



Australian Government  
Civil Aviation Safety Authority

OFFICIAL

ADVISORY CIRCULAR  
AC 11-02 v5.0

# Exemptions Against the CASR, CAR, CAO and MOS

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### Acknowledgement of Country

The Civil Aviation Safety Authority (CASA) respectfully acknowledges the Traditional Custodians of the lands on which our offices are located and their continuing connection to land, water and community, and pays respect to Elders past, present and emerging.

Artwork: James Baban.

Advisory circulars are intended to provide advice and guidance to illustrate a means, but not necessarily the only means, of complying with the Regulations, or to explain certain regulatory requirements by providing informative, interpretative and explanatory material.

**Advisory circulars should always be read in conjunction with the relevant regulations.**

## Audience

This advisory circular (AC) applies to:

- any person subject to a requirement or obligation under the civil aviation legislation
- persons affected by requirements or obligations under the civil aviation legislation that applies to another person.

## Purpose

This AC provides guidance and information to persons requiring an exemption against the Civil Aviation Safety Regulation 1998 (CASR), Civil Aviation Regulations 1988 (CAR) and Civil Aviation Orders (CAO) under Subpart 11.F of the CASR. This includes exemptions against Manuals of Standards (MOS) if referenced in the CASR.

## For further information

For further information or to provide feedback on this AC, visit CASA's [contact us](#) page.

Unless specified otherwise, all subregulations, regulations, Divisions, Subparts and Parts referenced in this AC are references to the *Civil Aviation Safety Regulations 1998 (CASR)*.

## Status

This version of the AC is approved by the National Manager, Flight Standards Branch.

**Note:** Changes made in the current version are not annotated. The document should be read in full.

**Table 1: Status**

Version	Date	Details
v5.0	September 2025	The following notable changes have been made: <ul style="list-style-type: none"><li>• re-structured information in chapter 2 (overview)</li><li>• new information about renewing existing exemptions in section 3.6 (renewing an existing exemption)</li><li>• the previous chapters 4, 5 and 6 have been merged into a single chapter 4 dealing with CASA's consideration of applications and the making of a decision</li><li>• a new chapter 5 has been added providing substantial guidance to applicants regarding their safety case</li><li>• the previous chapters 7, 8 and 9 have been merged into a single chapter 6 dealing with certain administrative aspects of exemptions</li><li>• the previous chapter 10 relating to exceptional circumstances exemptions is now chapter 7, with significant additional detail included.</li></ul>
v4.1	September 2023	Further information added to the end of Chapter 2 about CASA's standardised process for reviewing and assessing exemption applications, including the fees associated with exemptions. Minor changes to sections 3.4 and 3.5, and chapter 5, plus the creation of a new section 3.6 to better bookmark guidance relating to the renewal of existing exemptions.
v4.0	June 2022	This revision updates the format of the AC and includes advice relating to exemption applications now being required to use an approved form. It also provides updated guidance regarding acceptable levels of safety.
(2)	August 2011	Minor machinery amendments.
(1)	December 2004	Minor machinery amendments.
(0)	July 2004	Initial AC

# Contents

<b>1</b>	<b>Reference material</b>	<b>7</b>
1.1	Acronyms	7
1.2	Definitions	7
1.3	References	8
1.4	Forms	8
<b>2</b>	<b>Overview</b>	<b>9</b>
2.1	Advice to readers	9
2.2	Limitations of the exemptions power	9
2.3	Types of exemptions and initiating triggers	9
<b>3</b>	<b>Application for a standard exemption</b>	<b>10</b>
3.1	Relevant legislation	10
3.2	Who may apply for an exemption?	10
3.3	When to apply for an exemption	10
3.4	Where to apply for an exemption	10
3.5	How to apply for an exemption	10
3.6	Renewing an existing exemption	11
<b>4</b>	<b>CASA consideration of application for standard exemption</b>	<b>13</b>
4.1	Relevant legislation	13
4.2	Test of safety	13
4.3	CASA initial actions on receiving an application	13
4.4	Fee payment and reconciliation information	14
4.5	Timeline for exemption assessments	14
4.6	Applicant safety cases	14
4.7	Consideration of applicant history	14
4.8	Conditions on a standard exemption	15
4.9	Notification of decision to the applicant	15
<b>5</b>	<b>Safety assessments</b>	<b>16</b>
5.1	Introduction	16
5.2	Identification of the regulatory non-compliance	17
5.3	Hazard identification and analysis	17
5.4	Risk assessment and development of safety controls	18
5.5	Development of an implementation plan and conclusion of the assessment	18
<b>6</b>	<b>Administrative matters relating to exemptions</b>	<b>19</b>
6.1	Commencement, duration and publication of exemptions	19
6.2	Exemptions are not transferable	20
6.3	Revocation of an exemption	20
<b>7</b>	<b>Exemptions in exceptional circumstances</b>	<b>21</b>
7.1	Relevant legislation and test of safety	21
7.2	Fundamental concepts in the legislation	21

