

EXPLANATORY STATEMENT

CIVIL AVIATION REGULATIONS 1988

EXEMPTION FROM OBTAINING APPROVAL OF FLIGHT CHECK SYSTEM

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 condition specified in the exemption as being necessary in the interests of safety.

Subregulation 232 (1) of CAR 1988 provides that the operator of an aircraft shall establish a flight check system for each type of aircraft, setting out the procedures to be followed by the pilot in command and other crew members prior to and on take-off, on landing and in emergency situations.

Subregulation 232 (2) of CAR 1988 provides that a flight check system shall be subject to prior approval of CASA and CASA may, at any time, require the system to be revised in such manner as CASA specifies.

Subregulation 232 (5) of CAR 1988 provides that an aircraft must not be flown unless the flight check system has been approved by CASA and, if CASA has required the system to be revised, the system has been revised in a manner specified by CASA.

CASA considers that the requirement for the flight check system for certain categories of aircraft to be approved involves a significant resource impost on both CASA and operators with no significant enhancement in safety.

This exemption, therefore, exempts the operators of single and multi-engine piston engine aircraft not above 5700 kg maximum take-off weight and not involved in Regular Public Transport (RPT) operations, aircraft engaged in agricultural operations or private operations, single turbine engine helicopters certificated in the normal category and not involved in RPT operations or single turbine engine helicopters certificated in the restricted category not above 5700 kg maximum take-off weight or hot air balloons from the requirement to have the flight check system separately approved.

It also exempts all persons associated with the operation of the aircraft from the requirement, under subregulation 232 (5), not to fly the aircraft unless the flight check system has been approved.

As a condition on the exemption, an exempted operator will be required to describe the flight check system and publish it in the operator's operations manual in accordance with regulation 215 or the aircraft's flight manual.

The exemption also revokes a previous exemption which exempted certain operators from compliance with the requirements of subregulation 232 (2).

The exemption has been issued by the Deputy Chief Executive and Chief Operating Officer, a delegate of CASA.

[Exemption Number: CASA EX38/2004]