

EXPLANATORY STATEMENT

Issued by the authority of the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Civil Aviation Safety Amendment (Parts 47 and 101 No. 2) Regulations 2022

The *Civil Aviation Act 1988* (the Act) establishes the regulatory framework for maintaining, enhancing, and promoting the safety of civil aviation, with particular emphasis on preventing accidents and incidents.

Subsection 98(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

Subsection 98(1) also provides that the Governor-General may make regulations for the carrying out of, and giving effect to, the provisions of the Convention on International Civil Aviation relating to aviation safety, and in relation to the safety of air navigation, being regulations with respect to any other matters to which the Parliament has power to make laws. Subsection 98(1) further provides that the Governor General may make regulations prescribing fees in relation to services, applications or requests under the Act, regulations, and Civil Aviation Orders.

The Act also confers on the Civil Aviation Safety Authority (CASA) the function of conducting the safety regulation of civil air operations for Australia including by developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

Part 47 of the *Civil Aviation Safety Regulations 1988* (CASR) sets out how aircraft including unmanned aircraft are registered, and how registration marks are assigned to aircraft.

Part 101 of the CASR contains the rules governing all unmanned aircraft activities, namely unmanned moored balloons and kites, unmanned free balloons, unmanned rockets, remotely piloted aircraft (RPA), model aircraft and pyrotechnic displays.

The *Civil Aviation Safety Amendment (Part 47 and 101 No. 2) Regulations 2022* (the Regulations) amend a small number of provisions in Part 202 (Transitional regulations) of CASR that relate to provisions in Parts 47 and 101 of CASR for model aircraft registration and operator accreditation to principally amend the date by when a model aircraft must be registered and to address an ambiguity in the existing model aircraft registration and operator accreditation regulations.

Schedule 1 to the Regulations make amendments to Part 202 of CASR that relate to implementation of matters in Parts 47 and 101 of CASR. The Regulations:

- change the commencement date for model aircraft registration and operator accreditation from 1 July 2022 to 1 July 2023 to give effect to a decision by the Australian Government to delay model aircraft registration and operator accreditation requirements;
- amend the transitional registration incentive in accordance with the new commencement date. Some dates are deferred by a few days less than a full year so that they fall during the working week to allow CASA to more easily provide any required industry support;

- amend the commencement provision for the new definition of model aircraft made by the *Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft—Registration and Accreditation) Regulations 2019*;
- make minor machinery amendments in related transitional regulations to give effect to RPA and model aircraft accreditation implementation dates.

Regulation Impact Statement

A Regulation Impact Statement was prepared for the Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft - Registration and Accreditation) Regulation 2019 legislation for the introduction of the RPA and model aircraft registration and operator accreditation scheme (OBPR id: 24246) and the current amendments are consistent with the policy outlined in that RIS.

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:

- consider the economic and cost impact on individuals, businesses and the community of the standards; and
- 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 economic and cost impact of the instrument has been determined by:

- the identification of individuals and businesses affected by the instrument; and
- consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements; and
- a valuation of the impact, in terms of direct costs on individuals and businesses affected by the instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government; and
- a valuation of the impact the different requirements 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; and
- consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the instrument, that are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

The requirements of the Regulations relate to persons who may operate model aircraft. CASA has assessed that there is no economic and cost impact of the Regulations because it would delay by at least 12 months the requirement to register a model aircraft and the pay the associated registration levy.

Further, bringing forward the commencement of the new definition of model aircraft will enable educational use aircraft to not be RPAs and subject to registration and payment of its associated levy, and being required to be operated by a person who holds a remote pilot licence, thereby reducing regulatory burden and cost.

Impact on regional and remote communities

For the same reasons, the Regulations will be beneficial to regional and remote communities where model aircraft are operated.

