

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **Exemption — participation in land and hold short operations**

##### **Legislation**

Subsection 98 (1) of the *Civil Aviation Act 1988* (the *Act*) provides that the Governor-General may make regulations for the Act and the safety of air navigation.

Under subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (*CASR 1998*), CASA may, by instrument, grant an exemption from compliance with a provision of CASR 1998. Under subregulation 11.160 (2), CASA may grant an exemption to a person or a class of persons. Under subregulation 11.205 (1), CASA may impose on an exemption any condition necessary in the interests of the safety of air navigation.

Under subregulation 172.065 (1) of CASR 1998, an ATS provider (a person approved to provide air traffic services) must ensure that any service is provided in accordance with the specified standards, including the standards set out in the Manual of Standards Part 172 (the *MOS*).

The MOS contains requirements relating to the conduct of land and hold short operations (*LAHSO*). These operations involve aircraft landing on 1 runway while another aircraft takes off or lands on another runway at the same time. Under subsections 10.13.5.3, 10.13.5.4 and 10.13.5.7 of the MOS, foreign registered commercial aircraft that are not permitted to participate in LAHSO are aircraft of performance category A, B or C.

CASA has decided to issue this exemption to allow the aircraft to engage in either active or passive participation for those operators that have, or are eligible to apply for, Australia and New Zealand Agreement privileges and have been approved to engage in LAHSO by the New Zealand Civil Aviation Authority. In accordance with subregulation 11.170 (3) of CASR 1998, CASA considers that the exemption preserves an acceptable level of aviation safety.

##### **Legislative Instruments Act**

Under subparagraph 6 (d) (i) of the *Legislative Instruments Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. Under regulation 11.215 of CASR 1998, an instrument granting an exemption is a disallowable instrument. The exemption is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

##### **Consultation**

Consultation under section 17 of the LIA has not been undertaken in this case. This instrument replaces CASA EX88/08, which expires at the end of 30 November 2009.

The instrument commences on 1 December 2009 and stops having effect at the end of 30 November 2011.

The exemption has been made by a delegate of CASA under subregulation 11.260 (1) of CASR 1998.

[Instrument number CASA EX105/09]