



# Australian Government

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## Civil Aviation Safety Authority

Instrument number CASA EX98/15

I, GERARD JOHN CAMPBELL, Executive Manager, Operations Division, a delegate of CASA, make this instrument under regulation 11.160 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*.

**[Signed G.J. Campbell]**

Gerard J. Campbell  
Executive Manager  
Operations Division

12 June 2015

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### Exemption from CASR Subpart 99.B for micro-businesses

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#### **1 Duration**

This instrument:

- (a) commences on the day of registration; and
- (b) expires at the end of May 2018, as if it had been repealed by another instrument.

#### **2 Repeal**

Instrument CASA EX167/12 is repealed.

#### **3 Definitions**

- (1) In this instrument:

**CASA micro-business DAMP** means the *CASA Drug and Alcohol Management Program*, as amended by CASA from time to time, and published or made available by CASA for micro-businesses.

*Note* The *CASA Drug and Alcohol Management Program* is available on the CASA website.

**formally**, for the adoption by a micro-business of the CASA micro-business DAMP, means in writing, signed by the most senior executive manager of the business (however described).

**generic SSAA** means the SSAA mentioned in the following paragraphs of regulation 99.015 of CASR 1998: (e), (f), (h), (i), (j), (k) and (l).

*Note* In general terms, these relate to aircraft refuelling, airport security, aircraft baggage handling, air traffic control, and aerodrome fire fighting. The effect of this definition is that persons providing SSAA services, other than those defined as generic SSAA, must be counted as employees of the micro-business in line with the definition of **employee** in regulation 99.010 of CASR 1998.

**micro-business** means a drug and alcohol management plan (**DAMP**) organisation that has not more than 10 regular safety sensitive aviation activity (**SSAA**) employees performing, or available to perform, an applicable SSAA for the micro-business.

- (2) For calculating the number of regular SSAA employees performing, or available to perform, an applicable SSAA for a micro-business, **employee** is taken to include any individual who is not an employee of the micro-business but who is permitted by the micro-business to perform, or be available to perform, an applicable SSAA for the micro-business.
- (3) For calculating the number of regular SSAA employees performing, or available to perform, an applicable SSAA for a micro-business, a person who has a contract of service or a contract for services with another organisation whose business is to provide DAMP organisations generally with generic SSAA, is not to be taken to be an employee of the business to whom the SSAA service is provided.

#### **4 Application**

- (1) Subject to subsection (2), this instrument applies to a micro-business.
- (2) This instrument does not apply to a micro-business:
  - (a) that is engaged in, or provides services to, any regular public transport operation; or
  - (b) that has more than 10 regular SSAA employees performing, or available to perform, an applicable SSAA for the micro-business.

#### **5 Exemption**

A micro-business is exempt from each provision of Subpart 99.B of CASR 1998, except each provision in Division 99.B.4.

#### **6 Conditions**

- (1) The exemption under section 5 is subject to the condition that the micro-business must:
  - (a) formally adopt as its DAMP a micro-business DAMP in the form of the approved CASA micro-business DAMP, a copy of which, in its current form, is set out in Attachment 1; and
  - (b) at all times comply with the terms of the micro-business DAMP.

*Note 1* The approved CASA micro-business DAMP as amended from time to time is on the CASA website. A DAMP in the CASA approved form must be formally adopted in writing by the micro-business and compliance initiated by the micro-business before the exemption can apply to the micro-business.

*Note 2* The exemption ceases to apply if the number of SSAA employees exceeds 10.

- (2) The exemption under section 5 is subject to the condition that the micro-business must:
  - (a) comply with regulation 99.085 of CASR 1998; and
  - (b) fully cooperate with CASA for regulations 99.090 and 99.095 of CASR 1998;

as if the CASA micro-business DAMP adopted by the micro-business were a DAMP referred to in those regulations.

**CASA Micro-business DAMP**

**<<INSERT ORGANISATION NAME AND AVIATION REFERENCE NUMBER  
HERE>>**

[ORGANISATION NAME] FORMALLY ADOPTS THIS DAMP AS OUR OWN IN  
ACCORDANCE WITH THE CONDITIONS OF THE EXEMPTION CASA EX98/15

Name and title of senior executive manager  
On behalf of [ORGANISATION NAME]

Signature

Date

## DRUG AND ALCOHOL MANAGEMENT PROGRAM FOR A MICRO-BUSINESS

### Our micro-business DAMP

This is the drug and alcohol management program (*micro-business DAMP*) for [*name of organisation*] to obtain the benefit of CASA EX98/15 (the *CASA exemption*) which exempts Australian micro-businesses from the otherwise compulsory requirements of Subpart 99.B of the *Civil Aviation Safety Regulations 1998* (*CASR 1998*).

