Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Safety Regulations 1998

Authorisation — Category A maintenance authority holder in a CAR 30 organisation

Exemption — from regulation 66.130 of CASR 1998

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

**Legislation**

Regulation 30 of the *Civil Aviation Regulations 1988* (***CAR 1988***) describes in detail how a person (a ***CAR 30 organisation***) engaged in the maintenance of aircraft must hold CASA’s certificate of approval for the activity.

Regulation 42ZC of CAR 1988 describes in detail who may perform maintenance on an Australian aircraft in Australian territory. Subregulation 42Z (3) addresses who may carry out maintenance on a class A aircraft. Subregulation 42ZC (4) addresses who may carry out maintenance on a class B aircraft. A class B aircraft is an aircraft that is not a class A aircraft. A class A aircraft is one that is certificated in the transport category or one operated under an air operator’s certificate in regular public transport operations. Among those mentioned in subregulations 42ZC (3) and (4) is a person authorised by CASA, for the purpose, under subregulation 42ZC (6). Under subregulation 42ZC (7), an authorised person may authorise another person to carry out maintenance on a class A aircraft.

Regulation 66.130 sets out the privileges of the holder of an aircraft engineer licence in category A. The holder may perform maintenance certification for maintenance carried out on an aircraft of a particular type, and may also issue a certificate of release to service for the aircraft ***only if*** the maintenance is line maintenance, of a type mentioned for a Part 145 organisation (an organisation approved under regulation 145.030 of the *Civil Aviation Safety Regulations 1998* (***CASR 1998***) that carries out maintenance), the holder performs the certification for the organisation, he or she has completed special training and assessment for that line maintenance by the organisation, and he or she holds the organisation’s certificate of authorisation.

Under subregulation 11.160 (1) of CASR 1998, CASA may grant an exemption from compliance with a provision of CASR 1998. Under subregulation 11.160 (3), CASA may grant an exemption of its own initiative. Under subregulation 11.170 (3), 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), 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, 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.

**Background**

The *Civil Aviation and Civil Aviation Safety Amendment Regulations 2010 (No. 1)* (registered on 14 December 2010) made Part 66 of CASR 1998 which sets out over time to replace the previous rules for the holding of an aircraft maintenance engineer (***AME***) licence.

Part 66 of CASR 1998 sets out the requirements for holding an aircraft engineer licence (***AEL***), and the various categories and subcategories in which such licences may be held, including a basic category known as category A.

For transitional purposes, qualified holders of the former AME licence will be issued with the new AEL equivalent. Although there is broad equivalence between the

privileges of the holder of the previous AME licence and the holder of a new AEL, there is not always exact correspondence. For example, certain AME holders, working in CAR 30 organisations, whose equivalent AEL is in category A, would no longer have within that CAR 30 organisation certain privileges in carrying out line maintenance that they previously had. This is because, under regulation 66.130 of CASR 1998, the privileges of a category A licence holder must be exercised in a CASR Part 145 organisation.

For transitional purposes, and with the appropriate safety conditions, no inherent issue of safety arises from conferring these same privileges on category A licence holders in CAR 30 organisations carrying out the same kind of line maintenance. The instrument, therefore, confers the appropriate authorisation and exemption from the obligations that tie the category A holder to a CASR Part 145 organisation exclusively.

More details of the authorisation, exemption, and conditions are in Attachment 1.

**Legislative Instruments Act**

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of CASR 1998. 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 persons. The exemption is, therefore, a legislative instrument subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instruments Act 2003* (the ***LIA***).

**Consultation**

For section 17 of the LIA, extensive industry and public consultations were conducted on the maintenance suite of regulations (Parts 42, 66, 145 and 147 of CASR 1998) in 2010 and were addressed in the Notice of Final Rule Making issued for those regulations in July 2011.

This instrument renews the authorisation and exemption in CASA 180/11, which commenced on 27 June 2011 to coincide with the commencement of Parts 42, 66, 145 and 147 of CASR 1998, and which expires at the end of 26 June 2013.

Consultation on the instrument commenced with the public announcement of the project on the frequently and widely accessed CASA website on 7 June 2013. The principal target audience was the interested public accessing the site, the aviation sector generally, and, more specifically, the membership of the joint CASA/industry Standards Consultative Committee (***SCC***) and its subcommittees. On 12 June 2013,

CASA gave specific notice to SCC members, inviting comment. While a proposed renewal instrument was not posted for review, CASA 180/11 remained available on the Australian Government ComLaw website throughout the renewal process.