7.3	Method of applying and recommended application content	21
7.4	Notification of decision and administrative aspects to these exemptions	22

# 1 Reference material

## 1.1 Acronyms

The acronyms and abbreviations used in this AC are listed in the table below.

**Table 2: Acronyms**

Acronym	Description
AC	advisory circular
CAO	Civil Aviation Order
CAR	<i>Civil Aviation Regulations 1988</i>
CASA	Civil Aviation Safety Authority
CASR	<i>Civil Aviation Safety Regulations 1998</i>
MOS	<i>Manual of Standards</i>

## 1.2 Definitions

Terms that have specific meaning within this AC are defined in the table below. Where definitions from the civil aviation legislation have been reproduced for ease of reference, these are identified by 'grey shading'. Should there be a discrepancy between a definition given in this AC and the civil aviation legislation, the definition in the legislation prevails.

**Table 3: Definitions**

Term	Definition
civil aviation legislation	means: <ul style="list-style-type: none"><li>a. the CAR or CASR; or</li><li>b. legislative instruments made under the CAR or CASR, such as a Civil Aviation Order.</li></ul> <p><b>Note:</b> There is a definition of this term in the Civil Aviation Act 1988 but it is more complicated. This is a deliberately simpler version for easier understanding.</p>
exceptional circumstances	means the circumstances of a major natural disaster, some other large-scale emergency, or an emergency to which a national emergency declaration (within the meaning of the <i>National Emergency Declaration Act 2020</i> ) relates, that requires the use of air transport, or some other aviation activity, in a way that is not reasonably possible in compliance with these Regulations.
	<p><b>Example:</b></p> <p>Following the destruction of Darwin by Cyclone Tracy, airliners were permitted to operate when severely overloaded to allow evacuation of the city as rapidly as possible.</p>
Safety assessment	An element of the risk management process that is used to assess safety concerns arising from, inter alia, deviations from standards and applicable regulations.

## 1.3 References

### Legislation

Legislation is available on the Federal Register of Legislation website <https://www.legislation.gov.au/>

**Table 4: Legislation references**

Document	Title
Part 11 of CASR	Regulatory Administrative Procedures – Subpart 11.F - Exemptions from provisions of these Regulations and Civil Aviation Orders

### Advisory material

CASA's advisory materials are available at <https://www.casa.gov.au/publications-and-resources/guidance-materials>

**Table 5: Advisory material references**

Document	Title
AC 1-01	Understanding the legislative framework
AC 11-04	Approvals under CASR Parts 91, 103, 119, 121, 129, 131, 132, 133, 135, 138 and 149 (including MOS)
CASA website	<a href="#">Exemptions explained</a>

## 1.4 Forms

CASA's forms are available at [Forms | Civil Aviation Safety Authority](#)

**Table 6: Forms**

Form number	Title
	<a href="#">Application - Exemption (CASR Subpart 11.F)</a>



## 2 Overview

### 2.1 Advice to readers

- 2.1.1 Words and phrases used in this AC have the same meanings as in the Act, CASR and CAR. Readers seeking to understand the basics of Australia's civil aviation legislation are recommended to read [AC 1-01 Understanding the legislative framework](#).

### 2.2 Limitations of the exemptions power

- 2.2.1 CASA can issue an exemption from most provisions of the CAR and CASRs under Subpart 11.F. This can include an exemption from a requirement in the CASRs to comply with a MOS or some other referenced document. CASA may issue an exemption either on application or on its own initiative.
- 2.2.2 CASA cannot grant an exemption against a requirement in the *Civil Aviation Act 1988*.
- 2.2.3 An exemption may be granted to a person or class of persons in relation to:
- a type, model or serial number of aircraft or aeronautical product
  - an operation
  - an authorisation
  - a combination of any of the above.