### Definitions

Unless otherwise stated, words, phrases and acronyms in this micro-business DAMP have the same meanings as in Part 99 of CASR 1998.

### Special definitions

For this micro-business DAMP:

**SSAA employee** means any person who is performing SSAA activities for our business, whether as an employee, a contractor, or under any other arrangements.

**regular SSAA** employee means an SSAA employee who is reasonably likely to perform an applicable SSAA at least 2 or more times every 90 days.

**applicable SSAA** means an SSAA that falls within the formal definition of **applicable SSAA** in Part 99 of CASR 1998. Generally speaking, these include, for example, maintenance, baggage handling, security, fuelling, flight, or things done “airside”, that is on the surface of a certified or registered aerodrome or on an aircraft on such an aerodrome.

**generic SSAA** means the SSAA mentioned in the following paragraphs of regulation 99.015 of CASR 1998: (e), (f), (h), (i), (j), (k) and (l).

*Note* In general terms, these relate to aircraft refuelling, airport security, aircraft baggage handling, air traffic control, and aerodrome fire fighting. The effect of this definition is that persons providing SSAA services, other than those defined as generic SSAA, must be counted as employees of the micro-business in line with the definition of **employee** in regulation 99.010 of CASR 1998.

**on first engagement** means when first employed, contracted or under any arrangement with us to perform SSAA activities for us.

For a person who was already engaged with us when we adopted this micro-business DAMP, **on first engagement** means not later than 30 days after the date we adopted this micro-business DAMP.

### Micro-business — 10 SSAA employees

We are a micro-business for the exemption because we do not have, at any time, and under any circumstances, more than 10 regular SSAA employees performing, or available to perform, an applicable SSAA for our business.

### What happens if we have more than 10 SSAA employees

We recognise that if, at any time, we have more than 10 regular SSAA employees performing, or available to perform, an applicable SSAA for our micro-business, the CASA exemption no longer applies to us and we must comply in full with Subpart 99.B of CASR 1998.

If, at any time, we do have more than 10 regular SSAA employees performing, or available to perform, an applicable SSAA for our micro-business, we will comply with all the requirements and the obligations set out in Subpart 99.B of CASR 1998.

We recognise that those obligations are significantly different in some respects from our obligations under this micro-business DAMP because of the relief otherwise provided by the CASA exemption.

### **CASA random drug and alcohol testing unaffected**

We recognise that the CASA exemption does not extend to Subpart 99.C of CASR 1998 under which CASA conducts random drug and alcohol testing.

### **Provide training and supply copy of micro-business DAMP to SSAA employees**

On first engagement, we will train each of our SSAA employees for our micro-business DAMP by doing the following, and until all relevant steps are completed for an SSAA employee, he or she is not permitted to perform an SSAA:

- 1 We will give each of our SSAA employees a copy of this micro-business DAMP.
- 2 We will identify the micro-business DAMP contact officer and the micro-business DAMP supervisor.
- 3 Through regular staff meetings with them, we will tell each of our SSAA employees of our commitment to effective drug and alcohol management in the interests of aviation safety, and we will publish our statement of this commitment in company documents.
- 4 We will encourage each of our SSAA employees to inform the micro-business DAMP supervisor if they believe that they have consumed a level of alcohol or are taking any drug (this includes prescription and over-the-counter medication) that may affect his or her safe performance of SSAA.
- 5 We will tell each of our SSAA employees that if they consume a level of alcohol or take any drug that may affect the safe performance of their SSAA duties, they must not perform, or be available to perform, such SSAA duties.
- 6 If an employee has performed, or is in the act of performing, SSAA duties and we believe the SSAA employee has consumed a level of alcohol or taken any drug that may affect the safe performance of their SSAA duties, we will take all appropriate measures to protect the safety of our SSAA operations.
- 7 We will require successful completion of our drug and alcohol education program by our SSAA employees and our micro-business Damp Supervisor. For this purpose, the company will use the CASA online drug and alcohol education program (CASA eLearning) available on the CASA website.
- 8 We will keep a record (paper register or computer database) of all SSAA employees who have completed the CASA eLearning. The register will record the employee's name, the date the CASA eLearning was completed, the result of the test and the date that the CASA eLearning will be retested.
- 9 An SSAA employee will be required to redo and complete the CASA eLearning once every 30 months.

