

## **Attachment to Consultation Draft (CD 2312OS) – Proposed amendments for CASA to administer recreational balloon activities**

### **Draft compilation of CAO 95.54**

The following document is a draft to illustrate the changes to CAO 95.54 that would occur if the proposed amendments were incorporated.

The text of the instrument is arranged to show deleted text with a line through it and new text highlighted with grey shading as shown below:

~~Text to be deleted is shown with a line through it~~

text to be deleted

**New text to be inserted is highlighted with grey shading**

new text to be inserted



# Australian Government

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## Civil Aviation Safety Authority

I, PHILIPPA JILLIAN SPENCE, Director of Aviation Safety, on behalf of CASA, make this instrument under ~~regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*~~ regulation 5 of the *Civil Aviation Regulations 1988*, and regulations 11.160, 11.205 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

### [Signed P. Spence]

Pip Spence

Director of Aviation Safety

~~30 November 2021~~ day month 2023

## Civil Aviation Order 95.54 (Part 131 Recreational Activity and Specialised Balloon Operations) Instrument 2021

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### 1 Name of instrument

- 1.1 This instrument is *Civil Aviation Order 95.54 (Part 131 Recreational Activity and Specialised Balloon Operations) Instrument 2021*.
- 1.2 This Order may be cited as *Civil Aviation Order 95.54*.
- 1.3 A reference in a CASA instrument (being an instrument issued by CASA under a statutory power to issue the instrument) to section 95.54 of the *Civil Aviation Orders* is taken to be a reference to this Order.

### 2 Duration and effect

- (1) This instrument:
  - (a) commences on 2 December 2021; and
  - (b) is repealed at the end of 1 December ~~2024~~2026.
- ~~(2) Despite paragraph (1) (b), each exemption and direction under this instrument ceases to have effect on the day:~~
  - ~~(a) for sections 7, 8, 9 and 10 that the ABF becomes a Part 131 ASAO;~~
  - ~~(b) for section 6 that the Part 131 Manual of Standards commences.~~

### 3 Repeal

*Civil Aviation Order 95.54 (Manned balloons and hot air airships — private operations) 2011* is repealed.

## 4 Application

~~An exemption under this Order, for a Part 131 recreational activity, does not apply to a pilot in command or a person who holds a licence, authorisation or certificate (as the case may be) mentioned in this Order unless the pilot or the person (as applicable):~~

- ~~(a) is a member of, and subject to the rules, regulations and directions (however described) of, the ABF; and~~
- ~~(b) takes the benefit of the exemption solely in relation to operating a Part 131 aircraft engaged in a Part 131 recreational activity in accordance with the rules, regulations and directions (however described) that:
 
  - ~~— (i) are specified in the ABF operations manual; and~~
  - ~~— (ii) apply to the operation of the aircraft for the activity.~~~~

An exemption under this Order applies in relation to a relevant aircraft only if the pilot in command holds a relevant permit.

## 5 Definitions

- (1) In this Order:

*ABF* means the Australian Ballooning Federation Inc.

~~*ABF operations manual* means a manual, as in force or existing from time to time, that:~~

- ~~(a) is issued by the ABF; and~~
- ~~(b) is approved in writing by CASA; and~~
- ~~(c) contains:
 
  - ~~— (i) the syllabus of training for the issue of a pilot certificate (balloons); and~~
  - ~~— (ii) the procedures and instructions necessary to ensure the ensure the safe operation of a Part 131 aircraft in a Part 131 recreational activity.~~~~

~~*ASAO* has the meaning given by the CASR Dictionary.~~

~~*ASAO authorisation* means an authorisation issued by a Part 131 ASAO.~~

~~*ASAO certificate* has the meaning given by the CASR Dictionary.~~

*CAR* means the *Civil Aviation Regulations 1988*, as in force immediately before the commencement of this instrument, unless otherwise specified.

*CASR* means the *Civil Aviation Safety Regulations 1998*.

*civil aviation legislation* has the meaning given by the CASR Dictionary.

*Contracting State* has the meaning given by section 3 of the *Civil Aviation Act 1988*.

*CP(B)L* is short for commercial pilot (balloon) licence, issued by CASA.

*flight radiotelephone operator licence* has the meaning given by the CASR Dictionary.

*Manual* means the CASA Recreational Ballooning Procedures Manual, as in force from time to time.

*Note* The CASA Recreational Ballooning Procedures Manual is a modified version of the former ABF operations manual that was in force immediately before 2 December 2023. The CASA Manual is available on the CASA website [Civil Aviation Safety Authority \(casa.gov.au\)](http://CivilAviationSafetyAuthority(casa.gov.au)).