### 2.3 Types of exemptions and initiating triggers

- 2.3.1 Subpart 11.F of the CASRs provides for two types of exemptions, standard exemptions and exemptions in exceptional circumstance. This AC deals predominantly with the process for applying for, assessing and issuing standard exemptions on application, and deals only in passing with exemptions issued on CASA's own initiative or in exceptional circumstances<sup>1</sup>.
- 2.3.2 CASA may issue a standard exemption on its own initiative. This might occur if there is an obvious flaw in the regulations and the only means of addressing this in the short term would be by exemption. In that case, CASA would normally seek to subsequently amend the regulations through the normal process, with a view to addressing the identified flaw in an enduring way that allows the revocation of the exemption.
- 2.3.3 Standard exemptions issued on CASA's own initiative are subject to the same provisions in relation to commencement, duration, revocation, publication, renewal and transferability as standard exemptions issued on application by a person.

<sup>1</sup> See section 7 of this AC for a brief outline of exceptional circumstances exemptions under Division 11.F.2 of CASR.

## 3 Application for a standard exemption

### 3.1 Relevant legislation

- 3.1.1 The regulations that govern the issue of standard exemptions are contained in Division 11.F.1 of CASR, which includes regulations 11.155 to 11.175 of CASR.

### 3.2 Who may apply for an exemption?

- 3.2.1 Any person may apply for a standard exemption.

### 3.3 When to apply for an exemption

- 3.3.1 Unless otherwise agreed by CASA, an application must be received at least 3 months prior to when the exemption is required. CASA considers that an exemption against the regulations is a last resort and the intent of introducing a 3-month timeframe is to:
- ensure that the exemption application is given proper consideration
  - encourage industry to adopt proper planning and management fall back strategies
  - ensure that an exemption is absolutely necessary rather than a convenient method of avoiding compliance with otherwise reasonable and necessary legislative obligations.
- 3.3.2 However, CASA is aware there may be unforeseen circumstances when an exemption will be required within a very short time frame. In these circumstances CASA will consider a late application provided the applicant submits suitable justification as to why the application was not submitted 3 months prior to the date when the exemption is required.
- 3.3.3 CASA will not accept poor planning or commercial impact on business as suitable justification. CASA will also need to establish if the reduced timeframe available will be adequate for proper assessment of the safety impact of the proposed exemption.

### 3.4 Where to apply for an exemption

- 3.4.1 An application for an exemption must use the [approved form](#). Exemption applications are to be submitted by e-mail to [regservices@casa.gov.au](mailto:regservices@casa.gov.au).

### 3.5 How to apply for an exemption

- 3.5.1 An application for a standard exemption, as outlined in the relevant application form, must include:
- the applicant's name and address
    - Where an exemption is being sought by an organisation, the application should also include the name and contact details of the primary point of contact for CASA in that organisation in relation to the application. As CASA will in most cases issue a standard exemption to a legal entity, if the applicant's trading name and entity name are different, the application should include the name of the legal entity to which CASA will issue the exemption.
    - The entity should also quote its ABN and ARN.
    - If the exemption is in relation to a facility, the application should identify the location of the facility.
  - details of any authorisation held by the applicant which is relevant to the exemption

- At minimum, this should include the authorisation which makes the applicant subject to the provision from which they wish to be exempt (e.g. their flight crew licence if the provision applies to a pilot in command, or their AOC if the provision applies to an operator).
- the relevant provisions of CASR from which the exemption is sought
  - If an exemption is being sought from a provision of an instrument, e.g. a MOS, with which compliance is mandatory under CASR, the applicant should also identify the relevant provision of the instrument.
- details of the aircraft or aeronautical product, if applicable
  - this may include type, model, serial number or registration.
- if the exemption will affect a particular kind of operation, the kind of operation
- the reasons why the applicant needs the exemption
  - The reasons provided should be detailed and complete.
  - Not providing adequate information will result in delays to the processing of the application while CASA seeks the information necessary for it to consider the application.
- details of how an acceptable level of safety will be provided
  - The application should be detailed and complete in this regard.
  - It is the responsibility of the applicant to thoroughly explain how particular courses of action are assessed to provide assurance that an acceptable level of safety will be maintained (refer to paragraph 4.1.3 in relation to the level of safety is acceptable for different circumstances).
- the date on which the exemption is required to commence
- the required duration of the exemption
  - which cannot be more than 3 years after it commences, see subregulation 11.230 (1) of CASR

3.5.2 To the extent that an application does not provide either information required by regulations 11.165 or 11.175 of CASR, or information which is necessary for proper consideration of the application, CASA may request further information (see Chapter 4 below).

