

EXPLANATORY STATEMENT

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

Civil Aviation Act 1988
Civil Aviation Legislation Amendment (Part 149) Regulations 2018

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 aviation accidents and incidents.

Subsection 98(1) of the Act provides, in part, 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 purpose of, carrying out and giving effect to the provisions of the *Convention on International Civil Aviation* (the Chicago Convention) 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 9(1) of the Act specifies, in part, that the Civil Aviation Safety Authority (CASA) has the function of conducting the safety regulation of civil air operations in Australian territory by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

The *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* (the Regulations) makes various amendments to the *Civil Aviation Regulations 1988* and the *Civil Aviation Safety Regulations 1998 (CASR)*, primarily to make a new Part 149 of CASR - Approved Self-Administering Aviation Organisations.

At present, no formal regime exists for the regulatory oversight of sport and recreational aviation organisations. Instead, the focus of existing civil aviation legislation governing sport and recreational aviation activity is on the operation of certain kinds of aircraft by individuals in accordance with specific exemptions against the relevant regulatory requirements, rather than on the organisations that administer sport and recreational aviation activity.

The conditions attached to these exemptions require, in most cases, formal affiliation of the individual or registration of the aircraft with a specified sport or recreational aviation organisation and compliance with the operational and technical rules of the organisation that are specified in organisational manuals approved by CASA. These exemptions and specified conditions are mainly set out in the Part 95 Civil Aviation Orders that govern the operation of sailplanes, hang-gliders, low-momentum ultralight aeroplanes, gyroplanes, gyrogliders, weight shift aeroplanes, powered parachutes, certain ultralight aeroplanes and some light sport aircraft.

The introduction of CASR Part 149 improves aviation safety through the introduction of a consistent framework, for a wider field of activities beyond those administered by sport and recreational aviation organisations, that would require each organisation to ensure its activities are not likely to have an adverse effect on the safety of air navigation, *i.e.* on the safety of all airspace users, not just the affiliates and members of individual organisations.

To accommodate the differences in the nature and scope of the aviation-related activities administered by existing and prospective ASAOs, CASR Part 149 regulations are, for the most part, broadly framed so as to deliver general safety outcomes. The CASR Part 149 Manual of Standards sets out requirements appropriate to the specific nature and scope of activities involved in a particular self-administration sector and the CASA-approved exposition that is specific to the organisation conducting the self-administration and the activities administered.

The CASR Part 149 regulatory framework includes the following key mechanisms:

- a requirement for organisations to hold an approval - an approved self-administering aviation organisation (ASAO) certificate - listing its approved aviation administration functions;
- organisations to satisfy certain requirements for the issue of an ASAO certificate, including that the applicant organisation can perform its proposed aviation administration functions safely, its key personnel have the required qualifications and experience and that the organisation has developed an exposition which specifies the scope of operations and activities performed by the ASAO how the ASAO intends to comply with the proposed Regulations and associated Manual of Standards;
- requirements for organisations to maintain an appropriate structure to manage their approved functions and for organisations to ensure key personnel positions are filled by qualified, experienced and competent persons;
- requirements for an organisation to develop and maintain an exposition, including a safety management system and audit and surveillance system;
- regulatory requirements governing ASAO authorisations and enforcement and the timely provision of information and documents to CASA to ensure the safety of air navigation; and
- a process, to ensure the maintenance of procedural fairness, for CASA review of internal ASAO review decisions in respect of ASAO-issued authorisations.
- An ASAO is expected to provide assurance of reasonable, reliable and non-discriminatory access for all persons to full membership of, or affiliation with, the ASAO. This assurance will be evident in the aviation administration and enforcement rules within the ASAO's exposition that is approved by CASA.

An ASAO certificate will be valid for a period of up to five years. A compliant ASAO seeking re-issue of an ASAO certificate that has no safety findings made against it for which CASA requires amendment of its exposition and that does not require CASA approval of amendments to its approved functions or exposition will generally not be subject to full reassessment of its approved aviation administration functions or its exposition in its re-issue application. A re-issue in these circumstances will generally be an administrative process to verify the information held by CASA and should not attract the level of application fees which assessment of a non-compliant ASAO or an ASAO that wishes to amend its approved functions or exposition will incur.

The Regulations do not compel existing sport and recreational aviation organisations to become ASAOs. Existing organisations that do not wish to become Part 149 ASAOs can continue to operate under properly conditioned exemptions, subject to relevant civil aviation legislation and CASA being satisfied that they are unlikely to have an adverse effect on the safety of air navigation. Such organisations will only be able to expand the scope of their

aviation administration functions (beyond their pre-Part 149 approvals), or issue additional kinds of authorisations, if they hold an ASAO certificate.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, CASA consulted on the proposed changes:

- With the Standards Consultative Committee (SCC), Sport and Recreational Aviation Subcommittee (SCC forum) on two occasions, 30 November 2015 to 29 January 2016 and 9 to 16 August 2016.
- Through public consultation with the release of the Notice of Proposed Rule Making (NPRM) 1502SS from 22 August to 21 October 2016.

The consultation process resulted in sixty-two online responses and fourteen written responses, with eight from sport aviation organisations. Over 80 per cent of responses were supportive of the proposed changes.

All matters raised during the public and industry consultation process have been addressed in the proposed Regulations and further consultation with the SCC forum has confirmed that the matters have been satisfactorily resolved.

Regulation Impact Statement

A Regulation Impact Statement (RIS) was prepared and assessed as adequate by the Office of Best Practice Regulation (OBPR ID: 21149). A copy of the Statement is at [Attachment A](#).

Statement of Compatibility with Human Rights

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

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 [Attachment C](#).

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

The provisions of the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* commence on a date in 2019 set by the Minister for Infrastructure and Transport by notifiable instrument.

To allow sport aviation organisations the opportunity to transition to Part 149 of CASR, the Regulations provide an exemption for existing organisations from the requirement to hold an ASAO-certificate to perform aviation administration functions for a period of three years from commencement.

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

Part 149 Regulation Impact Statement

Summary

All civil aviation activities are subject to the aviation legislation administered by CASA, and this administration includes, but is not limited to, CASA issuing licences for pilots, registering aircraft and overseeing the maintenance requirements of aircraft.

Historically CASA has recognised a number of sport and recreational aviation organisations that can administer their own activities and have exempted individuals and aircraft from compliance with otherwise applicable provisions of the civil aviation legislation if they have an affiliation with a recognised organisation (popularly known as Recreational Aviation Administration Organisations, or RAAOs). CASA conducts oversight of these organisations and their procedures.

There are currently 10 recognised RAAOs with each organisation undertaking administrative functions to a varying degree, such as authorising pilots, registering aircraft and overseeing aircraft maintenance. CASA manages its relationship with RAAOs by way of deeds of agreements with individual organisations, under which CASA pays the organisation an amount of money on an annual basis to help defray the costs of the organisation's safety-related oversight and administrative functions.

There is general agreement between CASA and the existing organisations that the self-administration of the sport and recreation activities currently approved should continue. Whilst CASA believes that the existing regulatory requirements for self-administration are sound, there are potential improvements to the way in which self-administration is implemented and administered. These improvements to the existing the regulatory framework have the potential to improve their administration and enhance safety. They will also provide CASA with a more effective, efficient and appropriate means than a deed of agreement by which to manage CASA's regulatory relationship with these organisations.

This would be achieved by developing a positive set of requirements for organisational approval, and requiring organisations to have an Exposition and a Safety Management System. CASA is proposing for this to be implemented by the making of CASR Part 149.

The cost of the new requirements for industry to develop an exposition and to implement a SMS is low overall: for a small organisation the transition cost is likely to be approximately \$50 000, for a medium sized organisation approximately \$85 000 and for a large organisation approximately \$150 000. These cost estimates are based on the best available information to CASA, however, there is a degree of uncertainty surrounding the estimates, particularly due to the diverse nature of the organisations. Most RAAOs already have approved technical and operational procedures in place, along with varying forms of safety assurance programs, which in many cases will form the basis of an acceptable Exposition and Safety Management System.

The existing organisations are generally supportive of the Part 149 concept, mainly because it provides formal recognition of their existence and some greater autonomy for the organisations to operate. This support was evidenced by the decision of the SCC Sport & Recreational Aviation Subcommittee to endorse the making of CASR Part 149. However, there are some areas of industry concern such as ensuring that competition between organisations does not dilute revenue and compromise safety and ensuring that there is adequate income from individuals affiliating with their organisation.

CASA plans to make CASR Part 149 in mid-2018, with the Part commencing in the first quarter of 2019 with an 18-month fee-free transition period (subject to conditions) to minimise the impact on the existing organisations. The change will be subject to a post implementation review two years after the end of the transition period.

Introduction

All Australian civil aviation operations are governed by applicable sets of legislative requirements, set out in the *Civil Aviation Act 1988*, the *Civil Aviation Regulations 1988*, the *Civil Aviation Safety Regulations 1998* and other forms of subordinate legislation.

Historically—going back in some cases more than 60 years—certain sport and recreational aviation activities that would ordinarily have been (and in some cases were) governed by the same regulatory requirements as conventional aviation activities, were not subject to the conventional form of regulatory oversight. Due to the small scale and distinctive nature of those sport and recreational activities—occurring as they generally did at a distance from major population areas, well away from larger aerodromes and well apart from other aircraft—it was considered effective, efficient, and safe to ‘exempt’ the individuals involved in those activities and the aircraft they flew from some of the conventional requirements of the civil aviation legislation.

Recognising the willingness and ability of a few small fraternally organised and less-formally administered sport and recreational aviation associations to oversee the safety-related aspects of the activities of their members and responding to the beneficial contribution such activities could bring to the growth of Australian aviation, the responsible authorities of the day granted many such exemptions. These exemptions were (and are) subject to conditions, including that the people benefiting from them must comply with the technical and operational rules promulgated by the organisation(s) to which they belonged, and as approved by the regulator.

Currently CASA recognises ten organisations that self-administer their aviation-related activities:

- Australian Ballooning Federation;
- Australian Parachute Federation;
- Australian Skydiving Association;
- Australian Sport Rotorcraft Association;
- Australian Warbirds Association Limited;
- Gliding Federation of Australia;
- Hang Gliding Federation of Australia;
- Model Aeronautical Association of Australia;
- Recreational Aviation Australia; and
- Sport Aircraft Association of Australia.

The current governance and administrative requirements for these organisations, popularly referred to as either Sport Aviation Bodies or Recreational Aviation Administration Organisations (RAAOs) are specified:

- Indirectly, through the exemptions and delegations or another type of legislative instrument from the regulations; and
- the Deeds of Agreements with individual RAAOs, which detail the safety-related aspects of governance and administrative requirements for that RAAO.

The Deeds of Agreements, which are legal funding arrangements between CASA and the RAAO, generally include the following requirements:

- the development of appropriate standards and procedures, including documents such as an Operations Manual or a Technical Manual;
- compliance and investigative functions, such as ensuring members comply with appropriate practices, procedures and processes, accident investigation and, collecting and reporting compliance activities to CASA or other relevant bodies;
- safety education and promotion responsibilities and roles; and
- statistical documentation and reporting requirements, including information relating to the numbers of RAAO members, aircraft, accidents, incidents, defects and fatalities.

Problem

Whilst there is general acceptance of the self-administration concept and the appropriateness of its application to the activities covered by the ten organisations currently approved, CASA has identified some problems with the current regulatory requirements:

- The exemptions which are necessary for members of the organisations to engage in the aviation activities administered by the RAAO with which they are affiliated are subject to the vagaries associated with such an attenuated regulatory regime. While individuals who run afoul of the safety requirements governing their activities may be dealt with either by the relevant RAAO or by CASA, the only way in which CASA might deal regulatorily with an organisation is by way of actions necessarily affecting all of the individuals and aircraft affiliated with that organisation. With the exemptions contained in the Civil Aviation Orders this makes it difficult and resource intensive for CASA to make changes to the regulatory requirements governing the RAAOs in a timely manner.

Because most of the exemptions currently governing RAAO activities are contained in Civil Aviation Orders, it can be difficult to make timely and responsive changes, either to the scope of the exemptions or the conditions to which they are subject.

