

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX49/22 — Multi-Engine Helicopters Exemption 2022

Purpose

Under subregulation 61.747 (1) of the *Civil Aviation Safety Regulations 1998 (CASR)*, the holder of an aircraft class rating is authorised to exercise the privileges of the rating in an aircraft of a type mentioned in subregulation (2) only if the holder has completed the flight training and a flight review, as stated in the regulation. The aircraft types are prescribed in an instrument under regulation 61.062 of CASR, namely the *Prescription of Aircraft and Ratings — CASR Part 61 (Edition 8) Instrument 2021* (the **prescription instrument**). Regulation 61.020 of CASR defines **class** of aircraft for Part 61 of CASR to include the class of multi-engine aeroplanes. However, it does not include a class of aircraft for multi-engine helicopters. All multi-engine helicopters are prescribed, in the prescription instrument, with a type rating.

The prescription of a type rating for all multi-engine helicopters, rather than a class rating, has led to practical barriers to the efficient conduct of training and entry-control testing of pilots for less complex multi-engine helicopters certified for single-pilot operation. The current approach is believed to be a key reason for the limited availability of suitably-qualified flight instructors, examiners and Part 141 operators to conduct training and assessments for pilots for these helicopters, which leads to increased costs and time to access training and assessment and impacts on the availability of suitably-qualified pilots.

The Civil Aviation Safety Authority (**CASA**) proposes to amend CASR to include a multi-engine helicopter class rating system. The purpose of *CASA EX49/22 — Multi-Engine Helicopters Exemption 2022* (the **instrument**) is, in the meantime, to enable pilots to operate certain multi-engine helicopters in a similar system. The multi-engine helicopters included in the system were selected based on the training for type ratings prescribed in the prescription instrument for the helicopters. To achieve this purpose, the instrument grants various exemptions, under regulation 11.160 of CASR, to certain pilots, flight instructors, flight examiners, Australian air transport operators, aerial work operators, aircraft maintainers and other helicopter operators. In granting the exemptions, CASA has regarded as paramount the preservation of at least an acceptable level of aviation safety.

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.

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160 (1) provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from compliance with a provision of the regulations.

Under subregulation 11.160 (2), an exemption may be granted to a person or a class of persons and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160 (3), an exemption may be granted on application by a person or on CASA's own initiative.

Under subregulation 11.170 (3) of CASR, in deciding whether to grant an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to grant an exemption on its own initiative.

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

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

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

Under paragraph 61.375 (5) (b) of CASR, The holder of a pilot licence is authorised to exercise the privileges of the licence in an aircraft:

- (a) that is certificated for single-pilot operation; and
- (b) for which a single-pilot type rating is required by a legislative instrument under regulation 61.060;

only if the holder also holds the appropriate pilot type rating for the aircraft type.

Under subregulation 61.800 (1) of CASR, the holder of a pilot type rating is authorised to exercise the privileges of the rating as the pilot in command of an aircraft only if the holder has a valid flight review for the rating.

Under subregulation 61.745 (1) of CASR, the holder of an aircraft class rating is authorised to exercise the privileges of the rating only if the holder has a valid flight review for the rating.

Under subregulation 61.805 (1) of CASR, the holder of a pilot type rating is authorised to exercise the privileges of the rating under the instrument flight rules (the *IFR*), as defined in Part 1 of the CASR Dictionary, only if the holder has a valid instrument proficiency check for the aircraft type covered by the rating.

Under subregulation 61.1175 (1) of CASR, a flight instructor is authorised to conduct flight training mentioned in column 2 of an item in table 61.1235 of CASR only if the instructor also holds the endorsement mentioned in column 1 of the item. For the instrument, the relevant item is item 5.

Under subregulation 61.1175 (2), a flight instructor is authorised to conduct differences training for a variant of an aircraft type only if the instructor also holds the type rating training endorsement for the aircraft type.

Under subregulation 61.1175 (3), a flight instructor is authorised to conduct training to meet the general competency requirement in regulation 61.385 for a kind of aircraft only if the instructor also holds a training endorsement that authorises the instructor to conduct flight training in the aircraft.

Under subregulation 61.1175 (6), a flight instructor is authorised to conduct a flight review for a rating on a pilot licence only if the instructor also holds:

- (a) a grade 1 training endorsement; or
- (b) a grade 2 training endorsement; or
- (c) the training endorsement required to conduct flight training for the rating.

Under paragraph 61.1240 (1) (a) of CASR, subject to Subpart 61.E, Divisions 61.T.1 and 61.T.2 and regulations 61.1245 to 61.1247 of CASR, the holder of an endorsement mentioned in column 1 of an item in table 61.1235 is authorised to conduct the activities mentioned in column 2 of the item. For the instrument, the relevant item is item 5.

Under paragraph 61.1255 (a) of CASR, subject to Subpart 61.E and regulations 61.1265 to 61.1285 of CASR, a flight examiner is authorised to conduct flight tests for the grant of:

- (a) pilot licences; and
- (b) ratings on pilot licences, other than cruise relief flight engineer type ratings; and
- (c) endorsements on pilot licences.

Under subregulation 61.1265 (1), a flight examiner is authorised to conduct a flight test, or grant a rating or endorsement, mentioned in column 2 of an item in Part 1 of table 61.1310 of CASR only if the examiner also holds the endorsement mentioned in column 1 of the item. For the instrument, the relevant item is item 5.

Under regulation 61.1315 of CASR, subject to Subpart 61.E and Division 61.U.1 of CASR, the holder of an endorsement mentioned in column 1 of an item in table 61.1310 is authorised to conduct each activity mentioned in column 2 of the item. For the instrument, the relevant item is item 5.

Under subregulation 119.060 (1) of CASR, an Australian air transport operator contravenes the subregulation if the operator contravenes a condition of the operator's Australian air transport AOC. The term *AOC* is defined in section 3 of the Act.

Under subparagraph 119.080 (1) (b) (i) of CASR, one of the conditions of an Australian air transport AOC issued to an operator is that each of the operator's key personnel must comply with each provision of Part 119 of CASR that applies to the person.

Under subparagraph 119.150 (2) (d) (i) of CASR, one of the responsibilities of the head of training and checking of an Australian air transport operator, if the operator has a contract with a Part 142 operator for the Part 142 operator to conduct training or checking for the operator's flight crew, is to ensure that each person who conducts the training or checking for the Part 142 operator is authorised under Part 61 of CASR to conduct the activities involved in the training or checking.