## 3.6 Renewing an existing exemption

- 3.6.1 CASA will not automatically renew existing exemptions held by an individual person or a corporation. **Persons holding an exemption are responsible for applying for its renewal.** Persons intending to request the renewal of an existing exemption are reminded that forgetting to apply for a renewal will not automatically result in CASA prioritising a late application.
- 3.6.2 Under subregulation 11.175(1) of CASR, a person applying for the renewal of an existing exemption must apply as if the application is for a new exemption, with the following **additional requirement**:
- they must include a statement of the additional reasons why the exemption is still necessary, or the reasons why a continuation of the exemption is necessary.
- 3.6.3 It is not sufficient to state 'the current exemption is expiring'. The reason should thoroughly and comprehensively explain why the exemption remains necessary. For example:
- planned activities by the applicant intended to remove the need for the exemption haven't been completed because [explain the reasons]
  - necessary rule changes that would remove the need for the exemption have not been done
  - any other reason.

- 3.6.4 An applicant for the renewal of an exemption should be aware that a renewal application does not automatically entitle the person to the granting of a further exemption in the same or similar terms. Each application will be assessed on its merits at the time of the application.

## 4 CASA consideration of application for standard exemption

### 4.1 Relevant legislation

- 4.1.1 The regulations that are most relevant to CASA's consideration of an application for a standard exemption are regulations 11.035 to 11.050, and regulation 11.170 of CASR.

### 4.2 Test of safety

- 4.2.1 In considering an application for a standard exemption, CASA regards the preservation of a level of aviation safety that is at least acceptable as paramount<sup>2</sup>.
- 4.2.2 Applicants are advised that under most circumstances, CASA's starting point for assessing applications is that the acceptable level of aviation safety for a particular activity should be an equivalent level of aviation safety to that provided by the provisions from which the exemption is requested (i.e., The Act, CAR, CASR, CAO, MOS).
- 4.2.3 It would be reasonable for applicants to anticipate that CASA will be reluctant to grant exemptions which lead to a lowering of the levels of safety assurance associated with the conduct of a particular activity other than in circumstances where existing legislation demonstrably did not anticipate the activity being performed in a particular manner or did not anticipate the performance of a particular activity at all, or where there are other compelling reasons for accepting a less than equivalent (although still acceptable) level of safety.
- 4.2.4 Some examples of circumstances in which CASA might insist on an applicant demonstrating an equivalent level of safety include where the exemption relates to activities or requirements which are:
- governed by minimum ICAO standards
  - sufficiently safety critical or which involve levels of risk which are such that no lessening of the applicable levels of safety assurance can be countenanced.

### 4.3 CASA initial actions on receiving an application

- 4.3.1 Before commencing a detailed assessment of an exemption application, CASA will thoroughly review the information provided on the application form and in the accompanying documents to determine whether they are adequate for an application to proceed to the detailed assessment phase.
- 4.3.2 CASA has a standardised process for assessing exemption applications. It involves an initial review by the Exemption Review Panel before assigning an exemption for assessment, if appropriate, to an exemption assessor. As necessary, the exemption assessor will engage with the applicant.
- 4.3.3 Where the information provided in an application is inadequate for it to proceed to the detailed assessment phase or where the detailed assessment identifies either the need for further information from the applicant or for the applicant to conduct further activities, CASA is likely to use its powers under regulations 11.035 to 11.050 of CASR<sup>3</sup> to require the applicant to do one or more of the following:

<sup>2</sup> See subregulation 11.170(3) of CASR.

<sup>3</sup> See subregulation 11.170(1) of CASR.

- provide further information
- provide a copy of specific documents
- undertake a test or tests of competence
- come to a CASA office to be interviewed
- carry out a demonstration.

4.3.4 Once CASA has determined sufficient information exists for the application to enter the detailed assessment phase, the applicant will be sent a fee estimate. Applicants are required to pay this fee estimate before CASA will commence its assessment of the exemption.

## 4.4 Fee payment and reconciliation information

4.4.1 Payment of the fee for an exemption does not guarantee it will be granted, and fees are not refunded if an exemption is declined to be granted, unless an element of the fee relates to work that CASA would have undertaken if a different decision was reached.

4.4.2 CASA endeavours to ensure that its initial fee estimates are reasonable but also to minimise the likelihood of additional fees being charged. However, if an exemption assessment requires more time than initially estimated, the applicant will be sent an additional fee estimate and is required to pay that estimate before CASA resumes assessment of the application.

