



Australian Government
Civil Aviation Safety Authority

**Civil Aviation Order 95.12 Instrument 2011
as amended**

made under subregulation 308 (1) of the *Civil Aviation Regulations 1988*.

This compilation was prepared on 4 December 2017 taking into account amendments up to *Civil Aviation Legislation Amendment and Repeal (Australian Technical Standard Orders) Instrument 2017*. It is a compilation of *Civil Aviation Order 95.12 Instrument 2011* as amended and in force on 30 November 2017.

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Compilation No. 2.

1 Name of instrument

This instrument is the *Civil Aviation Order 95.12 Instrument 2011*.

2 Commencement

This instrument commences on the day after it is registered.

3 New Civil Aviation Order 95.12

Civil Aviation Order 95.12 is repealed and a new Civil Aviation Order 95.12 is substituted as set out in Schedule 1.

Schedule 1 Civil Aviation Order 95.12

Exemption from provisions of the regulations under the *Civil Aviation Act 1988* — gyroplanes having an empty weight not in excess of 250 kilograms

1 Application

This Order applies to single-place gyroplanes:

- (a) having an empty weight not more than 250 kilograms; and
- (b) used solely in private operations for the purposes mentioned in subparagraph 5 (c).

2 Definitions

In this Order:

Act means the *Civil Aviation Act 1988*.

aerial application operation has the same meaning as in regulation 137.010 of CASR 1998.

aerial mustering has the same meaning as in Civil Aviation Order 29.10 (CAO 29.10).

ASRA means the Australian Sport Rotorcraft Association Inc.

ASRA Operations Manual means a manual acceptable to CASA that is issued by the ASRA and contains the procedures and instructions necessary to ensure the safe operation of gyroplanes and also contains:

- (a) airworthiness, design and maintenance standards; and
- (b) aeronautical practices, test procedures and processes.

CAR 1988 means the *Civil Aviation Regulations 1988*.

CASR 1998 means the *Civil Aviation Safety Regulations 1998*.

closely-settled area, in relation to a gyroplane, means an area in which, because of:

- (a) man-made obstructions such as buildings and vehicles; and
- (b) the characteristics of the gyroplane;

the gyroplane could not be landed without endangering the safety of persons unconnected with the aircraft or damaging property in the area.

empty weight means the weight of a gyroplane including all items of fixed equipment, unusable fuel and undrainable oil but excluding all other items of disposable load.

gyroplane means a power-driven heavier-than-air aircraft supported in flight by the reaction of the air on 1 or more rotors which rotate freely on substantially vertical axes.

immediate family, in relation to a person, means the person's spouse, parents and children (if any).

Order means Civil Aviation Order.

pilot certificate means a valid gyroplane pilot certificate issued by the ASRA in accordance with the ASRA Operations Manual.

public road means a street, road, lane, thoroughfare or place open to, or used by, the public for passage of vehicles.

suitable landing area means an area in which a gyroplane, to which this Order applies, can be landed without endangering the safety, or damaging the property, of persons unconnected with the gyroplane.

3 Exemptions under regulation 308

Under regulation 308 of CAR 1988 and subject to compliance with subsection 4, CASA exempts gyroplanes to which this Order applies from compliance with Part 61 of CASR 1998 and the following provisions of CAR 1988:

- (a) Parts 4, 4A, 4B, 4C, 4D and 7;
- (b) subregulation 83 (1);
- (c) regulations 133, 139 and 157;
- (d) subregulation 163AA (2) and paragraph 166A (2) (f);
- (e) regulations 207, 208 and 230;
- (f) Division 4 of Part 13;
- (g) regulations 252 and 258;
- (h) regulation 322.

4 Licence not required

- 4.1 For section 20AB of the Act, a person is authorised to perform a duty essential to the operation of a gyroplane to which this Order applies without holding a flight crew licence if he or she complies with the conditions set out in subsections 5 and 6.
- 4.2 In spite of paragraph 4.1, a person who makes an airborne radio transmission on an aeronautical HF frequency must be authorised to transmit using an aeronautical radio under Part 61 or Part 64 of CASR 1998.

5 General conditions

The exemption given by subsection 3, in relation to a gyroplane, is subject to the following general conditions:

- (a) there must be clearly displayed in the gyroplane, in a position visible to the pilot when occupying the control seat, a sign stating that:
 - (i) neither CASA nor the ASRA guarantee the airworthiness of the gyroplane; and
 - (ii) the pilot operates the gyroplane at the pilot's own risk;
- (b) the gyroplane must not be used in aerial application operations;
- (c) the gyroplane must not be used for any purpose other than:
 - (i) the personal carriage of the pilot; or
 - (ii) the aerial inspection, conducted as a private operation, of stock, fencing or farm or pastoral equipment that is located on land owned by, or under the control of, the pilot or a member or members of the pilot's immediate family; or
 - (iii) aerial mustering conducted as a private operation, in accordance with CAO 29.10 or equivalent ASRA requirements, over land occupied by the owner of the gyroplane; or
 - (iv) flight training, conducted in accordance with Part 61 of CASR 1998, for aerial mustering;

Note Conduct as a private operation means that no remuneration must be received by the pilot of the aircraft or the owner (subregulation 2 (7) of CAR 1988).