### **CASA eLearning**

An SSAA employee of our micro-business will not be permitted to perform, or be available to perform, an applicable SSAA for our micro-business unless and until he or she has successfully completed the CASA eLearning. On engagement, each SSAA employee will be told of this requirement.

Thirty months after completing the CASA eLearning , an SSAA employee of our micro-business will not be permitted to perform, or be available to perform, an applicable SSAA for our micro-business unless and until he or she successfully repeats the CASA eLearning.

### **Our eLearning log-on will be recorded**

We recognise that when we log into the CASA eLearning site to enable our SSAA employees to complete their eLearning, details of our SSAA employees' completion of the eLearning is recorded for audit purposes.

On engagement, each SSAA employee will be told of this requirement.

### **Our micro-business DAMP supervisor**

Our micro-business DAMP supervisor will undertake the same CASA eLearning as an SSAA employee. In addition, our micro-business DAMP supervisor will also undertake further training, approved by CASA, in relation to being an effective micro-business DAMP supervisor.

### **Drug and alcohol testing by us**

We recognise that we are not required to have our own drug and alcohol testing program but that we may have such a program if we so chose.

However, if we chose to have our own drug and alcohol testing program, we will document it, and we will tell our SSAA employees of the program and what it involves. In such a program, in order to expedite testing: for drug testing we will use only urine or oral fluid; and for alcohol testing we will use only breath samples.

### **Positive test results**

An SSAA employee may give a positive drug or alcohol test result in different circumstances, for example:

- 1 under our own drug and alcohol testing program (if we have one); and
- 2 under another organisation's drug and alcohol testing program (if we properly become aware of it); and
- 3 under Subpart 99.C of CASR 1998 under which CASA conducts random drug and alcohol testing.

### **How we will react to a positive test result for any of our SSAA employees**

If, for any of our SSAA employees, we become aware of any positive test result for a confirmatory drug test or a confirmatory alcohol test, we will not permit the SSAA employee to perform, or be available to perform, an applicable SSAA for our micro-business unless one of the following events happens first:

- 1 a CASA medical review officer has determined that the positive result could have been caused by medical treatment or another innocent cause and is not an aviation safety risk;
- 2 a CASA medical review officer, or a CASR Part 99 DAMP medical review officer, or a registered medical practitioner nominated by us, considers that the SSAA employee:
  - (a) has undergone an assessment for drug or alcohol use (which may include an assessment carried out by a registered medical practitioner nominated by us); and
  - (b) has received a negative test result for a confirmatory drug test or a confirmatory alcohol test; and

- (c) is considered fit to perform, or be available to perform, an applicable SSAA for us.

### **How we will react if testing is refused or interfered with by any of our SSAA employees**

If, for any of our SSAA employees, we become aware that the SSAA employee was required to take a drug or alcohol test and refused to take the test, or interfered with the integrity of the test, we will not permit the SSAA employee to perform, or be available to perform, an applicable SSAA for our micro-business until:

- 1 a CASA medical review officer, or a DAMP medical review officer, or a registered medical practitioner nominated by us, considers that the SSAA employee:
  - (a) has undergone an assessment for drug or alcohol use; and
  - (b) has received a negative test result for a confirmatory drug test or a confirmatory alcohol test; and
  - (c) is considered fit to perform, or be available to perform, an applicable SSAA for us.
- 2 In this circumstance **required** means required by law, or by us, or by CASA, or by the person's other employer (for example, if our SSAA employee is a contractor to us but employed by another person who properly conducted a drug and alcohol test).

### **How we will react to suspicion of drug or alcohol misuse by any of our SSAA employees**

- 1 If, when they are performing or being available to perform an applicable SSAA, any of our SSAA employees is reasonably suspected by our DAMP supervisor of being adversely affected by a testable drug or by alcohol, we will immediately stand-down the employee from all applicable SSAA duties, until the employee is drug and alcohol **tested by a competent person using serviceable testing equipment** and each of the test results is not a positive result.
- 2 If a competent person is not available to conduct testing, or serviceable testing equipment is not available, a registered medical practitioner nominated by us should certify that the employee is fit to perform, or can be made available to perform, applicable SSAA.
- 3 If a registered medical practitioner is not available, at least 32 hours must have passed since the reasonable suspicion first arose, and we must be satisfied that the SSAA employee is not a risk to aviation safety.

