with the conditions in section 7A.

Subsection 7A(6) provides that an RAAus restricted pilot in that subset must not fly a relevant aeroplane of an approved flight training school for a relevant solo training flight at the controlled aerodrome where the school carries out flight training if the RAAus restricted pilot knows, or has reasonable grounds to believe, that they have a medically significant condition that impairs their ability to fly a relevant solo training flight.

Subsection 7A(7) provides that an RAAus restricted pilot in that subset must, as soon as practicable, cease flying a relevant aeroplane for a relevant solo training flight at the controlled aerodrome where the school carries out flight training if:

- (a) there are any changes in their health circumstances of a kind mentioned in paragraph 7A(7)(a); or
- (b) any issue of a kind mentioned in paragraph 7A(7)(b) arises in flight.

Subsection 7A(8) provides that subsection 7A(7) does not apply if, in the circumstances, the relevant act was a reasonable measure to save life (including the RAAus restricted pilot's own life) or avoid damage to property.

Subsection 7A(9) provides that an RAAus restricted pilot in that subset must notify CASA within 30 days if:

- (a) the RAAus restricted pilot knows, or has reasonable grounds to believe, that they have a medically significant condition that impairs their ability to fly a relevant solo training flight; and
- (b) that condition has lasted for more than 30 days.

The note below subsection 7A(9), matching the expression of the same kind of notes in CASA EX01/24, informs users of the instrument that such a notification:

- (a) is important for aviation safety purposes; and
- (b) indicates to CASA willingness to comply with the conditions in section 7A.

Subsection 7A(10) provides that an RAAus restricted pilot in that subset who needs correcting lenses must not fly a relevant aeroplane of an approved flight training school for a relevant solo training flight at the controlled aerodrome where the school carries out flight training unless, throughout the relevant solo training flight, the RAAus restricted pilot meets the requirements for correcting lenses mentioned in paragraphs 7A(10)(a) and (b).

Subsection 7A(11) provides that an RAAus restricted pilot in that subset must not fly a relevant aeroplane of an approved flight training school for a relevant solo training flight at the controlled aerodrome where the school carries out flight training unless the RAAus restricted pilot is carrying a copy of their record of class 5 medical self-declaration on the relevant aeroplane in which the flight is flown.

Subsection 7A(12) provides that an RAAus restricted pilot in that subset must, on request of any person of a kind mentioned in paragraphs 7A(12)(a), (b) and (c), produce their record of class 5 medical self-declaration for inspection by the person.

Section 8, consequential to adding a reference to a record of class 5 medical self-declaration in subparagraph 7(a)(iia), adds a reference to “records” in section 8 and its section heading. Section 8 imposes a condition on an approved flight training school to ensure that an RAAus restricted pilot, in relation to a relevant solo training flight, holds appropriate certificates, records and documents relating to medical fitness and the use of radios.

The directions in subsections 9(1), (2) and (3) are issued to the CFI or a senior instructor of an approved flight training school and relate to RAAus restricted pilots.

Subsection 9(1) provides that an approved flight training school’s CFI must not authorise a relevant solo training flight by an RAAus restricted pilot within an aerodrome traffic circuit unless the assessment and recordkeeping requirements for controlled aerodrome competence mentioned in paragraphs 9(1)(a) and (b) have been met.

Table 1 in subsection 9(1) sets out the elements of the competency requirements and the related performance criteria in the Part 61 MOS that an approved flight training school’s CFI or senior instructor must use to assess whether an RAAus restricted pilot has demonstrated each element of the competency requirements for a controlled aerodrome endorsement mentioned in paragraph 9(1)(a).

Subsection 9(2) provides that an approved flight training school's CFI must not authorise a relevant solo training flight within an aerodrome traffic circuit unless the assessment and recordkeeping requirements for controlled airspace competence mentioned in paragraphs 9(2)(a) and (b) have been met.

Subsection 9(3) provides that an approved flight training school's CFI must not authorise a relevant solo training flight within an aerodrome traffic circuit unless the assessment and recordkeeping requirements for flight radio competence mentioned in paragraphs 9(3)(a) and (b) have been met.

Subsection 9(4) provides that the directions in subsections 9(1), (2) and (3) cease to be in force at the end of 31 July 2028.

Under the conditions in section 10:

- (a) an approved flight training school must not permit 2 kinds of RAAus restricted pilots to commence a relevant solo training flight of the school unless its CFI has performed particular actions related to authorising the flight and recordkeeping; and
- (b) if particular circumstances related to an RAAus restricted pilot of one of those kinds exist — the CFI:
 - (i) must not authorise the RAAus restricted pilot to fly a relevant solo training flight of the school; and
 - (ii) must comply with additional recordkeeping requirements, as well as particular notification requirements.

The instrument makes the following variations of section 10 of CASA EX55/22:

- (a) renumbering section 10 as subsection 10(1) and amending it to mention – instead of an RAAus restricted pilot – an RAAus restricted pilot who holds a current certificate of a kind mentioned in subparagraph 7(a)(i), (ii), (iii) or (iv);
- (b) inserting a new subheading above renumbered subsection 10(1), indicating that it relates to RAAus restricted pilots in the subset described in paragraph (a) above;
- (c) in renumbered paragraph 10(1)(b) — referring to subsection 11(1) instead of section 11 (consequential to amendments of section 11 described below);
- (d) inserting a new application provision and new conditions in subsections 10(2) to (5), described in more detail below;
- (e) inserting a new subsection heading above subsection 10(2), describing the subset of RAAus restricted pilots that subsections 10(2) to (5) apply to.

Under subsection 10(1), an approved flight training school must not permit an RAAus restricted pilot in the subset described in paragraph (a) above to commence a relevant solo training flight of the school unless its CFI has:

- (a) authorised the RAAus restricted pilot, in writing, to fly the relevant solo training flight; and
- (b) recorded the authorisation in accordance with subsection 11(1).

Under subsection 10(2), the conditions in subsections 10(3), (4) and (5) are expressed to apply to an approved flight training school in relation to an RAAus restricted pilot who holds a current record of class 5 medical self-declaration only (not a current certificate of a kind mentioned in subparagraph 7(a)(i), (ii), (iii) or (iv)). Subsequent references to an RAAus

restricted pilot of that kind, mentioned in describing the operation of particular provisions in section 10, use the expression “an RAAus restricted pilot in that subset”.

The conditions in subsections 10(3) to (5) are based on conditions in CASA EX01/24, varied to refer to the following:

- (a) an RAAus restricted pilot in that subset;
- (b) an approved flight training school;
- (c) the CFI of an approved flight training school;
- (d) a relevant solo training flight.

Under subsection 10(3), unless subsection 10(4) applies, an approved flight training school must not permit an RAAus restricted pilot in that subset to commence a relevant solo training flight of the school unless the CFI has:

- (a) authorised the RAAus restricted pilot, in writing, to fly the relevant solo training flight; and
- (b) recorded the authorisation in accordance with subsection 11(1).

Subsection 10(4) provides that the CFI of an approved flight training school must not authorise an RAAus restricted pilot in that subset to fly a relevant solo training flight of the school if the CFI knows, or has reasonable grounds to believe, that the RAAus restricted pilot has a medically significant condition that impairs their ability to fly a relevant solo training flight.

