

Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Safety Regulations 1998

Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021

Purpose

The purpose of *Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021* (the **instrument**) is to repeal and reissue *Civil Aviation Order 95.12.1 Exemption from provisions of the regulations under the Civil Aviation Act 1988 — 2-place gyroplanes and single-place gyroplanes certificated as light sport aircraft* Instrument 2011 (the **previous CAO**). The instrument continues to exempt operators of LSA Gyroplanes and ASRA-compliant Gyroplanes from provisions of the regulations, which involves transitioning from exemptions from CAR to exemptions from their equivalent provisions in *Civil Aviation Safety Regulations 1988 (CASR)* following the commencement, on 2 December 2021, of the following legislation:

- the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*;
- the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*;
- the *Civil Aviation Legislation Amendment (Flight Operations—Consequential Amendments and Transitional Provisions) Regulations 2021*.

The instrument reissues the previous CAO and is required for two main reasons: first, because the *Part 103 Manual of Standards (MOS)* that was originally intended to accompany new Part 103 of CASR will not commence as anticipated on 2 December 2021; and secondly, most of the provisions of CAR are being repealed on that date and as a result, the previous CAO will be ineffective in providing exemptions for operators of relevant aircraft as it refers to the obsolete CAR provisions. The instrument is being remade with exemptions from equivalent provisions in CASR. This will enable reasonable continuity for operators of such aircraft, whilst creating a bridge to the new flight rules under Part 91 of CASR and, eventually, to the new rules for sport and recreation aircraft under Part 103 of CASR. The opportunity has also been taken to make minor drafting improvements and updating or deleting outdated or obsolete provisions.

Legislation

Subsection 20AB (1) of the *Civil Aviation Act 1988* (the **Act**) provides that a person must not perform any duty that is essential to the operation of an Australian aircraft during flight time unless the person is authorised to do so under a civil aviation authorisation or is authorised by or under the regulations to perform that duty without the civil aviation authorisation.

For paragraph 20AB (1) (a) of the Act, a person is taken to hold a civil aviation authorisation that is in force and authorises the person to perform a duty that is essential to the operation of an unregistered Australian aircraft during flight time if:

- (a) the person holds a pilot certificate granted by a sport aviation body that administers aviation activities in the aircraft; and
- (b) the person operates the aircraft in accordance with the sport aviation body's operations manual and the instrument.

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 the CASR and *Civil Aviation Regulations 1988* (**CAR**).

Subpart 11.F of the CASR provides for the granting of exemptions from 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 compliance with a provision of the regulations.

Under subregulation 11.160 (2) of CASR, 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) of CASR, 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. CASA has regard to the same test when deciding whether to reissue an exemption on its own initiative.

Regulation 11.205 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), the maximum duration of an exemption is 3 years.

Under subsection 14 (1) of the *Legislation Act 2003* (the **LA**), a legislative instrument may make provision in relation to matters by applying, adopting or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences. Under subsection 14 (2) of the LA, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. However, subsection 98 (5D) of the Act provides that, despite section 14 of the LA, a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

Background

Part 103 of CASR was made on 12 December 2019 and will commence on 2 December 2021. Part 103 will prescribe operating rules for a wide range of non-registered aircraft, referred to as Part 103 aircraft (regulation 103.005), including:

- sailplanes
- powered parachutes
- gyroplanes
- gyrogliders
- hang gliders and powered hang gliders
- paragliders and powered paragliders
- rotorcraft that are prescribed in the Part 103 MOS
- weight-shift-controlled aeroplanes that are prescribed in the Part 103 MOS
- any other aeroplane that is prescribed in the Part 103 MOS - these include very light aeroplanes, covered by a range of certification criteria.

The purpose of Part 103 of the CASR is to provide regulations for the operation of sport and recreational aircraft administered by an approved self-administering organisation (ASAO) under Part 149. A Part 149 ASAO certificate would list functions the organisation administers such as personnel authorisations, training, aircraft airworthiness authorisations and systems, oversight, education, enforcement.

Prior to 2 December 2021, these aircraft were operated according to a suite of exemptions in the 95 series of Civil Aviation Orders (CAO). Broadly speaking, pilots were allowed to operate the aircraft outside of the generally applied operating rules - in CARs, as long as they complied with the conditions in the CAO which included compliance with the operations manual of the specified sport aviation body.

Part 103 of CASR sets the operating rules for these aircraft in a similar way, although the link to the sport aviation body is replaced by a link to Part 149 where the responsibility for administering the operations is held by the holder of a Part 149 certificate.