- (d) the gyroplane must not be operated by a person as pilot in command unless the person:
 - (i) holds a valid pilot certificate; and
 - (ii) subject to the other conditions set out in this Order, operates the gyroplane in accordance with the privileges and limitations of that certificate;
- (e) subject to the other conditions set out in this Order, the gyroplane must be operated in accordance with the ASRA Operations Manual;
- (f) the gyroplane must be maintained in accordance with the maintenance standards set out in the ASRA Operations Manual.

6 Flight conditions

- 6.1 Subject to paragraph 8.5, a gyroplane to which this Order applies must be operated in accordance with the following conditions:
- (a) the gyroplane must be operated in accordance with the flight height and separation limitations in subsection 7;

- (b) the gyroplane must not be operated within 8 kilometres of a certified or registered aerodrome unless the pilot holds a valid pilot certificate endorsed for this type of activity;
- (c) subject to paragraph 6.2, the gyroplane must not be flown over a body of water at a horizontal distance from a suitable landing area of more than:
 - (i) the distance that the gyroplane can glide in case of engine failure; or
 - (ii) 25 nautical miles — if each occupant is wearing a life jacket and the aircraft carries a serviceable radiocommunication system and:
 - (A) an approved ELT, or an approved portable ELT, within the meaning of regulation 252A of CAR 1988; or
 - (B) a personal locator beacon that has been approved by CASA for use on such an aircraft;
- (d) the gyroplane must not be operated except in:
 - (i) Class G airspace; or
 - (ii) Class E airspace in V.M.C.; or
 - (iii) in accordance with paragraph 6.3 — Class A, B, C or D airspace;

Note Classes of airspace are defined in the *Australian Airspace Policy Statement*.

- (e) the gyroplane must not be operated at night;
- (f) the gyroplane must not be operated over a closely-settled area;
- (g) the gyroplane must not be operated in acrobatic manoeuvres;
- (h) if the gyroplane is fitted with radiotelephone equipment, the radiotelephone equipment must not be used by a person unless the person:
 - (i) for all transmissions — is authorised to transmit using an aeronautical radio under Part 61 or Part 64 of CASR 1998; or
 - (ii) only for transmissions using aeronautical VHF frequencies, but subject to paragraph 4.2 or are made in accordance with paragraph 4.2 — holds a valid certificate, issued by the ASRA in accordance with the ASRA Operations Manual relating to the operation of radiotelephone equipment;
- (i) the gyroplane must not be operated in aerial mustering unless the pilot has a low-level rating with an aerial mustering – gyroplane endorsement, or satisfies the equivalent requirements issued by ASRA and published in the ASRA Operations Manual.

6.2 In spite of the limit of 25 nautical miles mentioned in subparagraph 6.1 (c), a gyroplane to which that limit would otherwise apply may be flown between Tasmania and mainland Australia, in either direction by a longer route, if taking advantage of safer weather conditions.

6.3 A gyroplane may be flown inside Class A, B, C or D airspace only if all of the following conditions are complied with:

- (a) the gyroplane is approved under regulation 262AP of CAR 1988 for flights over closely-settled areas;
- (b) the gyroplane is fitted with an engine of a kind:
 - (i) mentioned in paragraph 6.1 of Schedule 1 to the Civil Aviation Amendment Order (No. R94) 2004 (also known as section 101.55 of the Civil Aviation Orders), as in force on 31 May 2016; or

- (ii) that CASA has approved as being suitable for use in an aircraft to which this Order applies;
 - (ba) the gyroplane is not subject to any conditions that would prevent the flight;
 - (c) the gyroplane is fitted with a radio capable of two-way communication with air traffic control;
 - (d) the gyroplane is flown by the holder of a pilot licence with an gyroplane category rating:
 - (i) issued under Part 61 of CASR 1998; and
 - (ii) that allows the holder to fly inside the controlled airspace;
 - (e) the pilot has a valid flight review for the class rating in accordance with Part 61 of CASR 1998;
 - (f) if the controlled airspace in which the gyroplane is operating requires a transponder to be fitted — the gyroplane is fitted with a transponder suitable for use in the airspace.
- 6.4 Aerial mustering operations must be conducted in accordance with CAO 29.10.

7 Provisions relating to flight height limitations and minimum distance requirements from roads, buildings and persons

- 7.1 Subject to paragraphs 7.2 and 7.3, a gyroplane to which this Order applies may be flown at a height of less than 300 feet above ground level over land owned by a person (including the Crown), only if:
- (a) the gyroplane is flying in the course of actually taking off or landing; or
 - (b) the gyroplane is flying over land that is owned by, or under the control of, the pilot; or
 - (c) the owner or occupier (including the Crown) of the land, or an agent or employee of the owner or occupier, has given permission for the flight to take place at such a height.
- 7.2 Except when taking off or landing, a gyroplane to which this Order applies that is flown at a height of less than 500 feet above ground level must be at a distance of at least 100 metres horizontally from:
- (a) a public road; or
 - (b) a person other than a person associated with the operation of the gyroplane; or
 - (c) a dwelling, except with the permission of the occupier.
- 7.3 When taking off or landing, a gyroplane to which this Order applies that is flown at a height of less than 500 feet above ground level must, during the take-off or landing, maintain a horizontal distance from a person or place referred to in subparagraph 7.2 (a), (b) or (c) that may be less than 100 metres but is:
- (a) enough to avoid endangering any person or causing damage to any property; and
 - (b) as far as possible from such a person or place, having regard to carrying out a safe take-off or landing.
- 7.4 A gyroplane to which this Order applies may only be flown at a height of more than 500 feet above ground level if the pilot holds a current gyroplane pilot certificate endorsed for that activity.

- 7.5 A gyroplane to which this Order applies may only be flown at a height of 5 000 feet above mean sea level or higher if it is equipped with serviceable radiotelephone equipment and the pilot is qualified to use it.
- 7.6 A gyroplane to which this Order applies may only be flown at a height of 10 000 feet above mean sea level or higher in accordance with an approval issued under paragraph 8.3.

Approval of flights not complying with flight conditions

- 8.1 A person who wants to fly a gyroplane to which this Order applies, otherwise than in accordance with the flight conditions set out in subsection 6, may apply to CASA for approval of the flight.
- 8.2 The application must:
 - (a) be in writing; and
 - (b) include details of the proposed flight; and
 - (c) be made at least 28 days before the proposed flight.
- 8.3 CASA may, in writing, approve the application.
- 8.4 The approval:
 - (a) must specify which of the flight conditions set out in paragraph 6.1 do not apply to the use, by the applicant, of the gyroplane in the proposed flight; and
 - (b) may specify conditions to be complied with in relation to the proposed flight.
- 8.5 If the proposed flight takes place in accordance with the approval (including any conditions specified in the approval in accordance with subparagraph 8.4 (b)), the use by the applicant of the gyroplane in the flight is not subject to the flight conditions specified in the approval in accordance with subparagraph 8.4 (a).

Notes to Civil Aviation Order 95.12 Instrument 2011

Note 1

The Civil Aviation Order (in force under the *Civil Aviation Regulations 1988*) as shown in this compilation comprises *Civil Aviation Order 95.12 Instrument 2011* amended as indicated in the Tables below.

Table of Orders

Year and number	Date of registration on FRLI	Date of commencement	Application, saving or transitional provisions
CAO 95.12 2011	15 April 2011 (F2011L00106)	16 April 2011 (s. 2)	—
CAO (Flight Crew Licensing) Repeal and Amendment Instrument 2014 (No. 1)	29 August 2014 (F2014L01177)	1 September 2014 (s. 2)	Sections 3 and 31 (Table A)
Civil Aviation Legislation Amdt & Repeal (ATSOs) Instrument 2017	FRL 30 November 2017 (F2017L01553)	30 November 2017 (s. 2)	—

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading	rs. F2014L01177
subs. 2	am. F2014L01177
subs. 3	am. F2014L01177
subs. 4	am. F2014L01177
subs. 5	am. F2014L01177
subs. 6	am. F2014L01177, F2017L01553

Table A Application, saving or transitional provisions

Sections 3 and 31 of Civil Aviation Order (Flight Crew Licensing) Repeal and Amendment Instrument 2014 (No. 1) read as follows:

3 Definitions

(1) In this instrument:

continued authorisation has the meaning given by regulation 202.261 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*.

new authorisation has the meaning given by regulation 202.261 of CASR 1998.

- (2) A reference in this instrument to a Civil Aviation Order identified by a specified number is taken to include a reference to the section of the Civil Aviation Orders with that number.

Note Some existing legislative instruments are referred to as a Civil Aviation Order followed by a number. Other instruments are referred to as a section of the Civil Aviation Orders. For consistency, in this instrument, all such instruments are referred to as a Civil Aviation Order followed by a number. For example, a reference to Civil Aviation Order 40.2.2 is taken to include a reference to section 40.2.2 of the Civil Aviation Orders.

31 Transitional — application of Civil Aviation Orders

The Civil Aviation Orders apply to a continued authorisation as if it were the equivalent new authorisation.