Subsection 10(5) provides that, if subsection 10(4) applies, the CFI of the school must comply with:

- (a) the related recordkeeping requirements mentioned in paragraph 10(5)(a); and
- (b) the requirement to notify CASA mentioned in paragraph 10(5)(b).

Section 11 directs the CFI of an approved flight training school to comply with particular recordkeeping requirements related to the authorisation of relevant solo training flights of the school.

The instrument makes the following variations of section 11 of CASA EX55/22:

- (a) revising the section heading so that it mentions recording “other information” (along with the authorisations already mentioned);
- (b) updating the internal cross-reference in the opening words of subsection 11(1), consequential to the renumbering of section 10 as subsection 10(1);
- (c) inserting a new direction in subsection (1A), described in more detail below;
- (d) in subsection 11(2) — making a consequential amendment and revising the date on which the directions cease to be in force.

Paragraphs 11(1)(a) and (b) direct the CFI of an approved flight training school to make particular records for, respectively:

- (a) an RAAus restricted pilot’s first relevant solo training flight of the school; and
- (b) any subsequent relevant solo training flight of the school by an RAAus restricted pilot.

Under new subsection 11(1A) – if subsection 10(4) applies – the CFI of an approved flight training school must enter, in writing, in the school’s records particular information (including health information) in relation to an RAAus restricted pilot.

Subsection 11(2) provides that the directions in subsections 11(1) and (1A) cease to be in force at the end of 31 July 2028.

Section 12 directs the CFI of an approved flight training school to comply with particular requirements related to the authorisation of relevant solo training flights of the school that involve transitions between Class D and Class G airspace.

Class D airspace is controlled airspace that is also used by passenger transport aircraft.

Class G airspace is uncontrolled airspace. The large majority of light aircraft and helicopters operate outside or underneath controlled airspace. In uncontrolled airspace, pilots are often not visible to air traffic control but must still follow visual flight rules or instrument flight rules. Aircraft following instrument flight rules and aircraft following visual flight rules are permitted in Class G airspace and neither require air traffic control clearance.

The only variation of section 12 of CASA EX55/22 the instrument makes is revising the date on which the directions cease to be in force

The directions in subsections 12(1), (2), (3), (4) and (5) are issued to the CFI or a senior instructor of an approved flight training school and relate to RAAus restricted pilots.

The direction in subsection 12(1) requires that the CFI of an approved flight training school must not authorise a relevant solo training flight that involves one or more transitions between Class D and Class G airspace unless the assessment and recordkeeping requirements for controlled aerodrome competence mentioned in paragraphs 12(1)(a) and (b) have been met.

Table 2 in subsection 12(1) sets out the elements of the competency requirements and the related performance criteria in the Part 61 MOS that an approved flight training school’s CFI or senior instructor must use to assess whether an RAAus restricted pilot has demonstrated each element of the competency requirements for a controlled aerodrome endorsement mentioned in paragraph 12(1)(a).

The direction in subsection 12(2) provides that an approved flight training school’s CFI must not authorise an RAAus restricted pilot to fly a relevant solo training flight involving one or more transitions between Class D and Class G airspace unless each of the following has been met in relation to the RAAus restricted pilot:

- (a) the assessment and recordkeeping requirements for controlled airspace competence mentioned in subsection 9(2);
- (b) the assessment and recordkeeping requirements for flight radio competence mentioned in subsection 9(3).

The direction in subsection 12(3) provides that an approved flight training school’s CFI must not authorise an RAAus restricted pilot to fly the RAAus restricted pilot’s first relevant solo training flight involving one or more transitions between Class D and Class G airspace unless the recordkeeping requirements mentioned in paragraphs 12(3)(a), (b) and (c) have been met.

The direction in subsection 12(4) provides that an approved flight training school's CFI must not authorise an RAAus restricted pilot to fly a relevant solo training flight involving one or more transitions between Class D and Class G airspace unless the following requirements have been met:

- (a) the CFI or a senior instructor of the approved flight training school has conducted with the RAAus restricted pilot the flights mentioned in paragraph 12(4)(a);
- (b) the RAAus restricted pilot has received the practical training in flight mentioned in paragraph 12(4)(b);
- (c) if a senior instructor conducts one or more of the flights mentioned in paragraph 12(4)(a) — the CFI of the approved flight training school is satisfied, on reasonable grounds, that the RAAus restricted pilot has received the practical training in flight mentioned in paragraph 12(4)(b).

The direction in subsection 12(5) sets out a circumstance in which an RAAus restricted pilot is not required to receive the practical training mentioned in paragraph 12(4)(b) from the CFI or a senior instructor of an approved flight training school.

Subsection 12(6) provides that the directions in subsections 12(1), (2), (3), (4) and (5) cease to be in force at the end of 31 July 2028.

Part 4 — Relevant private hire flights by RAAus pilots

Section 13 is composed of an exemption for relevant private hire flights by RAAus pilots, a provision making the exemption subject to particular conditions and a provision mentioning when the exemption ceases to be in force.

The instrument makes the following variations of section 13 of CASA EX55/22:

- (a) updating subsection 13(1) to refer to provisions of CAO 95.55 that were renumbered after CASA EX55/22 commenced;
- (b) dividing subsection 13(2) into two paragraphs and adding a new paragraph (b) — those variations are described in more detail below;
- (c) revising the date on which the exemption ceases to be in force.

The exemption in subsection 13(1) covers each of the following:

- (a) the entity with control of relevant aeroplanes — an approved flight training school, if approved for a relevant private hire flight;
- (b) an RAAus pilot who is the pilot in command of the relevant private hire flight.

Under subsection 13(2), the exemption in subsection 13(1):

- (a) is subject to the conditions mentioned in subsection 14(1) and sections 15, 18 and 19; and
- (b) if the circumstances mentioned in paragraph 13(2)(b) exist — is also subject to the conditions mentioned in subsections 14(3), (4) and (5) and section 15A.

Under subsection 13(3), the exemption in subsection 13(1) ceases to be in force at the end of 31 July 2028.

An **RAAus pilot** is defined to be the holder of a pilot certificate issued by, or under the delegated authority of, RAAus who is authorised by an approved flight training school to conduct a relevant private hire flight. Pilots of that kind are generally permitted to fly specified kinds of aeroplanes without supervision (but subject to the restrictions in CAO 95.55). Instead, the instrument would permit pilots of that kind to operate a relevant aeroplane in Class D airspace at the controlled aerodrome where an approved flight training school carries out flight training without complying with subparagraphs 9A.3(c) and (d) of CAO 95.55 but only:

- (a) in the circumstances mentioned in the instrument; and
- (b) subject to the conditions mentioned in subsection 14(1) and sections 15, 18 and 19; and
- (c) if the circumstances mentioned in paragraph 13(2)(b) exist — also subject to the conditions mentioned in subsections 14(3), (4) and (5) and section 15A.

In effect, section 13 permits flights in Class D airspace by RAAus pilots (even though pilots of that kind are not supervised for the flight by an approved flight training school) only if criteria specified in the instrument, which are intended to ensure that the flight can be conducted safely, have been met. The instrument will permit RAAus pilots to hire and operate a relevant aeroplane for private use within Class D airspace at the controlled aerodrome where an approved flight training school carries out flight training, subject to the approved flight training school's checks and control.

Section 14 is composed of conditions related to an approved flight training school permitting relevant private hire flights.