- Because the process for recognition of RAAOs is not based on published standards, the rationale for CASA's decisions to recognise one or another RAAO may appear to be inconsistent or idiosyncratic.
- The deeds of agreement are not public, which may raise issues of transparency regarding the oversight of these organisations. They also provide only a limited way for CASA to conduct meaningful safety oversight of the organisations in that the only compliance mechanisms available are removal of CASA's approvals of an organisation's manuals or repealing or amending the applicable instruments of exemption given in favour of RAAO members and their aircraft. CASA has no effective legal means of directing the organisation to undertake a particular task. Such a blunt instrument of enforcement is not conducive to good governance.
- The removal of an organisation's recognition by CASA would effectively leave its authorisation holders unable to exercise the privileges of their authorisations or operate their aircraft in accordance with the exemption. This would increase the likelihood of non-compliance with the civil aviation legislation and result in an increase to the overall risk to the safety of air navigation for all airspace users as there will not be any form of regulatory oversight of non-compliant individuals. CASA has only limited resources to identify non-compliant activities and largely relies on members of the public to report activities of non-compliant individuals with that information used by CASA to take enforcement action.
- There is no formal SMS or exposition requirement for all organisations which makes it more difficult for CASA to oversee the organisations and to ensure that they are implementing appropriate procedures to maintain safety. The exposition and safety management system provide a formal and documented process to manage safety.

Objective

CASA's objective is to maintain the self-administration approach for existing sport and recreational aviation activities, but implement improvements that would maximise safety, minimise corporate governance risks for organisations oversighted by CASA and ensure a level playing field for entry to the administration of sport and recreational aviation activities.

Options

The self-administration approach is seen as a successful approach by both CASA and the existing organisations and therefore CASA has examined policy options which continue this approach:

- Option 1: Status-Quo;
- Option 2: Approved Self-Administering Aviation Organisation model

A potential third option would be to end self-administration for sport and recreational aviation, and assume direct regulatory and oversight responsibilities for the activities in which members of RAOs currently engage. This option would not be consistent with CASA's commitment to self-administration or government policies favouring co-regulatory models where these are appropriate. Doing so would also preclude the possible extension of self-administration to other aviation-related activities, which is an outcome contemplated by the proposed regulations. For these reasons, along with the clear and consistently expressed preferences of the existing self-administering organisations, the option to repatriate activities currently administered by RAOs organisations was not consulted publicly or further considered.

In proposing Option 2, CASA has been careful to consider the views of industry stakeholders, from whom no proposals for a departure from the principles of self-administration were suggested. Several changes to option 2 were made in the light of industry feedback. These are explained below.

Option 1: Status-Quo arrangement with extension to other aviation sectors

This option would see the continuation of the current oversight arrangements for the sport and recreational aviation sector based on exemptions from the relevant civil aviation legislation and deeds of agreements. Organisations in other aviation sectors with an interest in participating in the self-administration approach would have to approach CASA for an approval, to be issued at CASA's discretion.

Option 2: Approved Self-Administering Aviation Organisation model

For this option, CASA would develop a regulatory framework which formally recognises the self-administration approach within the civil aviation framework as Part 149 of the *Civil Aviation Safety Regulations 1998* (CASR). Organisations approved under CASR Part 149 will be recognised as an 'approved self-administering aviation organisation' or ASAO.

CASR Part 149 would specify the governance and administrative requirements for any organisation seeking self-administration status. The more detailed aspects of these requirements would be placed within a Part 149 Manual of Standards (MOS).

Organisations seeking self-administration status (that is, an ASAO certificate) will be required to have an Exposition and a Safety Management System. The Exposition would include the following matters that are relevant to aviation safety:

- organisational structure and accountability;
- key persons, such as the Chief Executive Officer and Safety Manager

- aviation administration functions including relevant manuals on operations and airworthiness as well as other relevant documents;
- aviation administration and enforcement rules including compliance, reporting and enforcement procedures;
- document control and retention procedures;
- aircraft administration procedures (if applicable);
- audit and surveillance system; and
- change management processes.

The Exposition will be used to determine the approved aviation administration functions, including the conditions and restrictions on their exercise, and adherence to it would be a key condition of the organisations' approval.

The introduction of a Safety Management System (SMS) will provide a standardised and structured approach to safety management which may result in both safety benefits as well as a reduction of both direct and indirect costs of the associated activity. The key components of an SMS are:

- safety policy and objectives
- safety risk management
- safety assurance; and
- safety promotion.

The use of an Exposition and SMS will provide considerable autonomy to ASAOs within a clear framework they can use to make decisions on aviation-safety and administer the aviation-safety related activities of their authorisation holders as well as safety-related aspects of the aircraft they are approved to administer.

Impact

Option 1: Status-Quo arrangement with extension to other aviation sectors

Under option 1 there would be a continuation of the *status quo* impacts and any impact would be confined to future changes to the civil aviation legislation or the legislative instruments governing the existing organisations. These impacts are likely to be more restrictive operational requirements as the risk of adverse interactions between recreational aircraft and other sectors of civil aviation increases due to growth in each sector. Under this policy option, the current RAOs would continue with their operations, practices and processes as before, subject to any new requirements to ensure the safety of air navigation as may be required over time.

Option 2: Approved Self-administering Aviation Organisation

Option 2 will primarily impact on the existing sport aviation bodies through the requirement to prepare their ASAO-certificate applications, including their expositions, SMS and audit and surveillance system (if required) and any changes required to their manuals. As a practical matter, however, existing members of the ten organisations will be able to continue their current aviation activities largely unaffected. The changes will be primarily limited to the governance arrangements within the ten organisations, and in the way that the organisations interact with CASA. Whilst CASA will necessarily make some changes to its internal processes, there will be no major staffing or financial impacts on CASA.

The major benefit with this option will be more robust governance arrangements for the existing organisations, which CASA believes will reduce the risk of omissions by organisations that could influence aviation safety. In addition, aviation safety will be enhanced by requiring the organisations, who do not currently have one, to have a safety management system, which will provide the organisation a structured and systematic way to manage safety and facilitate change.

The establishment of Part 149 is likely to enhance the contestability of the administration of sport organisations, and whilst there may not be a greater number of organisations providing self-administration the increased contestability is likely to exert competitive pressure on the existing organisations to provide a quality service at a reasonable price.

Safety Risks

A risk associated with the implementation of Part 149 is that the standards do not adequately address the changed circumstances in which the members of the existing organisations now operate. These activities are occurring closer to populated areas and conventional aviation activities, and that there is increased membership operating more complex and faster aircraft. Some of these risks will be addressed by the proposed CASR Part 103, which will provide the regulatory basis for the operation of such aircraft (presently operated in accordance with the 95-series of CAOs) and are administered by ASAOs, other risks will be addressed by an ASAO's SMS.

Another safety related risk identified by some existing self-administering organisations relates to the increased contestability for the administration of these activities. The issuance of Part 149 certificates to more than one organisation for the self-administration of the same functions in the same field of activity could impact adversely on each organisation's ability to effectively perform those safety related functions. CASA is of the view, however, that this risk is manageable within the terms of the proposed regulations which permit CASA to decline to issue an organisational approval if its issuance would pose an unacceptable safety risk.

An implementation risk for this option is that an organisation (suddenly) ceases to operate, leaving members without an approval to undertake their aviation activities. This risk is present under the current exemption-based self-administration regime. This risk is minimised by the obligation of ASAO certificate holders to provide information to CASA during their operation to enable CASA to put in place contingencies in the event they should cease to operate. CASA has also sought to mitigate the risk of authorisation holders of a defunct ASAO continuing to operate without organisational oversight by including provisions in Part 149 to enable either CASA or another ASAO to assume the ASAO's administration functions.

Costs

The costs associated with option 2 are the requirements for an exposition and a safety management system. CASA has assumed that the impact will be limited to the existing 10 organisations with there being no evidence that option 2 will result in either a reduction or increase in the number of organisations seeking self-administration status.

Exposition

An Exposition would cover many of the expectations currently addressed in the Deeds of Agreements so there would be no substantive compliance costs incurred. There would be an initial administrative cost as RAOs would need to develop their Exposition for CASA approval. This would involve developing an exposition to ensure it meets the requirements of CASR Part 149.

The time to develop an exposition will vary amongst the existing organisations according to the state of their existing manuals and the size, scope and complexity of their operations. It is likely that the complexity and the number of the functions of the organisation will be the predominate factor in determining the time to develop an exposition.

For low complexity organisations that oversee a limited number of simple functions with effective processes, systems and manuals, the time to prepare an exposition may only require the efforts of an employee or a volunteer for approximately four weeks or approximately 160 hours. For medium complexity organisations that oversee more complex operations with effective processes, system and manuals, the time to prepare an exposition is more likely to be in the range of two months of effort for one person or approximately 345 hours (Table 1).

For higher complexity organisations that oversee a large number of the complex functions with processes, systems and manuals that are not yet effective. The time to prepare an exposition may require the efforts of one person for up to six months or approximately 1040 hours.

Table 1: Option 2 – Exposition Compliance Cost per Organisation

Compliance cost per organisation				
	Initial development			
	Hours	Wage rate	Cost	
Low complexity organisation	160	\$65.45	\$10 472	
Medium complexity organisation	345	\$65.45	\$22 580	
Higher Complexity organisation	1040	\$65.45	\$68 100	

To be conservative CASA has based the cost estimate for all organisations on the estimate for a higher complexity organisation. The resource commitment needed to develop an organisational exposition would take one full-time equivalent staff member approximately 6 months or 1040 hours, which is based on 130 working days in 6 months (Table 1). As such, CASA has estimated that the initial start-up cost to industry of the exposition requirement to be \$68 100 per organisation when valued at a wage rate of \$65.45 (Table 1). The total industry-wide cost based on 10 organisations is \$681 000.

CASA considers this to be a conservative cost estimate and that the likely effort to develop an exposition will be lower for organisations given the assistance CASA will be providing organisations to transition to CASR Part 149.

CASA will produce several documents to assist organisations such as a template exposition, exposition compliance matrix and advisory circular. CASA plans to offer exposition workshops with organisations.

Safety Management System

The majority of the existing organisations have at least some elements of a safety management system, however, the extent of the gap to the Part 149 SMS requirements varies. Some organisations have systems that are close to the required standard and will likely not be required to make significant changes, but other organisations will be required to devote more resources to develop their SMS.

In terms of the ongoing requirements of an SMS, many of the functions of the SMS may simply be formalising existing practices, such as occurrence reporting, internal safety investigation, implementing corrective safety actions and safety promotion.

CASA will be providing SMS assistance to organisations for transition to Part 149, with a one day SMS workshop and the provision of CASA staff to assist organisational personnel in the development and implementation of their SMS.

In determining the costs of implementing and maintaining an SMS for existing organisations, CASA has considered the costs incurred by other aviation organisations to implement a CASA approved Safety Management System. It is estimated that the development will range by the size of the organisation, with small organisations expected to devote approximately 676 hours of full-time equivalent work and an annual compliance commitment of 80 hours, for a medium sized

organisation with a greater number of staff and members the development is estimated at 956 hours and an ongoing annual compliance of 80 hours and for large organisations the development is estimated at 1316 hours and an ongoing annual compliance of 80 hours (Table 2). Appendix 1 provides further details on the cost estimates for the different components within the SMS.

Table 2: Option 2 – SMS Compliance Cost per Organisation

Compliance cost per organisation				
	Initial development			
	Hours	Wage rate	Cost	
Small organisation	676	\$65.45	\$44,244	
Medium sized organisation	956	\$65.45	\$62,570	
Large organisation	1316	\$65.45	\$86,132	
	Ongoing development			
Small organisation	80	\$65.45	\$5,236	
Medium sized organisation	80	\$65.45	\$5,236	
Large organisation	80	\$65.45	\$5,236	

To be conservative CASA has estimated the total compliance cost for the industry based on the compliance cost for a large organisation. Whilst CASA has not undertaken a formal assessment, it is possible that one existing RAAO would meet the Part 149 SMS requirement with limited cost impact. Therefore, there are nine organisations which would need to develop an SMS which meets the standards specified by CASA, with a compliance cost of \$86 132 per organisation and a total industry wide compliance cost of \$775 190 for nine organisations. The annual ongoing cost per organisation would be \$5 236 per organisation and a total industry wide compliance cost of \$47 124 for nine organisations.

Total Costs for Option 2

The total cost to industry for ten organisations to comply with the exposition requirement is \$0.681m and for the Safety Management System requirements would be an initial start-up cost of \$0.8m and an ongoing annual cost of \$0.05m (Table 3).