Regulation 103.015 of CASR makes provision for CASA to make a manual of standards (MOS) for various matters referred to in the regulations - for example, the kinds of aeroplanes referred to above.

In consultation with an established industry working group, CASA has opted to defer the making of the Part 103 MOS to allow further development of it. Therefore, to ensure operations of gyroplanes not exceeding 250kg can continue after 2 December 2021, the instrument is being reissued with amendments.

This instrument continues the substance of regulatory exemptions from CAR applying under the previous CAO, however, in form, the exemptions are now largely from the equivalent provisions under CASR, in particular, the new Part 91 provisions. Industry and operators should not experience any disruption to operations as a result of this instrument.

Overview of instrument

The instrument enables the continuation of exemptions for operators of LSA gyroplanes and ASRA-compliant gyroplanes from certain requirements of the CAR and enables the introduction of exemptions for those operators from certain requirements of the CASR.

The instrument reissues the previous CAO in substantially the same form, with the changes being minor drafting improvements, updating or deletion of outdated or obsolete provisions and the introduction of some new provisions. The commencement of Part 91 of CASR (on 2 December 2021) repealed certain provisions of CAR that impact the operations of LSA gyroplanes and ASRA-compliant gyroplanes. Therefore, provisions to maintain the operating environment have been drafted into the Part 103 MOS. However, because the making of the Part 103 has been deferred, equivalent provisions have been included in this instrument.

The intent of the changes is to maintain the operating environment for LSA gyroplanes and ASRA-compliant gyroplanes that existed immediately before 2 December 2021.

Documents incorporated by reference

In accordance with paragraph 15J (2) (c) of the LA, the following table contains a description of the documents incorporated by reference into the legislative instrument, the organisation responsible for each document and how they may be obtained. The table also states how the document is incorporated.

Document	Description	Manner of incorporation	Source
ASRA Compliant Gyroplane Construction Standards	The document of that name, prepared by the Australian Sport Rotorcraft Association Inc (ASRA).. Incorporated for the purpose of defining <i>ASRA-compliant gyroplane</i>	As existing from time to time. Subsection 98 (5D) of the Act authorises the incorporation of this document into the instrument as existing from time to time.	This document is available for free on the website of the ASRA: www.asra.org.au .
<i>Civil Aviation Order 20.18</i>	Prescribes aircraft equipment — basic operational requirements. Incorporated for the purpose of prescribing requirements for aircraft fitted with or carrying automatic dependent surveillance-broadcast equipment and/or SSR transponder equipment.	As in force immediately before the commencement of the <i>Civil Aviation Safety Amendment (Part 91) Regulations 2018</i> . Paragraph 14(1)(a) of the Legislation Act 2003 authorises the incorporation of this instrument as in force at a particular time.	This document is available for free on the Federal Register of Legislation.

Document	Description	Manner of incorporation	Source
<i>Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019</i>	Called up for the purpose of defining the commencement of the instrument	As in force from time to time. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.	This document is available for free on the Federal Register of Legislation.
<i>Civil Aviation Order 101.55</i>	Prescribes aircraft certification requirements — aeroplanes with a maximum weight not exceeding 450 kilograms. Incorporated for the purpose of prescribing aircraft that can be flown in Class A, B, C or D airspace.	As in force on 31 May 2016. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force at a particular time.	This document is available for free on the Federal Register of Legislation.
<i>Civil Aviation Regulations 1988</i>	Various provisions of the instrument call up provisions in the Civil Aviation Regulations 1988.	As in force from time to time. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.	This document is available for free on the Federal Register of Legislation.
<i>Civil Aviation Safety Amendment (Part 91) Regulations 2018</i>	Called up for the purpose of defining the commencement of the instrument	As in force from time to time. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.	This document is available for free on the Federal Register of Legislation.

Document	Description	Manner of incorporation	Source
<i>Civil Aviation Safety Regulations 1988</i>	Various provisions of the instrument call up provisions in the <i>Civil Aviation Safety Regulations 1988</i> .	As in force from time to time. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.	This document is available for free on the Federal Register of Legislation.
<i>Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument</i>	This instrument determines relevant volumes of airspace as flight information regions and areas, as classifications of airspace, and as control zones, and determines relevant controlled aerodromes. It is a legislative instrument that is revised and reissued by CASA approximately every 6 months. Incorporated for the purpose of avoiding doubt about references made to a class of airspace.	As in force from time to time. Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.	This document is available for free on the Federal Register of Legislation.
Operations manual (of a Sports Aviation Body)	The manual, approved from time to time by CASA, that contains the practices, procedures, instructions and other information by which the sport aviation body ensures the operational safety of the aircraft in accordance with the civil aviation legislation. Various provisions of the instrument call up an operations manual.	As existing from time to time. Subsection 98 (5D) of the Act authorises the incorporation of this document into the instrument as existing from time to time.	The document is available to members of the relevant Sports Aviation Body.

