

## **Explanatory Statement**

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

#### **Exemption — provision of ARFFS training facilities at Avalon, Broome, Hamilton Island, Karratha, Launceston, Sunshine Coast, Rockhampton and Townsville aerodromes**

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

Subpart 139.H of the *Civil Aviation Safety Regulations 1998* (*CASR 1998*) applies to aerodrome rescue and firefighting services (*ARFFS*).

#### **Airservices Australia**

Airservices Australia (*AA*) holds a certificate of approval issued by CASA under Division 139.H.5 of CASR 1998 to provide ARFFS at various aerodromes and is, therefore, an approved provider, subject to the requirements of Subpart 139.H of CASR 1998 and the Manual of Standards for subpart 139H (the *MOS*).

#### **Exemptions**

Under subregulation 11.160 (1) of CASR 1998, CASA may grant an exemption from compliance with a provision of CASR 1998. AA has applied for an exemption. In deciding whether to grant an exemption, CASA must regard as paramount the preservation of an acceptable level of safety.

Under subregulation 11.205 (1) of CASR 1998, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.210, it is an offence to fail to comply with a condition of an exemption.

Under regulation 11.225 of CASR 1998, an exemption must be published on the Internet. Under subregulation 11.230 (1), an exemption ceases on the day specified within it (but no longer than 3 years after its commencement) or, if no day is specified, 3 years after commencement.

Subregulation 139.772 (1) of CASR 1998 requires that an ARFFS provider must provide, among other things, training facilities. Subregulation 139.772 (2) provides that those facilities must comply with any applicable requirement in the *MOS*. Paragraph 22.1.6.1 of *MOS* Part 139.H requires the establishment of “hot fire” training facilities at all ARFFS locations. There are a number of ARFFS locations that do not have the required “hot fire” training facilities.

Environmental issues are placing increasing pressure on the ARFFS to rationalise the number of “hot fire” training facilities to reduce environmental impact. CASA has issued an exemption from the requirements to have a “hot fire” training facility at each ARFFS location. Training will continue to be provided at other locations. The exemption is subject to a number of conditions.

#### **Legislative Instruments Act**

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the regulations or Civil Aviation Orders. An instrument

issued under paragraph 98 (5A) (a) of the Act is a legislative instrument if the instrument is expressed to apply to a class of persons or aircraft. The instrument applies to a class of persons and is, therefore, legislative. As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instruments Act 2003* (the *LIA*).

**Consultation**

Consultation under section 17 of the LIA has not been undertaken. This is a remake of a previous exemption (CASA EX04/11) to include an additional aerodrome.

**Human Rights Compatibility**

This 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.

**Commencement and making**

The instrument commences on the day after registration and stops having effect at the end of February 2015.

The exemption has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

[Instrument number CASA EX40/12]