**Explanatory Statement**

**Civil Aviation Safety Regulations 1998**

**Revocation of exemption — CASR Part 99 DAMP requirements for CAR 30 organisations overseas**

**Purpose of revocation**

CASA EX34/13 exempted the holder of a certificate of approval under regulation 30 of the *Civil Aviation Regulations 1988* (***CAR 1988***), who is engaged (generally speaking) in aircraft maintenance overseas, from the requirement in Part 99 of the *Civil Aviation Safety Regulations 1998* (***CASR 1998***) to have a drug and alcohol management plan (***DAMP***), provided that certain conditions were met. The regulation 30 certificate of approval allows the holder to engage (as appropriate) in, for example, any stage of design, distribution or maintenance of aircraft, aircraft components or aircraft materials.

**Legislation**

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 on its own initiative. In deciding whether to grant an exemption, CASA must regard as paramount the preservation of an acceptable level of safety

Under subsection 33 (3) of the *Acts Interpretation Act 1901* (the ***AIA***), where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

**Reason for original exemption**

Under subregulation 99.030 (1) of CASR 1998, an organisation must develop a drug and alcohol management plan (***DAMP***) if the organisation is a DAMP organisation. A DAMP organisation is one that has employees or contractors who perform safety‑sensitive aviation activities (***SSAA***) and is on a generic list of organisations defined in subregulation 99.030 (2) of CASR 1998. These include the holder of a certificate of approval under regulation 30 of CAR 1988 (a ***CAR 30 organisation***) or the holder of an approval certificate under regulation 145.035 of CASR 1998 (a ***Part 145 organisation***). Following the introduction of Part 145, CAR 30 organisations are transitioning to become Part 145 organisations

CASA considers that it is not realistically possible for many of the Part 145 and CAR 30 organisations, for whom Australian operations are only a component of their broader international operations, to make a full conversion of their existing drug and alcohol control policies to CASR Part 99 DAMP requirements within the given timeframe.

Therefore, CASA decided to issue Part 145 and CAR 30 organisations with an exemption from Subpart 99.B in relation to the development and implementation of a DAMP in relation to their overseas operations. CASA EX34/13 exempted CAR 30 organisations from compliance with Subpart 99.B in relation to overseas operations.

A new exemption CASA EX95/13 has now been issued which applies to CAR 30 organisations and Part 145 organisations. It replaced a previous exemption, CASA EX181/12, which was issued for the same purpose. As a result, CASA EX34/13 is no longer required and has been revoked.

**Legislative Instruments Act**

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 under legislation in force before the commencement of the LIA. Regulation 11.215 of CASR 1998 declares an exemption to be a disallowable instrument. Under subsection 33 (3) of the AIA, revocation of the exemption instrument 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 took place with a number of overseas CAR 30 organisations when the policy for issuing exemptions from Subpart 99.B was being determined. Similar discussions took place in relation to overseas Part 145 organisations. The implementation of the policy by means of exemption has been regarded as satisfactory by the aviation industry.

**Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at Attachment 1.

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

The instrument revokes a previous exemption in relation to which OBPR did not require the preparation of a Regulation Impact Statement. A preliminary assessment of business compliance costs in the context of the nature of the instrument indicated that it would have only a nil to low impact on business.

It is considered that the revocation could only have a similar impact.

**Making and commencement**

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

The revocation commences on the day of registration.

[Instrument number CASA EX97/13]

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

**Revocation of exemption — CASR Part 99 DAMP requirements for  
CAR 30 organisations overseas**

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 revoked legislative instrument exempted the holder of a certificate of approval under regulation 30 of the *Civil Aviation Regulations 1988*, who is engaged in aircraft maintenance overseas, from compliance with Subpart 99.B of the *Civil Aviation Safety Regulations 1998*.

The reason for the revocation is the issue of a new instrument, CASA EX95/13, which performs the same function.

**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**