Under subparagraph 119.205 (1) (e) (i) of CASR, an exposition for an Australian air transport operator must include, for each of the key personnel of the operator, information about the

qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Subpart 119.D of CASR for the position.

Under paragraph 119.135 (1) (b) of CASR, the head of flying operations of an Australian air transport operator must hold a pilot type or class rating (within the meaning of Part 61 of CASR) for a type or class of rotorcraft that is used to conduct a significant proportion of the operator's Australian air transport operations. Under paragraph 119.145 (1) (b) of CASR, the head of training and checking of an Australian air transport operator must hold a pilot type or class rating (within the meaning of Part 61) for a type or class of rotorcraft used to conduct a significant proportion of the operator's Australian air transport operations. Under subregulation 119.090 (2) of CASR, an Australian air transport operator contravenes the subregulation if:

- (a) the operator makes a significant change that is the permanent appointment, or the acting appointment (for a period of greater than 35 days), as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 119.205 (1) (e) (iv); and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (3), within 7 days after the change is made.

Under subregulation 138.055 (1) of CASR, an aerial work operator contravenes the subregulation if the operator contravenes a condition of its aerial work certificate.

Under subparagraph 138.155 (1) (e) (i) of CASR, an operations manual for an aerial work operator must include, for each of the key personnel of the operator, information about the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Division 138.B.4 of CASR for the position. Under paragraph 138.090 (1) (b) of CASR, the head of operations of an aerial work operator must hold the pilot type rating or class rating (within the meaning of Part 61) for the type or class of aircraft that is used to conduct the greatest proportion of the operator's aerial work operations. Under paragraph 138.100 (2) (b) of CASR, the head of training and checking of an aerial work operator must hold the pilot type or class rating (within the meaning of Part 61) for the type or class of aircraft used to conduct the greatest proportion of the operator's aerial work operations. Under subregulation 138.062 (2) of CASR, an aerial work operator contravenes the subregulation if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 138.155(1)(e)(iv); and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.

Under subregulation 138.062 (3), an aerial work operator contravenes the subregulation if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person not previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 138.155 (1) (e) (iv); and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 3 days after the change is made.

Under subregulation 138.475 (1) of CASR, the operator of an aircraft for a flight involving an aerial work operation contravenes the subregulation if, when the flight begins, a requirement mentioned in subregulation (2) is not met. Under subparagraph 138.475 (2) (c) (i), if the aircraft is an Australian aircraft, each flight crew member must be authorised to pilot the aircraft during the flight under Part 61 of CASR.

Under subparagraph 138.050 (1) (b) (i) of CASR, it is a condition of an aerial work certificate issued to an aerial work operator that the operator comply with each provision of Part 138 of CASR that applies to the operator. Under subparagraph 138.105 (3) (d) (i) of CASR, if an aerial work operator has a contract with a Part 142 operator for the Part 142 operator to conduct training or checking for the operator's flight crew, the head of training and checking for the operator must ensure that each person who conducts the training or checking for the Part 142 operator is authorised under Part 61 of CASR to conduct the training or checking.

Under subregulation 138.500 (2) of CASR, the pilot in command of an aircraft for a flight involving an aerial work operation contravenes the subregulation if:

- (a) the pilot performs a duty as pilot in command for the flight; and
- (b) the pilot is not qualified under subregulation (1) as pilot in command for the flight.

Under subregulation 138.500 (2A), the operator of an aircraft for a flight involving an aerial work operation contravenes the subregulation if:

- (a) the operator assigns a pilot to duty as pilot in command of the aircraft for the flight; and
- (b) the pilot is not qualified under subregulation (1) as pilot in command for the flight.

Under subparagraph 138.500 (1) (a) (i), a pilot is qualified as pilot in command of an aircraft for a flight involving an aerial work operation if the pilot is, if the aircraft is an Australian aircraft, authorised under Part 61 of CASR to carry out, in relation to the flight, the duties assigned to the pilot by the operator of the flight.

Under regulation 141.290 of CASR, a Part 141 operator commits an offence if:

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

Under regulation 141.300 of CASR, a Part 141 operator commits an offence if:

- (a) a person flies an aircraft used in the operator's authorised Part 141 flight training as pilot in command; and
- (b) the operator authorises the carriage of a passenger on the flight; and

the person is not authorised under Part 61 of CASR to fly the aircraft as pilot in command with a passenger on board.

Under regulation 141.075 of CASR, a Part 141 operator commits an offence if the operator contravenes a condition of its Part 141 certificate.

Under regulation 141.175 of CASR, a Part 141 operator commits an offence if:

- (a) an instructor for the operator conducts authorised Part 141 flight training for the operator; and

- (b) the instructor is not authorised under Part 61 of CASR to conduct the training.

Under subparagraph 141.070 (b) (i) of CASR, it is a condition of a Part 141 certificate issued to an operator that each of the operator's key personnel must comply with each provision of Part 141 of CASR that applies to the person.

Under subparagraph 141.260 (1) (e) (i) of CASR, an operations manual for a Part 141 operator must include, for each of the operator's key personnel, information about the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Subpart 141.D of CASR for the position.

Under subregulation 141.085 (2) of CASR, a Part 141 operator commits an offence if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 141.260 (1) (e) (iv) of CASR; and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.

Under subregulation 141.085 (3), a Part 141 operator commits an offence if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person not previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 141.260 (1) (e) (iv) of CASR; and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 3 days after the change is made.

Under subparagraph 141.125 (1) (a) (ii) of CASR, the head of operations of a Part 141 operator must hold the required training endorsements for all the Part 141 flight training the operator proposes to conduct.

Under subregulation 141.265 (1) of CASR, a Part 141 operator commits an offence if the operator contravenes a provision of its operations manual.

Under subregulation 142.140 (2) of CASR, a Part 142 operator commits an offence if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 142.340 (1) (e) (iv) of CASR; and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 7 days after the change is made.

Under subregulation 142.140 (3), a Part 142 operator commits an offence if:

- (a) the operator makes a significant change that is the permanent appointment as any of the operator's key personnel of a person not previously authorised to carry out the responsibilities of the position in a circumstance mentioned in subparagraph 142.340 (1) (e) (iv); and
- (b) the operator does not apply to CASA for approval of the change, in accordance with subregulation (4), within 3 days after the change is made.