The instrument makes the following variations of section 14 of CASA EX55/22:

- (a) renumbering section 14 as subsection 14(1) and amending it to mention – instead of an RAAus pilot – an RAAus pilot who holds a current certificate of a kind mentioned in subparagraph 15(a)(i), (ii), (iii) or (iv);
- (b) inserting a new subheading above subsection 14(1), indicating that it relates to RAAus pilots in the subset described in paragraph (a) above;
- (c) inserting a new application provision and new conditions in subsections 14(2) to (5), described in more detail below;
- (d) inserting a new subsection heading above subsection 14(2), describing the subset of RAAus pilots that subsections 14(2) to (5) apply to.

Under subsection 14(1), an approved flight training school must not permit an RAAus pilot in the subset described in paragraph (a) above to commence a relevant private hire flight of the school, unless its CFI has authorised the RAAus pilot, in writing, to conduct the flight.

Under subsection 14(2), the conditions in subsections 14(3), (4) and (5) are expressed to apply to an approved flight training school in relation to an RAAus pilot who holds a current record of class 5 medical self-declaration only (not a current certificate of a kind mentioned in subparagraph 15(a)(i), (ii), (iii) or (iv)). Subsequent references to an RAAus pilot of that kind, mentioned in describing the operation of particular provisions in section 14, use the expression “an RAAus pilot in that subset”.

The conditions in subsections 14(3) to (5) are based on conditions in CASA EX01/24, varied to refer to the following:

- (a) an RAAus pilot in that subset;
- (b) an approved flight training school;
- (c) the CFI of an approved flight training school;
- (d) a relevant private hire flight.

Under subsection 14(3), unless subsection 14(4) applies, an approved flight training school must not permit an RAAus pilot in that subset to commence a relevant private hire flight of the school unless the CFI has authorised the RAAus pilot, in writing, to conduct the relevant private hire flight. The related authorisation recording requirement is included in paragraph 18(1)(a) and is described in more detail below.

Subsection 14(4) provides that the CFI of an approved flight training school must not authorise an RAAus pilot in that subset to conduct a relevant private hire flight of the school if the CFI knows, or has reasonable grounds to believe, that the RAAus pilot has a medically significant condition that impairs their ability to conduct a relevant private hire flight.

Subsection 14(5) provides that, if subsection 14(4) applies, the CFI of the school must comply with:

- (a) the related recordkeeping requirements mentioned in paragraph 14(5)(a); and
- (b) the requirement to notify CASA mentioned in paragraph 14(5)(b).

Section 15 imposes conditions on an RAAus pilot not to fly as the pilot in command of a relevant private hire flight unless the RAAus pilot meets specified medical certification and aeronautical radio licensing requirements.

The instrument makes the following variations of section 15 of CASA EX55/22:

- (a) inserting a new subparagraph 15(a)(iiia), giving RAAus pilots the alternative of holding a current record of class 5 medical self-declaration (instead of a current certificate already mentioned);
- (b) making consequential amendments to the following, so that they refer to a current record of class 5 medical self-declaration (along with the certificates and documents already mentioned):
 - (i) the section heading;
 - (ii) the opening words of paragraph 15(a).

New section 15A is composed of an application provision, a disapplication provision and some conditions. Those conditions are expressed to apply in relation to an RAAus pilot who holds a current record of class 5 medical self-declaration only (not a current certificate of a kind mentioned in subparagraph 15(a)(i), (ii), (iii) or (iv)). Subsequent references to an RAAus pilot of that kind, mentioned in describing the operation of particular provisions in section 15A, use the expression “an RAAus pilot in that subset”.

The conditions in subsections 15A(3) to (5) are based on conditions in CASA EX01/24, varied to refer to the following:

- (a) an RAAus pilot in that subset;

- (b) an approved flight training school;
- (c) the CFI of an approved flight training school;
- (d) a relevant private hire flight.

Under subsection 15A(1), section 15A is expressed to apply in relation to an RAAus pilot who holds a current record of class 5 medical self-declaration only (not a current certificate of a kind mentioned in subparagraph 15(a)(i), (ii), (iii) or (iv)).

Subsection 15A(2) provides that an RAAus pilot in that subset must not fly as the pilot in command of a relevant aeroplane of an approved flight training school for a relevant private hire flight at the controlled aerodrome where the school carries out flight training unless:

- (a) CASA has given the RAAus pilot a record of class 5 medical self-declaration to acknowledge their successful completion of the online self-assessment of medical fitness process; and
- (b) the RAAus pilot has not been required to surrender the record by the condition mentioned in subsection 15A(4); and
- (c) the relevant private hire flight is operated with the authorisation of the school before the renewal date specified in the record has passed.

Subsection 15A(3) provides that an RAAus pilot in that subset must notify CASA within 30 days if:

- (a) the renewal date specified in their record of class 5 medical self-declaration has passed; or
- (b) the RAAus pilot:
 - (i) knows, or has reasonable grounds to believe, that they have a medically significant condition of the kind described in subparagraph 15A(3)(b)(i); or
 - (ii) has a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo a required medical examination; or
 - (iii) is clinically diagnosed with a disqualifying medical condition; or
 - (iv) is regularly taking or using a disqualifying medication or substance; or
 - (v) is experiencing problematic use of a substance.

Subsection 15A(4) provides that an RAAus pilot in that subset must surrender their record of class 5 medical self-declaration to CASA as soon as practicable if:

- (a) the renewal date specified in their record of class 5 medical self-declaration has passed; or
- (b) the RAAus pilot is required to notify CASA of any matter mentioned in subsection 15A(3).

Subsection 15A(5) provides that an RAAus pilot in that subset who has been required to surrender their record of class 5 medical self-declaration by the condition mentioned in subsection (4) must notify the CFI of an approved flight training school that they have been required to surrender their record before taking an action mentioned in paragraph 15A(5)(a) or (b).

The note below subsection 15A(5), matching the expression of the same kind of notes in CASA EX01/24, informs users of the instrument that such a notification:

- (a) is important for aviation safety purposes; and
- (b) indicates to CASA willingness to comply with the conditions in section 15A.

Subsection 15A(6) provides that an RAAus pilot in that subset must not fly as the pilot in command of a relevant private hire flight of an approved flight training school at the controlled aerodrome where the school carries out flight training if the RAAus pilot knows, or has reasonable grounds to believe, that they have a medically significant condition that impairs their ability to fly a relevant private hire flight.

Subsection 15A(7) provides that an RAAus pilot in that subset must, as soon as practicable, cease flying a relevant aeroplane for a relevant private hire flight at the controlled aerodrome where the school carries out flight training if:

- (a) there are any changes in their health circumstances of a kind mentioned in paragraph 15A(7)(a); or
- (b) any issue of a kind mentioned in paragraph 15A(7)(b) arises in flight.

Subsection 15A(8) provides that subsection 15A(7) does not apply if, in the circumstances, the relevant act was a reasonable measure to save life (including the RAAus pilot's own life) or avoid damage to property.

Subsection 15A(9) provides that an RAAus restricted pilot in that subset must notify CASA within 30 days if the RAAus pilot:

- (a) knows, or has reasonable grounds to believe, that they have a medically significant condition that impairs their ability to fly a relevant private hire flight; and
- (b) that condition has lasted for more than 30 days.