Consultation

There was no public consultation on the Regulations, and specifically, to the delay to model aircraft registration and operator accreditation requirements from 1 July 2022 until 1 July 2023, as that delay will be beneficial to the public. However, in accordance with section 17 of the *Legislation Act 2003*, CASA conducted a public consultation on the originating policy being delayed by the Regulations. The public consultation was conducted during the period 25 January to 22 February 2019. CASA received 4187 submissions in response to the consultation. CASA conducted a series of meetings with groups of affected stakeholders.

A key outcome of the stakeholder meetings was the desire not to allow the implementation of registration to affect the use of remotely piloted aircraft in educational institutions. Whilst that feedback was used in the development of the Regulations, the original amendment was drafted based on a parallel implementation of RPA and model aircraft registration. The implementation plan has been since amended to sequence RPA registration coming into effect in 2020, and model aircraft being delayed until 2023. Therefore, it was necessary to bring forward the commencement of the new definition of *model aircraft* to ensure that educational use aircraft are not considered RPAs and subject to registration and its associated levy.

Incorporation by Reference

No documents have been incorporated by reference.

Commencement and making

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the Regulations are set out in the [Attachment A](#).

The Act specifies no conditions that need to be satisfied before the power to make the proposed instrument may be exercised.

The provisions in Schedule 1 commence on the day after registration on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights for the Regulations is at [Attachment B](#).

Authority: Subsection 98(1) of the
Civil Aviation Act 1988

Details of the *Civil Aviation Safety Amendment (Parts 47 and 101 No. 2) Regulations 2022*

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Civil Aviation Safety Amendment (Parts 47 and 101 No. 2) Regulations 2022*.

Section 2 - Commencement

This section provides that the Regulations commence on the day after the instrument is registered.

Section 3 - Authority

This section provides that the Regulations are made under the *Civil Aviation Act 1988*.

Section 4 - Schedule(s)

This section provides that each instrument that is specified in a Schedule to the instrument amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument have effect according to its terms.

Schedule 1 - Amendments

Item [1] Subregulation 202.229(1) (paragraphs (a) and (b) (definition of model aircraft stage 1 application day)

Item 1 amends the commencement date of the model aircraft registration scheme from 1 July 2022 to 1 July 2023.

Item [2] Subregulation 202.229(1)(b) (definition of model aircraft stage 1 application day)

Item 2 amends the *model aircraft stage 1 application day* from 1 February 2023 to 1 February 2024.

Item [3] Subregulation 202.229(1) (paragraph (b) of the definition of model aircraft stage 2 application day)

Item 3 amends the *model aircraft stage 2 application day* from 30 September 2022 to 26 September 2023.

Item [4] Subregulation 202.229(1) (paragraph (b) of the definition of model aircraft stage 2 application day)

Item 4 amends the *model aircraft stage 2 application day* from 30 May 2023 to 30 May 2024.

Item [5] Subregulation 202.229(3) (definition of model aircraft stage 2 application day)

Item 5 amends the commencement date of the model aircraft registration scheme from 1 July 2022 to 1 July 2023.

Item [6] Subregulation 202.231(1) (note)

Item 6 amends the date in the note from 1 July 2022 to 1 July 2023.

Item [7] Subregulation 202.231(2) (note)

Item 7 amends the date in the note from 30 September 2022 to 26 September 2023

Item [8] Subregulation 202.231(3)

Item 8 omits the item inserted by Schedule 2 to the amending Regulations.

Item [9] Paragraph 202.232(1)(a)

Item 9 amends the implementation phase date from 26 August 2022 to 29 August 2023.

Item [10] Subregulation 202.232(2) (table items 1 to 4)

Item 10 repeals the table items and substitute it with a table with new dates to allow a new transitional period consequent to the new implementation date of 1 July 2023.

Item [11] Subregulation 202.232(2) (note)

Item 11 repeals the note and substitute it with a note that explains that the registration of an aircraft as a model aircraft under Division 47.C.2 on or after 30 August 2023, or any later day, generally ends 12 months after the day on which the aircraft begins to be so registered.

