

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### CASA EX71/20 — Display of Markings (Sailplanes) Exemption 2020

##### Purpose

The purpose of *CASA EX71/20 — Display of Markings (Sailplanes) Exemption 2020* (the **instrument**) is to enable the continued operation in Australian territory of all sailplanes registered on the Australian Civil Aircraft Register under Part 47 of the *Civil Aviation Safety Regulations 1998* (**CASR**) without the aircraft displaying the Australian nationality mark “VH”.

For many sailplanes it is not possible to display the full markings due to the limited area available on the aircraft. Requiring the displaying of full markings on these aircraft would also have significant time and cost implications to the affected aircraft owners for no identifiable additional safety benefit.

##### 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. Relevantly, the Governor-General has made CASR.

Under subregulation 45.055 (1) of CASR, the registration holder and the registered operator of an aircraft commit an offence if the aircraft is operated and a requirement that is prescribed by the Part 45 Manual of Standards and that applies to the aircraft is not met.

The Part 45 Manual of Standards prescribes requirements relating to the display of markings on an aircraft, including for sailplanes.

Subregulation 45.015 (1) of CASR defines **markings**, for an aircraft, as the Australian nationality mark and the aircraft’s registration mark, in that order, connected by a hyphen. Subregulation 45.015 (2) provides that a registered glider operating in Australian territory that has a registration mark beginning with “G” need not display the Australian nationality mark.

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160 (1) of CASR provides that, for subsection 98 (5A) of the Act, the Civil Aviation Safety Authority (**CASA**) may grant an exemption from a provision of the regulations.

Under subregulation 11.160 (2), an exemption may be granted to a person or a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160 (3), an exemption may be granted on application by a person or on CASA’s own initiative.

Under subregulation 11.175 (4) of CASR, in deciding whether to reissue an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety.

Regulation 11.205 of CASR provides that CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition.

Regulation 11.225 of CASR requires an exemption to be published on the Internet. Under subregulation 11.230 (1) of CASR, the maximum duration of an exemption is 3 years.

### **Background**

The instrument renews, in substantially the same terms, instrument CASA EX49/18 that expired on 30 April 2020. The Explanatory Statement for instrument CASA EX49/18 stated that CASA proposed to amend Part 45 of CASR so that the exemption in section 4 of the instrument will not be required. CASA understands that these amendments will be included in upcoming amendments to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*. CASA anticipates that once those amendments are made, the exemption will no longer be required and will be repealed.

### **Overview of instrument**

The effect of the instrument is to exempt the registration holder and operator of all sailplanes registered on the Australian Civil Aircraft Register under Part 47 of CASR from the CASR requirement to include the Australian nationality mark in the aircraft's markings, if the aircraft's registration mark begins with a character other than "G".

CASA has assessed the impact on aviation safety of continuing to grant the exemption in section 4 of the instrument and is satisfied that it has no impact.

### **Content of instrument**

Section 1 sets out the name of the instrument.

Section 2 sets out the duration of the instrument. The instrument commences on 1 May 2020 and will be repealed at the end of 30 April 2023.

Section 3 sets out the application of the instrument. The instrument applies to the registration holder and the registered operator of a sailplane that is registered on the Australian Civil Aircraft Register under Part 47 of CASR, is operating in Australian territory, and has a registration mark that begins with a character other than "G".

Section 4 exempts the registration holder and registered operator of the sailplane from compliance with subregulation 45.015 (2) to the extent that the subregulation requires the registration holder and the registered operator to display the Australian nationality mark on the sailplane if the sailplane's registration mark begins with a character other than "G".

### **Legislation Act 2003 (the LA)**

Paragraph 98 (5A) (a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation or the maintenance of aircraft.

Additionally, paragraph 98 (5AA) (a) of the Act provides that an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if the instrument is expressed to apply in

relation to a class of persons. The instrument exempts a class of persons from complying with the provisions in regulation 45.015 (2), being the registration holders and the registered operators of a sailplane. The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

### **Consultation**

The instrument is made in substantially similar terms to CASA EX49/18. The instrument is beneficial to industry and reflects the current arrangements. The instrument removes an unnecessary burden on registration holders and operators of sailplanes from having to include the Australian nationality mark on the sailplanes.

CASA is progressing the amendment of Part 45 of CASR in 2020 so that this exemption will not be required. In these circumstances, CASA is satisfied that no further consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA.

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

A Regulation Impact Statement (*RIS*) is not required in this case as the exemption is covered by a standing agreement between CASA and OBPR under which a RIS is not required for exemptions (OBPR id: 14507).

### **Statement of Compatibility with Human Rights**

The Statement of Compatibility with Human Rights at Attachment 1 has been 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.

### **Making and commencement**

The instrument is made by a delegate of CASA relying on the power of delegation under regulation 11.260 of CASR.

The exemption commences on 1 May 2020 and is repealed at the end of 30 April 2023.

## **Statement of Compatibility with Human Rights**

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

### **CASA EX71/20 — Display of Markings (Sailplanes) Exemption 2020**

The 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 instrument will allow sailplanes registered on the Australian Civil Aircraft Register under Part 47 of the *Civil Aviation Safety Regulations 1998* to operate without the Australian nationality mark, whether or not the first character of the registration mark is the character “G”, when operating in Australian territory.

#### **Human rights implications**

The instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

The instrument is compatible with human rights as it does not raise any human rights issues.

**Civil Aviation Safety Authority**