

Explanatory Statement

Civil Aviation Regulation 1988

Exemption — Mark Alan Woodward

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

CAR 1988

Under subregulation 5.14 (1) of the *Civil Aviation Regulations 1988* (**CAR 1988**), CASA may give directions in Civil Aviation Orders (the *CAOs*), setting out the requirements for the issue to a person of a grade of flight crew rating. Under subregulation 5.14 (2), CASA must issue the grade of flight crew rating by entering it in the person's log book only if the person has passed the necessary flight tests and satisfied the other requirements and conditions.

Regulation 5.16 of CAR 1988 provides that CASA may issue or renew a flight crew rating subject to conditions. Regulation 5.18 provides that CASA may give directions in the CAOs setting out the authority that is given by a flight crew rating, the limitation on that authority and the flight tests that must be passed before the authority is exercised.

Civil Aviation Order 40.2.1 (**CAO 40.2.1**) sets out the directions relating to the issue and renewal of instrument ratings, including the conduct of flight tests. It also contains conditions relating to the duration of an instrument rating and to recent experience requirements.

Paragraph 1.3 of Appendix I of CAO 40.2.1 provides that the manoeuvres and procedures specified in the section may be demonstrated in flight or, where authorised in the section, in an approved synthetic trainer.

Appendix II of CAO 40.2.1 provides the instrument rating credits for approved synthetic trainers.

Mark Alan Woodward has held a UK licence, operating B767 and B757 aircraft in the last 10 years. Mark Woodward wishes to transfer to an Australian licence. Mark Woodward cannot perform an initial issue command instrument rating in a simulator. He has applied for an exemption from the requirement. CASA, after taking into account all relevant considerations relating to the interest of safety, has issued the exemption.

Legislative Instruments Act 2003 (the LIA)

Because the exemption affects the operation of CAO 40.2.1, it is declared to be a disallowable instrument under regulation 5A of CAR 1988. Under subparagraph 6 (d) (i) of 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. As a legislative instrument, 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. Under section 18 of the LIA, consultation is not necessary. It is an instrument required as a matter of urgency.

The instrument commences on 10 November 2010 and stops having effect at the end of 20 November 2010.

The instrument has been issued by the Deputy Director of Aviation Safety, a delegate of CASA, under subregulation 7 (1) of CAR 1988.

[Instrument number CASA EX95/10]