The note below subsection 15A(9), matching the expression of the same kind of notes in CASA EX01/24, informs users of the instrument that such a notification:

- (a) is important for aviation safety purposes; and
- (b) indicates to CASA willingness to comply with the conditions in section 15A.

Subsection 15A(10) provides that an RAAus pilot in that subset who needs correcting lenses must not fly as the pilot in command of a relevant aeroplane of an approved flight training school for a relevant private hire flight at the controlled aerodrome where the school carries out flight training unless, throughout the relevant solo training flight, the RAAus pilot, meets the requirements for correcting lenses mentioned in paragraphs 15A(10)(a) and (b).

Subsection 15A(11) provides that an RAAus pilot in that subset must not fly as the pilot in command of a relevant private hire flight of an approved flight training school at the controlled aerodrome where the school carries out flight training unless the RAAus pilot is carrying a copy of their record of class 5 medical self-declaration on the relevant aeroplane in which the flight is flown.

Subsection 15A(12) provides that an RAAus pilot in that subset must, on request of any person of a kind mentioned in paragraphs 15A(12)(a), (b) and (c), produce their record of class 5 medical self-declaration for inspection by the person.

Section 16 directs the CFI of an approved flight training school:

- (a) not to authorise a relevant private hire flight of the school unless particular circumstances exist; and
- (b) to comply with particular recordkeeping requirements related to the authorisation of relevant private hire flights of the school.

The instrument makes the following variations of section 16 of CASA EX55/22:

- (a) consequential to adding a reference to a record of class 5 medical self-declaration in subparagraph 15(a)(iia), adding in the following a reference to “records” (along with the certificates and documents already mentioned):
 - (i) the section heading;
 - (ii) subsection 16(1);
- (b) adding a new direction in subsection (1A);
- (c) in subsection 11(2) — making a consequential amendment and revising the date on which the directions cease to be in force.

Subsection 16(1) directs the CFI of an approved flight training school not to authorise a relevant private hire flight of the school unless the CFI is satisfied that the RAAus pilot who is the pilot in command of the relevant private hire flight holds appropriate certificates, records and documents relating to medical fitness and the use of radios.

Under new subsection 16(1A) – if subsection 14(4) applies – the CFI of an approved flight training school must enter, in writing, in the school’s records particular information (including health information) in relation to an RAAus pilot.

Subsection 16(2) provides that the directions in subsections 16(1) and (1A) cease to be in force at the end of 31 July 2028.

Section 17 is composed of directions to the CFI of an approved flight training school, related to authorising an RAAus pilot’s first relevant private hire flight, and a provision mentioning when the directions cease to be in force.

The only variation of section 17 of CASA EX55/22 the instrument makes is revising the date on which the directions cease to be in force.

The directions in subsections 17(1), (2), (3), (4) and (5) are issued to the CFI of an approved flight training school and relate to RAAus pilots.

The direction in subsection 17(1) requires that the CFI of an approved flight training school must not authorise an RAAus pilot’s first relevant private hire flight unless the CFI:

- (a) is satisfied, on reasonable grounds, that the RAAus pilot has received the practical training in-flight mentioned in paragraph 17(1)(a); and
- (b) has conducted with the RAAus pilot one or more flights of the kind mentioned in paragraph 17(1)(b).

The direction in subsection 17(2) sets out a circumstance in which an RAAus pilot is not required to receive the practical training mentioned in paragraph 17(1)(a) from the CFI of an approved flight training school.

The direction in subsection 17(3) provides that the CFI of an approved flight training school must not authorise an RAAus pilot's first relevant private hire flight in a relevant aeroplane of the school unless the assessment and recordkeeping requirements for controlled aerodrome competence mentioned in paragraphs 17(3)(a) and (b) have been met.

Table 3 in subsection 17(3) sets out the elements of the competency requirements and the related performance criteria in the Part 61 MOS that an approved flight training school's CFI must use to assess whether an RAAus pilot has demonstrated each element of the competency requirements for a controlled aerodrome endorsement mentioned in paragraph 17(3)(a).

The direction in subsection 17(4) provides that the CFI of an approved flight training school must not authorise an RAAus pilot's first relevant private hire flight in a relevant aeroplane of the school unless the assessment and recordkeeping requirements for controlled airspace competence mentioned in paragraphs 17(4)(a) and (b) have been met.

The direction in subsection 17(5) provides that the CFI of an approved flight training school must not authorise an RAAus pilot's first relevant private hire flight in a relevant aeroplane of the school unless the assessment and recordkeeping requirements for flight radio competence mentioned in paragraphs 17(5)(a) and (b) have been met.

Subsection 17(6) of the instrument provides that the directions in subsections 17(1), (2), (3), (4) and (5) cease to be in force at the end of 31 July 2028.

Section 18 is composed of conditions setting out an approved flight training school's recordkeeping requirement for an RAAus pilot's first relevant private hire flight.

The only variations of section 18 of CASA EX55/22 the instrument makes are, consequential to the renumbering of section 14 as subsection 14(1), revising the internal cross-references to section 14 in paragraph 18(1)(a) and subsection 18(2).

Under subsection 18(1), an approved flight training school must not permit an RAAus pilot to commence their first relevant private hire flight of the approved flight training school unless the approved flight training school's CFI has recorded specified information in the RAAus pilot's logbook.

Under subsection 18(2), an approved flight training school must ensure that the CFI of the school includes the authorisation mentioned in paragraph 18(1)(a) for each relevant private hire flight conducted by a particular RAAus pilot (other than the first relevant private hire flight mentioned in subsection 18(1)).

Part 5 – Condition and directions – reporting, record retention and audit – approved flight training schools

Section 19 of the instrument imposes a condition on an approved flight training school that reports an accident or incident under the *Transport Safety Investigation Act 2003* or the *Transport Safety Investigation Regulations 2021* in relation to a relevant private hire flight or a relevant solo training flight. That condition requires an approved flight training school to, as

soon as practicable after reporting the accident or incident, provide a copy of the report to CASA.

The only variation of section 19 of CASA EX55/22 the instrument makes is removing the hyperlink from the email address in that section.

The directions in subsections 20(1), (2) and (3) of the instrument are issued to an approved flight training school in relation to record retention and CASA's access to records made for the purposes of the instrument. Those directions are required to ensure that, in the interests of aviation safety, CASA can adequately monitor each approved flight training school's compliance with the instrument.

The instrument makes the following variations of subsection 20(1) of CASA EX55/22:

- (a) consequential to the related changes to paragraph 7(a) — revising paragraph 20(1)(a) so that it refers to a record (along with the certificate already mentioned);
- (b) consequential to adding the condition in subsection 7A(5) that requires an RAAus restricted pilot to make a particular notification — inserting a new paragraph 20(1)(ba) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(1), a record of the notification;
- (c) consequential to the renumbering of section 10 as subsection 10(1) — updating the internal cross-reference in paragraph 20(1)(i);
- (d) consequential to adding the condition in paragraph 10(3)(a) — inserting a new paragraph 20(1)(ia) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(1), a record of a particular authorisation related to an RAAus restricted pilot;
- (e) consequential to adding the condition in paragraph 10(5)(b) — inserting a new paragraph 20(1)(ib) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(1), a record of a particular notification related to an RAAus restricted pilot;
- (f) consequential to adding the direction in subsection 11(1A) — inserting new paragraph 20(1)(ja), requiring an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(1), a copy of a particular entry made in the school's records related to an RAAus restricted pilot.