~~*Part 105 ASAO* has the meaning given by the CASR Dictionary.~~

*Part 131 aircraft* has the meaning given in regulation 131.005 of CASR.

*Part 131 pilot authorisation* has the meaning given by the CASR Dictionary.

*Part 131 recreational activity* has the meaning given in regulation 131.025 of CASR.

*Note* Such an activity includes a specialised balloon operation that is not conducted for hire or reward.

~~*relevant aircraft* means a Part 131 aircraft engaged in a specialised balloon operation conducted for hire or reward or a Part 131 recreational activity.~~

*relevant aircraft* means a Part 131 aircraft engaged in a Part 131 recreational activity.

*relevant CAR certificate of validation* means a certificate of validation to pilot a Part 131 aircraft, issued by CASA.

~~*relevant parachuting organisation* means one of the following:~~

~~(a) a Part 105 ASAO; or~~

~~*Note* At the commencement of this instrument, the only Part 105 ASAO is the Australian Parachuting Federation Incorporated.~~

~~(b) the Australian Skydiving Association.~~

*relevant permit* has the meaning given in subsection 5A and 5B.

### 5A Meaning of relevant permit — 1

In this Order:

*relevant permit* means:

- (a) the permit a person is deemed to hold under Table 5A.1 that authorises the permit holder to operate a relevant aircraft; or
- (b) the permit a person is deemed to hold under Table 5A.2; or
- (c) the permit mentioned in Table 5A.3 that, under subsection 12 is issued to a person by CASA on or after 2 December 2023 that authorises the permit holder:
  - (i) to operate a relevant aircraft; or
  - (ii) to operate a radio in a relevant aircraft; or
  - (iii) to carry a hang glider outside a Part 131 aircraft in a Part 131 recreational activity.

**Table 5A.1**

Item	If, immediately before 2 December 2023, a person held a certificate, mentioned in an item of this column, that was issued by the ABF:	Then, on and after 2 December 2023, the person is deemed to hold, as an equivalent having the same ratings and endorsements, the relevant permit mentioned in this column for the same item (unless the permit expires, or is revoked by CASA):
1	Student pilot (balloon) certificate	Student pilot (balloon) permit
2	Private pilot (balloon) certificate	Private pilot (balloon) permit

3	Instructor private pilot (balloon) certificate restricted	Instructor private pilot (balloon) permit Grade 2
4	Instructor private pilot (balloon) certificate unrestricted	Instructor private pilot (balloon) permit Grade 1

**Table 5A.2**

Item	If, immediately before 2 December 2023, a person held a certificate or approval, mentioned in an item of this column, that was issued by the ABF:	Then, on and after 2 December 2023, the person is deemed to hold the relevant permit mentioned in this column for the same item (unless the permit or approval expires, or is revoked by CASA):
1	Radio operator (balloon) certificate	Radio operator (balloon) permit

**Table 5A.3**

Item	Relevant permits that may be issued by CASA on or after 2 December 2023:
1	Student pilot (balloon) permit
2	Private pilot (balloon) permit
3	Radio operator (balloon) permit
4	Instructor private pilot (balloon) permit Grade 2
5	Instructor private pilot (balloon) permit Grade 1
6	Examiner private pilot (balloon) permit
7	Permit to carry a hang glider outside a Part 131 aircraft

**5B Meaning of *relevant permit* — 2**

In this Order, *relevant permit* also means one of the following:

- (a) a CP(B)L;
- (b) a certificate of validation issued under Part 5 of CAR.

**5C Flight crew licence not required**

- (1) For subsection 20AB(1)(b) of the *Civil Aviation Act 1988*, the following are taken to constitute an authorisation to perform a duty essential to the operation of a relevant aircraft without holding a flight crew licence:
  - (a) the holding of a relevant permit that is not a flight crew licence; and
  - (b) compliance with the requirements set out in this Order;
- (2) However, if a person makes airborne radio transmissions on aeronautical HF frequencies, the person must:

- (a) hold a current flight radiotelephone licence; or
- (b) be authorised to make the transmissions under Part 61 or Part 64 of CASR.

## 6 Exemption — aircraft maintenance

Any person associated with the operation of a relevant aircraft is exempted from compliance with a requirement under Division 9 of Part 4A of the CAR, as in force from time to time.

## 7 Exemption — Part 131 pilot authorisation

- (1) The pilot in command of a Part 131 recreational activity is exempted from compliance with a requirement under the civil aviation legislation to hold the Part 131 pilot authorisation mentioned in paragraph (c) of the definition of **Part 131 pilot authorisation**.

*Note* Requirements to hold a Part 131 pilot authorisation arise under, for example, various provisions in Part 91 of CASR (including subparagraph/paragraph 91.155 (1) (b) (iv), 91.155 (2) (b) (iv), 91.625 (1) (b) (iv), 91.640 (1) (b) (iv), 91.715 (2) (c)); and in Part 131 of CASR (subregulation/paragraph 131.245 (2), 131.580 (1) (b), 131.580 (3) (b)).

- ~~(2) It is a condition of the exemption that the pilot must hold an equivalent authorisation from the ABF.~~

~~*Note* Paragraph (c) of the definition of a Part 131 pilot authorisation refers to an authorisation from a Part 131 ASAO that authorises the holder to operate a Part 131 aircraft.~~

- (2) It is a condition of the exemption that the pilot must hold a relevant permit.

*Note* Paragraph (c) of the definition of a Part 131 pilot authorisation refers to an authorisation from a Part 131 ASAO that authorises the holder to operate a Part 131 aircraft. That element of the definition is now redundant.

## 8 Exemptions — authorisations from a Part 131 ASAO

- (1) The pilot in command of a Part 131 aircraft engaged in a Part 131 recreational activity is exempted from compliance with a requirement of a provision mentioned in an item of column 1 of Table 8 (1) (to hold an authorisation or approval, as applicable, from a Part 131 ASAO) for the purpose mentioned for the item in column 2 of the Table.
- ~~(2) It is a condition of the exemption that the pilot in command must hold an equivalent authorisation, certificate or approval (as applicable) from the ABF.~~

**Table 8 (1)**

<b>Item</b>	<b>Provision Column 1</b>	<b>Purpose Column 2</b>
1	Subparagraph 131.315 (2) (b) (ii) of CASR	To fly at night
2	Subparagraph 131.565 (2) (a) (iii) of CASR	To operate a Part 131 aircraft

- (2) It is a condition of the exemption that the pilot must hold a relevant permit.

**Table 8(1)**

<b>Item</b>	<b>Provision Column 1</b>	<b>Purpose Column 2</b>
1	Subparagraph 131.315 (2) (b) (ii) of CASR	To fly at night
2	Subparagraph 131.565 (2) (a) (iii) of CASR	To operate a Part 131 aircraft
3	Regulation 131.585 of CASR	To carry a hang glider

## **9 Directions to ABF**

- ~~(1) The ABF is directed, in relation to operators and pilots in command of a Part 131 aircraft engaged in a Part 131 recreational activity, to:~~
- ~~(a) conduct the activities required to be conducted by a Part 131 ASAO under the civil aviation legislation, and in particular, Part 131; and~~
  - ~~(b) impose on ABF members the obligations that a Part 131 ASAO would impose on its members under the civil aviation legislation, and in particular, under Part 131 of CASR; and~~
  - ~~(c) where the civil aviation legislation mentions that content is required to be included in the exposition of a Part 131 ASAO — include the content in the ABF operations manual as in force from time to time.~~

*Note* — See, for example, the requirement under regulation 131.585 that a Part 131 ASAO must have procedures in its exposition regarding the carrying of hang gliders outside a Part 131 aircraft. The ABF would be required to include these procedures in its operations manual.

## **9 Directions to pilots holding a relevant permit**

- (1) Before commencing a flight in a relevant aircraft that involves a VFR flight by night, the pilot in command must:
  - (a) hold a relevant permit authorising the flight; and
  - (b) meet the day VFR recency requirements in the Manual.
- (2) The pilot in command must not operate a relevant aircraft in Class A, Class B, Class C or Class D airspace, or in a restricted area unless:
  - (a) the relevant aircraft is fitted with or is carrying a radio capable of two-way communication with air traffic control; and
  - (b) if the controlled airspace in which the relevant aircraft is operating requires a transponder to be fitted to, or carried on, the relevant aircraft — the relevant aircraft is fitted with or carries a transponder that is suitable for use in the airspace; and
  - (c) the pilot in command holds a current pilot licence with an aircraft category rating, the valid privileges of which include operating in controlled airspace and at a controlled aerodrome; and
  - (d) the pilot in command has a valid flight review for the aircraft's class rating under Part 61 of CASR.

