

Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — Unmanned Aerial Vehicles (UAV) Controller's Certificate requirement for manufacturer training

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* 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) (d) of CASR 1998, a person is eligible to be certificated as an unmanned aerial vehicle (UAV) controller if, among other things, he or she has completed a training course in the operation of the type of UAV that he or she proposes to operate, conducted by the UAV's manufacturer. There are a number of applicants for whom manufacturer training is either not available or impractical to obtain. Technology is now more available to the potential applicant. The exemption is to enable prospective applicants to obtain the required training.

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.

Human Rights Compatibility

This legislative instrument does not engage any of the applicable rights or freedoms. It is compatible with human rights as it does not raise any human rights issues.

Commencement

The instrument commences on the day after registration and stops having effect at the end of 30 December 2014.

It has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with section 73 of the Act.

[Instrument number CASA EX03/12]