### **How we will react if any of our SSAA employees is involved in an accident or serious incident**

- 1 If, when they are performing or being available to perform an applicable SSAA, any of our SSAA employees is involved in an accident or serious incident, we will immediately stand-down the employee from all applicable SSAA duties until the employee is drug and alcohol **tested by a competent person using serviceable testing equipment** and each of the test results is not a positive result.
- 2 If a competent person is not available to conduct testing, or serviceable testing equipment is not available, a registered medical practitioner nominated by us should certify that the employee is fit to perform, or can be made available to perform, applicable SSAA.

- 3 If a registered medical practitioner is not available, at least 32 hours must have passed since the reasonable suspicion first arose, and we must be satisfied that the SSAA employee is not a risk to aviation safety.

### **Tested by a competent person using serviceable testing methods**

In the previous paragraphs, the expression *tested by a competent person using serviceable testing equipment* means this:

Tested by a registered medical practitioner, a qualified nurse or a trained collector, trained in the proper use of any reputable, commercially available, urine or oral fluid testing equipment (for drugs) or breath testing equipment (for alcohol), so that the testing is carried out using that equipment in accordance with the equipment manufacturer's approved testing methods.

This covers testing that might be done on 1 of our SSAA employees by us, if we have a testing program and use reputable, commercially available, testing equipment that is within its use-by date.

It also covers testing that might be done on 1 of our SSAA employees who is a contractor to us provided by another employing organisation with the right to test its employees.

### **SSAA employees who are on contract to us from a CASR Part 99 DAMP organisation**

For this section, a CASR Part 99 **DAMP organisation** means a DAMP organisation under Subpart 99.B of CASR 1998, **other than** another micro-business which is acting with the benefit of the CASA exemption.

If 1 of our SSAA employees is a contractor to us, provided to us by a **DAMP organisation**, then if reasonable suspicion arises, or if there is an accident or serious incident, we will immediately notify the contact officer of that DAMP organisation.

We will immediately stand-down the employee from all applicable SSAA duties, until the employee is drug and alcohol tested by the DAMP organisation and each of the test results was not a positive result.

We recognise that it is a responsibility of that DAMP organisation to test the employee in accordance with that organisation's DAMP.

### **SSAA employees who are on contract to us from another DAMP micro-business**

If 1 of our SSAA employees is a contractor to us, provided to us by **another micro-business with a micro-business DAMP**, then if a reasonable suspicion arises, or if there is an accident or serious incident, we will immediately notify the contact officer of that other micro-business.

We will immediately stand-down the employee from all applicable SSAA duties, either:

- 1 until the employee is drug and alcohol tested under the other micro-business's micro-business DAMP and each of the test results is not a positive result; or
- 2 until:
  - (a) the employee is drug and alcohol tested by a competent person using serviceable testing equipment and each of the test results is not a positive result; or
  - (b) if a competent person is not available to conduct testing, or serviceable testing equipment is not available, a registered medical practitioner



nominated by us certifies that the employee is fit to perform, or can be made available to perform, applicable SSAA; or

- (c) if a registered medical practitioner is not available, at least 32 hours have passed since the reasonable suspicion first arose, and we are satisfied that the SSAA employee is not a risk to aviation safety.

The expression **tested by a competent person using serviceable testing equipment** is defined above.

We recognise that nothing in this micro-business DAMP restricts, or is intended to restrict, our legal right as an employer or a contractor to terminate the employment or the contract for behaviour that is in serious breach of our employee's or our contractor's legal obligations to us in relation to the risks associated with the misuse of drugs and alcohol by SSAA employees.

### **Reporting to CASA**

Under exemption CASA EX39/15, our organisation is not required to report to CASA.

### **Record keeping**

We will keep the records that would have enabled us to comply with the reporting requirements that would have otherwise been applicable for 5 years from the date the information would have had to be provided to CASA.

### **CASA directions to change and requests for information**

We will, on CASA's written request, provide CASA with any information, documents or records required by CASA for the purpose of conducting any audit of the use of our micro-business DAMP in our micro-business. To retain our exemption eligibility, we will change this micro-business DAMP as directed in writing by CASA.

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