Document	Description	Manner of incorporation	Source
<i>Part 61 Manual of Standards</i>	<p>The Part 61 MOS prescribes matters relating to flight crew licensing permitted under Part 61 to be prescribed in the MOS.</p> <p>Various provisions of the instrument call up provisions in the Part 61 MOS.</p>	<p>As in force from time to time.</p> <p>Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.</p>	<p>This document is available for free on the Federal Register of Legislation.</p>
<i>Part 91 Manual of Standards</i>	<p>The Part 91 MOS prescribes matters relating to general operating and flight rules permitted under Part 91 to be prescribed in the MOS.</p> <p>Various provisions of the instrument call up provisions in the Part 91 MOS.</p>	<p>As in force from time to time.</p> <p>Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.</p>	<p>This document is available for free on the Federal Register of Legislation.</p>
<i>Part 138 Manual of Standards</i>	<p>The Part 138 MOS prescribes matters relating to aerial work operations permitted under Part 138 to be prescribed in the MOS.</p> <p>Various provisions of the instrument call up provisions in the Part 138 MOS.</p>	<p>As in force from time to time.</p> <p>Paragraph 14(1)(a) of the <i>Legislation Act 2003</i> authorises the incorporation of this instrument as in force from time to time.</p>	<p>This document is available for free on the Federal Register of Legislation.</p>

Document	Description	Manner of incorporation	Source
Technical manual (of a Sports Aviation Body)	<p>The manual, approved from time to time by CASA, that contains:</p> <p>(a) airworthiness, design and maintenance standards; and</p> <p>(b) aeronautical practices and test procedures and processes; by which the relevant sport aviation body ensures the technical safety of the aircraft in accordance with the civil aviation legislation.</p> <p>Various provisions of the instrument call up a technical manual.</p>	<p>As existing from time to time.</p> <p>Subsection 98 (5D) of the Act authorises the incorporation of this document into the instrument as existing from time to time.</p>	The document is available to members of the relevant Sports Aviation Body.

The operations manual or technical manual of a Sports Aviation Body (**SAB**) are available to operators and pilots who are members of the applicable SAB. CASA has incorporated the documents in the instrument because aviation safety requires the use of the information and data in the documents by aircraft operators and pilots. SABs administer a wide variety of aircraft types and operations, and to make legislation addressing all the relevant operation and technical aspects would result in lengthy and complex legislation.

Content of instrument

Subsection 1 sets out the name of the instrument: *Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021*

Subsection 2 sets out the duration of the instrument, specifying that it commences on 2 December 2021, immediately after the commencement of both of the following:

- (a) Schedule 1 to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*;
- (b) the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*.

The subsection states that the instrument (other than paragraph 5A.2) is repealed at the end of 1 December 2024. Paragraph 5A.2 is repealed at the end of 1 December 2023.

Subsection 3 identifies the repeal of the previous CAO registered with FRL.

Subsection 4 provides that the order applies to the following single-place or two-place gyroplanes if they are employed in private operations and listed with a sport aviation body (other than an ASAO):

- (a) an **LSA gyroplane (experimental)**, being a light sport aircraft:

- (b) an ***LSA gyroplane (production)***, being a light sport aircraft:
- (c) an ***ASRA-compliant gyroplane***

The application provision has been updated considerably since the previous CAO to provide greater clarity regarding the description of the aircraft.

Subsection 4A provides references to ensure that an existing exemption instrument continues to be lawful by providing references to the appropriate subparagraphs of the repealed Order.

Subsection 5 provides for definitions of terms used in the instrument. Some of the terminology has been updated since the previous CAO, including the term ***NAA*** and ***single-place gyroplane and two-place gyroplane***.

The legal citations of the sporting aviation bodies are updated to remove the reference to ***ASRA***. ASRA now being described as a ***relevant sport aviation body***. Definitions regarding operational or technical manuals have also been updated to reflect the ***relevant sport aviation body*** rather than be specific to ***ASRA***.

