

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **Exemption — UAV Controller's Certificate requirement for certification**

##### **Legislation**

Subsection 98 (1) of the *Civil Aviation Act 1988* (the *Act*) provides that the Governor-General may make regulations for the Act and the safety of air navigation.

Subsection 98 (5A) of the Act provides that the regulations may empower CASA to issue instruments in relation to the following:

- (a) matters affecting the safe navigation and operation, or the maintenance, of aircraft; or
- (b) the airworthiness of, or design standards for, aircraft.

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) provides that, for subsection 98 (5A), CASA may grant an exemption from a provision of the Regulations, including the *Civil Aviation Regulations 1988* (**CAR 1988**) or a provision of the Civil Aviation Orders, in relation to a matter mentioned in that subsection. Under subregulation 11.160 (2), an exemption may be granted to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.205 (1) of CASR 1998, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.225, an exemption must be published on the Internet. Under subregulation 11.230 (1), an exemption ceases on the day specified within it (but no longer than 3 years after its commencement) or, if no day is specified, 3 years after commencement.

Under paragraph 101.295 (2) (b) of CASR 1998, a person is eligible to be certificated as a UAV (***unmanned aerial vehicle***) controller if, among other things, he or she has been awarded a pass in an aviation licence theory examination. At present, since there is no aviation licence theory examination for UAVs referred to in regulation 5.41 of the CAR 1988, the theory examination that applicants sit for is usually a private pilot licence examination. It is considered that this examination is not appropriate for certain UAV operations. As a result, this exemption allows for the recognition of a specially prepared Unmanned Aerial Systems (UAS) examination that was set by CASA.

The applicants who successfully undertook that examination are recognised as eligible to be certificated under regulation 101.295. They will only be certificated in respect of operations less than 400 feet above ground level with restrictions on the area of operations.

##### **Legislative Instruments Act**

Exemptions issued under regulation 11.160 of CASR 1998 are issued under subsection 98 (5A) of the Act. Subsection 98 (5AA) of the Act states that an instrument issued under paragraph (5A) (a) is a legislative instrument if it applies to a class of persons or a class of aircraft. This exemption applies to a class of persons and so is a legislative instrument.

As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instruments Act 2003* (the **LIA**).

**Consultation**

Consultation under section 17 of the LIA has been undertaken. There have been 2 industry studies and an industry team was invited to make recommendations. The exemption is based on the recommendation for the level 1 program.

The instrument commences on the day of registration and stops having effect at the end of 31 August 2014. It has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with sections 73 and 82 of the Act.

[Instrument number CASA EX111/11]