

Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — flight and navigation equipment

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations.

Regulation 11.160 of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) allows CASA to issue an exemption against a provision of the Regulations or the Civil Aviation Orders.

Subregulation 207 (2) of the *Civil Aviation Regulations 1988* (**CAR 1988**) requires that a person must not use an Australian aircraft in a class of operations if the aircraft is not fitted with instruments and fitted with, or carrying, equipment, including emergency equipment, that CASA has approved and directed.

Civil Aviation Order 20.18 (**CAO 20.18**), made under subregulation 207 (2) and regulation 232A of CAR 1988, requires that aircraft operating in Australia must be fitted with certain flight and navigation instruments. However, type designs of new generation aircraft have significant safety enhancements that are not recognised by the current basic aircraft equipment requirements.

For example, Cessna 680 aircraft design features provide an equivalent level of safety (**ELOS**) to that intended by the regulation FAR 25.1303 — *Flight and Navigation Instruments*. Cessna has also eliminated the non-stabilised magnetic compass referred to in the design standard. The FAA has accepted the ELOS provided in the Cessna aircraft.

While CASA accepts type designs with approved ELOS findings of aircraft certificated by the recognised countries, Australian registered aircraft cannot legally fly without being fitted with equipment required by CAO 20.18. Consequently, operators have to seek exemption from CASA against the requirements of the Civil Aviation Orders (the **CAOs**).

It is proposed to amend CAO 20.18. However, pending amendment of CAO 20.18, this instrument provides a general exemption against flight and navigation instrument requirements of the CAO. The exemption is subject to a condition that the aircraft must only be operated if the flight and navigation equipment requirements of CAO 20.18 have been met by an alternative means of compliance which has the equivalent level of safety as determined by the type certifying authority for the aircraft taking into consideration its intended operation.

Legislative Instruments Act 2003 (the LIA)

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the regulations or CAOs. 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 exemption applies to a class of aircraft. 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. The instrument is of a minor or machinery nature. It avoids the need to issue individual exemptions to operators of Australian aircraft to allow the use of equipment that is not compatible with CAO 20.18 requirements but meets the condition in Schedule 2.

Human rights compatibility

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

Human rights implications

The instrument sets out an exemption from legislative requirements as described above. The instrument does not engage any of the applicable rights or freedoms.

Making and commencement

The exemption has been issued by the Director of Aviation Safety, on behalf of CASA, under subsection 73 (2) of the Act.

The exemption comes into effect on the day after registration and stops having effect at the end of December 2012.

[Instrument number CASA EX74/12]