Under subparagraph 142.340 (1) (e) (i), an exposition for a Part 142 operator must include, for each of the operator's key personnel, information about the qualifications and experience (if any) required by the operator for the position in addition to the qualifications and experience required under Subpart 142.D of CASR for the position.

Under paragraph 142.185 (2) (c) of CASR, the head of operations of a Part 142 operator must be authorised under Part 61 of CASR to pilot a kind of aircraft that is used to conduct a significant proportion of the operator's authorised Part 142 activities.

Under subregulation 142.230 (1) of CASR, a Part 142 operator commits an offence if:

- (a) an instructor or examiner for the operator conducts an authorised Part 142 activity for the operator; and
- (b) the instructor or examiner is not authorised under Part 61 of CASR to conduct the activity.

Under subregulation 142.365 (1) of CASR, a Part 142 operator commits an offence if:

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

Under subregulation 142.375 (1) of CASR, a Part 142 operator commits an offence if:

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

Under subregulation 142.060 (1) of CASR, a Part 142 operator commits an offence if the operator contravenes a condition of its Part 142 authorisation.

Under subparagraph 142.100 (1) (b) (i) of CASR, it is a condition of an AOC issued to an operator that authorises the conduct of Part 142 activities that each of the operator's key personnel must comply with each provision of Part 142 of CASR that applies to the person.

Under paragraph 133.370 (2) (d) of CASR, the operator of a rotorcraft for a flight contravenes subregulation (1) if, when the flight begins, each flight crew member is not qualified under regulation 133.385 or 133.390 of CASR to carry out the duties assigned to the flight crew member by the operator for the flight.

Under subparagraph 133.385 (1) (d) (i) of CASR, a pilot is qualified as pilot in command for a flight of a rotorcraft if the pilot is, if the rotorcraft is an Australian aircraft, authorised to pilot the rotorcraft during the flight as pilot in command under Part 61 of CASR.

Under subparagraph 133.390 (1) (a) (i), a pilot is qualified as co-pilot for a flight of a rotorcraft if the pilot is, if the rotorcraft is an Australian aircraft, authorised to pilot the rotorcraft during the flight as co-pilot under Part 61 of CASR.

As far as is relevant, under subparagraph 42.335 (c) (ii) of CASR, an ***independent individual***, for critical control system maintenance carried out on an aircraft, means an individual who is, if the maintenance is not carried out by a Part 145 organisation, a pilot licence holder who is authorised under Part 61 of CASR to fly the aircraft.

Under subregulation 42.340 (2), if an independent maintainer carries out critical control system maintenance on an aircraft, or supervises the carrying out of critical control system maintenance on an aircraft by another individual, the independent maintainer must ensure that an independent individual has:

- (a) verified the matters mentioned in subregulation 42.345(1) of CASR; and
- (b) made a record, in writing, in accordance with regulation 42.345;

before the independent maintainer issues a certificate of release to service for the aircraft in relation to the maintenance.

As far as is relevant, under subregulation 42.630 (1) of CASR, a continuing airworthiness management organisation may issue an authorisation to provide specified maintenance services for a large aircraft, or an aircraft that is authorised to operate under an AOC, to a pilot licence holder if, under subparagraph 42.630 (2) (c) (i), the authorisation is for a type and model of aircraft that the pilot licence holder is authorised, under Part 61 of CASR, to fly.

Under subregulation 42.300 (1) of CASR, for subsection 20AB (2) of the Act:

- (a) an individual mentioned in column 2 of an item in table 42.300 is permitted to carry out maintenance on an Australian aircraft:
 - (i) to which Part 42 of CASR applies; and
 - (ii) that is mentioned in column 3 of the item; and
- (b) the individual is permitted to carry out the maintenance subject to the conditions mentioned in column 4 of the item.

The individual mentioned in column 2 of item 4 in table 42.300 is a pilot licence holder who is carrying out maintenance under an authorisation issued under regulation 42.630 that is in force. As required in column 3 of the item, the pilot licence holder must be authorised, under Part 61 of CASR, to fly the aircraft.

Under subparagraph 91.155 (1) (b) (i) of CASR, a person contravenes subregulation 91.155 (1) if, during a flight of an aircraft:

- (a) the person manipulates the flight controls of the aircraft; and
- (b) for an Australian aircraft, other than a Part 103 aircraft or a Part 131 aircraft, the person is not authorised to pilot the aircraft under Part 61 of CASR.

Under subparagraph 91.155 (2) (b) (i) of CASR, the pilot in command of an aircraft for a flight contravenes subregulation 91.155 (2) if, during the flight:

- (a) the pilot in command permits a person to manipulate the flight controls of the aircraft; and
- (b) for an Australian aircraft, other than a Part 103 aircraft or a Part 131 aircraft, the person is not authorised to pilot the aircraft under Part 61 of CASR.

Under subregulation 91.267 (2) of CASR, the pilot in command of an aircraft for a flight contravenes the subregulation if, during the flight:

- (a) the aircraft is flown below 500 ft above the highest feature or obstacle within a horizontal radius of 300 m of the point on the ground or water immediately below the aircraft; and
- (b) none of the circumstances mentioned in subregulation (3) applies.

Under subparagraph 91.267 (3) (h) (i), one of the circumstances is that the pilot in command of the aircraft is authorised under Part 61 of CASR, or holds an approval under regulation 91.045 of CASR, to fly the aircraft below the height mentioned in paragraph (2) (a).

Under subparagraph 91.415 (1) (b) (ii) of CASR, a person contravenes subregulation (1) if:

- (a) the person taxis an aircraft; and
- (b) for a rotorcraft that is an Australian aircraft other than a Part 103 aircraft—the person is not authorised under Part 61 of CASR to taxi the rotorcraft.

Under subparagraph 91.430 (2) (a) (i) of CASR, a person contravenes subregulation (1) if:

- (a) the person operates a rotorcraft on the ground; and
- (b) the rotorcraft is being operated other than for maintenance or maintenance training; and
- (c) the person is, if the rotorcraft is an Australian aircraft, not authorised under Part 61 of CASR to pilot the rotorcraft.

As far as is relevant, under subregulation 91.715 (1) of CASR, the pilot in command of an aircraft for a flight contravenes the subregulation if, during the flight:

- (a) the failure of an instrument of any of the following kinds is caused or simulated:
 - (i) an attitude indicator;
 - (ii) a gyrocompass or an equivalent instrument;
 - (iii) an airspeed indicator;
 - (iv) an altimeter; and
- (b) the requirement mentioned in paragraph 91.715 (2) (c), which applies to a person who is authorised to pilot the aircraft under Part 61 of CASR, is not met.