Overall the total cost for option 2 based on the requirements for an exposition and a safety management system would be an average annual cost of \$0.18m when annualised over a ten year period (Table 3).

Table 3: Option 2 - Average annual regulatory costs (from business as usual)

Requirement	Total cost	Average annual cost
<i>Exposition upfront</i>	\$0.681m	\$0.068m
<i>Exposition annual compliance</i>	\$0	\$0m
<i>SMS upfront compliance</i>	\$0.8m	\$0.08m
<i>SMS annual compliance</i>	\$0.05m	\$0.05m

Total	\$0.18m
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Benefits of a Safety Management System

The costs of implementing a Safety Management System (SMS) need to be considered in the context of the likely benefits of a SMS to an organisation and its members. There is evidence that a SMS can improve safety outcomes for aviation organisations and an improvement in safety outcomes can result in other benefits, such as, lower insurance premiums, lower legal costs, increased consumer confidence and staff morale. For example, in the context of research on the application of SMS to Flight Training Schools, researchers from Purdue University stated:

The SMS approach reduces the risk of accidents, improves personnel morale and productivity, may reduce insurance costs, and is generally good for business. [and] it is estimated that the safety benefits will greatly outweigh the costs of developing and implementing an SMS. (Mendonca and Carney [2017], p.34 and p.42)

Other CASA fees

Within the current arrangements CASA must approve changes to a RAAO's operational manual and other relevant documents and whilst CASA has the ability to cost recover for these services CASA does not charge a fee for these services. The introduction of an Exposition and SMS will allow an ASAO to develop and propose their own change management procedures to provide greater flexibility in managing aviation-safety. This will allow the organisation to make notifiable changes within an approved change management process without the requirement to seek CASA approval. The level of flexibility will be dependent on the ASAO and subject to CASA approval but is aimed at increasing the scope of the notifiable changes organisations can make as they become more mature.

Changes to the organisation's exposition or safety management system that are not notifiable would require CASA approval for which CASA would charge a fee based on cost recovery. Whilst this may be considered a new fee from the perspective of existing organisations, this is consistent with government policy on cost recovery and is also consistent with the treatment of other aviation organisations subject to CASA oversight.

CASR Part 149 will introduce a process for CASA review of ASAO decisions should that be sought by a member or prospective member seeking to challenge the decision of an ASAO. CASA will charge a nominal fee for such a review from the person seeking the review.

To be consistent with the Government's regulatory impact analysis requirements these fees have not being included in the above cost tables as they are considered a transfer.

Consultation

CASA consulted informally with the affected stakeholders, including the existing RAAOs, over the time that Part 149 was under development. The feedback from this informal consultation was used to develop the requirements contained in a draft regulation published for formal consultation in August 2016. The formal consultation included the publication of a Notice of Proposed Rule Making¹ that outlined the key proposals of Part 149 along with relevant background information and the reason for the changes proposed by CASA. In response to the NPRM CASA received 62 completed online responses, of which the majority of stakeholders supported the key proposals within Part 149 without change (Table 4).

¹ <https://www.casa.gov.au/standard-page/nprm-1502ss-approved-self-administering-aviation-organisations>

	Key Proposal						
	Extension of self-administration	Devolution of detailed provisions	Change management procedures	Provision of safety related information	CASA powers in relation to an authorisation	Surrender of documents of a ceasing ASAO	Aircraft/authorisation information available to CASA
Acceptable without change²	47	48	49	48	49	48	50
Acceptable with change	4	3	3	4	3	5	5
Not acceptable under any circumstances	7	6	5	5	6	5	4
Not applicable	3	3	3	3	3	3	2

Table 4: Summary table of online responses by Key Proposal

² 29 acceptable without change Gliding Federation Australia form responses for KP6, 30 for all others

Whilst the majority of responses found Part 149 acceptable, a number of the existing RAOs argued for changes to a number of key proposals in Part 149, with common issues being:

- Concerns about requiring them to offer affiliation as well as membership with the concern that the organisations will be required to provide a service without being able to charge full membership fees³.
- Concerns that there is not a level playing field with CASA overlooking the ASAO yet also offering competing licences/authorisations, such as the Recreational Pilot Licence and is government backed.⁴
- Objection to the offence provisions that are seen as broad and general in scope with the inclusion of a number of strict liability offences.⁵
- Limiting the number of ASAOs for similar activities to maintain consistent safety standards and ensure the ASAO has sufficient resources.⁶

CASA has considered all feedback on all issues and published a Summary of Responses document that outlines the comments from stakeholders and CASA's disposition. In some cases CASA has revised the requirements in response to stakeholder feedback and in other cases no change was made with the reasons outlined in the summary of responses document.

Major consultation issues

In response to concerns of the existing organisations that CASA approval of a new organisation covering the same areas as an existing organisation could lower safety standards, CASA will in assessing an application for an ASAO certificate consider the likelihood and extent of any impact on aviation safety arising from the organisation failing. CASA will not issue a new ASAO approval should there be a significant risk to aviation safety.

In response to concerns about the broad nature of the offence provisions, CASA has now removed a large number of these provisions. CASA has also introduced a review mechanism for CASA to review the decisions of ASAOs to ensure that their decisions are consistent with natural justice and procedural fairness.

For areas of consultation feedback that CASA has not made changes, CASA has interpreted some as only requiring clarification, for example, the concerns organisations had over the potential inability to charge for affiliation appears to have been resolved by clarification that organisations are entitled to charge for affiliation.

Implementation and Review

Transition

³ For example: *"The SAAA objects to a concept which mandates the availability of any form of affiliation (with the suggestion of lesser fee structure) other than the organisation's set membership fee as a condition of obtaining an ASAO certificate"*.

⁴ *CASA is using public funds to compete with private sector organisations...they have engaged in competitive behaviour by issuing licences which directly compete with certificates issued by current RAOs.*

⁵ For example, ASRA stated: *Some of the offence provisions are extraordinarily broad and general in their scope, potentially able to be invoked by capricious executive action for even minor alleged infractions. It is no answer for the Regulator to assert that the penalty provisions would only be invoked in the most extreme of circumstances, so the ASAO's have little to fear.*

⁶ For example: *MAAA anticipates that if two ASAOs are approved in relation to similar activities, it will reduce the revenue available for both organisations. For example, the two organisations will have the same pool of potential members and associated revenue available to them instead of one organisation.*

CASA plans to make CASR Part 149 in 2018. As explained in the NPRM, while no organisation will be compelled to become an ASAO, existing organisations that apply within the first 18 months after commencement will be allowed to transition without any fee being charged for CASA's assessment of their application if their application is on a like-for like basis of their existing approvals.

CASA is presently engaged in planning for the transition of existing self-administering sport and recreational aviation organisations on the assumption these organisations will apply to become ASAOs. Expressions of interest and applications from other prospective ASAOs will continue to be considered on a case-by-case basis.

CASA will monitor and review the new regulations on an ongoing basis during the transition phase, with careful consideration given to the feedback from the regulated organisations and their members and CASA will make any necessary changes to internal processes or the regulatory requirements.

The key information that CASA will be collecting during the transition is feedback from the organisations that apply for a Part 149 certificate as to the reasonableness of the requirements and whether the requirements reflect the original intent of Part 149.

An important way that CASA will monitor the effectiveness of Part 149, including safety performance, is surveillance of the Part 149 organisations to ensure that they are implementing their processes documented in their Exposition.

CASA will continue to monitor accident and incident data from the ASAOs and the ATSB. This data will help inform any future changes required to Part 149 legislation, CASA procedures or ASAO manuals.

Post-implementation review

CASA will then undertake a post implementation review three years after the end of the transition period. The review will evaluate the effectiveness of CASR Part 149 in achieving the stated objectives. The three-year period allows Part 149 organisations to develop and refine effective and mature safety systems that can then be measured against the objectives.

The post implementation review will be public and open for submissions, with the expectation that Part 149 organisations will be key stakeholders that are likely to provide submissions.

Conclusion

After extensive consultation with the aviation industry and other stakeholders, CASA considers that Option 2 is the most appropriate policy approach in addressing the policy issues and regulatory challenges. This is consistent with the general industry response in support of the ASAO model.

Option 2 provides a regulatory framework that maintains the self-administration approach with improvements to the governance and administration requirements for the organisations and safety systems.

While Option 2 with the requirement for an exposition and a safety management system imposes a regulatory burden on the organisations to transition to Part 149, this is a relatively modest burden with the cost for a small organisation approximately \$50 000, for a medium sized organisation approximately \$85 000 and for a large organisation approximately \$150 000. CASA considers that the regulatory benefits of this option compared to the other policy options outweigh the modest

costs. Also the ability for ASAOs to make operational and technical decisions and changes in accordance with the change management processes would allow them greater flexibility to keep up with the evolution of the sport and recreational aviation sector.

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Appendix 1: Safety Management System compliance costs

Based on feedback from existing aviation organisations on the costs of implementing a CASA approved safety management system, the resource requirement for implementing a SMS was estimated for the four components:

- initial SMS development. The amount of effort to develop an SMS would predominantly depend on the complexity of the organisation.
- initial staff training in the principles of SMS and their SMS responsibilities including the staff member (who could be a volunteer in a small organisation) nominated as the Safety Manager, undertaking additional training on their SMS responsibilities.
- The initial education of RAAO members or affiliates, such as flying schools, drop zones, and gliding clubs of the requirements of the SMS and their responsibilities.
- The ongoing effort of maintaining an SMS. The amount of effort to maintain an SMS would depend on the complexity of the organisation.

The resource commitment was estimated by the different types of existing organisations. CASA has estimated an initial SMS development figure and ongoing SMS maintenance figure (based on a complex organisation) that is consistent across all the organisations, with the remaining items varying according to the size of the organisation. The factors that would influence the resource commitment for each organisation would be the number of staff and members/affiliates such as flying schools, drop zones, gliding clubs and hang gliding clubs as ordinary members could be educated on their SMS responsibilities at minimal cost through email or through their regular organisation magazine/newsletter.

For small organisations that have a small number of staff and members (such as flying schools, drop zones or clubs) CASA has estimated the resources in full-time equivalent hours for these tasks (Table A1):

Table A1: Upfront SMS compliance costs for small organisations

<i>Requirement</i>	<i>Hours per FTE</i>	<i>FTE required</i>	<i>Total hours per Entity</i>
<i>Initial development</i>	320	1	320
<i>Initial training of staff</i>	60	2	180
<i>Initial training of safety manager</i>	96	1	96
<i>Education of members</i>	80	1	80
Total for initial development			676
Ongoing			
<i>Organisational SMS maintenance</i>	80	1	80

For medium sized organisations with a greater number of staff and members (such as flying schools, drop zones or clubs), the estimated resource commitment is slightly larger (Table A2):

Table A2: Upfront SMS compliance costs for medium sized organisations

<i>Requirement</i>	<i>Hours per FTE</i>	<i>FTE required</i>	<i>Total hours per Entity</i>
<i>Initial development</i>	320	1	320
<i>Initial training of staff</i>	60	4	300
<i>Initial training of safety manager</i>	96	1	96
<i>Education of members</i>	240	1	240
Total for initial development			956
Ongoing			
<i>Organisational SMS Maintenance</i>	80	1	80

For large organisations with the greatest number of staff and members (such as flying schools, drop zones or clubs), the estimated resource commitment is provided in Table A3:

Table A3: Upfront SMS compliance costs for large organisations

Requirement	<i>Hours per FTE</i>	<i>FTE required</i>	<i>Total hours per Entity</i>
<i>Initial development</i>	320	1	320
<i>Initial training of staff</i>	60	7	420
<i>Initial training of safety manager</i>	96	1	96
<i>Education of members</i>	480	1	480
Total for initial development			1316
Ongoing			
<i>Organisational SMS Maintenance</i>	80	1	80

Statement of Compatibility with Human Rights

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

Civil Aviation Legislation Amendment (Part 149) Regulations 2018

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 Bill/Disallowable Legislative Instrument

The Legislative instrument (the Regulations) amends the *Civil Aviation Safety Regulations 1988* (CASR) to introduce a new Part 149 which provides a regulatory framework within which specified functions that would otherwise be performed by CASA may be devolved to qualified and approved self-administering organisations (ASAOs).