The instrument makes the following variations of subsection 20(2) of CASA EX55/22:

- (a) consequential to the renumbering of section 14 as subsection 14(1) — updating the internal cross-reference in paragraph 20(2)(a);
- (b) consequential to adding the condition in subsection 14(3) — inserting a new paragraph 20(2)(aa) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(2), a record of a particular authorisation related to an RAAus pilot;
- (c) consequential to adding the condition in paragraph 14(5)(b) — inserting a new paragraph 20(2)(ab) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(2), a record of a particular notification related to an RAAus pilot;
- (d) consequential to the related variations of paragraph 15(a) — revising paragraph 20(2)(b) so that it refers to a record (along with the certificate already mentioned);

- (e) consequential to adding the condition in subsection 15A(5) that requires an RAAus pilot to make a particular notification — inserting a new paragraph 20(2)(ca) that requires an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(2), a record of the notification;
- (f) consequential to adding the direction in subsection 16(1A) — inserting new paragraph 20(2)(cb), requiring an approved flight training school to retain, for a minimum of the period mentioned in subsection 20(2), a copy of a particular entry made in the school’s records related to an RAAus pilot.

The instrument does not vary subsection 20(3) of CASA EX55/22.

The only variation of subsection 20(4) of CASA EX55/22 the instrument makes is revising the date on which the directions cease to be in force.

Subsection 20(4) provides that the directions in subsections 20(1), (2) and (3) cease to be in force at the end of:

- (a) 31 July 2033; or
- (b) the date of any earlier repeal under subparagraph 2(b)(i) of the instrument.

Schedule 1 — The Dictionary

The intention of the definition of “**relevant aeroplane**, of an approved flight training school” is to limit the scope of the instrument to operations in aircraft that are usually under the control of an approved flight training school and to prevent, for example, the use of any aircraft that might be used from time to time by an approved flight training school for its flying training activities. This limitation avoids arrangements where aircraft that are not usually used by a flight training school are temporarily placed under the control of a school in order for the pilot to take advantage of the exemption.

The Dictionary includes the following variations of CASA EX55/22:

- (a) adding to the note below the Schedule 1 heading signposts to definitions of defined terms mentioned in other new provisions (**approved function**, **ASAO**, **authorised person**, **exposition**, for an ASAO and **key personnel**, for an ASAO);
- (b) relocating to that note the signpost to the definition of **solo**, in relation to a flight of an aircraft because it’s mentioned in the CASA Dictionary;
- (c) removing from that note the signposts to the definitions of **conduct** and **recreational aviation medical practitioner’s certificate** because they’re not mentioned in the CASR Dictionary. Those definitions are now located in the Dictionary, along with the other definitions;
- (d) new definitions of **acceptable correcting lenses** and **Aviation Medical Guidelines** that have the same expression as the definitions in CASA EX01/24;
- (e) a note below the definition of **Aviation Medical Guidelines** is based on the same note in CASA EX01/24. It is intended to assist users of the instrument to locate and access the Aviation Medical Guidelines;
- (f) amending the definition of **Cross Country Endorsement** so that it incorporates by reference the RAAus exposition instead of the RAAus Operations Manual;
- (g) inserting several other new definitions, as well as signposts to the definition of **medical condition** and **successfully completed the online self-assessment of medical fitness**

process. Apart from a few minor variations, those provisions are the same as the definitions and the signposts to the definitions in CASA EX01/24;

- (h) inserting the definition of **conduct**, as a verb, in relation to a flight operation. That insertion is consequential to the signpost to the definition of **conduct** being removed from the note below the Schedule 1 heading;
- (i) inserting a note in the definition of **disqualifying medical condition**, based on the same note in CASA EX01/24. It is intended to assist users of the instrument to locate and access the publication mentioned in the note;
- (j) inserting a note below the definition of **online self-assessment of medical fitness process** that is, with the exception of the section number, the same as the note in CASA EX01/24. It is intended to assist the user to identify the need to be provided with a copy of the Aviation Medical Guidelines in order to complete that process;
- (k) inserting notes below the definitions of **problematic use of a substance** and **psychoactive substance** that are based on the same notes in CASA EX01/24. Each of those notes is intended to inform users of the instrument about the source definition in the Chicago Convention;
- (l) inserting notes 1 and 2 below the definition of **RAAus appointed person**. Those notes are signpost notes, intended to assist users of the instrument to identify and locate related content of, respectively, CASR and the Part 149 Manual of Standards;
- (m) substituting the definition of **RAAus Operations Manual** and the note located immediately below that definition with a definition of **RAAus exposition** and a signpost note, intended to assist users of the instrument to identify and locate the set of documents that the RAAus exposition comprises;
- (n) inserting into Schedule 1 a new Part 2 that is expressed in the same way as subsection 4(2) of CASA EX01/24.

Sunsetting

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the **sunsetting provisions**) do 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 earlier of the following, which will occur before the sunsetting provisions would have repealed the instrument if they had applied:

- (a) the end of the period of 5 years following the repeal of CAO 95.55;
- (b) the end of 31 July 2033.

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 this instrument.

Consultation

The instrument, like CASA EX86/19 and CASA EX55/22:

- (a) would substantively affect the business of approved flight training schools; and
- (b) affects the management of Class D airspace by Airservices Australia (AA).

As the ES for CASA EX86/19 mentions, during initial consultation CASA consulted several flight training schools that would be approved in accordance with section 5 on an advanced draft and those flight training schools expressed satisfaction with its expression.

During initial consultation, CASA did not provide AA with a consultation draft of CASA EX86/19. However, as the ES for CASA EX86/19 mentions:

- (a) as part of the application process the flight training schools that applied to CASA for the exemption consulted AA air traffic control tower unit supervisors on the proposal; and
- (b) the AA air traffic control tower unit supervisors expressed support for the flight training schools to operate in Class D airspace at aerodromes where the flight training schools carry out flight training.

CASA made a consultation draft of an amending instrument available to the 8 approved flight training schools that existed at the time of consultation. That amending instrument was composed of the proposed amendments of CASA EX55/22 included in this instrument (other than the provisions related to relocating the Dictionary to Schedule 1). Two responses were received, each of which encouraged CASA to proceed with the proposed amendments and expressed no concerns or issues.

Since completing that consultation, CASA decided to:

- (a) repeal and replace CASA EX55/22 because the date was approaching on which some of its provisions cease to be in force (31 July 2025); and
- (b) relocate the definitions to the Dictionary in Schedule 1.

However, the consultation draft includes all amendments that would provide the kinds of pilots to which CASA EX55/22 relates with the option of applying for a record of class 5 medical self-declaration (instead of obtaining one of the kinds of medical certificates they are otherwise required to hold). Additionally, those amendments appear in this instrument in the way they would have if this instrument were made available for consultation.

The ES for CASA EX01/24 includes the following information about consultation:

The scheme established by the instrument has been developed with input from the aviation community, including the Aviation Medicine Technical Working Group (*TWG*). In August 2022, the Aviation Medicine TWG considered the options for the modernisation of aviation medical certification in Australia for pilots conducting private operations in view of the industry consultation and expert advice to date. Accordingly, the Aviation Safety Advisory Panel (*ASAP*) recommended the introduction of a self-declaration scheme.