As far as is relevant, under subregulation 91.720 (1) of CASR, the pilot in command of an aircraft for a flight contravenes the subregulation if:

- (a) during the flight, IMC are simulated; and
- (b) the requirement mentioned in subparagraph 91.720 (2) (c) (i), which requires the safety pilot to be authorised or qualified to pilot the aircraft under Part 61 of CASR, is not met.

Under subregulation 138.505 (1) of CASR, the operator of an aircraft contravenes the subregulation if:

- (a) a flight crew member of the operator's personnel undertakes training or a check mentioned in Subpart 138.N of CASR; and
- (b) the training or check is conducted other than in accordance with subregulation (2).

Under subparagraph 138.505 (2) (a) (ii) of CASR, the training or check must be conducted by an individual who meets the requirements prescribed by the Part 138 Manual of Standards.

Under paragraph 23.10 (1) (b) of the Part 138 Manual of Standards, for an operator who is not required to have a training and checking system under regulation 138.125 of CASR, a relevant trainer or checker must be an individual who is authorised by Part 61 of CASR to conduct the training or competency assessment.

Subject to subregulation 91.280 (2) of CASR, under subregulation 91.280 (1), the pilot in command of an aircraft for a VFR flight contravenes subregulation (1) if, during the flight, the aircraft is not flown in accordance with a requirement of the VMC criteria for the aircraft and the airspace in which the flight is conducted. Section 2.07 of the Part 91 Manual of Standards provides a definition of *VMC criteria*. Under subparagraph 2.07 (3B) (c) (i) of the Manual of Standards, for item 2B in Table 2.07 (3) of the Manual of Standards, the flight must be conducted by at least 2 NVIS crew members authorised (however described) to conduct an NVIS operation by, for an Australian aircraft, Part 61 of CASR. The term *NVIS crew member* is defined in subsection 3.02 (1) of the Manual of Standards.

Documents incorporated by reference

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

The instrument incorporates the *Part 61 Manual of Standards*, as in force from time to time. The document was issued under regulation 61.035 of CASR. It sets out standards relating to flight crew licences. It is available for free on the Federal Register of Legislation.

The instrument incorporates the *Part 91 Manual of Standards*, as in force from time to time. The document was issued under regulation 91.040 of CASR. It sets out the standards for “the rules of the air” for pilots who are not operating under an Air Operator’s Certificate or other certificate and is the foundation for all aviation operations. It is available for free on the Federal Register of Legislation.

The instrument incorporates the *Part 138 Manual of Standards*, as in force from time to time. The document was issued under regulation 138.020 of CASR. It sets out the standards for operational, procedural and safety risk management standards for the conduct of aerial work operations in aeroplanes and rotorcraft. It is available for free on the Federal Register of Legislation.

Content of instrument

Section 1 states the name of the instrument.

Section 2 states the duration of the instrument.

Section 3 defines various terms for the instrument. In particular, *relevant helicopter* is defined to mean a model of multi-engine helicopter mentioned in a cell in column 2 of the table in Schedule 1 of the instrument. Other terms are defined in the Act or CASR Dictionary.

Section 4 provides for the meaning of *authorised* to pilot a model of multi-engine helicopter.

Subsection 5 (7) grants an exemption to a holder of a pilot licence from compliance with regulation 61.065 of CASR to the extent that the licence holder is not authorised to exercise the privileges of the licence, relating to a relevant helicopter, under paragraph 61.375 (5) (b). The exemption applies only if the licence holder meets the requirements stated in subsections 5 (1) to (6).

Subsection 6 (2) grants an exemption to a holder of a pilot licence from compliance with subregulation 61.800 (1) of CASR to the extent that the licence holder is not authorised to exercise the privileges of the pilot type rating, relating to a model of helicopter, held by the licence holder, as the pilot in command of the helicopter. The exemption applies only if the licence holder meets the requirements stated in subsection 6 (1).

Subsection 6 (4) grants an exemption to a holder of a pilot licence from compliance with subregulation 61.745 (1) of CASR to the extent that the licence holder is not authorised to exercise the privileges of the single-engine helicopter class rating, relating to a model of single-engine helicopter, held by the licence holder. The exemption applies only if the licence holder meets the requirements stated in subsection 6 (3).

Subsection 7 (2) grants an exemption to a holder of a pilot licence from compliance with subregulation 61.805 (1) of CASR to the extent that the licence holder is not authorised to exercise the privileges of the pilot type rating under the IFR, relating to a model of multi-engine helicopter, held by the licence holder. The exemption applies only if the licence holder meets the requirements stated in subsection 7 (1).

Subsection 8 (2) grants an exemption to a flight instructor from compliance with regulation 61.065 of CASR to the extent that the flight instructor is not authorised to conduct flight training for the pilot type rating in relation to a relevant helicopter, under subregulation 61.1175 (1) of CASR.

Subsection 8 (3) grants an exemption to a flight instructor from compliance with regulation 61.065 to the extent that the flight instructor is not authorised to conduct differences training for a variant of a relevant helicopter, under subregulation 61.1175 (2).

Subsection 8 (4) grants an exemption to a flight instructor from compliance with regulation 61.065 to the extent that the flight instructor is not authorised to conduct training to meet the general competency requirement stated in regulation 61.385 of CASR in relation to a relevant helicopter, under subregulation 61.1175 (3).

Subsection 8 (5) grants an exemption to a flight instructor from compliance with regulation 61.065 to the extent that the flight instructor is not authorised to conduct a flight review for the pilot type rating in relation to a relevant helicopter, under subregulation 61.1175 (6).

Subsection 8 (6) grants an exemption to a flight instructor from compliance with regulation 61.065 to the extent that the flight instructor is not authorised to conduct the activity mentioned in subsection 8 (2) or (3), relating to a relevant helicopter, under paragraph 61.1240 (1) (a).

The exemptions in section 8 apply only if the flight instructor meets the requirements stated in subsection 8 (1).

Subsection 9 (2) grants an exemption to a flight examiner from compliance with regulation 61.065 to the extent that the flight examiner is not authorised to conduct a flight test for the pilot type rating in relation to a relevant helicopter, under paragraph 61.1255 (a), subregulation 61.1265 (1) and regulation 61.1315. The exemption applies only if the requirements stated in subsection 9 (1) are met.