4.4.3 At the end of the application assessment and determination process, including any legal instrument drafting and signature if the exemption is granted, CASA reconciles the time spent against the paid fee estimate(s). If CASA has spent less time than estimated and the fee is paid, a refund will be issued.

## 4.5 Timeline for exemption assessments

4.5.1 Considerable research and investigation is often required before CASA can make a decision to grant or refuse to grant an exemption. Therefore, the application should be made **at least three months** before the requested start date. Only in unforeseen circumstances will CASA generally consider an application with a requested start date less than 3 months after the date of application (see Section 3.3).

4.5.2 CASA's intent is to finalise the outcome of an application in a timely manner, considering other priorities. For matters which are complex or fundamental to the classification of civil aviation activities<sup>4</sup>, the assessment period for an exemption application has a higher probability of extending beyond three months. CASA knows that applicants have paid for an exemption assessment to be conducted and will communicate with applicants where timeframes are likely to be lengthy or extended.

## 4.6 Applicant safety cases

4.6.1 Applicants are reminded that it is not CASA's responsibility to develop a safety case that supports an exemption application. Applicants are to thoroughly research their proposals and provide CASA with comprehensive safety assessments. Refer to Chapter 5 of this AC for substantial guidance on safety cases.

## 4.7 Consideration of applicant history

4.7.1 In processing each application, CASA will consider all the information provided as well as anything in its records concerning the applicant. If there is anything adverse to the applicant in

<sup>4</sup> For an explanation of the classification of civil aviation activities, see AC 1-01.

its records which CASA intends to take into account, CASA will inform the applicant in writing that it intends to take this information into account and will invite the applicant to make a written submission about the matter within a reasonable period. If the applicant responds with a written submission within that time then CASA will take the response into consideration.

- 4.7.2 If the applicant previously held an exemption that was revoked, CASA will take the reasons for the revocation into account as well as the evidence that the applicant submits about their capacity to carry out the functions necessary to gain the exemption.

## 4.8 Conditions on a standard exemption

- 4.8.1 The regulations most relevant to CASA's powers to impose conditions on standard exemptions are regulations 11.205 and 11.210 of CASR.
- 4.8.2 CASA may impose conditions on an exemption which are necessary in the interests of the safety of air navigation. All conditions imposed by CASA will be in writing and set out in the notice to the applicant. CASA will provide reasons for imposing conditions which were not sought by the applicant.
- 4.8.3 Conditions might relate to the:
- circumstances in which the exemption is operative
  - procedures to be used by the holder of the exemption
  - record-keeping by the holder of the exemption
  - specify alternative means of compliance to a prescriptive rule.
- 4.8.4 CASA will typically impose a condition on an exemption that a copy of it be included in a relevant document in the possession of the exemption holder, for example, its exposition/operations manual, procedures manual, aircraft logbook, personal logbook, etc.
- 4.8.5 A breach of a condition is an offence under regulation 11.210 of CASR. Further, a person who is not complying with a condition is not meeting the requirements which are a prerequisite to receiving the benefit of the exemption, and hence may also be in breach of the provision of CASR from which the exemption has been granted.

## 4.9 Notification of decision to the applicant

- 4.9.1 If the initial exemption assessment identifies that, based on current information, CASA would not grant the exemption, then the reasons for CASA's initial assessment will be provided to the applicant along with an opportunity to respond and provide more information before any final decision is made.
- 4.9.2 CASA will notify the applicant in writing of its final decision in accordance with the requirements of regulation 11.220 of CASR.
- 4.9.3 If CASA refuses to grant an exemption, or imposes conditions not sought by the applicant, then CASA will give reasons for its decision.
- 4.9.4 CASA will maintain a register of all conditions and the details of each exemption will be published on the [CASA website](#). See the lists of [legislative instruments](#) and [non-legislative instruments](#).