**10 — Directions to operators or pilots**

- ~~(1) The operator and the pilot in command of a Part 131 aircraft engaged in a Part 131 recreational activity are directed to comply with any ABF requirement in the ABF operations manual as in force from time to time, applicable to the operator or the pilot, as a result of the operation of section 9.~~
- ~~(2) Before commencing a flight of a of a Part 131 aircraft engaged in a Part 131 recreational activity that involves a VFR flight by night, the pilot in command must meet the day VFR recency requirements in the ABF operations manual, as in force from time to time.~~

**10 General conditions — 1**

The exemptions in sections 7 and 8 of this Order are subject to the condition that the operator and the pilot in command, as applicable, of a relevant aircraft must comply with the following, as in force immediately before 2 December 2021:

- (a) regulations 82, 82A, 84 of the CAR;
- (b) regulations 99A and 99AA of the CAR;
- (c) regulations 100 and 101 of the CAR;
- (d) regulation 120 of the CAR;
- (e) regulation 139 of the CAR;
- (f) regulation 140 of the CAR;
- (g) regulations 150 (except in the context of contest markers and wind indicators), 158 and 159 of the CAR;
- (h) Part 12 Divisions 1 and 2 of the CAR, other than subregulation 163 (2) as far as it relates to operations in the proximity of other balloons or hot air airships; regulation 163AA, paragraphs 166A (2) (d), (e), (f), (g) and (h), subregulations 166A (3), (4) and (5); paragraph 167 (1) (d) and regulation 168;
- (i) regulation 195 of the CAR;
- (j) subregulation 207 (2) and regulation 208 of the CAR;
- (k) regulations, 233, 234, 234A (hot air airship only), 235 (other than paragraph 235 (1) (b)) and 239 of the CAR;
- (l) regulations 241, 242, 243, and 244 of the CAR;
- (m) regulations 252, 253, 254, 255, and 257 of the CAR;
- (n) regulation 260 of the CAR;
- (o) Part 12 Division 3 of the CAR (visual flight rules) other than regulation 173;
- (p) sections 20.2, 20.3, 20.4, 20.9 and 20.11 of the *Civil Aviation Orders*;
- (q) sections 20.16.1, 20.16.2 and 20.16.3 of the *Civil Aviation Orders*;
- (r) section 20.18 of the *Civil Aviation Orders*, but only such provisions (including Appendix X) as are applicable to, or are in relation to, hot air balloons and hot air airships;
- (s) section 29.5 of the *Civil Aviation Orders*;
- (t) CASA 97/13 - *Designation - of airspace - Direction - broadcast requirements and frequency*;



- (u) *CASA 50/21 – Designation of Airspace for Broadcast Requirements – Locations with Surveillance Flight Information Service;*
- (v) **RESERVED;**
- (w) *DASR 2/1994 and 3/1994;*
- (x) *CASA 02/20 — Global Navigation Satellite System (GNSS) Instructions 2020;*
- (y) *CASA 29/18 — Civil Aviation (Fuel Requirements) Instrument 2018;*
- (z) *CASA 142/10 – Directions and determinations — Class D airspace;*
- (aa) *CASA 143/10 – Determination — flight visibility and distance from cloud in V.F.R. flights, and Direction — Special V.F.R. flights;*
- (bb) *CASA 184/00 – Direction under subregulation 207 (3);*
- (cc) *CASA 490/05 – Designation of airspace for broadcast requirements — aerodromes with certified air/ground radio services.*

*Note* This Order does not affect the requirement for an operator or pilot in command to comply with other provisions of the CAR or CASR as is in force from time to time if they apply to them. If there is a conflict between any of these provisions and a similar provision in CASR Part 91 or CASR Part 131, the CASR provision takes priority.

## **11 — General conditions**

~~The exemptions in sections 7 to 8 are subject to the condition that the operator and the pilot in command, as applicable, of a relevant aircraft comply with the following, as in force immediately before the commencement of this instrument:~~

