EXPLANATORY STATEMENT

CIVIL AVIATION REGULATIONS 1988

EXEMPTION FROM THE REQUIREMENTS OF PARAGRAPHS 83 (1) (c) AND (e), PARAGRAPH 83 (2) (b) AND SUBREGULATION 83 (3)

USE OF AIRCRAFT RADIOCOMMUNICATION SYSTEM IN FIRE FIGHTING OPERATIONS

Section 98 of the Civil Aviation Act 1988 (the Act) empowers the Governor-General to make regulations.

Under regulation 308 of the Civil Aviation Regulations 1988 (CAR 1988), CASA may exempt aircraft, or persons in, on, or otherwise associated with the operation of the aircraft, from compliance with specified provisions of CAR 1988. Such an exemption is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

Subregulation 308 (3) of CAR 1988 provides that CASA is authorised to give an exemption subject to any conditions specified in the exemption as being necessary in the interests of safety.

Paragraph 83 (1) (c) of CAR 1988 requires that the pilot in command of an Australian aircraft shall not permit the operation of the radiocommunication system during flight time in the aircraft except by a person who holds a flight radiotelephone operator licence or a student pilot licence.

Paragraph 83 (1) (e) of CAR 1988 requires that the pilot in command of an Australian aircraft shall not permit the operation of the radiocommunication system while the aircraft is on the ground except by a person who holds a licence or certificate mentioned in paragraph 83 (1) (d).

The NSW Rural Fire Service (NSW RFS) has been allocated certain aviation bandwidth VHF AM frequencies, by Airservices Australia and the Spectrum Management Authority, for use by the NSW RFS during bush fire fighting activities.

During the conduct of those operations, the NSW RFS personnel have a need to use aviation radiocommunication systems for tactical aircraft-to-aircraft and air-to-ground communications. Although trained in the use of radiocommunication systems for use in fire fighting operations, those personnel do not usually hold licences or certificates of the kind referred to in subregulation 83 (1).
The effect of this exemption is to exempt a pilot in command of an Australian aircraft in which a radiocommunication system approved under subregulation 82 (1) is installed from compliance with the requirements of paragraphs 83 (1) (c) and (e).

In addition, members and staff of the NSW RFS will now be exempt from compliance with paragraph 83 (2) (b) of CAR 1988. This exemption will enable the NSW RFS, as the owner of a radiocommunication system not installed in, or carried on an aircraft, to permit the operation of that system by a person who is not the holder of a prescribed certificate or licence.

Under subregulation 83 (3) of CAR 1988, a person must not operate a radiocommunication system that is:

   (a) not installed in, or carried on, an aircraft; or
   (b) installed in, or carried on, an aircraft that is on the ground;

if the person does not hold the prescribed certificate or licence.

This exemption will exempt aviation radio operators who are members or staff of the NSW RFS and who, in the course of their duties, operate such a radiocommunication system, from compliance with subregulation 83 (3) of CAR 1988. The exemption arises when communicating with Australian aircraft in which a radiocommunication system approved under subregulation 82 (1) of CAR 1988 is installed and which is exempt from compliance with the requirements of paragraphs 83 (1) (c) and (e) of CAR 1988.

This exemption is limited to the use of aviation bandwidth VHF AM frequencies, allocated to the NSW RFS by Airservices Australia and the Spectrum Management Authority, and the use of those allocated frequencies for tactical aircraft-to-aircraft and air-to-ground communications.

This exemption commenced on gazettal and stops having effect at the end of 31 August 2006.

The exemption has been issued by the Acting Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.

[Instrument Number: CASA EX21/2003]