## 5 Safety assessments

### 5.1 Introduction

- 5.1.1 Where the applicant is seeking an exemption to use an alternate means of compliance other than that method of compliance specified in the regulations or MOS, the content of the application must provide information that enables CASA to determine that an acceptable level of aviation safety equivalent to the level established by the relevant regulation or MOS will be maintained. The most common means of providing this information to CASA is via the inclusion of a safety assessment with the exemption application.
- 5.1.2 Where the applicant is seeking an exemption due to an operational circumstance not envisaged during the development of the regulations or MOS, the content of the application must provide information that enables CASA to determine that a level of aviation safety acceptable for that circumstance will be maintained. The most common means of providing this information to CASA is via the inclusion of a safety assessment with the exemption application. CASA recommends that the level of safety asserted by the applicant to be maintained be compared to other established levels of safety for clarity of understanding between the applicant and CASA about what is being requested.
- 5.1.3 CASA acknowledges that applicants may not always be able to clearly identify whether their exemption request aligns with the circumstances described in 5.1.1 or 5.1.2 of this AC. To ensure consistency, CASA recommends that all exemption applications include a safety assessment that defines the level of safety proposed to be maintained—whether equivalent to or acceptable in comparison with the level established by the relevant regulation or MOS. Where the proposed level of safety is less than equivalent, the applicant must provide a clear justification explaining why this level should be considered acceptable in the specific context of their operation. This approach enables CASA to assess each application on a case-by-case basis, while maintaining a consistent standard of aviation safety.
- 5.1.4 The safety assessment should be conducted to identify and assess concerns arising from the alternate means of compliance. The safety assessment should be comprehensive, thorough and demonstrate that the applicant has, evaluated, in depth, the potential hazards and the effectiveness of the proposed safety controls.
- 5.1.5 Background information should provide CASA with an understanding of:
- the current situation
  - what operations, persons and activities will be affected by the proposed alternative safety controls (i.e., stakeholders involved or affected).
- 5.1.6 A safety assessment comprises four basic steps (the following subsections of this AC expand on these steps):
- identification of the regulation or MOS provision proposed to be varied
  - hazard identification and analysis
  - risk assessment and development of alternative safety controls
  - development of an implementation plan for the alternative controls and conclusion of the assessment.
- 5.1.7 If third parties could be impacted by the proposed alternative safety controls, the applicant should consult with these parties and provide evidence of this consultation and its effects (if any) on the applicant's safety assessment. This would include the scope of items discussed during consultation and collaboration with stakeholders, and any recommendations provided by the stakeholders. Proposed safety controls reliant on third party actions will need to be accompanied by evidence of the processes and procedures in place to provide assurance that the third party can support the proposed safety controls.



- 5.1.8 The objective of the safety assessment is to:
- study the potential impact of the absence of the safety controls which are the subject of the exemption
  - identify the specific alternative controls to ensure the level of aviation safety remains equivalent
  - estimate the effectiveness of each alternative control
  - develop a proposed process to periodically review the alternative controls to ensure they achieve the desired level of safety and thereby remain appropriate.
- 5.1.9 Where the applicant is a corporate entity holding an authorisation from CASA (for example: an AOC, aerial work certificate or Part 141 certificate), the safety assessment should be approved by the accountable manager before it is submitted to CASA as part of an exemption application.
- 5.1.10 The safety assessment should clearly show the:
- identified hazards to aviation safety
  - associated risks
  - identified safety controls, including evaluations of these safety controls.
- 5.1.11 The risk matrices used to carry out the risk assessment should be provided to CASA as part of the safety assessment and the application for the exemption.

## 5.2 Identification of the regulatory non-compliance

- 5.2.1 An initial evaluation of the effectiveness of the proposed alternative safety controls compared to those which are the subject of the exemption application should be conducted and documented.
- 5.2.2 Any perceived aviation safety concerns are to be described in detail, including situations in which the risk may manifest, and any stakeholders involved or affected as well as their potential to influence specific operations.
- 5.2.3 All aviation safety concerns associated with the exemption application are to be assessed to determine whether they are acceptably controlled. If a safety concern is not acceptably controlled, the applicant must provide a clear explanation as to why adequate control has not been demonstrated and include any limitations or contributing factors. This assessment should be documented in the applicant's safety case to support the proposed level of safety.

## 5.3 Hazard identification and analysis

- 5.3.1 Aviation safety hazards related to aircraft equipment, systems or operational procedures are initially identified using methods such as:
- brainstorming sessions with persons who have relevant industry knowledge and experience (expert opinion and operational judgement)
  - safety surveys
  - interrogating reporting systems/trend analysis
  - reviewing serviceability reports
  - reviewing the outcomes of incident investigations (accident causal factors)
  - reviewing learnings from events that have occurred involving the conduct of similar activities (if available)
  - exploring findings from internal and external audits.