There have been three public consultations relating the scheme reflected in the instrument:

- from December 2016 to May 2017 — the focus of this consultation was to investigate possible changes in standards for medical certification of pilots; and
- from May to June 2022 — the focus of the consultation was to explore measures to simplify and modernise CASA's overall approach to medical certification; and
- from 27 October 2023 to 17 November 2023 — this consultation was of a draft of the instrument and related supporting materials. CASA considered the feedback provided during the public consultation as part of its finalisation of the record of class 5 medical self-declaration scheme and there was general support from the recreational aviation sector for the scheme.

CASA has engaged with the Aviation Medicine TWG. In August 2022, the Aviation Medicine TWG considered the options for the modernisation of aviation medical certification in Australia for pilots conducting private operations in view of the industry consultation and expert advice to date. Accordingly, the ASAP recommended the introduction of a self-declaration scheme. A meeting with TWG to discuss the outcomes from the consultation phase was held on 13 December 2023.

Flight training schools that have been, or will be, brought within the scope of CASA EX55/22 do so voluntarily — either by cooperating with CASA's arrangements to renew an existing instrument of approval or by applying to CASA for an initial approval in accordance with section 5 of that instrument.

Making the record of class 5 medical self-declaration to the kinds of pilots to whom CASA EX55/22 applies would provide them with a benefit equal to those provided to the pilots to whom CASA EX01/24 applies.

Under those circumstances, 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 ES for CASA EX01/24 includes the following information that CASA anticipates will also apply to the sector risk, economic and cost impact of the instrument:

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

- the identification of individuals and businesses affected by the instrument; and
- consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements; and
- 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

- 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
- 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.

In terms of financial cost impact, the proposed medical self-declaration scheme is expected to provide a positive financial benefit to pilots who undertake private or recreational flights that fall within the operational limitations of the record of class 5 medical self-declaration. This is on the assumption that eligible applicants can complete their medical self-assessment and do not require a medical consultation to inform their self-assessment. The relevant costs of a record of class 5 medical self-declaration for an applicant relate to three factors: the time taken to read the guidance material and other documentation and complete the eLearning module, the time associated with applying for the record of class 5 medical self-declaration and completing the declaration and the CASA application fee.

With the new medical self-declaration scheme, given that medical assessment by an AME is not mandatory, there is likely to be a reduction in the demand for medical assessment by Designated Aviation Medical Examiners (**DAMEs**). However, the benefits to the aviation community of the new scheme would outweigh the reduction in business for DAMEs.

The proposed record of class 5 medical self-declaration is unlikely to result in any significant increase in commercial aviation activity as the savings for a medical examination are a small percentage of the operating costs of private aircraft. However, any increased participation in private aviation operations are expected to have knock-on effects to aviation operators in flying training and maintenance.

Without a significant change in the level of aviation activity, there will be no broader impact of the proposed record of class 5 medical self-declaration in terms of increasing the level of economic activity in non-aviation sectors (such as tourism). If the record of class 5 medical self-declaration scheme does not significantly induce an increase in aviation activity, there will be no significant change in the consumption of aviation goods or services nor will there be “multiplier effects” to other sectors of the economy. Similarly, any reduction in consultations for DAMEs or general practitioners (**GPs**) is unlikely to have an impact on economic activity as the pilots are likely to redirect the savings to the purchase of other goods or services.

Other than the provisions of the instrument related to the record of class 5 medical self-declaration, CASA EX65/25 replaces an expiring instrument with largely the same

provisions and conditions. Therefore, there will be no change of economic or cost impact on individuals, businesses or the community related to those existing provisions and conditions.

Impact on categories of operations

By encouraging the use of approved flight training schools, the instrument is likely to have a beneficial effect on approved flight training schools and related businesses, a beneficial effect which will expand as CASA approves additional flight training schools. The instrument is also likely to improve the opportunities for RAAus pilots and RAAus restricted pilots to receive flight training and flying experience in Class D airspace.

The ES for CASA EX01/24 includes the following information that CASA anticipates will also apply to the impact of the instrument on categories of operations:

In relation to private pilot licences, the record of class 5 medical self-declaration offers a pathway for pilots seeking a recreational pilot licence to be able to fly for recreation, or as an entry point for those looking to be able to commence flight training, or to explore a career pathway. A holder of a private pilot licence will be able to use a record of class 5 medical self-declaration (noting the applicable operational limitations) instead of the currently required class 1, class 2, or recreational aviation medical practitioner's certificate.

In relation to air traffic management, with the proposed access to controlled and non-controlled airspace, there may be a potential increase in the number of recreational aircraft flying in controlled airspace.

Impact on regional and remote communities

The instrument is likely to have a beneficial effect on the regional communities in which approved flight training schools are located because it will lead RAAus pilots, RAAus restricted pilots and their companions to visit those communities. Once again, that beneficial effect will expand as CASA approves additional flight training schools in regional areas.

The ES for CASA EX01/24 includes the following information that CASA anticipates will also apply to the impact of the instrument on regional and remote communities:

The record of class 5 medical self-declaration policy is anticipated to provide more opportunities to pilots across Australia to access an online, streamlined medical self-declaration scheme to be eligible to conduct private operations. The proposed record of class 5 medical self-declaration may have a more significant positive impact in regional or rural areas where there are greater travelling times to DAMEs or GPs.

Office of Impact Analysis (OIA)

The ES for CASA EX01/24 mentions that “in accordance with subsection 9A(3) of the Act, an evaluation of the potential economic and cost impact associated with the policy proposal has been undertaken.”. CASA anticipates that the evaluation will also apply to the sector risk, economic and cost impact of this instrument.

An Impact Analysis (**IA**) is not required in this case, as the exemptions in CASA EX65/25 are covered by a standing agreement between CASA and OIA under which an IA is not required for exemptions (OIA id: OIA23-06252).

Statement of Compatibility with Human Rights

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

Making and commencement

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

The instrument commences on 1 August 2025 and is repealed at the earlier of:

- (a) the end of the period of 5 years following the repeal of CAO 95.55; and
- (b) the end of 31 July 2033.

Statement of Compatibility with Human Rights

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

CASA EX65/25 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) 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 instrument is intended to continue to permit specified kinds of pilots to fly certain ultralight aircraft under the control of, or with the authorisation of a flight training school approved by the Civil Aviation Safety Authority (**CASA**) (an ***approved flight training school***):

- (a) in Class D airspace at the controlled aerodrome where the approved flight training school carries out flight training; and
- (b) without meeting certain licensing and competency requirements under Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*.

In the instrument (and in this Human Rights Compatibility Statement), **RAAus** means Recreational Aviation Australia Limited.

The instrument is also intended to provide those specified kinds of pilots with the option of applying for a record of class 5 medical self-declaration (as an alternative to obtaining one of the kinds of medical certificates they are otherwise required to hold, each of which is issued only after a medical assessment by a medical practitioner).