- ~~(a) regulations 82, 82A, 84 of the CAR;~~
- ~~(b) regulations 99A and 99AA of the CAR;~~
- ~~(c) regulations 100 and 101 of the CAR;~~
- ~~(d) regulation 120 of the CAR;~~
- ~~(e) regulation 139 of the CAR;~~
- ~~(f) regulation 140 of the CAR;~~
- ~~(g) regulations 150 (except in the context of contest markers and wind indicators), 158 and 159 of the CAR;~~
- ~~(h) Part 12 Divisions 1 and 2 of the CAR, other than subregulation 163 (2) as far as it relates to operations in the proximity of other balloons or hot air airships; regulation 163AA, paragraphs 166A (2) (d), (e), (f), (g) and (h); subregulations 166A (3), (4) and (5); paragraph 167 (1) (d) and regulation 168;~~
- ~~(i) regulation 195 of the CAR;~~
- ~~(j) subregulation 207 (2) and regulation 208 of the CAR;~~
- ~~(k) regulations 220, 232A, 233, 234, 234A, 235 and 239 of the CAR;~~
- ~~(l) regulations 241, 242, 243, 244 and 249 of the CAR;~~
- ~~(m) regulations 252, 253, 254, 255, 257 and 258 of the CAR;~~
- ~~(n) regulation 260 of the CAR;~~
- ~~(o) Part 12 Division 3 of the CAR (visual flight rules);~~
- ~~(p) sections 20.2, 20.3, 20.4, 20.9 and 20.11 of the *Civil Aviation Orders*;~~
- ~~(q) sections 20.16.1, 20.16.2 and 20.16.3 of the *Civil Aviation Orders*;~~

- ~~(r) section 20.18 of the *Civil Aviation Orders* other in respect of the items listed in Appendixes I and V;~~
- ~~(s) section 29.5 of the *Civil Aviation Orders*;~~
- ~~(t) CASA 97/13 *Designation of airspace Direction broadcast requirements and frequency*;~~
- ~~(u) CASA 50/21 *Designation of Airspace for Broadcast Requirements Locations with Surveillance Flight Information Service*;~~
- ~~(v) CASA 502/08 *Approval conduct of emergency procedures proficiency tests*;~~
- ~~(w) DASR 2/1994 and 3/1994;~~
- ~~(x) CASA 02/20 *Global Navigation Satellite System (GNSS) Instructions 2020*;~~
- ~~(y) CASA 29/18 *Civil Aviation (Fuel Requirements) Instrument 2018*;~~
- ~~(z) CASA 142/10 *Directions and determinations Class D airspace*;~~
- ~~(aa) CASA 143/10 *Determination flight visibility and distance from cloud in V.F.R. flights, and Direction Special V.F.R. flights*;~~
- ~~(bb) CASA 184/00 *Direction under subregulation 207 (3)*;~~
- ~~(cc) CASA 490/05 *Designation of airspace for broadcast requirements aerodromes with certified air/ground radio services*.~~

*Note*—This list refers to provisions of the CAR that will be repealed at the end of 1 December 2021 or to a legislative instrument that would not otherwise apply to a relevant aircraft on and from 2 December 2021, but would apply prior to that date. This instrument does not obviate the requirement for an operator or pilot in command to comply with other provisions of the CAR or CASR as is in force from time to time if they apply to them.

## 11 General conditions — 2

The exemptions in sections 6, 7 and 8 of this Order are subject to the condition that the operator and the pilot in command, as applicable, of a relevant aircraft must comply with the following requirements;

- (a) the relevant aircraft may only be operated by a person who holds one of the following to operate the aircraft in a Part 131 recreational activity;
  - (i) a CP(B)L;
  - (ii) a certificate of validation issued under Part 5 of CAR;
  - (iii) a relevant permit; and
- (b) the relevant aircraft may only be operated in accordance with the rules, regulations and directions that:
  - (i) are specified in the Manual; and
  - (ii) apply to the operation of the aircraft.

## 12 Applications for a relevant permit under this Order

- (1) This subsection applies to a person (an *applicant*) who, before 2 December 2023, but for the making of the *Civil Aviation Order 95.54 Amendment Instrument 2023 (No. 1)* would have applied to the ABF for an ABF certificate or approval mentioned in Table 5A.1 or Table 5A.2.
- (2) The exemptions, directions and conditions in this Order apply to the applicant, but only if:

- (a) the applicant applies to CASA for a relevant permit mentioned in paragraph (c) of the definition of relevant permit; and
  - (b) CASA, in accordance with the requirements under the Manual, grants the applicant the relevant permit under this Order, with or without conditions.
- (3) To avoid doubt, for paragraph (2), Subparts 11.B and 11.BA of CASR are to be taken to apply for the purposes of an application for a permit under subparagraph (2) (a), as if the permit were an authorisation.
- (4) For the purposes of this subsection, an applicant is deemed to include a person:
- (a) who holds a current qualification equivalent to an ABF private pilot (balloon) certificate and an ABF radio operator (balloon) certificate, each of which was granted by the national aviation authority of a Contracting State; and
  - (b) who intends to conduct a Part 131 recreational activity in Australia, in an Australian registered balloon, over a period not longer than 30 days; and
  - (c) for whom the Manual contains specific requirements which the person must satisfy to be granted a private pilot (balloon) permit and a radio operator (balloon) permit under this Order.