

Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — requirement to provide a VASIS

Purpose

This instrument exempts the operator of a certified aerodrome (the *operator*) in relation to the provision of a visual approach slope indicator system (*VASIS*) for a runway that is regularly used by jet-propelled aircraft conducting charter operations.

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation. Under paragraph 98 (5A) (a) of the Act, the regulations may empower the Civil Aviation Safety Authority (*CASA*) to issue instruments in relation to the matters affecting the safe navigation and operation, or the maintenance, of aircraft.

Under subregulation 139.190 (1) of the *Civil Aviation Safety Regulations 1998* (*CASR*), the operator of a certified aerodrome must, in accordance with the standards for VASIS set out in the Manual of Standards (MOS) – Part 139 Aerodromes (*Part 139 MOS*), provide a VASIS for the end of a runway at the aerodrome if that end is regularly used as the approach end for jet-propelled aircraft conducting regular public transport (*RPT*) operations or charter operations.

Under subparagraph 9.9.1.1 (a) of the Part 139 MOS, a VASIS shall be provided to serve the approach to a runway, whether or not the runway is served by electronic approach slope guidance, where the runway is regularly used by jet-propelled aeroplanes engaged in air transport operations. The term ‘air transport operations’ is defined in the Part 139 MOS as charter operations, or RPT operations, within the meaning of paragraphs 2 (7) (b) and (c), respectively, of the *Civil Aviation Regulations 1988* (*CAR*).

Exemptions

Under subregulation 11.160 (1) of CASR, CASA may grant an exemption from a provision of CASR, CAR or the Civil Aviation Orders (*CAO*) in relation to a matter mentioned in subsection 98 (5A) of the Act.

Under subregulation 11.160 (3), CASA may grant an exemption on application, or on its own initiative. The exemption in this instrument is granted on CASA’s initiative.

The maximum duration of an exemption is 3 years, see subregulation 11.230 (1) of CASR. Under regulation 11.225 of CASR, CASA must, as soon as practicable, publish on the Internet details of an exemption.

Background

Paragraph 1.1.1.2A of the Part 139 MOS provided that the standards set out in the Part 139 MOS for a VASIS applied only to aerodromes used by aeroplanes with a maximum take-off weight in excess of 5 700 kg engaged in RPT operations. That provision was removed on 13 November 2014.

In order to preserve the previous position, CASA made instrument CASA EX150/14 to exempt operators of aerodromes that are regularly used by jet-propelled aircraft conducting charter operations from providing a VASIS in accordance with subregulation 139.190 (1) of CASR. The exemption does not apply if the runway is used by jet-propelled aircraft that are engaged in RPT operations or if the aerodrome had a VASIS installed at the commencement date, being 19 November 2014.

CASA EX150/14 expires at the end of November 2016.

Instrument

This instrument replaces CASA EX150/14 with a similar exemption.

The instrument applies to the operator of a certified aerodrome in relation to an end of a runway that is regularly used as the approach end for jet-propelled aircraft conducting charter operations. However, the instrument does not apply if the end of the runway is regularly used as the approach end for jet-propelled aircraft conducting RPT operations or for which an approved VASIS was provided on 30 November 2016, that is, immediately before the commencement date of the instrument.

The instrument exempts the operator of the aerodrome from compliance with subregulation 139.190 (1) of CASR. By exempting the operator from compliance with subregulation 139.190 (1) of CASR, the operator is also exempt from compliance with the standards for VASIS set out in the Part 139 MOS, such as the standards in subparagraph 9.9.1.1 (a).

A note in the instrument explains the requirement in subregulation 139.190 (1) of CASR. Another note in the instrument explains that the exemption does not affect CASA's power under CASR to issue a direction to an aerodrome operator to provide an approved VASIS. CASA may issue such a direction if it considers it necessary to do so in the interests of the safety of air navigation, see regulation 11.245 of CASR.

Legislation Act 2003 (the LA)

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the CASR, CAR or the CAO. An instrument issued under paragraph 98 (5A) (a) of the Act is a legislative instrument if the instrument is expressed to apply to a class of persons, class of aircraft or class of aeronautical product. The exemption would apply to a class of persons, that is, operators of certified aerodromes with a runway end that meets the description in section 2 of the instrument. The exemption is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

CASA has received a request from an aircraft operator for the exemption in CASA EX150/14 to be renewed. The renewal of the exemption is supported by other aircraft operators and aerodrome operators affected by the exemption.

The instrument continues the exemption in CASA EX150/14, which in turn preserved the application of paragraph 1.1.1.2A of the Part 139 MOS in relation to the provision of a VASIS. The application of the exemption is limited to ensure that existing VASIS continue to be provided.

In these circumstances, for section 17 of the LA, CASA considers that no further consultation is necessary or appropriate.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at Attachment 1.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required (OBPR id: 14507).

Making and commencement

The instrument has been made by a delegate of CASA relying on the power of delegation under regulation 11.260 of CASR.

The instrument commences on 1 December 2016, to coincide with the expiry of CASA EX150/14. The instrument is repealed at the end of 30 November 2019, or the commencement of Parts 119, 121 and 135 of CASR, whichever happens first. In the event that those Parts of CASR have different commencement dates, the relevant repeal date is the last of those commencement dates.

[Instrument number CASA EX171/16]

Statement of Compatibility with Human Rights

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

Civil Aviation Safety Regulations 1998

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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

This legislative instrument grants an exemption to the operator of a certified aerodrome in relation to the provision of a visual approach slope indicator system (*VASIS*) for a runway that is regularly used by jet-propelled aircraft conducting charter operations.

Subregulation 139.190 (1) of the *Civil Aviation Safety Regulations 1998 (CASR)* requires that the operator of a certified aerodrome must, in accordance with the standards for VASIS set out in the Manual of Standards, provide an approved VASIS for the end of a runway at the aerodrome if that end is regularly used as the approach end for jet-propelled aircraft conducting regular public transport (*RPT*) operations or charter operations.

The exemption applies to the operators of certified aerodromes and exempts them from compliance with subregulation 139.190 (1) of CASR in relation to the end of a runway if charter operations, but not RPT operations, are regularly conducted by jet-propelled aircraft at that end of the runway. It renews the exemption in instrument CASA EX150/14, which expires at the end of November 2016.

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