

Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — solo flight training at Rockhampton Aerodrome using ultralight aeroplanes registered with Recreational Aviation Australia

Legislation

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

Subsection 98 (5A) of the Act provides that the Regulations may empower CASA to issue instruments in relation to the following:

- (a) matters affecting the safe navigation and operation, or the maintenance, of aircraft; or
- (b) the airworthiness of, or design standards for, aircraft.

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) provides that, for subsection 98 (5A), CASA may grant an exemption from a provision of the Regulations, including the *Civil Aviation Regulations 1988* or a provision of the Civil Aviation Orders (the **CAOs**), in relation to a matter mentioned in that subsection. Under subregulation 11.160 (2), an exemption may be granted to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

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 11.225 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.

Civil Aviation Order 95.55 (**CAO 95.55**) permits certain aircraft registered with Recreational Aviation Australia Incorporated (the **RAA**) to operate in controlled airspace if they comply with conditions set out in CAO 95.55. The RAA may conduct flight training in controlled airspace under CAO 95.55 if the aeroplane is registered with the RAA and the pilot is suitably qualified and trained. RAA students cannot conduct solo operations in controlled airspace unless specifically authorised because they do not have private pilot licences.

The exemption is to allow Peace Aviation Pty Ltd, trading as Peace Australia and Peace Aviation (the **operator**), to conduct solo flight training for student pilots and other pilots using ultralight aeroplanes registered with the RAA. The operator is required to meet all the conditions of CAO 95.55 except the requirement not to fly solo in controlled airspace without a valid private pilot licence. The exemption is subject to conditions. The conditions include a requirement that each pilot holds a valid class 2 medical certificate and that the RAA training syllabus is used. In addition, the operator must use the *CASA Day (VFR) Syllabus – Aeroplanes* for elements of instruction relating to controlled airspace, and the flight instructor must hold the specified minimum qualifications. In addition, the pilot must be a pupil of the operator or carrying out training sequences authorised by the operator. The aeroplane must meet the specified design standards and criteria.

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 the 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 instrument applies to a class of persons undergoing training 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**).

Compatibility with human rights and freedoms

A statement of compatibility with human rights is at Attachment 1.

Consultation

CASA consulted with the RAA. In addition, the Self Administering Sport Aviation Organisations Section in CASA consulted with the Eastern Region Office of CASA. The initial consultation also involved Airservices Australia with the formation of a Letter of Agreement to allow the use of the Rockhampton airspace by RAA aircraft.

Commencement and making

The instrument commences on the day after registration. It stops having effect at the end of January 2016 as if it had been repealed by another instrument.

The exemption has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of CASR 1998.

[Instrument number CASA EX29/13]

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The legislative instrument permits solo flying in controlled airspace by student pilots and other pilots using ultralight aeroplanes registered with Recreational Aviation Australia. The pilots have to be under the control of the named operator.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority