Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX83/26

I, DANIEL BERNARD O'HAGAN, Section Manager Drafting, Legal Division, a delegate of CASA, make this instrument under regulations 11.160 and 11.245 of the *Civil Aviation Safety Regulations 1998*.

[Signed D.B. O'Hagan]
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28 September 2026

CASA EX83/26 — Implementation of DAMPs (Provision of Safety-Sensitive Aviation Activities by Non-DAMP Organisations) Instrument 2026

1 Name

This instrument is *CASA EX83/26 — Implementation of DAMPs (Provision of Safety-Sensitive Aviation Activities by Non-DAMP Organisations) Instrument 2026*.

2 Duration

(1) This instrument commences on 1 October 2026.

(2) Subject to subsection (3), this instrument is repealed at the end of 31 March 2035.

(3) Section 5, subsection 6(1) and section 7 are repealed at the end of 30 September 2029.

Note For the purposes of regulation 11.250 of CASR, the directions in subsections 6(1) and (2) and section 7 cease to be in force on repeal of those respective provisions as provided for under this section. In particular:

(a) the exemption in section 5 of this instrument, and the directions in subsection 6(1) and section 7, apply only until the end of 30 September 2029; and

(b) the other provisions of this instrument remain in force until the repeal of this instrument (on 31 March 2035) because of the requirements to retain and manage records in the direction in subsection 6(2).

3 Interpretation

(1) In this instrument:

DAMP-like program, of a non-DAMP organisation, means a plan of a non-DAMP organisation that:

(a) complies with regulation 99.045 of CASR (as applied under section 4) as if the organisation were a DAMP organisation; and

(b) is approved in writing by CASA.

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non-DAMP organisation means a person other than a DAMP organisation.

(2) Unless the contrary intention appears, certain terms and expressions in this instrument have the meaning given by regulation 99.010 of CASR.

Note Such terms and expressions include ***applicable SSAA***, ***DAMP***, ***DAMP organisation*** and ***SSAA employee***.

4 Application of Part 99 of CASR

If this instrument requires or specifies compliance by a non-DAMP organisation with a provision of Part 99 of CASR, the provision (and, if necessary, a provision referred to in that provision) applies as if:

(a) a reference in the provision to a DAMP organisation were a reference to a non-DAMP organisation; and

(b) a reference in the provision to a DAMP were a reference to a DAMP-like program; and

(c) a reference in the provision to an SSAA employee of a DAMP organisation were a reference to an employee or contractor of a non-DAMP organisation who performs, or is available to perform, an applicable SSAA for the DAMP organisation; and

(d) a reference in the provision to a DAMP medical review officer were a reference to a medical practitioner who, for drug or alcohol testing under a DAMP-like program, has:

(i) competence in the field of interpreting drug and alcohol test results; and

(ii) knowledge of substance and use disorders; and

(iii) knowledge of the contents of Part 99 of CASR; and

(e) a reference in the provision to a person in a DAMP organisation who has the role of DAMP contact officer were a reference to a person appointed by the non-DAMP organisation to liaise with CASA in relation to its DAMP-like program and the organisation's responsibilities under this instrument; and

(f) a reference in the provision to a person in a DAMP organisation who has the role of DAMP supervisor were a reference to a person in a non-DAMP organisation who:

(i) has had relevant training to form an opinion as to whether a person may be adversely affected by a testable drug or under the influence of alcohol; and

(ii) is authorised by the non-DAMP organisation to do so for the purposes of drug and alcohol testing on an employee of the non-DAMP organisation who performs, or is available to perform, an applicable SSAA for a DAMP organisation.

5 Exemption

(1) This section applies in relation to a DAMP organisation if:

(a) a written contract exists between the DAMP organisation and a non-DAMP organisation under which:

(i) the non-DAMP organisation provides an applicable SSAA to the DAMP organisation; and

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(ii) an employee or contractor of the non-DAMP organisation performs, or is available to perform, the SSAA under a DAMP-like program; and

(iii) the DAMP-like program (instead of the DAMP of the DAMP organisation) is to apply in relation to the SSAA; and

(b) the DAMP organisation reasonably believes that the non-DAMP organisation is implementing its DAMP-like program in relation to the employee or contractor.

Note The DAMP-like program must be approved in writing by CASA — see definition of ***DAMP-like program*** in section 3.

(2) A DAMP organisation to which this section applies:

(a) is exempt from compliance with subregulation 99.030(4) of CASR to the extent that the provision requires the organisation to comply with paragraph 99.045(d) of CASR in relation to the non-DAMP organisation's employee or contractor who performs, or is available to perform, an applicable SSAA for the DAMP organisation; and

(b) is exempt from compliance with regulation 99.035 of CASR to the extent that it requires the organisation to implement its DAMP by giving effect to regulation 99.080 of CASR in relation to a non-DAMP organisation's employee or contractor who performs, or is available to perform, an applicable SSAA for the DAMP organisation.

(3) However, subsection (2) does not apply insofar as a DAMP organisation implements its DAMP regarding the employee or contractor of the non-DAMP organisation to give effect to the matters mentioned in subregulation 99.065(2) of CASR.

Note 1 In subsection (3), the employee or contractor of the non-DAMP organisation is an SSAA employee of the DAMP organisation — see definitions of ***DAMP contractor***, ***employee*** and ***SSAA employee*** in regulation 99.010 of CASR.

Note 2 Subregulation 99.065(2) requires that a DAMP include requirements to not permit an SSAA employee to perform, or be available to perform, an applicable SSAA in specified circumstances related to: (1) the employee's faculties being suspected of being impaired due to the employee being under the influence of testable drugs or of alcohol; or (2) the SSAA employee being involved in an accident or serious incident.

Note 3 See the direction relating to subsection (3) in subsection 6(1).

6 Directions — DAMP organisation

(1) If a DAMP organisation to which section 5 applies implements its DAMP regarding an employee or contractor of the non-DAMP organisation as mentioned in subsection 5(3), the DAMP organisation must, as soon as practicable after implementing its DAMP in relation to the matters mentioned:

(a) notify the non-DAMP organisation in writing of the implementation; and

(b) notify CASA in writing if the DAMP organisation does not permit the employee or contractor to perform, or be available to perform, the applicable SSAA for the DAMP organisation.

(2) A DAMP organisation to which an exemption under section 5 applies (or applied) must:

(a) record the grounds for its reasonable belief mentioned in paragraph 5(1)(b); and

(b) ensure that the record states the date the record was created; and

(c) keep the record in a secure location for 5 years from that date; and

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(d) within 6 months after the end of the 5-year period for which the record was kept, destroy or delete:

(i) the record; or

(ii) any parts of the record that relate to the results of drug or alcohol testing.

7 Directions — non-DAMP organisation

(1) A non-DAMP organisation that has a DAMP-like program that is the subject of an exemption under section 5 must comply with regulations 99.080 and 99.085 of CASR, as applied under section 4, in the implementation and review of the program.

(2) However, if a DAMP organisation to which section 5 applies implements its DAMP regarding an employee or contractor of a non-DAMP organisation as mentioned in subsection 5(3), the non-DAMP organisation is not required to meet the requirements of regulation 99.080 to the extent that the DAMP gives effect to the matters mentioned regarding the employee or contractor.

(3) A non-DAMP organisation that has a DAMP-like program that is the subject of an exemption under section 5 must make the DAMP-like program available to each employee or contractor of the non-DAMP organisation who performs, or is available to perform, an applicable SSAA for a DAMP organisation.

(4) A non-DAMP organisation that has a DAMP-like program that is the subject of an exemption under section 5 must comply with a request by CASA:

(a) to provide CASA with:

(i) a copy of the DAMP-like program; and

(ii) specified information and records demonstrating that the organisation has developed and implemented the DAMP-like program; and

(iii) any other information and records specified by CASA that are relevant to the organisation ensuring the appropriate development, implementation and enforcement of the DAMP-like program; and

(b) to make changes specified by CASA to the DAMP-like program; and

(c) to prepare a new DAMP-like program that complies with the requirements of regulation 99.045 of CASR, as applied under section 4; and

(d) to submit any proposed changes or a newly-prepared DAMP-like program to CASA.

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