

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### Exemption — turns after take-off at Australian International Air Show

##### 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.

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations, including the *Civil Aviation Regulations 1988* (**CAR 1998**), 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.

Regulation 167 of CAR 1988 sets out general requirements for aerodrome traffic at controlled aerodromes. Paragraph 167 (4) (a) states that if the pilot takes off from an aerodrome, the pilot must maintain the same track from the take-off until the aircraft is 500 feet above the terrain. Under paragraph 167 (3) (d), the aerodrome control service may instruct or permit the turn.

The purpose of this exemption is to allow aircraft participating in the Australian International Air Show 2015 (the **Air Show**) to make a turn while less than 500 feet above the terrain. This will reduce the workload of pilots and aerodrome control in the context of the Air Show.

Under the exemption, the pilot in command (the **Participating Pilot**) may only alter his or her track after take-off:

- (a) in order to ensure safe separation from the spectators; and
- (b) when he or she has reached a speed and height that make it safe to do so.

A further condition requires the Participating Pilot make all turns to his or her right after joining the circuit pattern for landing on runway 18 or runway 05. This is required to ensure safe separation from the spectators.

##### 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 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 Instrument Act 2003*.

**Consultation**

CASA has consulted with air space users and the provider of air traffic control services. The terms of the exemption have been agreed to. Similar instruments have been issued previously for air shows.

**Statement of Compatibility with Human Rights**

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

**Commencement and making**

The instrument commences on 24 February 2015 and expires at the end of 1 March 2015, 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 EX142/14]

**Attachment 1****Statement of Compatibility with Human Rights**

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

**Exemption — turns after take-off at Australian International Air Show**

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 aircraft participating in the Australian International Air Show 2015 (the *Air Show*) at Avalon, Victoria between 24 February 2015 and 1 March 2015 to make a turn while less than 500 feet above the terrain.

The exemption is subject to conditions imposed by CASA in the interest of safety of air navigation.

The primary purpose of the legislative instrument is to allow pilots in command flying those aircraft to operate safely and reduce the workload of pilots and aerodrome control in the context of the Air Show.

**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**