- 5.3.2 All potential outcomes or consequences for each identified hazard are to be identified and recorded.
- 5.3.3 Hazard identification and analysis should avoid being narrow or targeted. The limiting of hazard identification may inhibit the development of robust safety analysis.<sup>5</sup>

## 5.4 Risk assessment and development of safety controls

- 5.4.1 Understanding the risks to the safe operation of aircraft is the basis for the development of appropriate and effective risk mitigation measures that might be needed to ensure safe operations.
- 5.4.2 The level of risk of each identified potential consequence is estimated by conducting a risk assessment. This risk assessment will determine the probability of the outcome occurring, based on experience as well as on any available data, such as accident database, occurrence reports, and the likelihood and severity of the consequence.
- 5.4.3 In some cases, a quantitative approach may be possible. In other instances, such as changes to the operational environment or procedures, a qualitative analysis may be more relevant.
- 5.4.4 Once each hazard has been identified and analysed in terms of potential impact, and assessed for probability and severity of its occurrence, it must be ascertained that all associated risks can be appropriately managed. An initial identification of existing mitigation measures is required to be conducted prior to the identification of any additional measures.
- 5.4.5 All risk mitigation measures, whether currently being applied or still under development, need to be evaluated for their effectiveness.

## 5.5 Development of an implementation plan and conclusion of the assessment

- 5.5.1 The last phase of the safety assessment process is the development of a plan for the implementation of the proposed alternative safety controls.
- 5.5.2 The proposed implementation plan should include:
- each control to be implemented
  - a breakdown of tasks required to implement each of the controls
  - the person who has been assigned responsibility to complete each task
  - the date each task is required to be completed.
- 5.5.3 It is the responsibility of the operator to ensure that agreed controls are effectively implemented in a timely manner and for monitoring the effectiveness of each control.

<sup>5</sup> For additional guidance on hazard identification refer to AC 119-01 'Safety management systems for air transport operations' and AC 138-05 'Risk management for aerial work operators' which provide guidance on this topic in different circumstances and operational contexts.

## 6 Administrative matters relating to exemptions

### 6.1 Commencement, duration and publication of exemptions

- 6.1.1 The regulations that are most relevant to the commencement, duration and publication of exemptions are regulations 11.225 and 11.230 of CASR.
- 6.1.2 Regulation 11.225 requires CASA to, as soon as practicable, publish on the Internet details (including any condition) of any exemption under Subpart 11.F of CASR. All exemptions that are in-force are referenced on the CASA website. The CASA website exemption list directly links to the exemption instrument for a non-legislative exemption, and links to the specific [Federal Register of Legislation](#) webpage for legislative exemption instruments.

#### TIP

The CASA website has a dedicated webpage for each [CASR](#) and [CAR](#) part. Exemptions applicable to each part are listed on the webpage for the part, as well as being available in 2 lists, one for [legislative exemptions](#) and another for [non-legislative exemptions](#).

- 6.1.3 Some exemptions (legislative exemptions) are legislative instruments for the purposes of the Legislation Act 2003. They must be registered on the [Federal Register of Legislation](#) and must be tabled in both Houses of Parliament. CASA will undertake the necessary Government and legal procedures necessary to give effect to an exemption. However, legislative nature of these exemptions has consequences for their commencement and duration, and their publication.
- 6.1.4 An exemption will normally start on the date stated in the exemption. However, except in unusual circumstances, CASA will not put a commencement date on a legislative exemption which is before the day after the date of registration of the exemption on the Federal Register of Legislation. There is a risk that an exemption which commences prior to that date will be invalid. In the normal course of events, a legislative exemption will be registered on the Federal Register of Legislation within 5 working days of it being signed by the relevant delegate in CASA.
- 6.1.5 An exemption (whether legislative or otherwise) will also contain an expiry date or circumstances in which the exemption will expire. This may be after a number of hours of operation or a calendar date or after some specific event, such as an air display.
- 6.1.6 If an expiry date is specified, the exemption ceases at the end of the specified day. The maximum duration of an exemption is 3 calendar years.

#### Example:

An exemption granted for the maximum duration on 12 June 2013 will expire at midnight on 11 June 2016.

- 6.1.7 If the exemption is granted to the owner of a particular aircraft and the owner sells the aircraft, the exemption will cease upon sale of the aircraft. If an exemption is granted in relation to an aerodrome and the person who was granted the exemption no longer operates the aerodrome, the exemption will also cease.

- 6.1.8 Legislative exemptions are also subject to disallowance by a House of Parliament within a certain period of being tabled in Parliament. An exemption which has been disallowed by a House of Parliament cannot be re-made within 6 months of the disallowance.