No formal regulatory regime presently exists for the oversight of sport and recreational aviation organisations. The introduction of CASR Part 149 will improve aviation safety through the introduction of a consistent framework, for a wider field of activities beyond those administered by sport and recreational aviation organisations, that would require each organisation to ensure its activities are not likely to have an adverse effect on the safety of air navigation,

Aviation-related activities, other than those administered by sport and recreational aviation organisations, are potentially amenable to devolved, self-administrative arrangements. Part 149 of CASR has been developed to provide an optimal devolved regulatory framework for a wider field of aviation-related activities and operations.

A Part 149-approved ASAO will be expected to provide assurance of reasonable, reliable and non-discriminatory access for members of the public to membership in, or an appropriate form of affiliation with, their organisation and its affiliated bodies that it has appointed to carry out aviation administration functions or activities on its behalf. This assurance will be evident in the aviation administration and enforcement rules contained within the ASAO's exposition, which is approved by CASA.

Human rights implications

The Regulation engages the following rights:

- fair trial rights in Article 14 of the International Covenant on Civil and Political Rights (ICCPR) including the right to presumption of innocence; and
- the right to protection against arbitrary and unlawful interferences with privacy and Article 17 of the ICCPR.

Presumption of innocence

Article 14 of the ICCPR provides that in the determination of a criminal charge, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Further, in criminal proceedings, people are entitled to a range of protections including minimum guarantees as set out in Article 14(3) and following of the ICCPR.

The presumption of innocence in Article 14(2) imposes on the prosecution the burden of proving the charge and guarantees that no guilt can be presumed until the charge has been proven beyond reasonable doubt.

Strict liability offences engage the presumption of innocence through the imposition of liability without the need to prove fault.

A total of 15 offence provisions specified in the regulations are strict liability offences. These offences engage the right to the presumption of innocence by applying strict liability to elements of the relevant offences. However, the defence of honest and reasonable mistake of fact, as set out in section 9.2 of the Criminal Code, will be available to the defendant.

These offences relate to administrative and safety requirements that must be adhered to by regulated individuals, operators or organisations involved in the aviation industry to ensure the integrity of the aviation safety system.

Under Subpart 149.A, the performance of an aviation administration function must only be done under an ASAO certificate issued under the Part. CASA can place conditions on the certificate. There are strict liability offences for performing an aviation function without an ASAO certificate that covers it, or for not complying with a condition on the certificate. These offences are in regulations 149.015 and 149.020.

Subpart 149.C regulates matters to do with changes an ASAO makes to its exposition or its personnel. Under Part 149, an ASAO must have an exposition that will contain required information, procedures and instructions, for example, matters concerning the qualifications of its personnel, its approved functions, how it will comply with the civil aviation legislation, its safety management system and (under regulation 149.290) its aviation administration and enforcement rules. The Subpart allows for CASA to give directions to an ASAO to remove, include or vary information, procedures or instructions it has in its exposition. Under regulation 149.120 it is a strict liability offence for an ASAO not to comply with a direction given by CASA within the required time.

There are offences in Subpart 149.F for an ASAO not complying with a provision of its exposition (under regulation 149.345) or for an ASAO not keeping its exposition up to date and in a readily accessible form or not giving ready access to authorisation holders, its personnel or CASA (under regulation 149.350).

Subpart 149.G regulates matters to do with the issue of authorisations, disclosure of enforcement action, and requirements on authorisation holders and issuing ASAOs. Enforcement action is a suspension, cancellation or variation of an authorisation other than at the authorisation holder's request:

- A person who applies to an ASAO for an authorisation is required to disclose enforcement action that was taken against an authorisation that was the same in substance as that applied for. Previous authorisations may have been granted by CASA, another sport aviation body or the national aviation authority of a foreign country. A failure to disclose is a strict liability offence under regulation 149.405.
- When a person is granted an authorisation by an ASAO it is a strict liability offence for the person to not comply with the ASAO's exposition (under regulation 149.410).
- Regulation 149.415 includes strict liability offences that apply if a person holding an authorisation does not disclose to the body that issued the authorisation details of enforcement action relating to other authorisations the person holds. The provisions cover authorisations issued by the ASAO, CASA, another sport aviation body or the national aviation authority of a foreign country.

- Regulation 149.425 requires an ASAO to report to CASA certain conduct by its authorisation holders covering compliance with the ASAO's exposition or compliance with the person's authorisation. It is a strict liability offence for the ASAO not to report to CASA within the required time.
- Regulation 149.430 requires an ASAO to report to CASA if the ASAO knows that enforcement action has been taken on another authorisation held by an applicant that is the same in substance as the application the person is applying to the ASAO to issue. It is a strict liability offence if the ASAO does not to report to CASA.
- Regulation 149.435 includes a suite of provisions requiring an ASAO not to issue an authorisation to a person if the ASAO knows the applicant holds another authorisation the same in substance as that applied for and enforcement action has been taken on the authorisation. Strict liability applies to the elements of such an offence that an application is made and the ASAO issued the authorisation. Strict liability does not apply to the elements that require knowledge.

Under Subpart 149.H, CASA may direct an ASAO to exercise its enforcement powers in relation to an authorisation holder. CASA may exercise the power if satisfied that it is necessary in the interests of safety. Under regulation 149.490, it is a strict liability offence for an ASAO not to comply with a direction.

Subpart 149.J provides for matters relating to providing CASA with information or documents. Subpart 149.J gives CASA a directions power to request an ASAO to give to it information or documents relating to the ASAO's approved functions. It is a strict liability offence under regulation 149.540 to not comply with a direction.

Subpart 149.K provides for the review of ASAO decisions. A person who is dissatisfied with a decision made by an ASAO in relation to an authorisation may apply in the first instance to the ASAO to conduct an internal review of the decision. If the person is dissatisfied with an internal review decision the person may apply to CASA to review the decision. The decision by CASA is reviewable by the Administrative Appeals Tribunal. The Subpart requires an applicant for CASA review to notify the ASAO that the application has been made. Once notified, an ASAO is required to give to CASA its reasons for the decision and copies of the relevant documents relating to the decision. It is a strict liability offence under regulation 149.620 for an ASAO not to comply with the requirement.

To the extent the imposition of strict liability offences in the amendments limits the rights to be presumed innocent, the limitation is necessary to ensure that organisations to whom functions are given under law to administer aviation activities operate in accordance with the requirements of Part 149 and to ensure that CASA retains oversight over such organisations as is necessary to ensure the safety of air navigation. For strict liability offences applying to an applicant for an authorisation to do an aviation activity administered by an ASAO, or the holders of authorisations issued by an ASAO, the limitation is necessary to ensure that aviation activities are performed in a safe manner, and to ensure that pilots, persons carrying out maintenance on aircraft administered by the ASAO and any other persons involved in aviation activities administered by the ASAO are suitably qualified and authorised, and are regulated in accordance with the ASAO's CASA-approved exposition.

The strict liability offences in this instrument are considered reasonable, necessary and proportionate to the objective of ensuring aviation safety, and therefore not impermissibly limiting the presumption of innocence. The offences are regulatory in nature and framed to ensure that the administration of aviation activities by an ASAO would not be likely to have an

adverse effect on aviation safety. The offences are aimed at the legitimate objective of ensuring the safety and integrity of the aviation industry and the public.

The strict liability offences are also proportionate in that they fall at the lower end of the scale, not exceeding 50 penalty units.

Right to privacy

The right to the protections against arbitrary and unlawful interferences with privacy, contained in Article 17 of the ICCPR, provides that no one shall be subjected to arbitrary or unlawful interference with his or her privacy, nor to unlawful attacks on their honour and reputation. The right to privacy may be engaged when personnel information is collected, used and stored.

The right to privacy is engaged by the following regulations:

Regulation 149.220 requires an ASAO to maintain a register that contains information about the ASAO's key personnel, and any person the ASAO appoints to perform an approved function on behalf of the ASAO.

Regulation 149.405 requires a person to disclose in any application the person makes for an authorisation information about any enforcement action that has been taken on authorisations the person holds that are the same in substance. These would be authorisations that involve the same aviation activity.

Regulation 149.430 requires an ASAO to report details of an application made to CASA if the ASAO knows the applicant holds or held another authorisation the same in substance as that applied for, and enforcement action was taken in relation to the other authorisation.

Regulation 149.540 requires an ASAO to comply with a request by CASA to provide to it information or documents relating to the ASAOs approved functions.

Regulation 149.550 requires an ASAO give to CASA copies of the documents it uses to perform its approved functions, if, effectively, it stops being able to do so. (For example, because the ASAO goes into administration).

To the extent that these regulations limit the rights protected under Article 17 of the ICCPR, the limitations are not arbitrary, and are necessary, reasonable and proportionate to ensure the proper administration and enforcement of Australia's aviation safety system.

If an organisation becomes incapable of performing its aviation administration functions, as envisaged by regulation 149.550, CASA requires access to relevant documents to administer the activities formerly administered by the ASAO so as to ensure the safety of air navigation.

Conclusion

This Legislative Instrument is compatible with human rights and to the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate to ensure the safety of aviation operations and to promote the integrity of the aviation safety system.

Details of the proposed *Civil Aviation Legislation Amendment (Part 149) Regulations 2018*

Section 1 – Name of Regulations

Section 1 provides that the title of the Regulations is the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018*.

Section 2 – Commencement

Section 2 provides for the Regulations to commence on a single day to be fixed by the Minister by notifiable instrument. However, if the provisions do not commence within 12 months beginning on the day after this instrument is registered, they will commence on the day after the end of that period.

A variable commencement provides the flexibility to accommodate those organisations that are ready to transition to Part 149 within 12 months of this instrument being registered.

Section 3 – Authority

Section 3 provides that the *Civil Aviation Legislation Amendment (Part 149) Regulations 2018* is made under the *Civil Aviation Act 1988*.

Section 4 – Schedule(s)

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Part 1 Main Amendments

Civil Aviation Safety Regulations 1998

Item 1 Part 149

Item 1 will repeal the existing Part 149 - Recreational aviation administration organisations Part that is reserved for future use and substitute a new Part 149 - Approved self-administering aviation organisations Part that comprises 10 Subparts listed in a Table of Contents.

This reflects the preferred self-administration model consulted with sport aviation bodies and recreational aviation organisations in Notice of Proposed Rule Making (NPRM) 1502SS for Approved self-administering aviation organisations (ASAOs).

Subpart 149.A - General

This Subpart is a complete new Subpart 149.A of CASR inclusive of regulations 149.005 to 149.020 that provides general governance arrangements for Part.149 of CASR.

Regulation 149.005 - Approvals by CASA for Part 149

Subregulation 149.005(1) provides that if Part 149 refers to a person holding an approval under the regulation, the person may apply, in writing, to CASA for the approval.

Subregulation 149.005(2) provides that CASA must grant the approval subject to regulation 11.055.

Regulation 149.010 provides that CASA may issue a Manual Standards for Part 149 prescribing matters required or permitted by the regulations to be prescribed by the Manual of Standards or necessary for carrying out or giving effect to Part 149.

Regulation 149.015 - Aviation administration functions - ASAO certificate required

Subregulation 149.015(1) provides that a person must not perform an aviation administration function if the person does not hold an ASAO certificate authorising them to perform the function.

Subregulation 149.015(2) provides that subregulation (1) does not apply if the person is otherwise permitted under these regulations to perform the function.

Subregulation 149.015(3) provides that contravention of subregulation (1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Regulation 149.020 - Compliance with conditions of ASAO certificate

Subregulation 149.020(1) provides that an ASAO must not contravene a condition of its ASAO certificate.

Subregulation 149.020(2) provides that contravention of subregulation (1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

Subpart 149.B - ASAO certificates

This Subpart is a complete new Subpart 149.B of CASR inclusive of regulations 149.060 to 149.090 that provides for the establishment of Approved Self-administering Aviation Organisations (ASAOs).

Regulation 149.060 - CASA may limit number of ASAO certificates

Subregulation 149.060(1) provides that, for the purposes of subsection 98(5A) of the Act, CASA may issue a legislative instrument to impose a limit on the number of ASAO certificates that may be issued if CASA is satisfied that exceeding the limit is likely to have an adverse effect on the safety of air navigation.

Subregulation 149.060(2) provides that the limit may be imposed indefinitely or for a specified period; or generally or in relation to a specified class of aviation administration functions.

Subregulation 149.060(3) provides that CASA may, by legislative instrument, vary or revoke an instrument made under subregulation (1).

These provisions provide a head of power for CASA to refuse to grant an authorisation under subregulation 11.055(3) of CASR.