Subsection 5A provides the definition for a ***SAB flight permit***. This is a new definition to provide clarity in relation to aircraft not holding a certificate of airworthiness and relates to approvals required for flight over a populous area under the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*. This provision does not change existing requirements for flights other than those taking place over a populous area. Paragraph 5A.2 deems SAB flight permits to be in force for a relevant aircraft in certain circumstances. This provision will give sport aviation bodies time to organise their systems and procedures around SAB flight permits. It is, under paragraph 2.3, repealed at the end of 1 December 2023.

Subsection 6 provides that a person performing a duty that is essential to the operation of a relevant aircraft during flight time is authorised to do so without a civil aviation authorisation mentioned in paragraph 20AB(1)(a) of the Act. This is a new provision to ensure pilots of aircraft that were previously encompassed by Subpart 200.B (which will be repealed) remain authorised to fly without being licensed by CASA.

Subsection 7 provides that the relevant aircraft is not required to be issued with a certificate of airworthiness.

Subsection 8 states the persons to which the exemptions are granted by CASA under the instrument and sets out which provisions of CASR are exempted from compliance. The exemptions are mostly the same in purpose as they were in the previous CAO and consistent with the previous CAO, the exemptions are subject to compliance with the conditions in the Order.

Subsection 9 provides conditions regarding the special certificate of airworthiness or experimental certificate in relation to validity, suspension or cancellation and the requirement to comply with a written request to surrender the certificate in certain circumstances.

Subsection 10 sets out the general conditions that apply in relation to relevant aircraft. These include that the aircraft must not be used in aerial application operations and must not be used other than for the carriage, without charge, of persons or goods or the private conduct of aerial inspections of stock, fencing or farm or pastoral equipment, aerial mustering or flying

training for aerial mustering or, flying training to enable a person to obtain a pilot certificate from a sport aviation body. There are also restrictions on operating the aircraft as pilot in command and the use of the aircraft for flying training. Operation of the aircraft must be in accordance with the relevant sport aviation body's operations manual and technical manual. Maintenance on aircraft must be performed in accordance with the relevant sport aviation body's technical manual. Apart from that, the subsection is in substantially the same form as it was in the previous CAO, with minor updates (including provisions accommodating ASAOs) and drafting improvements.

Subsection 11 states the requirements for the aircraft to be used in aerial mustering applications. The requirements include a Part 61 licence and endorsement that permits the pilot to conduct aerial mustering applications, or a flight certificate and equivalent endorsement issued by a relevant SAB. These requirements mirror the requirements previously contained within CAO 29.10 and the general conditions subsection 5 of the previous 95.12.1 instrument and provide updates in accordance with the requirements of Part 138 of the CASR.

Subsection 12 sets out the flight conditions which are mostly the same as those in the previous CAO. The conditions include flight height, location and airspace restrictions, requirements to fly only in VMC, during daylight hours and not in acrobatic flight or over a populous areas or public gatherings (subject to certain requirements), not to use radiotelephone equipment (subject to certain qualifications), restrictions on the towing of aircraft and a requirement to carry certain emergency location transmitters when flying a two-place aircraft beyond a radius of 50 nautical miles of a departure location. The only substantive changes since the previous CAO are, in subparagraph 12.2 (a), updated conditions for flying over a closely-settled or populous area or a public gathering and, in paragraph 12.1 and 12.2, the addition of Class B airspace restrictions and updated conditions for flying in Class A, B, C or D airspace and in an active restricted area. The changes substitute outdated provisions with provisions that are more closely aligned with Part 103 of CASR and the Part 103 MOS.

Subsection 13 provides further qualifications on a relevant gyroplane flying lower than 300 feet above ground level and for such aircraft flying at 5 000 feet or higher above mean sea level.

The conditions are in substantially the same form as in the previous CAO, with the only other changes being of a minor or machinery nature.

Subsection 14 provides for an approval process for persons wishing to fly a relevant aircraft otherwise than in accordance with the Order. The subsection is in substantially the same form as in the previous CAO. There are no express fetters on the discretionary power. Applications for approvals will be determined on a case by case basis by reference to safety considerations. There may be a range of reasons for an application under this subsection and it would not be practical or necessary for the instrument or ES to specify the factors that the decision-maker should consider in exercising the discretion. General principles of administrative law would restrict the decision-maker to decisions that are reasonable and have regard to relevant considerations. Depending on the nature of the application and the variation sought, the relevant delegate would be any of the following (who are all employees of CASA and SES equivalent officers):

- Executive Manager, National Operations & Standards
- Executive Manager, Regulatory Oversight
- Branch Manager, Sport & Recreation Aviation

An approval under this provision constitutes an *authorisation* within the meaning of regulation 11.015 of CASR. Item 1 of the Table 201.004 of CASR (see subregulation 201.004(2) of CASR) deems an adverse decision on an authorisation to constitute a reviewable decision on its merits by the Administrative Appeals Tribunal. CASA will include in any such decisions an AAT merits review notice.