## 6.2 Exemptions are not transferable

- 6.2.1 Regulation 11.235 of CASR specifies that an exemption is not transferable. They are not property and cannot be handed from person to person.
- 6.2.2 As standard exemptions are generally issued to specified legal entities, should another entity wish to take advantage of the exemption it must apply for the same exemption in its own right. This includes exemptions which may be issued in relation to aircraft or facilities which, as property, can be transferred.

## 6.3 Revocation of an exemption

- 6.3.1 CASA may revoke an exemption:
- on request by its holder<sup>6</sup>
  - at any time in the interests of safety.
- 6.3.2 This may occur due to the applicant not complying with the conditions of the exemption, or special circumstances arising and CASA becoming aware that continuation of the exemption may result in a lower than acceptable level of aviation safety.
- 6.3.3 If CASA decides to revoke an exemption other than on request, it will normally give the holder of the exemption reasonable notice of its intention to do so and provide them with the opportunity to respond. CASA will take the exemption holder's response into account in deciding whether or not to revoke the exemption.
- 6.3.4 CASA may not provide prior notice of its intention to revoke an exemption in circumstances of serious and imminent risk to air navigation, or where the applicant has been found guilty of breaching a condition of the exemption or a related provision of the legislation.
- 6.3.5 Where CASA revokes an exemption, it will do so in writing and will state the reasons for the revocation.

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<sup>6</sup> See regulation 11.130 of CASR.

## 7 Exemptions in exceptional circumstances

**Note:** An example of an exceptional circumstances exemption is a tropical cyclone impacting a major city that causes widespread power, water supply or food shortages that mean extremely large numbers of people must be evacuated and transporting this number of people within the timeframe before severe consequences ensue requires loading aircraft beyond their normal passenger limits.

### 7.1 Relevant legislation and test of safety

- 7.1.1 The relevant regulations governing the issue of exemptions in exceptional circumstances are contained in Division 11.F.2 of CASR, which includes regulations 11.180 to 11.195 of CASR.
- 7.1.2 In making its decision in relation to the application for such an exemption, CASA regards the preservation of the highest level of aviation safety that is practicable under the circumstances as paramount.

### 7.2 Fundamental concepts in the legislation

- 7.2.1 The following key critical elements are contained within the definition of 'exceptional circumstances' in the legislation:
- the circumstances must be a major natural disaster, large-scale emergency or an emergency to which a national emergency declaration relates
  - and
  - these circumstances must require the use of air transport or some other aviation activity in a way that is not reasonably possible in compliance with the legislation.
- 7.2.2 CASA may grant this kind of exemption on its own initiative or on an application from Government or industry.

### 7.3 Method of applying and recommended application content

- 7.3.1 Under these types of circumstances, an application can be made in any way that is reasonable. This may be by phone, email or any other communication method that is available at the time.
- 7.3.2 A key consideration for CASA is whether an exceptional circumstance exemption is warranted in the circumstances.
- 7.3.3 Applicants can significantly assist CASA to make this determination, thereby minimising the time to assess an application, by ensuring their application contains at least the following information and, where appropriate, documentation:
- letter of support from a relevant State or Commonwealth emergency tasking agency that outlines why:
    - using specific examples, compliance with the normal rules is not reasonably possible
    - the circumstance should be regarded by CASA as a major natural disaster, large-scale emergency or an emergency to which a national emergency declaration relates

- evidence of applicant due diligence and risk assessment, specifically relating to the hazards of the operation in the exceptional circumstance
- proposed safety controls and alternative means of compliance to the normal rules to ensure the highest level of aviation safety practicable
- the anticipated duration and scope of activities
- any applicable precedence or similar exemptions (if known).

7.3.4 Applicants applying to conduct an operation that would normally require an AOC under Part 119 of CASR are advised that if they are proposing to conduct the operation using a foreign registered aeroplane, then they will need to also apply for a permission under section 27A of the *Civil Aviation Act 1988*.

## 7.4 Notification of decision and administrative aspects to these exemptions

- 7.4.1 As time is critical in such circumstances, CASA may notify applicants or affected parties verbally of the granting of the exemption and will follow up with a written notice.
- 7.4.2 CASA will publish the details of the exemption in the same locations as for standard exemptions (i.e. on the [CASA website](#) and the [Federal Register of Legislation](#)).
- 7.4.3 Exemptions issued in exceptional circumstances have a maximum duration of 12 months<sup>7</sup>.

<sup>7</sup> See subregulation 11.230(2) of CASR.