CASA considers that written comments received represent an important source of evaluation and feedback from interested parties who may be affected by the proposals. In this case, CASA did not receive any feedback in relation to the proposed renewal.

The impact of the instrument continues to be positive for both category A licence holders and the aviation industry in general as it allows wider use of a category A licence. CASA believes that no further consultation is necessary or appropriate.

**Office of Best Practice Regulation (*OBPR*)**

This instrument is part of the implementation of CASR 1998 Parts 42, 66, 145 and 147. CASA prepared a Regulation Impact Statement for Parts 42, 64, 145 and 147 that was assessed by OBPR as meeting the Australian Government’s Best Practice Regulation requirements (OBPR ID: 11558).

**Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at Attachment 2.

**Making and commencement**

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

The instrument commences on 27 June 2013 and stops having effect at the end of 26 June 2016, as if it had been repealed by another instrument.

[Instrument number CASA 129/13]

ATTACHMENT 1

Details of the authorisation and exemption

1 Revocation

 Under this section, an earlier instrument of authorisation and exemption (CASA 180/11) that had a similar effect to this instrument is revoked.

2 Duration

 Under this section, the instrument commences on 27 June 2013 and stops having effect at the end of 26 June 2016, as if it had been repealed by another instrument.

3 Application

 Under this section, the instrument applies to a person (the ***CAT A licence holder***) who is the holder of a category A aircraft engineer licence issued under Part 66 of CASR 1998; and who is employed by the holder of a certificate of approval under regulation 30 of CAR 1988 (a ***CAR 30 organisation***) to carry out maintenance.

4 Authorisation

 Under this section, for paragraphs 42ZC (3) (d) and 42ZC (4) (e) (about who may carry out maintenance), a CAT A licence holder to whom section 3 applies is authorised to carry out the maintenance mentioned in Schedule 1.

5 Conditions

 Under this section, the authorisation in section 4 is subject to the conditions mentioned in Schedule 1.

6 Exemption

 Under this section, a CAT A licence holder to whom the instrument applies is exempt from compliance with regulation 66.130 of CASR 1998 to the extent that regulation 66.130 would otherwise restrict the CAT A licence holder to performing maintenance certification and issuing certificates of release solely on behalf of a Part 145 organisation.

7 Conditions

 Under this section, the exemption in section 6 is subject to the condition that when maintenance is carried out by the CAT A licence holder, the conditions mentioned in Schedule 1 must be complied with.

Schedule 1 Authorised maintenance and conditions for a CAT A licence holder in a CAR 30 organisation

 Schedule 1 sets out the maintenance that may be carried out under the authorisation, and the conditions that must be observed to obtain the benefit of the authorisation and exemption.

1 Nature of authorised maintenance

 A CAT A licence holder (the ***holder***) may carry out on an aircraft the maintenance mentioned in paragraph 2.1 (a), within the limits of the tasks mentioned in paragraph 2.1 (b).

2 Conditions for carrying out authorised maintenance

 2.1 For clause 1:

(a) the maintenance is line maintenance mentioned in Appendix II of the Part 145 Manual of Standards; and

(b) the tasks are the tasks:

 (i) for which the holder has been trained; and

 (ii) that are endorsed on a personal authorisation given to the holder by CASA, or by an authorised person, under subregulation 42ZC (6) or (7) of CAR 1988.

 2.2 For paragraph 2.1 (b), the task training of the holder must:

(a) include delivery and assessment of theoretical knowledge and practical training appropriate to the task; and

(b) be carried out by the CAR 30 organisation.

ATTACHMENT 2

**Statement of Compatibility with Human Rights**

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

**Authorisation — Category A maintenance authority holder in a CAR 30 organisation**

**Exemption — from regulation 66.130 of CASR 1998**

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**

This instrument allows category A aircraft engineer licence holders employed by the holder of a certificate of approval under regulation 30 of the *Civil Aviation Regulations* 1988 (a ***CAR 30 organisation***) to exercise the privilege of their category A licence on behalf of the CAR 30 organisation. It also authorises them to carry out specified line maintenance on an aircraft.

The purpose of the instrument is to allow category A licence holders to carry out specified line maintenance on aircraft and exercise the privileges of the licence in appropriate circumstances, including where the person has been trained.

**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**