

Explanatory Statement

Civil Aviation Regulations 1988

Instructions — V.F.R. flights conducted by Fugro Airborne Surveys Pty Ltd

Legislation

Section 98 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 174D (1) of the *Civil Aviation Regulations 1988* (***CAR 1988***), CASA may issue instructions in relation to Instrument Flight Rules (***I.F.R.***) flights specifying, among other things, the method by which an aircraft is to be navigated and how a positive position fix is to be obtained. Under subregulation 174D (3A), if an instruction is not issued in the form of a Civil Aviation Order (***CAO***), it is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Instructions

The instrument applies to the aircraft operated by Fugro Airborne Surveys Pty Ltd (the ***operator***). It contains instructions which the operator must follow if using GPS navigation equipment to obtain a positive position fix when conducting V.F.R. flight over the sea at or below 2 000 feet above mean sea level. Under the instrument, the operator is instructed to comply with a series of instructions set out in Schedule 1, including the standards applicable to the GPS, flight crew competency and procedures.

Legislative Instruments Act

Subregulation 174D (3A) of CAR 1988 declares instructions that are not in a CAO to be a disallowable instrument. 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 in legislation in force before the commencement of the LIA. The instructions are, therefore, a legislative instrument and are subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Human Rights Compatibility

This legislative instrument does not engage any of the applicable rights or freedoms. It is compatible with human rights as it does not raise any human rights issues.

Consultation

Consultation under section 17 of the LIA has not been undertaken in this case. The instrument has been issued at the request of the operator to enable it to satisfactorily carry out its operations.

Duration

The instrument commences on 1 February 2012 and stops having effect at the end of 31 January 2015.

The instrument has been made by a delegate of CASA under subregulation 11.260 (1) of *Civil Aviation Safety Regulations 1998*.

[Instrument number CASA 48/12]