Explanatory Statement

Civil Aviation Safety Regulations 1998

**Exemption** **from subregulation 139.190 (1) of the *Civil Aviation Safety Regulations 1998*— requirement to provide a VASIS**

**Purpose**

This instrument applies to the operator of a certified aerodrome (the ***operator***) in relation to the provision of a visual approach slope indicator system (***VASIS***) for a runway that is regularly used by jet-propelled aircraft conducting charter operations.

**Legislation**

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.

**Exemptions**

Under subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (***CASR 1998***), and for subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from a provision of the *Civil Aviation Regulations 1988* (***CAR 1988***), CASR 1998 or a Civil Aviation Order in relation to a matter mentioned in subsection 98 (5A).

Under subregulation 11.160 (2) of CASR 1998, an exemption may be granted to a person or a class of persons.

Under regulation 11.205 of CASR 1998, CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation.

Under regulation 11.225, CASA must, as soon as practicable, publish on the Internet details of all exemptions under Subpart 11.F.

Under subregulation 11.230 (1), an exemption may remain in force for 3 years or for a shorter period specified in the instrument.

**Background**

Subregulation 139.190 (1) of CASR 1998 states that the operator of a certified aerodrome must, in accordance with the standards for VASIS set out in the Manual of Standards, provide a VASIS for the end of a runway at the aerodrome if that end is regularly used as the approach end for jet-propelled aircraft conducting regular public transport operations or charter operations.

The Manual of Standards (MOS) – Part 139 Aerodromes (***Part 139 MOS***) provides in paragraph 1.1.1.2A that the standards set out in it for a VASIS apply only to aerodromes used by aeroplanes with a maximum take-off weight in excess of 5 700 kg engaged in regular public transport operations.

That provision will be removed on 13 November 2014. As a result, this instrument has been prepared to replace it and exempts operators of aerodromes that are regularly used by jet-propelled aircraft conducting charter operations from providing a VASIS in accordance with subregulation 139.190 (1) of CASR 1998 in order to preserve the current position.

**Conditions**

Three safety conditions have been included:

1. this exemption does not apply if the runway is used by jet-propelled aircraft that are engaged in regular public transport operations.

2. this exemption does not apply to certified aerodromes that have a VASIS installed at the commencement date.

3. the exemption does not affect CASA’s power under subregulation 139.190 (2) to issue a direction to the operator of an aerodrome to which this exemption applies to provide an approved VASIS, if CASA considers it necessary in the interests of the safety of aircraft.

**Duration**

The exemption is expressed to operate up to the end of November 2016 or the commencement of Parts 119, 121 and 135 of CASR 1998, whichever happens first. It commences on the day of registration.

**Legislative Instruments Act 2003 (the *LIA*)**

Exemptions under Subpart 11.F of CASR 1998 are “for subsection 98 (5A)” of the Act, that is, for regulations which empower the issue of certain instruments, like exemptions, in relation to “(a) matters affecting the safe navigation and operation, or the maintenance, of aircraft”, and “(b) the airworthiness of, or design standards for, aircraft”.

The exemption is clearly one in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an exemption issued under paragraph 98 (5A) (a), for such matters, is a legislative instrument if expressed to apply in relation to a class of persons, a class of aircraft or a class of aeronautical products (as distinct from a particular person, aircraft or product).

The exemption applies to a class of persons (operators of certified aerodromes) and is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42, of the LIA.

**Consultation**

For section 17 of the LIA, CASA considers that formal consultation is not necessary in this case. The exemption preserves the application of paragraph 1.1.1.2A of the Part 139 MOS in relation to the provision of a VASIS. It is subject to conditions ensuring that existing services continue to be provided.

Paragraph 1.1.1.2A originally mentioned that aerodromes supporting charter operations would become subject to the standards in Part 139 MOS with the commencement of CASR Parts 121A and 121B. This future requirement is still CASA’s intended end-state. However, this will now occur with the commencement of CASR Parts 119, 121 and 135.

**Office of Best Practice Regulation**

A Regulation Impact Statement is not required. The exemption is of beneficial effect for the class of operators. It will have a nil negative impact on business.

**Statement of Compatibility with Human Rights**

The Statement in Appendix 1 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

**Commencment and making**

As previously stated, the exemption commences on the day of registration. It expires at the end of November 2016, or the commencement of Parts 119, 121 and 135 of CASR 1998, whichever happens first.

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

[Instrument number CASA EX150/14]

Appendix 1

**Statement of Compatibility with Human Rights**

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

Civil Aviation Safety Regulations 1998

Exemption from subregulation 139.190 (1) of the *Civil Aviation Safety
Regulations 1998*— requirement to provide a VASIS

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*.

Subregulation 139.190 (1) of CASR 1998 states that the operator of a certified aerodrome must, in accordance with the standards for visual approach slope indicator systems set out in the Manual of Standards, provide an approved visual approach slope indicator system (***VASIS***) for the end of a runway at the aerodrome if that end is regularly used as the approach end for jet-propelled aircraft conducting regular public transport operations or charter operations.

The exemption applies to the operators of certified aerodromes and exempts them from compliance with that subregulation in relation to charter operations conducted by jet‑propelled aircraft. It replaces a provision included in the Manual of Standards (MOS) – Part 139 Aerodromes.

The exemption in the 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*. The 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**