Subsection 15 sets out the transitional provisions for the instrument and continues certificates, approvals and authorisations by RAAus or SAFA and approvals by CASA under subsection 9 of the previous CAO.

In renewing, amending to equivalent provisions or adding the exemptions under the instrument, CASA has regarded as paramount the preservation of at least an acceptable level of aviation safety.

Legislation Act 2003 (the LA)

Paragraph 10 (1) (d) of the LA provides that an instrument will be a legislative instrument if it includes a provision that amends or repeals another legislative instrument. This instrument repeals *Civil Aviation Order 95.12.1 (Exemption from provisions of the regulations under the Civil Aviation Act 1988 — 2-place gyroplanes and single-place gyroplanes certificated as light sport aircraft) Instrument 2011* that was registered as a legislative instrument and is, therefore, also a legislative instrument, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Subsection 8 (4) of the LA provides that an instrument is a legislative instrument if it determines the law or alters the content of the law, rather than determining particular cases in which the law is to apply or is not to apply. As the instrument exempts LSA gyroplanes and ASRA-compliant gyroplanes from provisions of the CAR and CASR, the instrument is a legislative instrument. The instrument is therefore subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

As the instrument relates to aviation safety and is made under the CAR and CASR, Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to the instrument (item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). However, this instrument will be repealed at the end of 1 December 2024, which will occur before the sunsetting provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunsetting does not affect parliamentary oversight of this instrument.

Consultation

The instrument is a remake of the previous CAO with only minor or machinery changes and affects the operation of LSA gyroplanes and ASRA-compliant gyroplanes listed with a sport aviation body – the Australian Sport Rotorcraft Association (***ASRA***). The ASRA were represented in the industry Technical Working Group (***TWG***) and were present at the meeting of TWG members where the deferral of the making of the Part 103 MOS, and this subsequent

legislative solution, was discussed. In these circumstances, CASA is satisfied that no further consultation is appropriate or reasonably practicable for the instrument for section 17 of the LA.

Sector risk, economic and cost impact

Subsection 9A (1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A (3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9 (1) (c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The instrument makes minor or machinery changes to the previous requirements of CAO 95.12.1 to implement the policy of Part 103 of CASR and there will be no change to the economic or cost impact on individuals, businesses or the community. The Office of Best Practice Regulation also made an assessment that a Regulation Impact Statement was not required for the policy requirements of CASR Part 103 (OBPR id: 25640).

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*.

Making and commencement

The instrument has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument commences on 2 December 2021, immediately after the commencement of both of the following:

- (i) Schedule 1 to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*;
- (ii) the *Civil Aviation Safety Amendment (Part 91) Regulations 2018*.

The instrument is repealed at the end of 1 December 2024, however, paragraph 5A.2 is repealed at the end of 1 December 2023.

Statement of Compatibility with Human Rights

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

Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021

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 purpose of *Civil Aviation Order 95.12.1 (Exemptions from CAR and CASR — LSA Gyroplanes and ASRA-compliant Gyroplanes) Instrument 2021* (the **instrument**) is to reissue *Civil Aviation Order 95.12.1 (Exemption from provisions of the regulations under the Civil Aviation Act 1988 — 2-place gyroplanes and single-place gyroplanes certificated as light sport aircraft) Instrument 2011* (the **previous CAO**).

The instrument enables the continuation of exemptions for operators of LSA gyroplanes and ASRA-compliant gyroplanes from certain requirements of the *Civil Aviation Regulations 1988 (CAR)* and enables the introduction of exemptions for those operators from certain requirements of the *Civil Aviation Safety Regulations (CASR)*.

The instrument reissues the previous CAO in substantially the same form, with the changes being minor drafting improvements, updating or deletion of outdated or obsolete provisions and the introduction of some new provisions. The commencement of Part 91 of CASR (on 2 December 2021) repealed certain provisions of CAR that impact the operations of LSA gyroplanes and ASRA-compliant gyroplanes. Therefore, provisions to maintain the operating environment were included in a proposed *Part 103 Manual of Standards (MOS)*. However, because the making of the Part 103 MOS has been deferred, equivalent provisions have been included in this instrument.

The intent of the changes is to maintain the operating environment for LSA gyroplanes and ASRA-compliant gyroplanes that existed immediately before 2 December 2021.

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