Subsection 10 (2) grants an exemption to an Australian air transport operator from compliance with regulation 119.060 of CASR to the extent that the head of flying operations of the operator does not hold the pilot type rating in relation to a relevant helicopter, which otherwise would be a breach of the condition of the operator's Australian air transport AOC mentioned in subparagraph 119.080 (1) (b) (i) of CASR.

Subsection 10 (3) grants an exemption to an Australian air transport operator from compliance with subparagraph 119.205 (1) (e) (i) of CASR to the extent that the operator's exposition does not state that the head of flying operations of the operator holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of flying operations under paragraph 119.135 (1) (b).

The exemptions in subsections 10 (2) and (3) apply only if the requirements stated in subsection 10 (1) are met.

Subsection 10 (5) applies to the situation in which an Australian air transport operator makes a significant change that is the permanent appointment, or acting appointment, of a person as the head of flying operations of the operator under paragraph 119.090 (2) (a). The subsection grants an exemption to the operator from compliance with subregulation 119.090 (2) to the extent that the copy of the part of the operator's exposition affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of flying operations under paragraph 119.135 (1) (b). The exemption applies only if the requirements stated in subsection 10 (4) are met.

Subsection 10 (7) grants an exemption to an Australian air transport operator from compliance with regulation 119.060 to the extent that the head of training and checking of the operator does not hold the pilot type rating in relation to a relevant helicopter, which otherwise would be a breach of the condition of the operator's Australian air transport AOC mentioned in subparagraph 119.080 (1) (b) (i).

Subsection 10 (8) grants an exemption to an Australian air transport operator from compliance with subparagraph 119.205 (1) (e) (i) to the extent that the operator's exposition does not state that the head of training and checking of the operator holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of training and checking under paragraph 119.145 (1) (b) of CASR.

The exemptions in subsections 10 (7) and (8) apply only if the requirements stated in subsection 10 (6) are met.

Subsection 10 (10) applies to the situation in which an Australian air transport operator makes a significant change that is the permanent appointment, or acting appointment, of a person as the head of training and checking of the operator under paragraph 119.090 (2) (a) of CASR. The subsection grants an exemption to the operator from compliance with subregulation 119.090 (2) to the extent that the copy of the part of the operator's exposition affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of training and checking under paragraph 119.145 (1) (b). The exemption applies only if the requirements stated in subsection 10 (9) are met.

Subsection 10 (12) grants an exemption to an Australian air transport operator from compliance with regulation 119.060, in relation to the condition of the Australian air transport AOC issued to the operator mentioned in subparagraph 119.080 (1) (b) (i), to the extent that the head of training and checking of the operator does not comply with the responsibility stated in subparagraph 119.150 (2) (d) (i) of CASR because the person mentioned in paragraph (11) (b) does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 10 (11) are met.

Subsection 10 (14) grants an exemption to an Australian air transport operator from compliance with regulation 119.060, in relation to the condition of the Australian air transport AOC issued to the operator mentioned in subparagraph 119.080 (1) (b) (i), to the extent that the head of training and checking of the operator does not comply with the responsibility stated in subparagraph 119.150 (2) (d) (i) because the flight examiner mentioned in paragraph 13 (b) does not hold the type rating flight test endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 10 (13) are met.

Subsection 11 (2) grants an exemption to an aerial work operator from compliance with regulation 138.055 of CASR to the extent that the head of operations of the operator does not hold the pilot type rating in relation to a relevant helicopter, which otherwise would be a breach of the condition of an aerial work certificate issued to the operator mentioned in subparagraph 138.050 (1) (b) (i) of CASR.

Subsection 11 (3) grants an exemption to an aerial work operator from compliance with subparagraph 138.155 (1) (e) (i) of CASR to the extent that the operator's operations manual does not state that the head of operations of the operator holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of operations under paragraph 138.090 (1) (b) of CASR.

The exemptions in subsections 11 (2) and (3) apply only if the requirements stated in subsection 11 (1) are met.

Subsection 11 (5) applies to the situation in which an aerial work operator makes a significant change that is the permanent appointment, or acting appointment, of a person as the head of operations of the operator under paragraph 138.062 (2) (a) or (3) (a) of CASR.

The subsection grants the operator an exemption from compliance with subregulation 138.062 (2) or (3), as applicable, to the extent that the copy of the part of the operator's exposition affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of operations under paragraph 138.090 (1) (b). The exemption applies only if the requirements stated in subsection 11 (4) are met.

Subsection 11 (7) grants an exemption to an aerial work operator from compliance with regulation 138.055 to the extent that the head of training and checking of the operator does not hold the pilot type rating in relation to a relevant helicopter, which otherwise would be a breach of the condition of an aerial work certificate issued to the operator mentioned in subparagraph 138.050 (1) (b) (i).

Subsection 11 (8) grants an exemption to an aerial work operator from compliance with subparagraph 138.155 (1) (e) (i) to the extent that the operator's operations manual does not state that the head of training and checking of the operator holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of training and checking under paragraph 138.100 (2) (b) of CASR.

The exemptions in subsections 11 (7) and (8) apply only if the requirements stated in subsection 11 (6) are met.

Subsection 11 (10) applies to the situation in which an aerial work operator makes a significant change that is the permanent appointment, or acting appointment, of a person as the head of training and checking of the operator under paragraph 138.062 (2) (a) or (3) (a). The subsection grants the operator an exemption from compliance with subregulation 138.062 (2) or (3), as applicable, to the extent that the copy of the part of the operator's exposition affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person holds the pilot type rating in relation to a relevant helicopter, which is a qualification required to be held by the head of training and checking under paragraph 138.100 (2) (b) of CASR. The exemption applies only if the requirements stated in subsection 11 (9) are met.

Subsection 11 (12) grants an exemption to an aerial work operator from compliance with subregulation 138.475 (1) to the extent that the flight crew member mentioned in paragraph 11 (a) does not meet the requirement stated in subparagraph 138.475 (2) (c) (i) because the flight crew member does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 11 (11) are met.