Regulation 149.070 - Application for ASAO certificate

Subregulation 149.070(1) provides that a person must apply in writing for the issue of an ASAO certificate.

Subregulation 149.070(2) provides that a body corporate may apply only if it is incorporated in Australia.

Subregulation 149.070(3) provides requirements as to what information about the applicant must be included in an application, including details about the applicant and the aviation administration functions sought. It further provides that a written undertaking must be furnished by the accountable manager of the organisation confirming that the applicant's organisation will be capable of operating, and will operate, in accordance with the applicant's exposition and the civil aviation organisation.

Subregulation 149.070(4) provides a requirement that an application must be accompanied by the applicant's proposed exposition and signed by the person proposed to be the accountable manager of the applicant's organisation.

Regulation 149.075 - Issue of ASAO certificate

Subregulation 149.075(1) provides that subject to regulations 11.055 and 149.060, CASA must issue an ASAO certificate to an applicant if CASA is satisfied about: a) the regulatory requirements in respect of the applicant's exposition, organisation, accountable manager, safety manager and key personnel; b) the regulatory requirements in respect of facilities, equipment and reference materials that must be held by the organisation; and c) the applicant's organisation can perform its aviation administration functions safely and in accordance with its exposition.

Subregulation 149.075(2) provides that if CASA decides to issue an ASAO certificate, CASA must determine the aviation administration functions authorised by the certificate as well as the period of validity of the certificate (up to a maximum of five years).

As a time-limited authorisation, renewal of an ASAO certificate is subject to the provisions of Subpart 11.E of CASR.

Regulation 149.080 provides that if CASA issues an ASAO certificate to an applicant, CASA is taken to have also approved the applicant's exposition.

To ensure the safety of air navigation, an ASAO's exposition that contains all the rules and procedures by which the ASAO manages its approved aviation administration functions, must be approved by CASA. See also Subpart 149.C and Subpart 149.F

Regulation 149.085 provides for specific conditions that attach to all issued ASAO certificates. These conditions include: a) compliance by the ASAO with the civil aviation legislation and any direction or obligation imposed by CASA on the ASAO; b) compliance by the ASAO's key personnel with the civil aviation legislation and any direction or obligation imposed by CASA

that applies to the person; c) compliance by the ASAOs personnel with the applicable civil aviation legislation; d) notification to CASA of ASAO key personnel vacancies; e) compliance of ASAO personnel with the ASAO's exposition; and f) a requirement that the position of safety manager cannot be held by another member of the ASAO's key personnel except in unforeseen circumstances and for a limited period in circumstances or as approved by CASA.

These conditions ensure that a compliant ASAO maintains a standard of aviation safety required of the authorisation under CASR 11.055 (1A), which sport aviation bodies submitted was the appropriate standard. See also Subpart 149.C and Subpart 149.F

Regulation 149.090 provides for specific details that must be attached to all issued ASAO certificates. These are: a) the name of the ASAO; b) the date of issue of the certificate; c) the approved aviation administration functions of the ASAO; d) the period of validity of the certificate; and e) a certificate reference number.

This provision enables the ASAO to demonstrate to third parties what functions it is approved to administer, during what period and further substantiate such information with a CASA-issued reference number.

Subpart 149.C - Changes to exposition or personnel

This Subpart is a complete new Subpart 149.C of CASR inclusive of regulations 149.110 to 149.120 that provide for changes to the exposition or to the personnel of ASAOs.

Regulation 149.110 - Certain changes to exposition must be pre-approved by CASA

Subregulation 149.110(1) provides that a change to an ASAO's exposition must be approved by CASA before the change is made.

Subregulation 149.110(2) provides that subregulation (1) does not apply if the change is of a kind specified in the ASAO's approved exposition that does not require CASA approval.

Changes that do not require approval must be notified to CASA within the period specified by the ASAO in its exposition. These provisions allow CASA to retain oversight of the approval of exposition changes that CASA considers necessary to ensure the safety of air navigation. It will also give CASA visibility of all other changes to the exposition.

Regulation 149.115 - Approval of changes to exposition

Application for approval

Subregulation 149.115(1) provide that an ASAO may apply to CASA for the approval of a change to the ASAO's exposition.

Subregulation 149.115(2) prescribes the format and content of an application for approval of a change to an ASAO's exposition and requires that the changes must comply with any requirements prescribed by the Part 149 Manual of Standards.

Decision on application

Subregulation 149.115(3) provides that CASA must, within 21 days of receiving the application, either a) grant the approval if subregulation (4) applies; or b) refuse to grant the approval.

Subregulation 149.115(4) provides that, for the purposes of approving the change under subregulation (3), CASA must be satisfied that the requirements of subregulation 149.075(1) will continue to be met and approving the change would not be likely to have an adverse effect on the safety of air navigation.

Request for further information

Subregulation 149.115(5) provides that CASA may, by written notice, request further information from the applicant about the proposed exposition change.

Subregulation 149.115(6) provides that the 21 day period in subregulation (3) stops on the day CASA gives written notice and recommences on the day after the requested information is provided.

Subregulation 149.115(7) provides that more than one notice may be given under subregulation (5) in relation to an application for an exposition change.

Regulation 149.120 - CASA directions relating to exposition or personnel

Subregulation 149.120(1) provides that if CASA is satisfied that it is necessary in the interests of aviation safety, CASA may, by written notice direct, the ASAO to change the ASAO's exposition to remove, include or revise/vary particular information, procedures or instructions in the exposition.

Subregulation 149.120(2) provides that CASA may by written notice direct the ASAO to remove any of the key personnel of the ASAO from the person's position if CASA is satisfied that the person is not carrying out the responsibilities of the position or, if the person is the accountable manager of the ASAO, not properly managing matters for which the person is accountable.

Subregulation 149.120(3) provides that a notice under this regulation must state the time within which the direction must be complied with.

Subregulation 149.120(4) provides that if CASA gives an ASAO a direction under this regulation the ASAO must comply with the direction within the specified time.

Subregulation 149.120(5) provides that contravention of subregulation (4) is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions provide a mechanism for CASA to act to ensure the safety of air navigation in circumstances where the content of an ASAO's exposition or a member of the ASAO's key personnel become a threat to aviation safety. A decision made under subregulation 149.120(2) is a reviewable decision.

Subpart 149.D - Organisation and personnel

This Subpart is a complete new Subpart 149.D of CASR inclusive of regulations 149.195 to 149.220 that prescribes certain organisational and personnel requirements of ASAOs.

Regulation 149.195 - Organisation and personnel

Subregulation 149.195(1) provides that an ASAO must maintain a structure that effectively manages the ASAO's approved functions and that takes into account the nature and complexity of the functions.

Subregulation 149.195(2) provides that an ASAO must have enough suitably competent, qualified and trained personnel to enable the ASAO to perform the ASAO's approved functions in accordance with the ASAO's exposition and the civil aviation legislation.

Subregulation 149.195(3) provides that an ASAO contravenes subregulation 149.195(3) if any of the ASAO's key personnel carries out a responsibility of the person's position in a way that contravenes the ASAO's exposition or Subpart 149.D.

Subregulation 149.195(4) provides that the ASAO commits an offence if the ASAO contravenes subregulation (3). The penalty for the offence is 50 penalty units.

These provisions ensure that an ASAO maintains an organisational structure and personnel composition that is capable of carrying out the ASAOs approved aviation administration functions.

Regulation 149.200 - Notifying CASA if key personnel cannot carry out responsibilities

Subregulation 149.200(1) provides that if an ASAO becomes aware that any of the ASAO's key personnel cannot carry out, or is likely to be unable to carry out, the person's responsibilities for a period of longer than 35 days, the ASAO must tell CASA of that fact. If there is not another person authorised to carry out the responsibilities for all or part of the period, the ASAO must tell CASA within five days. If there is another person authorised to carry out the responsibilities for all or part of the period, the ASAO must tell CASA within ten days.

Subregulation 149.200(2) provides that the ASAO commits an offence if the ASAO contravenes subregulation (1). The penalty for the offence is 50 penalty units.

These provisions ensure that CASA is aware of any risk to aviation safety that may arise from the effect on the ASAO of a member of the ASAO's key personnel being unable to perform their functions.

Regulation 149.205 provides that an ASAO must ensure that, before a person appointed as any of the ASAO's key personnel begins to carry out the responsibilities of the position, the person has completed any training that is necessary to familiarise the person with their responsibilities.

This provision mitigates against any adverse effect on the safety of air navigation by ensuring an ASAO's personnel are fully aware of the responsibilities of their position prior to carrying out their responsibilities.

Regulation 149.210 - Experience etc. of key personnel

Subregulation 149.210(1) provides that the accountable manager of an ASAO must have the experience and qualifications required by the ASAO's exposition and is responsible for managing, and is accountable for, the matters set out in the ASAO's exposition.

Subregulation 149.210(2) provides that the safety manager of an ASAO must have the experience and qualifications required by the ASAO's exposition and is responsible for the matters set out in the ASAO's exposition.

Subregulation 149.210(3) provides that the key personnel of an ASAO (other than the accountable manager and the safety manager) are responsible for the matters set out in the ASAO's exposition and must have experience and qualifications that are commensurate with the risk associated with the ASAO's approved functions.

These provisions mitigate against any adverse effect on the safety of air navigation by ensuring an ASAO's personnel are competent to exercise the responsibilities of their position.

Regulation 149.215 - Reporting interference with decisions of key personnel

Subregulation 149.215(1) provides that if the accountable manager of an ASAO becomes aware that a person has overridden an aviation safety related decision of a member of the key personnel of the ASAO, the accountable manager must report the matter to CASA, in writing, as soon as practicable, and in any case not later than 7 days, after becoming aware of the matter.

Subregulation 149.215(2) provides that if the safety manager of an ASAO becomes aware that a person has overridden an aviation safety related decision of a member of the key personnel of the ASAO, the safety manager must report the matter to CASA, in writing, as soon as practicable, and in any case not later than 7 days, after becoming aware of the matter.

This provision ensures CASA is aware of any threat to the safety of air navigation arising from the overriding of a safety related decision of key personnel. CASA can direct the ASAO to remove the accountable manager or safety manager if they do not comply with this regulation.

Regulation 149.220 - Register of key personnel and appointed persons

Subregulation 149.220(1) provides that an ASAO must maintain a register containing the following information for each of the ASAO's key personnel: (a) the title of the position; (b) the name of the person occupying the position; (c) the date the person began occupying the position; and (d) the date the person ceased to occupy the position.

Subregulation 149.220(2) provides that an ASAO must maintain a register containing the following information for each person appointed by the ASAO to perform an approved function on behalf of the ASAO: (a) the name of the person; (b) each approved function of the ASAO that the person performs on behalf of the ASAO; (c) the date the person began performing each function; and (d) the date the person ceased performing each function.

These provisions ensure the ASAO is fully aware at all times of the persons who are key personnel or appointed to carry out approved functions. This will minimise the risk to aviation safety of either a function of an ASAO not being performed by an appointed person, or the ASAO failing to appoint a person to perform an approved function.

Subpart 149.E - Systems, facilities, reference materials and rules

This Subpart is a complete new Subpart 149.E of CASR inclusive of regulations 149.270 to 149.290 that prescribes certain systems, facilities, reference materials and rules required of ASAOs.

Regulation 149.270 provides that an ASAO must have a safety management system (SMS) that: (a) is appropriate for the ASAO's approved functions, taking into account the nature and complexity of the functions, and the size of the ASAO; and (b) complies with the requirements prescribed by the Part 149 Manual of Standards.

This provision promotes the safety of air navigation by requiring an ASAO to have an appropriate SMS.

Regulation 149.275 provides that an ASAO must have an audit and surveillance system that complies with the requirements prescribed by the Part 149 Manual of Standards.

This provision requires an ASAO to have an audit and surveillance system that ensures the performance of the ASAO's approved functions does not have an adverse effect on the safety of air navigation.

Regulation 149.280 provides that an ASAO's organisation must have the facilities and equipment that are necessary for performing the ASAO's approved functions, including appropriate equipment to allow the ASAO's personnel to perform their duties.

This provision ensures an ASAO has the facilities and equipment necessary to perform its approved functions without impacting aviation safety.

Regulation 149.285 - Reference materials

Subregulation 149.285(1) provides that an ASAO must provide access to up to date copies of the following reference materials that are relevant to the performance of the ASAO's approved functions: (a) the civil aviation legislation; (b) technical standards and practices; (c) technical bulletins and instructions; (d) manuals for equipment used by the ASAO's personnel; and (e) any other materials prescribed by the Part 149 Manual of Standards.