Therefore, this instrument repeals, varies and replaces *CASA EX55/22 — Flight of Certain Ultralight Aeroplanes in Class D Airspace (Approved Flight Training Schools) Instrument 2022 (CASA EX55/22)*, making the following variations:

- (a) adding to those medical certificates a “record of class 5 medical self-declaration”, recently made available to members of the recreational aviation community by *CASA EX01/24 — Flight Crew Medical Status (Class 5 Medical Self-declaration) Exemption 2024 (CASA EX01/24)*;
- (b) adding conditions based on those in *CASA EX01/24*, varied to refer to:
 - (i) a particular subset of, respectively, RAAus pilots and RAAus restricted pilots; or
 - (ii) an approved flight training school; or
 - (iii) the chief flying instructor (**CFI**) of an approved flight training school;
- (c) adding relevant definitions included in, or based on the content of, *CASA EX01/24*;
- (d) to make the instrument easier to follow for its primary users and for closer consistency with *CASA EX01/24* — relocating the definitions to the Dictionary in Schedule 1;

- (e) making consequential amendments.

Class D airspace is controlled airspace that is also used by passenger transport aircraft. However, the continued removal of the need to meet existing licensing and competency requirements, and the variation of CASA EX55/22 described in the preceding paragraph, are offset by retaining, varying and adding the following:

- (a) conditions imposed in the interests of aviation safety;
- (b) directions issued about matters affecting the safe navigation and operation of aircraft.

The instrument also includes updates to take account of CASA approving an exposition developed by RAAus, including a later version of the document defined in CASA EX55/22 as the ***RAAus Operations Manual***, since CASA EX55/22 was made.

Human rights implications

This legislative instrument engages the right to privacy.

That right, contained in Article 17 of the *International Covenant on Civil and Political Rights*, provides that no-one shall be subjected to arbitrary or unlawful interference with their privacy. The right created by Article 17:

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

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

Provisions in EX55/22 retained in the instrument

The instrument engages with that right to privacy by including conditions and directions about recordkeeping of, and access to, documents that contain personal information about the pilots who wish to operate the ultralight aircraft in Class D airspace at the aerodromes where approved flight training schools carry out flight training. The documents include aviation-related licences that indicate that pilots hold certain competencies, and medical certificates that state that pilots meet certain medical standards.

Those recordkeeping and access requirements are necessary for CASA to perform its safety regulatory functions in relation to the risk mitigators that are put in place to enable the pilots to fly in Class D airspace. Further, those requirements are not more onerous than those that apply to pilots who hold licences under Part 61 of CASR.

In relation to those recordkeeping and access requirements, the instrument is consistent with the protection of personal information by the *Privacy Act 1988* (the ***Privacy Act***), including the Australian Privacy Principles in Schedule 1 to the Privacy Act. The related engagement with the right to privacy promotes the general welfare of Australian society by ensuring that pilots operating in controlled airspace are competent to do so. The recordkeeping and access

requirements are reasonable and proportionate to the risks associated with the exemptions, conditions and directions in the instrument.

New provisions in the instrument, related to a record of class 5 medical self-declaration

The instrument also engages with that right to privacy by requiring specified kinds of pilots who choose the option of applying for a record of class 5 medical self-declaration to:

- (a) provide health information about themselves when completing the online self-assessment of medical fitness process; and
- (b) to provide additional health information to the CFI of an approved flight training school – that the CFI must report to CASA – if further medical conditions emerge or if the medical circumstances of the holder of a record of class 5 declaration of medical fitness otherwise change.

Several provisions of the instrument provide for CASA to collect certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration, as an alternative to other medical certification, so as to take advantage of the exemptions created by the instrument.

However, the requirements to provide health information to CASA in the instrument are not more onerous than those that apply to pilots who undertake medical assessment and obtain a medical certificate under Part 61 or 67 of CASR.

Unlike CASA EX01/24, several provisions in the instrument provide for the CFI of an approved flight training school to collect, and disclose to CASA, certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration, so as to take advantage of the exemptions created by the instrument.

Those requirements are necessary in order to ensure proper administration and enforcement of Australia's aviation safety system. Any potential limitation on the right to privacy is necessary, reasonable, and proportionate in promoting the objective of preserving an acceptable level of aviation safety while lowering the medical certification standards for the affected kinds of aircraft operations.

CASA has processes in place to protect the confidentiality of the information collected under the relevant provisions of the instrument (namely section 5B, subsections 7A(3) and (9), paragraphs 10(5)(b) and 14(5)(b) and subsections 15A(3) and (9)). The following processes safeguard this personal information:

- (a) all medical information is held in CASA's Medical Records System (**MRS**);
- (b) MRS is "locked down" to prevent unauthorised viewing or editing: the system is available for use only by internal staff who require access to undertake medical assessments or related administrative tasks or to validate medical information;
- (c) Designated Aviation Medical Examiners also have access to MRS, however they can only view files that relate to the specific applicant who they are examining;
- (d) MRS is accessed externally via the myCASA portal which uses two-factor authentication to enter, that is, myID.

Also, when an application is made to complete the online self-assessment of medical fitness process, and obtain a record of class 5 medical self-declaration, the applicant is provided with

a privacy declaration about the processes that CASA has in place to protect the relevant personal information in their application records, and the limited circumstances in which it may be disclosed, which the applicant accepts as part of the online self-assessment process. At the time the instrument was made, the privacy declaration included the following words:

CASA will store the application records in an individual medical file within its Medical Records System. CASA employs security controls to ensure information within these files is only accessed by officers of CASA's Aviation Medicine Branch and by any relevant designated aviation medical examiner.

The application records may be provided to other CASA personnel who reasonably require them, such as employees of Legal, International and Regulatory Affairs or Flight Crew Licensing. Where the records raise medical issues, CASA may disclose them to external medical specialists for a review of those issues. It may also disclose them to recreational aviation administration organisations to facilitate their responsibilities for overseeing sport and recreation aviation activities.

The declaration refers to CASA disclosing information to recreational aviation administration organisations. The type of information disclosed would, in most cases, be in general terms, for example, that a specified person had completed the online self-assessment of medical fitness process, without disclosing what was declared, or that a specified person had surrendered their record of medical self-declaration, without specifying the medical diagnosis that gave rise to the surrender. Also, CASA will generally not disclose information relating to a person, either to an external medical specialist or to a recreational aviation administration organisation, without the consent of the person.

As a Commonwealth government agency, CASA must comply with the Privacy Act, which establishes a privacy protection framework that protects the information collected from persons seeking the benefit of the exemption and limits its use and disclosure. CASA must also comply with the *Privacy (Australian Government Agencies — Governance) APP Code 2017* (the **Privacy Code**). In each case the relevant information is “personal information”, within the meaning of section 6 of the Privacy Act and is “health information” within the meaning of section 6FA of that Act. Section 6FA defines health information to mean, among other things, information or an opinion about the health, including an illness, disability, or injury (at any time) of an individual. The information is also “sensitive information”, that is defined in section 6 of the Privacy Act to include health information about an individual.

The obligations under the Privacy Act include obligations to comply with the Australian Privacy Principles set out in Schedule 1 to the Privacy Act. In particular, under paragraph 3.3(a) of Australian Privacy Principle (**APP**) 3, CASA must not collect sensitive information about an individual unless:

- (a) the individual consents to the collection of the information; and
- (b) relevantly in subparagraph 3.3(a)(i) of APP 3 — the information is reasonably necessary for, or directly related to, one or more of CASA's functions or activities.