Item [12] Subregulation 202.232(3)

Item 12 amends the date in the subregulation from 1 July 2022 to 1 July 2023.

Item [13] Subregulation 202.232(3) (example)

Item 13 amends the date in the example from 15 July 2022 (14 days later than 1 July 2022)”, to “15 July 2023 (14 days later than 1 July 2023)”.

Item [14] Regulation 202.463 (note to the definition of model aircraft stage 1 application day)

Item 14 amends the date in the regulation from 1 July 2022 to 1 July 2023.

Item [15] Regulation 202.463 (note to the definition of model aircraft stage 2 application day)

Item 15 amends the date in the note from 30 September 2022 to 26 September 2023.

Item [16] Regulation 202.463 (note to the definition of model aircraft stage 2 application day)

Item 16 amends the date in the regulation from 30 September 2022 to 26 September 2023.

Item [17] Subregulation 202.466(1)

Item 17 amends the subregulation to omit “the model aircraft stage 1 application day” and substitute it with “the day the subsequent amending regulations commence”. This provides for the definition of ‘model aircraft’ to commence when the amending regulations commence.

Item [18] Subregulation 202.466(1) (notes 1 and 2)

Item 18 repeals the notes and substitute a new note stating that regulation 101.023 provides for the definition of model aircraft.

Item [19] Subregulations 202.466(1) and (2)

Item 21 amends the subregulation so that various provisions in the CASR apply to model aircraft when these amending regulations commence rather than the model aircraft stage 1 application day.

Item [20] Subregulation 202.466(2)(a)

Item 20 amends the subparagraph to omit reference to regulation 101.047 and substitute it with a reference to subregulations 101.047(1) and (2).

Item [21] Subregulation 202.466(5) (notes 1 and 2)

Item 21 inserts a new subregulation (2A) to maintain the existing transitional arrangements for subregulation 101.047(3) and insert a note.

Item [22] Paragraph 202.466(3)

Item 22 omits “model aircraft stage 1 application day” and substitutes it with “the day the subsequent amending regulations commence”, to effect the commencement of the definition of “model aircraft”.

Item [23] Paragraph 202.466(5) (notes 1 and 2)

Item 23 repeals the notes and substitutes with a new note: “Note: The model aircraft stage 2 application day is 26 September 2023 (or a later day): see regulation 202.229.”, to reflect the later stage 2 application day.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Civil Aviation Safety Amendment (Parts 47 and 101 No.2) Regulations 2022

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 Disallowable Legislative Instrument

Part 101 of the *Civil Aviation Safety Regulations 1998* (CASR) regulates aspects of the operation of, and flight safety requirements for operating, remotely piloted aircraft, model aircraft and rockets.

Part 47 of the CASR sets out how aircraft including unmanned aircraft are registered, and how registration marks are assigned to aircraft.

The *Civil Aviation Safety Amendment (Parts 47 and 101 No.2) Regulations 2022* (the Regulations) amend a small number of provisions in Part 202 that defer the implementation of registration and operator accreditation for model aircraft in Parts 47 and 101 of CASR and to address some ambiguities in the existing model aircraft regulations.

The Regulations:

- amend the commencement of model aircraft registration and operator accreditation from 1 July 2022 to 1 July 2023;
- amend the transitional registration incentive period to follow the revised commencement date;
- amend the commencement provision for the new definition of *model aircraft* made by the *Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft—Registration and Accreditation) Regulations 2019*;
- make minor machinery amendments in related transitional regulations.

Human rights implications

The Regulations do not engage with any human rights. They delay implementation of existing model aircraft registration and accreditation requirements by one year, and provide for the definition of *model aircraft*, inserted by the *Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft—Registration and Accreditation) Regulations 2019*, to commence on the date the Regulations commence rather than the model aircraft stage 1 application day, which would be a latter date.

Conclusion

The Regulations are compatible with human rights because they do not affect the protection of human rights in any way different to the existing regulations.