Subregulation 149.285(2) provides that an ASAO must ensure that the ASAO's personnel and holders of authorisations from the ASAO have ready access to the reference materials.

These provisions mitigate against any adverse effect on the safety of air navigation by ensuring ASAO personnel and authorisation holders can access reference material relevant to the performance of their duties and/or responsibilities. The provision of reference material by the ASAO using electronic links to third parties is acceptable but must be continuously maintained.

Regulation 149.290 - Aviation administration and enforcement rules

Subregulation 149.290(1) provides that an ASAO must prepare rules (the aviation administration and enforcement rules) that provide for:

- (a) the process for applying for an authorisation from the ASAO to undertake an activity administered by the ASAO, including the information that must be included in the application;
- (b) the eligibility criteria for the issuing of an authorisation by the ASAO to undertake an activity administered by the ASAO;
- (c) conditions that may be attached to an authorisation issued by the ASAO;
- (d) procedures relating to the variation, suspension and cancellation of authorisations at the authorisation holder's request;
- (e) procedures relating to the internal review of decisions made by the ASAO;
- (f) if the ASAO is authorised to exercise ASAO enforcement powers:

- (i) the circumstances in which those powers may be exercised; and
- (ii) procedures relating to the exercise of those powers;
- (g) procedures that require safe conduct by authorisation holders at all times;
- (h) measures for providing an authorisation holder with preventative, corrective or remedial solutions to identified training or skills deficiencies;
- (i) any disciplinary action that may be undertaken by the ASAO in relation to authorisation holders;
- (j) an effective and appropriate review process in relation to any preventative, corrective, remedial or disciplinary action undertaken by the ASAO; and
- (k) any other matter prescribed by the Part 149 Manual of Standards.

Subregulation 149.290(2) provides that the aviation and administration and enforcement rules prepared by the ASAO must have due regard to procedural fairness.

These provisions mitigate against adverse effects on the safety of air navigation by ensuring an ASAO has rules in place to ensure the assessment of persons for the issue of an authorisation, the conditions that may attach to authorisations and the procedures to vary, suspend or cancel authorisations as well as enforcement procedures that may be taken against authorisation holders, including remedial and disciplinary measures and avenues of appeal. Since the ASAO is granting approvals to undertake activities in accordance with its CASA-approved aviation administration functions, it is incumbent on an ASAO certificate holder to apply the same principles of procedural fairness in the application of its aviation and administration and enforcement rules as CASA is bound to adhere in the performance of its functions under the civil aviation legislation.

Subpart 149.F - Expositions

This Subpart is a complete new Subpart 149.F of CASR inclusive of regulations 149.340 to 149.350 that prescribes requirements in respect of the expositions of ASAOs.

Regulation 149.340 provides that an exposition for an ASAO must include the following:

- (a) for each of the ASAO's key personnel, the following information:
 - (i) the qualifications and experience (if any) required by the ASAO for the position in addition to the qualifications and experience required under the Part 149 Manual of Standards for the position;
 - (ii) each matter (if any) for which the holder of the position is responsible in addition to the responsibilities mentioned in the Part 149 Manual of Standards for the position;
 - (iii) the name of the person appointed to the position;
 - (iv) the name of each person authorised to carry out the responsibilities of the position when the position holder is absent from the position or cannot carry out the responsibilities; and
 - (v) a description of how the ASAO will manage the responsibilities of the position during a circumstance mentioned in subparagraph (iv);
- (b) for each position occupied by a person appointed by the ASAO to perform an approved function on behalf of the ASAO, the following information:
 - (i) the duties and responsibilities of the position;
 - (ii) how a person will be selected, trained and authorised to perform the duties and responsibilities of the position;
 - (iii) the qualifications, knowledge and experience required for the position;
- (c) a description of the approved functions of the ASAO;
- (d) a description of the procedures by which the ASAO ensures that the performance of the ASAO's approved functions comply with:

- (i) the ASAO's exposition; and
- (ii) the civil aviation legislation;
- (e) a description of the ASAO's safety management system;
- (f) a description of the ASAO's audit and surveillance system;
- (g) the ASAO's aviation administration and enforcement rules;
- (h) the kinds of changes to the ASAO's exposition that do not require approval by CASA;
- (i) the ASAO's process for managing changes to the ASAO's exposition that do not require approval by CASA, including:
 - (i) procedures for notifying the ASAO's personnel and CASA of such changes; and
 - (ii) the period within which such changes are to be so notified;
- (j) a description of the procedures by which the ASAO will ensure compliance with regulation 149.550, should any of the circumstances specified in that regulation arise; and
- (k) any other matter required to be included in the exposition by the Part 149 Manual of Standards or these Regulations.

These provisions mitigate against any adverse effect on the safety of air navigation by requiring an ASAO to document: i) how the ASAO undertakes its approved functions in accordance with its exposition and the civil aviation legislation; ii) the identity of and specific responsibilities, qualifications and experience required of its key personnel; iii) the qualifications, experience, duties, responsibilities, selection and training of appointed persons; iv) a description of the ASAO's safety management system and audit and surveillance system; v) the ASAO's aviation administration and enforcement rules; vi) the kinds of changes and the process for managing changes to the ASAO's exposition not requiring CASA approval; and vii) procedures to ensure the provision of documents to CASA if the ASAO becomes unable to function.

Regulation 149.345 - Compliance with exposition

Subregulation 149.345(1) provides that an ASAO must not contravene a provision of the ASAO's exposition.

Subregulation 149.345(2) provides that contravention of subregulation (1) by an ASAO is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions ensure the maintenance of aviation safety through compliance with the exposition.

Regulation 149.350 - Access to exposition

Subregulation 149.350(1) provides that an ASAO contravenes this subregulation if: (a) the ASAO does not keep its exposition in a readily accessible form; (b) a member of the ASAO's personnel does not have ready access to the exposition; (c) the holder of an authorisation issued by the ASAO does not have ready access to the exposition; (d) CASA does not have ready access to the exposition; and (e) the ASAO does not keep the exposition up-to-date.

Subregulation 149.350(2) provides that contravention of subregulation (1) by an ASAO is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions mitigate against adverse aviation safety impacts due to personnel or authorisation holders being unable to access an up-to-date version of the exposition.

Subpart 149.G - Authorisations

This Subpart is a complete new Subpart 149.G of CASR inclusive of regulations 149.400 to 149.440 that prescribes requirements in respect of authorisations issued by ASAOs.

Regulation 149.400 - Grounds for refusal of application for authorisation

Subregulation 149.400(1) provides that an ASAO must not reject an application by a person for an authorisation to undertake an activity administered by the ASAO on grounds other than the eligibility criteria set out in the ASAO's aviation administration and enforcement rules.

Subregulation 149.400(2) provides that subregulation (1) would not apply if the ASAO reasonably believes that acceptance of the application would constitute an offence against the civil aviation legislation.

These provisions promote procedural fairness by ASAOs in respect of decisions to grant authorisations to an eligible person while maintain aviation safety.

Regulation 149.405 - Disclosure of information in application for authorisation

Subregulation 149.405(1) provides that a person contravenes this subregulation if the person applies to an ASAO for an authorisation to undertake an activity and the person does not disclose, in the application, details of each cancellation, variation or suspension (other than at the person's request) of authorisations held by the person that are the same in substance as the authorisation applied for and issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country in the period starting 10 years before the making of the application.

Subregulation 149.405(2) provides that contravention of subregulation (1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions improve awareness by the ASAO of an applicant's previous aviation safety history by making it an offence not to disclose cancelled, varied or suspended authorisations by an applicant to the ASAO.

Regulation 149.410 – Authorisation holders must comply with ASAO's exposition

Subregulation 149.410(1) provides that a person contravenes this subregulation if a provision of the ASAO's exposition applies to the holder and the holder contravenes the provision.

Subregulation 149.410(2) provides that contravention of subregulation (1) is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions enhance aviation safety by making it an offence for an authorisation holder not to comply with a provision of an ASAO's exposition that applies to the authorisation holder.

Regulation 149.415 - Notice of suspension, variation or cancellation of authorisation

CASA-issued authorisation – cancellation etc. by CASA

Subregulation 149.415(1) provides that subregulation (2) applies if a person holds a CASA-issued authorisation and CASA suspends, varies or cancels that authorisation other than at the person's request and the person also holds an ASAO-issued authorisation.

Subregulation 149.415(2) provides that the person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the ASAO.

ASAO-issued authorisation – cancellation etc. by ASAO or CASA

Subregulation 149.415(3) provides that subregulation (4) applies if a person holds an authorisation issued by an ASAO to undertake an activity and CASA or the ASAO suspends, varies or cancels that authorisation other than at the person's request and the person also holds an authorisation issued by another sport aviation body (including an ASAO).

Subregulation 149.415(4) provides that the person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the other sport aviation body.

ASAO-issued authorisation – cancellation etc. by national aviation authority of a foreign country

Subregulation 149.415(5) provides that subregulation (6) applies if a person holds an authorisation issued by an ASAO and holds an authorisation issued by a national aviation authority of a foreign country and that authority suspends, varies or cancels the authorisation other than at the person's request.

Subregulation 149.415(6) provides that the person must, within 7 days after the suspension, variation or cancellation takes effect, give written notice of the suspension, variation or cancellation to the ASAO and CASA.

Offence

Subregulation 149.415(7) provides that a contravention of subregulation (2), (4) or (6) is an offence of strict liability. The penalty for the offence is 50 penalty units.

The provisions of regulation 149.415 apply in respect of CASA-issued authorisations cancelled by CASA, ASAO-issued authorisations cancelled by an ASAO or CASA and authorisations issued by a national aviation authority of a foreign country that are suspended, varied or cancelled by the NAA. These provisions improve awareness of the ASAO of an authorisation holder's aviation safety history by making it an offence not to disclose cancelled, varied or suspended authorisations to the ASAO.

Regulation 149.425 - Reporting conduct of authorisation holders

Subregulation 149.425(1) provides that an ASAO must give a report, in writing, to CASA if the ASAO reasonably believes: a) that the holder of an authorisation issued by the ASAO has contravened the ASAO's exposition and that despite remedial or disciplinary action taken by the ASAO, the conduct of the holder of the authorisation jeopardises the safety of civil aviation; or b) a person is undertaking an activity for which the person is required to hold an authorisation issued by an ASAO and the person does not hold an authorisation issued by the ASAO to undertake the activity; or c) a person is undertaking an activity for which the person holds an authorisation issued by an ASAO in a way that contravenes the authorisation; or d) an aircraft that has ceased to be either registered under Part 47 or administered by the ASAO, is being flown.

Subregulation 149.425(2) provides that an ASAO must give the report to CASA within the time specified in the ASAO's exposition.

Subregulation 149.425(3) provides that contravention of subregulation (2) by an ASAO is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions ensure CASA is aware of any relevant information in respect of a person's actions that impact an ASAO's approved functions in such a way as to present a risk to the safety of air navigation that require intervention by CASA.

Regulation 149.430 - Reporting applications for authorisation

Reporting of all variations and cancellations

Subregulation 149.430(1) provides that an ASAO contravenes the subregulation if it does not report in writing to CASA within 7 days, details of an application to the ASAO for an authorisation to undertake an activity and the ASAO knows that the person holds another authorisation that is the same in substance as the authorisation applied for that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country that, at the time of the application, is varied or cancelled other than at the person's request.

Reporting of all current suspensions

Subregulation 149.430(2) provides that an ASAO contravenes the subregulation if it does not report in writing to CASA within 7 days, details of an application to the ASAO for an authorisation to undertake an activity and the ASAO knows that the person holds another authorisation that is the same in substance as the authorisation applied for that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country that, at the time of the application, is suspended other than at the person's request.

Subregulation 149.430(3) provides that contravention of subregulation (1) or (2) by an ASAO is an offence. The penalty for the offence is 50 penalty units.

These provisions ensure CASA is aware, for an applicant for an ASAO-issued authorisation, of the applicant's previous aviation safety history by making it an offence for an ASAO not to report if it knows the applicant has a cancelled, varied or suspended authorisation. CASA can then make a decision as to whether the applicant may be granted the authorisation by the ASAO and what conditions (if any) would apply.