Subsection 11 (14) grants an exemption to an aerial work operator from compliance with regulation 138.055, in relation to the condition of an aerial work certificate issued to the operator mentioned in subparagraph 138.050 (1) (b) (i), to the extent that the head of training

and checking for the operator does not comply with the responsibility stated in subparagraph 138.105 (3) (d) (i) of CASR because the person mentioned in paragraph (13) (c) does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 11 (13) are met.

Subsection 11 (16) grants an exemption to an aerial work operator from compliance with regulation 138.055, in relation to the condition of an aerial work certificate issued to the operator mentioned in subparagraph 138.050 (1) (b) (i) to the extent that the head of training and checking for the operator does not comply with the responsibility stated in subparagraph 138.105 (3) (d) (i) of CASR because the flight examiner person mentioned in paragraph (15) (c) does not hold the type rating flight test endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 11 (15) are met.

Subsection 11 (18) grants an exemption to a pilot mentioned in paragraph 17 (a) from compliance with subregulation 138.500 (2) of CASR to the extent that the pilot does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 11 (17) are met.

Subsection 11 (20) grants an exemption to an aerial work operator from compliance with subregulation 138.500 (2A) to the extent that the pilot mentioned in paragraph (19) (a) does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 11 (19) are met.

Subsection 12 (2) grants an exemption to a Part 141 operator from compliance with regulation 141.290 of CASR to the extent that the person mentioned in paragraph (1) (a) does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 12 (1) are met.

Subsection 12 (4) grants an exemption to a Part 141 operator from compliance with regulation 141.300 of CASR to the extent that the person mentioned in paragraph (3) (a) does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 12 (3) are met.

Subsection 12 (6) grants an exemption to a Part 141 operator from compliance with regulation 141.075 of CASR to the extent that the instructor mentioned in paragraph (5) (a) does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter.

Subsection 12 (7) grants an exemption to a Part 141 operator from compliance with regulation 141.175 of CASR to the extent that the instructor mentioned in paragraph (5) (a) does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter.

The exemptions in subsections 11 (6) and (7) apply only if the requirements stated in subsection 11 (5) are met.

Subsection 12 (9) grants an exemption to a Part 141 operator from compliance with regulation 141.075 to the extent that the head of operations of the operator does not hold the

type rating training endorsement for the type of helicopter that includes a relevant helicopter, which otherwise would be a breach of the condition of a Part 141 certificate issued to the operator mentioned in subparagraph 141.070 (b) (i) of CASR.

Subsection 12 (10) grants an exemption to a Part 141 operator from compliance with regulation 141.265 of CASR to the extent that the head of operations of the operator does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter, which otherwise would be a breach of the requirement about the content of the operator's operations manual stated in subparagraph 141.260 (1) (e) (i) of CASR.

The exemptions in subsections 12 (9) and (10) apply only if the requirements stated in subsection 12 (8) are met.

Subsection 12 (12) applies to the situation in which a Part 141 operator makes a significant change that is the permanent appointment of a person as the head of operations of the operator under paragraph 141.085 (2) (a) or (3) (a) of CASR. The subsection grants the operator an exemption from compliance with subregulation 141.085 (2) or (3), as applicable, to the extent that the copy of the part of the operator's operations manual affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person holds the type rating training endorsement for the type of helicopter that includes a relevant helicopter, which is a qualification required to be held by the head of operations under subparagraph 141.125 (1) (a) (ii) of CASR. The exemption applies only if the requirements stated in subsection 12 (11) are met.

Subsection 13 (2) grants an exemption to a Part 142 operator from compliance with subparagraph 142.340 (1) (e) (i) of CASR to the extent that the operator's exposition does not state that the head of operations of the operator is authorised under Part 61 of CASR to pilot the kind of aircraft that includes a relevant helicopter, which is a qualification required to be held by the head of operations under paragraph 142.185 (2) (c) of CASR. The exemption applies only if the requirements stated in subsection 13 (1) are met.

Subsection 13 (4) grants an exemption to a Part 142 operator from compliance with regulation 142.230 of CASR to the extent that the instructor mentioned in paragraph (3) (a) does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 13 (3) are met.

Subsection 13 (6) grants an exemption to a Part 142 operator from compliance with regulation 142.230 to the extent that the examiner mentioned in paragraph (5) (a) does not hold the type rating flight test endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsection 13 (5) are met.

Subsection 13 (8) grants an exemption to a Part 142 operator from compliance with regulation 142.365 of CASR to the extent that the person mentioned in paragraph (7) (a) does not hold the type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 13 (7) are met.

Subsection 13 (10) grants an exemption to a Part 142 operator from compliance with regulation 142.375 of CASR to the extent that the person mentioned in paragraph (9) (a) does

not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 13 (9) are met.

Subsection 13 (12) grants an exemption to a Part 142 operator from compliance with regulation 142.060 of CASR to the extent that the head of operations of the operator is not authorised under Part 61 of CASR to pilot a kind of helicopter that includes a relevant helicopter, which is used to conduct a significant proportion of the operator's authorised Part 142 activities, which otherwise would be a breach of the condition of an AOC issued to the operator that authorises Part 142 activities mentioned in subparagraph 142.100 (1) (b) (i) of CASR.

Subsection 13 (13) grants an exemption to a Part 142 operator from compliance with regulation 142.060 to the extent that the head of operations of the operator is not authorised under Part 61 of CASR to pilot a kind of helicopter that includes a relevant helicopter, which is used to conduct a significant proportion of the operator's authorised Part 142 activities, which otherwise would be a breach of the requirement about the content of the operator's exposition stated in subparagraph 142.340 (1) (e) (i).

The exemptions in subsections 13 (12) and (13) apply only if the requirements stated in subsection 13 (11) are met.

Subsection 13 (15) applies to the situation in which a Part 142 operator makes a significant change that is the permanent appointment of a person as the head of operations of the operator under paragraph 142.140 (2) (a) or (3) (a) of CASR. The subsection grants an exemption to a Part 142 operator from compliance with subregulation 142.140 (2) or (3), as applicable, to the extent that the copy of the part of the operator's exposition affected by the change, which accompanies the application to CASA for approval of the change, does not state that the person is authorised under Part 61 of CASR to pilot a kind of helicopter that includes a relevant helicopter, which is used to conduct a significant proportion of the operator's authorised Part 142 activities, which is a qualification required to be held by the head of operations under paragraph 142.185 (2) (c). The exemption applies only if the requirements stated in subsection 13 (14) are met.