The instrument satisfies those preconditions. Participation in the self-assessment process and any subsequent disclosure of health information of an individual under this instrument is by consent of that individual. The instrument requires a person seeking to rely on an exemption in the instrument – on the basis of holding a current record of class 5 medical self-declaration

but not one of the kinds of medical certificates they are otherwise required to hold – to provide only information relevant to their continued fitness to conduct a relevant solo training flight or a relevant private hire flight (whichever applies). That information is required by CASA so that it may perform its function (conferred by paragraph 9(1)(a) of the Act) of conducting the safety regulation of civil air operations in Australian territory, in accordance with the Act and the regulations.

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

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

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

Collection, use and disclosure of personal information and health information

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

Several provisions of the instrument provide for CASA to collect certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration, as an alternative to other medical certification, so as to take advantage of the exemptions created by the instrument.

Unlike CASA EX01/24, several provisions in the instrument provide for the CFI of an approved flight training school to collect, and disclose to CASA, certain personal information and health information from RAAus pilots and RAAus restricted pilots who wish to obtain a record of class 5 medical self-declaration for the reasons mentioned in the preceding paragraph.

The type of information that may be collected or disclosed

Information that CASA collects is as follows:

- (a) section 5B sets out the steps involved in a person successfully completing the online self-assessment of medical fitness process, and requires the person to make full and accurate disclosures of health matters, and to make certain declarations about their medical history, and specifically refers to certain health information, summarised as follows:
 - (i) the state of the person's health generally;
 - (ii) their past and current medical conditions;
 - (iii) symptoms of possible medical conditions;
 - (iv) medications and substances that the person may be taking;
 - (v) changes in health, medical conditions, symptoms or medications or substances taken or used since last seeing a medical practitioner;

- (b) if a person has successfully completed an online assessment of their own medical fitness, and CASA has acknowledged their completion by giving them a record of class 5 medical self-declaration, subsections 7A(3) and 15A(3) make it a condition of the exemptions in subsections 6(1) and 13(1), respectively, that the person must notify CASA if:
 - (i) they know, or have reasonable grounds to believe, that they have a medically significant condition that has lasted for more than 60 days and that impairs their ability to conduct a relevant solo training flight or a relevant private hire flight (whichever applies); or
 - (ii) they have had a private driver licence refused or cancelled on the grounds that they do not comply with the required medical standards or have failed to undergo a required medical examination; or
 - (iii) they have been clinically diagnosed with a disqualifying medical condition; or
 - (iv) they are regularly taking or using a disqualifying medication or substance; or
 - (v) they are experiencing problematic use of a substance;
- (c) subparagraphs (i) and (ii) describe the notification requirements that the CFI of an approved flight training school must comply with in relation to particular information about an RAAus restricted pilot – or an RAAus pilot – who holds a current record of class 5 medical self-declaration but does not hold one of the kinds of medical certificates they are otherwise required to hold (each of which is issued only after a medical assessment by a medical practitioner):
 - (i) the combined effect of subsections 10(2) and 10(4) and paragraph 10(5)(b) is that the CFI of the approved flight training school must notify CASA, in writing, as soon as practicable (but no later than 7 days) after the CFI knows, or has reasonable grounds to believe, that an RAAus restricted pilot in that subset has a medically significant condition that impairs their ability to fly a relevant solo training flight; and
 - (ii) the combined effect of subsections 14(2) and 14(4) and paragraph 14(5)(b) is that the CFI of an approved flight training school must take the same action in relation to an RAAus pilot in that subset if the CFI knows, or has reasonable grounds to believe, that the RAAus pilot has a medically significant condition that impairs their ability to conduct a relevant private hire flight.

Information that a CFI collects or discloses to CASA is as follows:

- (a) the combined effect of subsections 7A(1) and 7A(5) is that an RAAus restricted pilot in that subset must, before performing either of two particular actions that are important for aviation safety, notify the CFI of an approved flight training school that they have been required to surrender their record of class 5 medical self-declaration because:
 - (i) its renewal date has passed; or
 - (ii) they are required to notify CASA of a health circumstance or licence refusal or cancellation mentioned in subsection 7A(3);
- (b) the combined effect of subsections 15A(1) and 15A(5) is that an RAAus pilot in that subset must, before performing either of two particular actions that are important for aviation safety, notify the CFI of an approved flight training school that they have been required to surrender their record of class 5 medical self-declaration because:
 - (i) its renewal date has passed; or

- (ii) they are required to notify CASA of a health circumstance or licence refusal or cancellation mentioned in subsection 15A(3);
- (c) the combined effect of subsections 10(4), 10(5) and 11(1A) is that the CFI of an approved flight training school who knows, or has reasonable grounds to believe, that an RAAus restricted pilot in that subset has a medically significant condition that impairs their ability to fly a relevant solo training flight, must:
 - (i) enter, in writing, in the school's records that, in relation to the RAAus restricted pilot, the CFI knew, or had reasonable grounds to believe those matters (along with the related reasons); and
 - (ii) notify CASA, in writing, as soon as practicable (but no later than 7 days) after the CFI knows, or has reasonable grounds to believe, those matters;
- (d) the combined effect of subsections 14(4), 14(5) and 16(1A) is that the CFI of an approved flight training school must take the same actions in relation to an RAAus pilot in that subset if the CFI knows, or has reasonable grounds to believe, that the RAAus pilot has a medically significant condition that impairs their ability to conduct a relevant private hire flight.

Consequential paragraphs added to the directions in subsections 20(1) and (2) require an approved flight training school to retain those records for a minimum of 5 years from the date the school completes the assessment of, respectively, an RAAus restricted pilot and an RAAus pilot for the purposes of the instrument.

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

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

The instrument does not create stand-alone powers for CASA or CFIs of approved flight training schools to collect information. Instead, it expands the application of existing exemptions in CASA EX55/22 to include RAAus restricted pilots and RAAus pilots who have successfully completed an online assessment of their own medical fitness and been given a record of class 5 medical self-declaration. Expanding the scope of those exemptions provides to RAAus restricted pilots and RAAus pilots an alternative to one of the existing kinds of medical certificates they are required to hold, each of which is issued only after a medical assessment by a medical practitioner.

The requirements to provide health information to CASA in the instrument are not more onerous than those that apply to pilots who undertake medical assessment and obtain a medical certificate under Part 61 or 67 of CASR.

The collection, use and disclosure to CASA of information is necessary in each particular circumstance under the instrument. The nature of a scheme which provides for self-assessment of medical fitness necessitates the collection of health information about the

person undertaking the self-assessment (under section 5B of the instrument) and the use of that information to audit and enforce the self-assessment process.

Whether RAAus restricted pilots and RAAus pilots decide to seek a record of class 5 medical self-determination – and to provide the required personal and health information to CASA or the CFI of an approved flight training school – is purely voluntary. If an RAAus restricted pilot or an RAAus pilot does not wish to provide the required personal and health information, the exemptions in the instrument that require them to hold a medical certificate issued only after a medical assessment by a medical practitioner continue to be available options.

The protections afforded by the Privacy Act continue to apply:

- (a) to CASA; and
- (b) to an approved flight training school, to the extent that the approved flight training school is an entity or an APP entity under the Privacy Act.

Conclusion

This legislative instrument is compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate in order to:

- (a) ensure the safety of aviation operations; and
- (b) ensure that pilots operating in controlled airspace are competent to do so; and
- (c) promote the integrity of the aviation safety system; and
- (d) therefore, promote the rights to life and health.

Civil Aviation Safety Authority