Regulation 149.435 ASAO to refuse to issue authorisation if suspended etc

Other authorisation currently suspended

Subregulation 149.435(1) provides that an ASAO contravenes the subregulation if, upon application, it issues a new authorisation to a person and the ASAO knows that the person holds another authorisation that is the same in substance as the authorisation applied for that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country and that authorisation is suspended other than at the person's request.

Other authorisation is or has been varied

Subregulation 149.435(2) provides that an ASAO contravenes the subregulation if, upon application, it issues a new authorisation to a person and the ASAO knows that the person holds another authorisation that is the same in substance as the authorisation applied for that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country and that authorisation was varied other than at the person's request.

Other authorisation has been cancelled

Subregulation 149.435(3) provides that an ASAO contravenes the subregulation if, upon application, it issues a new authorisation to a person and the ASAO knows that the person holds another authorisation that is the same in substance as the authorisation applied for that was issued by the ASAO, another sport aviation body, CASA or the national aviation authority of a foreign country and that authorisation was cancelled other than at the person's request.

Exception – CASA approval

Subregulation 149.435(4) provides that subregulation (1), (2) or (3) does not apply if, before the new authorisation is issued, CASA has given approval under this subregulation to the ASAO to issue the new authorisation to the person.

Offence

Subregulation 149.435(5) provides that contravention of subregulation (1), (2) or (3) by an ASAO is an offence. The penalty for the offence is 50 penalty units.

Subregulation 149.435(6) provides that strict liability would apply to both the person applying for the authorisation and to the ASAO that issues the authorisation in contravention of subregulation (1), (2) or (3).

These provisions ensure an ASAO does not issue an authorisation to an applicant if the applicant has cancelled, varied or suspended authorisations unless CASA approves the issue of the authorisation.

Regulation 149.440 - ASAO to refuse to issue authorisation if exclusion period is in force

Subregulation 149.440(1) provides that an ASAO contravenes the subregulation if, upon application, it issues a new authorisation to a person and the ASAO knows that an exclusion period is in force under an order under section 30A of the Act in relation to the person and an authorisation that is the same in substance as the authorisation applied for.

Subregulation 149.440(2) provides that subregulation (1) does not apply if, before the authorisation is issued, CASA has given approval under this subregulation to the ASAO to issue the authorisation to the person.

Subregulation 149.440(3) provides that contravention of subregulation (1) by an ASAO is an offence. The penalty for the offence is 50 penalty units.

These provisions ensure an ASAO does not issue an authorisation to an applicant if the applicant is subject to an exclusion order under section 30A of the Act unless CASA approves the issue of the authorisation.

Subpart 149.H - Authorisations and enforcement

This Subpart is a complete new Subpart 149.H of CASR inclusive of regulations 149.490 to 149.500 that prescribes enforcement requirements in respect of authorisations issued by ASAOs.

Regulation 149.490 - Direction to ASAO to exercise ASAO enforcement powers

Subregulation 149.490(1) provides that CASA may direct an ASAO to exercise an ASAO enforcement power in relation to the holder of an authorisation issued by the ASAO if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation.

Subregulation 149.490(2) provides that the ASAO must comply with a direction made under subregulation (1) within 20 days.

Subregulation 149.490(3) provides that contravention of subregulation (2) by an ASAO is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions ensure CASA is able to ensure aviation safety by requiring an ASAO to exercise its enforcement powers if, for any reason, the ASAO has not acted to mitigate any adverse effect on the safety of air navigation.

Regulation 149.495 - Variation, suspension and cancellation of authorisations issued by ASAOs

Subregulation 149.495(1) provides that CASA may exercise its powers in subregulation (2) in the circumstances of an ASAO not complying with a direction under regulation 149.490, or on written request of an ASAO, or on CASA's own initiative, if CASA is satisfied that it is necessary in the interests of the safety of air navigation.

Subregulation 149.495(2) provides that CASA may, by written notice given to the holder of an authorisation issued by an ASAO, vary, suspend or cancel the authorisation.

Subregulation 149.495(3) provides that before making a decision under subregulation (2) CASA must give the holder of then authorisation a notice setting out the reasons why CASA is considering making the decision and allow the holder of the authorisation to show cause, within such reasonable time as specified in the notice, why CASA should not make the decision.

Subregulation 149.495(4) provides that a variation or suspension made under subregulation (2) has effect for the period specified in the notice, unless earlier revoked by CASA.

Subregulation 149.495(5) provides that cancellation of an ASAO-issued authorisation takes place on the day specified in the notice given under subregulation (2).

Subregulation 149.495(6) provides that if CASA varies, suspends or cancels an ASAO-issued authorisation, CASA must notify the ASAO of that fact in writing as soon as practicable.

Subregulation 149.495(7) provides that suspension by CASA of an ASAO-issued authorisation does not prevent revocation of the authorisation by the ASAO or CASA.

These provisions ensure CASA is able to ensure aviation safety by CASA exercising enforcement powers against ASAO authorisation holders *in lieu* of the ASAO if for any reason the ASAO has not complied with a direction, or the action by CASA is necessary to mitigate against any adverse

effect on the safety of air navigation. To ensure procedural fairness, CASA must provide written notice to the authorisation holder and allow the holder the opportunity to show cause as to why the action should not be taken. A decision to vary, suspend or cancel an ASAO-issued authorisation by CASA is a reviewable decision.

Regulation 149.500 - Effect of suspension or cancellation by CASA of authorisations issued by ASAOs

Subregulation 149.500(1) provides that an authorisation issued by an ASAO and suspended by CASA under regulation 149.495 is taken not to be in force during the period of the suspension.

Subregulation 149.500(2) provides that if CASA suspends an ASAO-issued authorisation under regulation 149.495 and a person is required to hold the authorisation under the civil aviation legislation to undertake an activity, the person to whom the authorisation was issued is taken not to be the holder of the authorisation for the period of the suspension.

Subregulation 149.500(3) provides that if an ASAO-issued authorisation is cancelled by CASA under regulation 149.495, the person to whom the authorisation was issued is not eligible to apply for the grant of, and must not be granted, another authorisation that is the same in substance as the cancelled authorisation until 3 years after the day the cancellation takes effect.

These provisions ensure a person whose authorisation is suspended or cancelled by CASA is not able to exercise the privileges of the suspended or cancelled authorisation nor, in the case of cancelled authorisations, are they permitted to apply for another authorisation for 3 years.

Subpart 149.J – Information and documents

This Subpart is a complete new Subpart 149.J of CASR inclusive of regulations 149.540 to 149.550 that prescribes requirements in respect of the provision of information and documents to CASA by an ASAO.

Regulation 149.540 - Providing information or documents to CASA

Subregulation 149.540(1) provides that CASA may, by notice given to an ASAO, require the ASAO give to CASA information specified in the notice or produce to CASA documents specified in the notice.

Subregulation 149.540(2) provides that the information or documents must relate to the ASAO's approved functions.

Subregulation 149.540(3) provides that the notice must be in writing and specify the manner and form in which the information or documents must be given.

Subregulation 149.540(4) provides that, if an ASAO is given a notice under subregulation (1), the ASAO must comply with the notice within the period specified, which must be at least 7 days.

Subregulation 149.540(5) provides that contravention of subregulation (4) by an ASAO is an offence of strict liability. The penalty for the offence is 50 penalty units.

These provisions ensure CASA is aware of any relevant information, supported by documentary evidence, in respect of an ASAO's approved functions such that CASA may make fully informed decisions about matters that affect the safety of air navigation.

Regulation 149.550 - Copies of documents to CASA

Subregulation 149.550(1) provides that an ASAO must provide to CASA copies of all documents used by the ASAO in the performance of its approved functions if the ASAO becomes incapable of complying with the ASAO's obligations under the civil aviation legislation; or, if the ASAO is an individual, the ASAO becomes insolvent under administration; or, if the ASAO is a body corporate, the ASAO becomes a Chapter 5 body corporate within the meaning of the *Corporations Act 2001*; or CASA cancels the ASAO certificate issued to the ASAO.

Subregulation 149.550(2) provides that an ASAO must provide the documents to CASA within 30 days of the events prescribed under subregulation (1) occurring.

These provisions promote the safety of air navigation by enabling CASA to access the information to either assume direct regulatory oversight of a failed ASAO's authorisation holders or to authorise another ASAO to assume oversight of the authorisation holders such that the authorisation holders may continue to operate with minimal disruption to their activities. This also mitigates the risk of ASAO-issued authorisation holders operating contrary to the civil aviation legislation, or without any form of regulatory oversight.

Subpart 149.K - Review of ASAO decisions

This Subpart is a complete new Subpart 149.K of CASR comprising regulations 149.605 to 149.630 to establish a scheme under which CASA can review internal review decisions made by an ASAO about granting authorisations, or the exercise by an ASAO of its enforcement powers in relation to authorisations the ASAO has granted.

An ASAO can exercise enforcement powers if CASA approved this as an aviation administration function for the ASAO. ASAO enforcement powers mean the power to vary, suspend or cancel an ASAO-issued authorisation other than at the holder's request.

The scheme requires an applicant who does not agree with a decision that an ASAO has made to ask the ASAO in the first instance for internal review of the decision. An ASAO is required to have internal review procedures set out in its aviation administration and enforcement rules (the rules) that CASA has approved at the time of issuing an ASAO certificate. Processes and procedures under the rules are required to have due regard for procedural fairness.

A decision that CASA makes on the review application is reviewable by the Administrative Appeals Tribunal (the AAT).

Regulation 149.605 - Application for internal review by ASAO

Subregulation 149.605(1) provides that the regulation applies to a person who is aggrieved by certain ASAO decisions in respect of ASAO-issued authorisations.

Subregulation 149.605(2) provides that the person may apply to the ASAO for internal review of the ASAO decision in accordance with the procedures specified in the ASAO's aviation administration and enforcement rules.

Subregulation 149.605(3) provides that the ASAO may affirm, vary or set aside the decision and, if the ASAO sets aside the decision, make another decision.

Subregulation 149.605(4) provides that if the ASAO has not made a decision on the application within 21 days, the ASAO is taken to have affirmed the decision.

Subregulation 149.605(5) provides that an ASAO made under subregulation (3) or (4) is an internal review decision.

These provisions set out what decisions of an ASAO in relation to ASAO-issued authorisations may be subject to ASAO internal review and the ASAO process that must be followed in respect of ASAO internal review of the decision.

Regulation 149.610 - Application for review by CASA

Subregulation 149.610 (1) provides that a person who made an application under subregulation 149.605(2) and is dissatisfied with the internal review decision may apply to CASA for a review of that decision.

Subregulation 149.610 (2) provides that the application to CASA must be made within 21 days of the internal review decision (or such longer period as CASA allows) and in the approved form.

Subregulation 149.610 (3) provides that an application under this regulation is not made unless it is made: a) in the manner approved by CASA; and b) in the approved form; and c) includes all the information required; and d) the applicant has notified the ASAO of the application in accordance with regulation 149.615; and e) the fee, if any, for the application has been paid.

Subregulation 149.610 (4) provides that the making of an application to CASA for review does not affect the operation of the ASAO decision or the taking of action to implement the decision.

Consistent with CASA's Regulatory Philosophy, these provisions ensure accountability for an ASAO's enforcement decisions by providing for a mechanism by which a person may apply for review of an ASAO's decision while ensuring aviation safety by providing that the decision continues to have effect on its terms while it is under review.

Regulation 149.615 provides that if a person makes an application for a review by CASA under regulation 149.610 of an internal review decision made by an ASAO, the person must notify the ASAO in writing of that fact.

This provision ensures that the ASAO is aware that a CASA review of their decision has been sought.

Regulation 149.620 - ASAO to provide information and documents to CASA

Subregulation 14.620(1) provides that if an ASAO receives a notice of a review application by an applicant under regulation 149.615, the ASAO must, within 28 days, give to CASA a statement setting out its findings on all material questions of fact concerning the decision (referring to the evidence and material on which the findings were based) and giving the reasons for its internal decision. The ASAO must also provide CASA copies of every document that is in the ASAO's possession or under the ASAO's control that are relevant to the review by CASA of the ASAO's internal review decision.

Subregulation 14.620(2) provides that an ASAO commits an offence of strict liability if the ASAO fails to comply with a requirement under subregulation (1). The penalty for the offence is 50 penalty units.

If necessary, CASA can also use its powers under regulation 149.420 to request specified information from an ASAO.