Subsection 14 (2) grants an exemption to a relevant helicopter's operator from compliance with paragraph 133.370 (2) (d) of CASR to the extent that the pilot mentioned in paragraph (1) (a) is not qualified under subparagraph 133.385 (1) (d) (i) or subparagraph 133.390 (1) (a) (i) of CASR, as applicable, to carry out the duties assigned to the pilot by the operator for a flight of the helicopter because the pilot does not hold the pilot type rating in relation to the helicopter. The exemption applies only if the requirements stated in subsection 14 (1) are met.

Subsection 15 (2) grants an exemption to an independent maintainer from compliance with subregulation 42.340 (2) to the extent that the holder of a pilot licence mentioned in paragraph (1) (b) does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 15 (1) are met.

Subsection 15 (4) grants an exemption to a continuing airworthiness management organisation from compliance with subregulation 42.630 (1) of CASR to the extent that the holder of a pilot licence mentioned in paragraph (3) (a) does not hold the pilot type rating in

relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 15 (3) are met.

Subsection 16 (2) grants an exemption to the person mentioned in paragraph (1) (a) from compliance with regulation 42.300 of CASR to the extent that the person does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 16 (1) are met.

Subsection 17 (2) grants an exemption to the person mentioned in paragraph (1) (a) from compliance with subparagraph 91.155 (1) (b) (i) of CASR to the extent that the person does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 17 (1) are met.

Subsection 17 (4) grants an exemption to the person mentioned in paragraph (3) (a) from compliance with subparagraph 91.155 (2) (b) (i) to the extent that the person does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 17 (3) are met.

Subsection 18 (2) grants an exemption to the pilot in command mentioned in paragraph (1) (b) from compliance with subparagraph 91.267 (3) (h) (i) of CASR to the extent that the pilot in command does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection 18 (1) are met.

Subsection 19 (2) grants an exemption to the person mentioned in paragraph (1) (a) from compliance with subparagraph 91.415 (1) (b) (ii) of CASR to the extent that the person does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection (19) (1) are met.

Subsection 20 (2) grants an exemption to the person mentioned in paragraph (1) (a) from compliance with subparagraph 91.430 (2) (a) (i) of CASR to the extent that the person does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection (20) (1) are met.

Subsection 21 (2) grants an exemption to the pilot in command mentioned in paragraph (1) (b) from compliance with paragraph 91.715 (2) (c) of CASR to the extent that the pilot in command does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection (21) (1) are met.

Subsection 22 (2) grants an exemption to the pilot in command mentioned in paragraph (1) (b) from compliance with subparagraph 91.720 (2) (c) (i) of CASR to the extent that the pilot in command does not hold the pilot type rating in relation to a relevant helicopter. The exemption applies only if the requirements stated in subsection (22) (1) are met.

Subsection 23 (3) grants an exemption to the individual mentioned in paragraph (1) (b) from compliance with regulation 138.505 of CASR to the extent that the individual does not hold the type rating training endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsections (23) (1) and (2) are met.

Subsection 23 (5) grants an exemption to the individual mentioned in paragraph (1) (b) from compliance with regulation 138.505 to the extent that the individual does not hold the type rating flight test endorsement for the type of helicopter that includes a relevant helicopter. The exemption applies only if the requirements stated in subsections (23) (1) and (4) are met.

Subsection 24 (2) grants an exemption to the pilot in command of a relevant helicopter from compliance with subregulation 91.280 (1) of CASR to the extent that the NVIS crew member mentioned in paragraph (1) (c) does not hold the pilot type rating in relation to the helicopter. The exemption applies only if the requirements stated in subsection (24) (1) are met.

The table in Schedule 1 sets out the relevant helicopters to which the instrument applies and the pilot type rating that relates to each helicopter.

Legislation Act 2003

Paragraph 98 (5A) (a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation or the maintenance of aircraft. Also, paragraph 98 (5AA) (a) of the Act provides that an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. The instrument applies to classes of persons, namely certain pilots, flight instructors, flight examiners, Australian air transport operators and aerial work operators. The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

CASA published an earlier draft of the instrument for public comment on the CASA website on 21 June 2022. The draft instrument was available for comment until 4 July 2022.

CASA received 20 responses as a result of the consultation from aviation industry stakeholders, all of which were considered by CASA before the draft instrument was finalised. Some of the comments received related to the detrimental impacts of CASA's previous regulatory approach regarding type-rated multi-engine helicopters, and the positive impacts of the instrument. The majority of the comments were supportive of the policy objectives underpinning the instrument, and the instrument being made.

Also, the issues that the policy seeks to resolve were identified by, and have been subject to discussion, with industry representatives at the Standards Consultative Committee FCL Subcommittee and the Flight Crew Licensing Technical Working Group (***FCL TWG***). A helicopter-focused sub-group of the FCL TWG was also engaged to understand the technical aspects as they relate to the specific aircraft and training environments. These stakeholders have been engaged in the development of the policy proposal from the inception of the concept and have indicated their support of the instrument. They were also consulted on earlier drafts of the instrument during the development process.

CASA is satisfied that no further consultation is appropriate, or reasonably practicable, for the purposes of section 17 of the LA.

Sector risk, economic and cost impact

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

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

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

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

- (a) the identification of individuals and businesses affected by the instrument; and
- (b) consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements; and
- (c) a valuation of the impact, in terms of direct costs on individuals and businesses affected by the instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government; and
- (d) a valuation of the impact the different requirements would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly; and
- (e) consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the instrument, which are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

The instrument applies to pilots, flight instructors and flight examiners who wish to operate multiple types of multi-engine helicopters. The instrument also makes provision for commercial operators that conduct aerial work operations or Australian air transport operations in multi-engine helicopters. The instrument will enable individuals to meet new requirements to become qualified to operate multi-engine helicopters, and businesses to nominate persons who are qualified to operate multi-engine helicopters because of the instrument to key personnel positions.

The instrument also grants a number of supporting exemptions to pilots, flight training operators, commercial operators, aircraft maintainers (namely, independent maintainers and continuing airworthiness management organisations and individuals permitted to carry out maintenance on aircraft) and other helicopter operators. These exemptions are purely facilitative in nature and neutral in relation to economic and cost impact.

