Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — solo flight training using ultralight aeroplanes registered with the RAA at Bankstown Aerodrome

**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* (***CAR 1988***) or a provision of the Civil Aviation Orders, 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 as required under paragraph 7.3 of CAO 95.55.

The exemption is to allow Soar Aviation-Bankstown (the ***operator***) to conduct solo flight training for student pilots using ultralight aeroplanes registered with 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 student holds a class 1 or class 2 medical certificate or a CASA recreational aviation medical practitioner’s certificate, and that the RAA syllabus for instructing students 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.

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

Under regulation 5A of CAR 1988, if CASA has issued a Civil Aviation Order (***CAO***), and CASA later issues an exemption that affects the operation of that CAO, the later document is declared to be a disallowable instrument. This instrument affects the operation of paragraph 7.3 of CAO 20.18 and is, therefore, declared to be a disallowable instrument.

Under subparagraph 6 (d) (i) of 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.

The exemption, therefore, is subject to tabling and disallowance in the Parliament, under sections 24, 38 and 42 of the LIA*.*

**Statement of Compatibility with Human Rights**

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

**Consultation**

CASA consulted with the RAA. The consultation also involved Airservices Australia which stated that it did not have any issues with the proposed operations.

Following initial consultation and agreements, previous exemptions have been granted to allow operations of this kind in the same class of airspace using ultralight aeroplanes registered with the RAA.

**Making and commencement**

The exemption 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 the day of registration. It expires at the end of November 2017, as if it had been repealed by another instrument.

[Instrument number CASA EX28/15]

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

Exemption — solo flight training using ultralight aeroplanes registered with the RAA at Bankstown Aerodrome

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**