Regulation 149.625 - CASA may request further information etc. from applicant for review

Subregulation 149.625(1) provides that if CASA believes it is necessary for the purposes of conducting a review, CASA may request the applicant to provide further information, or to submit to an examination or test, or attend an interview.

Subregulation 149.625(2) provides that CASA may refuse to make a decision on the application for review until the applicant complies with a request made under subregulation (1).

These provisions reflect powers CASA currently has under Part 11 of the CASR when it considers whether to grant a civil aviation authorisation, including powers available under regulation 11.030 (when application is taken to be complete), regulation 11.035 (about testing or interviewing an applicant), and 11.040 (about asking the applicant for more information). The powers given to CASA by this item enable CASA to consider on its merits a decision about the issue of an authorisation to a person or the exercise of enforcement powers (to vary, cancel or suspend an authorisation). They also enable CASA to not make a decision if CASA considers that it is not sufficiently informed.

Regulation 149.630 - Review procedures and review decision

Subregulation 149.630(1) provides, that in conducting a review of an ASAO internal review decision, that: the review procedures are within CASA's discretion; and CASA is not bound by rules of evidence; and CASA may inform itself in any way it sees fit; and the review is to be conducted with as little technicality, formality and as quickly and economically, as proper consideration of the matters permit.

Subregulation 149.630(2) provides that on review of an ASAO internal review decision, CASA must make a decision to: affirm the decision; or vary the decision; or set aside the decision and substitute a new decision; or set aside the decision and remit the matter to the ASAO for reconsideration in accordance with any CASA directions or recommendations.

Subregulation 149.630(3) provides that a decision under subregulation (2) would come into effect on a day specified by CASA.

Subregulation 149.630(4) provides that after making a decision under subregulation (2) CASA must give written notice as soon as practicable to the applicant and the ASAO of the decision and the reasons for the decision.

These provisions provide machinery matters covering how CASA can conduct its review process, the decisions that it can make on review, when the decisions it makes on review come into effect, notifying the decision and given reasons for the decision. These provisions are standard for review schemes.

Item 2 Subregulation 201.004(2) (at the end of table 201.004)

Item 2 provides amendments to CASR subregulation 201.004(2) to add decisions to the table in that subregulation. The table lists decisions that are reviewable by the AAT and provides the mechanism by which particular decisions under Part 149 would be AAT reviewable. These include CASA's decisions under regulation 149.630 in respect of ASAO decisions under review, directions to an ASAO under subregulation 149.120(2) and regulation 149.490 and a decision to vary, suspend or cancel an ASAO-issued authorisation under regulation 149.495.

Item 3 Part 1 of the CASR Dictionary

Item 3 provides 18 definitions in respect of terms used in CASR Part 149 that are not presently defined in the CASR Dictionary.

Part 2 Consequential Amendments

Civil Aviation Regulations 1988

Item 4 Subregulation 2(1) (definition of *group A ultralight*)

Item 4 repeals the definition of *group A ultralight* as it is no longer used in the CARs or CASRs.

Item 5 Subregulation 2(1) (definition of *gyroplane*)

Item 5 repeals the definition of *gyroplane* as item 29 provides for a definition of *gyroplane* in the CASR Dictionary.

Item 6 Paragraphs 162(1)(a) and (b)

Item 6 inserts the word "unpowered" before "gliders" to ensure there is no ambiguity in the meaning of the word "glider" in respect of the rights of way of unpowered gliders over powered aircraft.

Item 7 Subregulation 162(7)

Item 7 inserts the word "unpowered" before "gliders" to ensure there is no ambiguity in the meaning of the word "glider" in respect of the rights of way of unpowered gliders over powered aircraft.

Item 8 Subregulation 166(1) paragraph (e) of the definition of *radiotelephone qualification*

Item 8 substitutes the word "Limited" for "Incorporated" in the name of Recreational Aviation Australia as this organisation is no longer an incorporated association and is now a limited company.

Item 9 Subregulation 263(1) (at the end of definition of *certificate*)

Item 9 provides for an ASAO certificate being classed as a certificate for the purposes of Part 16 of CAR.

Item 10 Regulation 11.015 (at the end of paragraph (a) of the definition of *authorisation*)

Item 10 provides that an ASAO-issued authorisation is not a civil aviation authorisation for the purposes of Part 11 of CASR.

Item 11 Subparagraph 21.325(4)(a)(ii)

Item 11 provides for the omission of the term “powered sailplane” from the subparagraph as these aircraft are captured within the meaning of *glider* by item 28.

Item 12 Subregulation 45.015(2)

Item 12 provides for the omission of the term “powered sailplane” from the subparagraph as these aircraft are captured within the meaning of *glider* by item 28.

Item 13 Regulation 61.010 (paragraph (d) of the definition of *flight*)

Item 13 provides that, as is the case for a hang glider, flight in a powered hang glider, paraglider or powered paraglider is not flight for the purposes of Part 61 of CASR.

Item 14 Regulation 61.010 (paragraph (a) of the definition of *recreational aviation administration organisation*)

Item 14 substitutes the word "Limited" for "Incorporated" in the name of Recreational Aviation Australia. See item 8.

Item 15 Regulation 61.010 (at the end of the definition of *recreational aviation administration organisation*)

Item 15 provides for the inclusion of an ASAO in the definition of recreational aviation organisation for the purposes of Part 61 of CASR.

Item 16 Regulation 61.070 (paragraph (d) of the definition of *flight*)

Item 16 provides that, as is presently the case for a hang glider, flight time in a powered hang glider, paraglider or powered paraglider is not flight time for the purposes of Part 61 of CASR.

Item 17 Part 200 (heading)

Item 17 provides for a new heading to CASR Part 200 that properly reflects the limited extent of exemption from CASR for Part 200 aircraft provided at item 18.

Item 18 Before Subpart 200.B

Item 18 provides a new Subpart 200.A Preliminary that includes a new Definitions regulation for the Part that defines excluded provisions (those CASR Parts or Subparts to which Part 200 aircraft are not exempt, namely Part 1, Subpart 11.G, Part 39, Part 99, Part 149 and Part 200).

Item 19 Subpart 200.B (heading)

Item 19 provides for a new heading to CASR Subpart 200.B that properly reflects the limited extent of exemption from CASR for certain aircraft specified in this Subpart.

Item 20 Regulation 200.001

Item 20 provides for a new heading to CASR Regulation 200.001 that identifies those kinds of aircraft to which the regulation applies, namely hang gliders, powered hang gliders, paragliders and powered paragliders.

Item 20 also provides an amendment to subregulation (1) for the exemption from CASR (other than the excluded provisions) to apply to hang gliders, powered hang gliders, paragliders and powered paragliders used in private operations for recreational purposes, or for flying training for the issue of a pilot certificate, and also amends the reference to the Civil Aviation Orders to the applicable section (95.8), rather than a specific subsection that may no longer reference the Civil Aviation Order conditions.

Item 20 further provides for the substitution of the definitions of hang gliders and paragliders and related definitions in subregulation (2) with those definitions within the applicable Civil Aviation Orders that govern the operation of these kinds of aircraft.

Item 21 Regulation 200.002

Item 21 provides an amendment to the regulation to properly reflect the limited extent of exemption from CASR for privately built single-place ultralight aeroplanes and substitutes the definition of Recreational Aviation Australia Inc. (RAA) in this regulation with a definition of relevant organisation as this provision would apply to all organisations that administer privately built single-place ultralight aeroplanes.

The amendments to the regulation made by this item also provide for the substitution of specific references to the RAA in respect of privately built single-place ultralight aeroplanes with generic references to a relevant organisation.

Item 22 Regulations 200.003 and 200.004

Item 22 provides amendments to regulations 200.003 and 200.004 to properly reflect the limited extent of exemption from CASR for gyroplanes.

Item 23 Regulation 200.005

Item 23 amends the regulation to reference the section of the Civil Aviation Orders that is applicable to parasails, rather than a subsection that may no longer reference the CAO conditions as well as omit all references to gyrogliders. This item further provides a new exemption regulation (200.006) to reference the section of the Civil Aviation Orders that is applicable to gyrogliders to properly reflect the limited extent of exemption from CASR for gyrogliders, as well as provide for the definition of *gyroglider* omitted from subregulation 200.005(2).

Item 24 Subregulation 200.008(2)

Item 24 amends subregulation 200.008(2) to reference the section of the Civil Aviation Orders that is applicable to aircraft subject to this regulation, rather than a subsection that may no longer reference the Civil Aviation Order conditions as well as to exclude this regulation from the exemption.

Item 25 Regulations 200.013, 200.014 and 200.020

Item 25 provides an amendment to regulations 200.013 and 200.014 to properly reflect the limited extent of exemption from CASR for weight-shift-controlled aeroplanes and powered parachutes operated in accordance with section 95.32 of the Civil Aviation Orders as well as certain ultralight aeroplanes operated in accordance with section 95.55 of the Civil Aviation Orders. Item 25 also provides for an amendment to regulation 200.020 to clarify that, for paragraph 20AA (3) (b) of the Civil Aviation Act, an aircraft that is exempt from CASR is an aircraft exempt from CASR other than the excluded provisions.

Item 26 Subpart 202.GI

Item 26 amends the heading of the Subpart to refer to ASAOs in place of Recreational aviation administration organisations and repeals the note to the Subpart heading reserving the transitional provisions for Part 149 for future use.

Item 26 further provides for a new Division 202.GI.1 - Amendments made by the Civil Aviation Legislation Amendment (Part 149) Regulations. These amendments provide transitional provisions (regulations 202.860 to 202.862 inclusive) for Part 149 of CASR:

Regulation 202.860 provides a definition of the commencement day (of Part 149) for the purposes of Division 202.GI.1.

This is necessary because the transitional provisions reference the commencement day. See Section 2.

Regulation 202.861 provides a transitional provision that provides for the ongoing function of the organisations from the day Part 149 commences, otherwise their activities will cease until the organisations are issued an ASAO certificate or exemption. The provision self-repeals three years after the commencement day.

This item applies to organisations that immediately before commencement day are sport aviation bodies and to the Australian Skydiving Association Incorporated and protect these organisations from immediate application of the offence provision of regulation 149.015 upon commencement of Part 149.

Regulation 202.862 provides a transitional provision that authorisations issued to a person by an organisation prior to the organisation being issued an ASAO certificate will be taken to be ASAO-issued authorisations for a period of 12 months after the ASAO certificate enters into force, unless cancelled prior.

This item avoids the immediate need for an organisation to re-issue all its authorisations once it has been issued an ASAO certificate and provides a 12-month period for the organisation to re-issue its authorisations.

Item 27 Part 1 of the Dictionary

Item 27 provides place holders in the dictionary for two definitions in Subpart 200.B of CASR.

Item 28 Part 1 of the Dictionary (definition of *glider*)

Item 28 provides an amendment of the definition of *glider* to avoid the logical inconsistency that arises from the use of the term “powered” in reference to gliders of any form as being kinds of gliders, while retaining a *glider* definition in an ICAO compliant form.

Item 29 Part 1 of the Dictionary

Item 29 provides a definition of gyroplane, repealed from CAR at item 5, in the CASR Dictionary as this is used in both Part 61 of CASR and the Dictionary definition of rotorcraft in proposed Part 91 of CASR.

Item 29 further provides a place holder in the dictionary for the definition of gyroglider provided in subregulation 200.006(2) by item 23.

Item 30 Part 1 of the Dictionary (definition of *kite*)

Item 30 repeals the definition of *kite* as the Macquarie Dictionary definition is adequate for the purposes of Part 101 of CASR.

Item 31 Part 1 of the Dictionary (paragraph (b) of the definition of *light sport aircraft*)

Item 31 provides for an amendment to paragraph (b) so that a powered glider is not captured within the meaning of “light sport aircraft”.

Item 32 Part 1 of the Dictionary

Item 32 provides place holders in the dictionary for four definitions in Subpart 200.B of CASR.

Item 33 Part 1 of the Dictionary

Item 33 replaces the existing Dictionary definition of *sailplane* with a revised definition that is complementary to, and consistent with, the glider definitions at items 20 and 28.

Item 34 Part 1 of the Dictionary (after paragraph (f) of the definition of *sport aviation body*)

Item 34 provides for the inclusion of both an ASAO and the Australian Skydiving Association Incorporated within the definition of sport aviation body from commencement of Part 149 to allow for their inclusion in Part 149 regulations that reference sport aviation bodies.