Economic Impact

The instrument is anticipated to result in increased economic activity across the flight training, aerial work and air transport operation sectors of the helicopter industry. This is anticipated to have:

- Positive impact for pilots, as the additional flight instructors and flight examiners authorised to conduct training and assessment, and lower costs associated with completing training and a flight review, will facilitate pilots to become authorised to operate different types of multi-engine helicopter. The instrument is also anticipated to facilitate and encourage pilots upskilling to operate multi-engine helicopters. This may result in increased employment opportunities for pilots.
- Positive impact for flight instructors, who can become qualified to conduct additional training and may see increased demand for training activities. This may lead to additional employment opportunities.
- Mixed impact for flight examiners. Examiners may see a reduction in demand, as flight tests for the specified multi-engine helicopters will only be required for pilots seeking an initial multi-engine helicopter type rating or the type rating on their licence. However, it is noted that few flight tests for the specified multi-engine helicopters are conducted annually and the instrument may lead to broader demand for initial type ratings. Conversely, examiners may become authorised to conduct flight tests for additional types of helicopter and thereby may have broader employment opportunities.
- Positive impact for flight training operators (*FTOs*), as the instrument is anticipated to lead to increased demand for training, improved availability of instructors and examiners authorised to conduct training and assessment activities and facilitate the use of multi-engine helicopters in training activities.
- Positive impact for commercial operators, which may benefit from increased numbers of pilots authorised to operate multi-engine helicopters, and increased instructors and examiners available to conduct training and assessment activities. Industry feedback indicates that operators may find it easier to begin to operate multi-engine helicopters and reduce the costs to operate multiple types of aircraft and train pilots.
- Neutral impact for aircraft maintainers. The instrument grants supporting exemptions to these persons, to facilitate the broader policy of the instrument.

Cost Impact

The instrument is anticipated to have either positive or neutral cost impacts. Relevantly, the instrument is anticipated to have:

- Positive-cost impact for pilots who intend to operate multiple types of helicopter. Time and cost to gain authorisation to operate a different type of helicopter will decrease, as the pilot will only need to complete type-specific flight training and a flight review rather than training and a flight test. Also, pilots will have increased numbers of instructors and examiners available to conduct the training and assessment required, potentially lowering costs.
- Positive-cost impact for instructors, as the instrument will expand the training instructors can conduct without needing to attain type-specific training endorsements for each helicopter type, thereby reducing costs associated with attaining multiple type-specific training endorsements to become authorised to conduct training.
- Positive-cost impact for examiners, as the instrument will expand the testing that examiners can conduct without needing to attain type specific flight test endorsements

for each type of helicopter, thereby reducing costs to become authorised to conduct testing.

- Cost-neutral impact for FTOs, as FTOs will still need to have an approved course of training for each of the types, in accordance with the current scheme.
- Positive-cost impact for commercial operators, which may experience lower costs for pilot training.
- Cost-neutral impact for aircraft maintainers. The instrument grants supporting exemptions to these persons, to facilitate the broader policy of the instrument.

CASA has assessed that the economic and cost impact of the instrument is not significant and is likely to result in increased economic activity across the flight training, aerial work and air transport operation sectors of the helicopter industry. As there is no significant economic or cost impact on individuals or businesses, there will be no community impacts.

Impact on categories of operations

The instrument is likely to have a beneficial effect on aerial work operations conducted in multi-engine helicopters, including search and rescue, medevac, marine pilot transfer operations and firefighting operations, by increasing the number of appropriately-qualified pilots available to work, and increasing the instructors and examiners available to conduct training and assessment for the operator's pilots. Industry feedback indicates that the instrument will lower training costs for operators, make it easier to begin to operate multi-engine helicopters, expand their fleet, and reduce the costs of operating multiple types of aircraft. Multi-engine helicopters offer safety benefits compared to single-engine helicopters, and better capacity to operate in IFR operations.

The same benefits are anticipated to apply to passenger-carrying Australian air transport operations conducted in multi-engine helicopters under Part 133 of CASR.

The instrument is likely to have a beneficial effect on FTOs conducting training for multi-engine helicopters. FTOs are anticipated to have increased access to appropriately-qualified instructors and examiners available to conduct training and assessment activities, reduced costs in upskilling instructors, and increased demand for training services from pilots seeking to become qualified to operate multi-engine helicopters.

Impact on regional and remote communities

The instrument is anticipated to have a positive impact on regional and remote communities. The instrument may encourage operators conducting aerial work, or air transport, operations in or to regional and remote communities to use multi-engine helicopters rather than single-engine helicopters.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) is not required in this case, as the exemptions are covered by a standing agreement between CASA and OBPR under which a RIS is not required for exemptions (OBPR id: 14507).

Statement of Compatibility with Human Rights

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

Making and commencement

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

The instrument commences on the day after it is registered and is repealed at the end of 31 July 2025.

Statement of Compatibility with Human Rights

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

CASA EX49/22 — Multi-Engine Helicopters Exemption 2022^t

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

Overview of the legislative instrument

The Civil Aviation Safety Authority (*CASA*) proposes to amend the *Civil Aviation Safety Regulations 1998 (CASR)* to include a multi-engine helicopter class rating system. The purpose of *CASA EX49/22 — Multi-Engine Helicopters Exemption 2022* (the *instrument*) is, in the meantime, to enable pilots to operate certain multi-engine helicopters in a similar system. The multi-engine helicopters included in the system were selected based on the training for type ratings prescribed in the prescription instrument for the helicopters. To achieve this purpose, the instrument grants various exemptions, under regulation 11.160 of CASR, to certain pilots, flight instructors, flight examiners, Australian air transport operators, aerial work operators, aircraft maintainers and other helicopter operators. In granting the exemptions, CASA has regarded as paramount the preservation of at least an acceptable level of aviation safety.

Human rights implications

Right to work

The right to work, mentioned in Article 6 (1) of the International Covenant on Economic, Social and Cultural Rights, includes the right of everyone to the opportunity to gain their living by work that they freely choose or accept. The right to work is promoted by the instrument, as it provides greater flexibility for pilots to obtain the civil aviation authorisations that are necessary to perform certain duties.

The right to work is promoted by the instrument, as it increases the availability of suitably-qualified flight instructors, examiners and Part 141 operators to conduct training and assessments for pilots for certain multi-engine helicopters. Also, the instrument allows the holder of a pilot licence to exercise the privileges of the licence in relation to one of the helicopters, despite not holding the pilot type rating in relation to the helicopter. This increases the availability of suitably-qualified pilots to pilot the helicopters.

Other rights

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

Conclusion

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

Civil Aviation Safety Authority