



# Australian Government

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## Civil Aviation Safety Authority

I, SHANE PATRICK CARMODY, Director of Aviation Safety, on behalf of CASA, make this instrument under regulations 11.160, 11.205 and 200.002 of the *Civil Aviation Safety Regulations 1998* and subregulations 5 (1) and (1A) of the *Civil Aviation Regulations 1988*.

**[Signed S. Carmody]**

Shane Carmody  
Director of Aviation Safety

27 September 2020

### **Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020**

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#### **1A Name**

- 1A.1 This instrument is the *Civil Aviation Order 95.10 (Exemption from provisions of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998 — microlight aeroplanes) Instrument 2020*.
- 1A.2 This Order may be cited as *Civil Aviation Order 95.10*.

#### **1B Duration**

This Order:

- (a) commences on 1 October 2020; and
- (b) is repealed on the earlier of the following:
- (i) the day of commencement of Schedule 1 to the *Civil Aviation Legislation Amendment (Parts 103, 105 and 131) Regulations 2019*;
  - (ii) the end of 30 September 2023.

#### **1 Application**

This Order applies to microlight aeroplanes that are registered with a sport aviation body.

#### **2 Definitions**

- 2.1 In this Order, unless the contrary intention appears:

**3-axis aeroplane** means an aeroplane that has a conventional 3-axis flight control system.

**ASAO** (short for approved self-administering aviation organisation) has the same meaning as in the CASR Dictionary.

**closely-settled area**, in relation to a microlight aeroplane, means an area in which, because of:

- (a) man-made obstructions such as buildings and vehicles; and

(b) the characteristics of the aeroplane;  
the aeroplane could not be landed without endangering the safety of persons unconnected with the operation of the aircraft or damaging property in the area.  
**immediate family**, in relation to a person, means the person's spouse, parents and children (if any).

**microlight aeroplane** means a privately built weight-shift-controlled aeroplane or a privately built 3-axis aeroplane that:

- (a) has been designed, manufactured or certificated to carry no more than 1 person; and
- (b) has a take-off weight (being the total weight of the aeroplane when it begins to taxi before taking off, including the weight of the pilot and of fuel, oil, recovery and personnel parachutes, flotation equipment, items of optional equipment, tools and baggage) not exceeding:
  - (i) in the case of an aeroplane that is not equipped to land on water:
    - (A) if it has no parachute recovery system — 300 kilograms; or
    - (B) if it has a parachute recovery system — 320 kilograms; or
  - (ii) in the case of an aeroplane that is equipped to land on water:
    - (A) if it has no parachute recovery system — 335 kilograms; or
    - (B) if it has a parachute recovery system — 355 kilograms; and
- (c) has a wing loading not exceeding 30 kilograms per square metre at its take-off weight.

**Order** means Civil Aviation Order.

**person** does not include a body corporate.

**pilot certificate** means a pilot certificate issued by RAAus, SAFA or a relevant ASAO in accordance with the RAAus Operations Manual, SAFA Operations Manual or the relevant ASAO's exposition, as the case may be.

**privately built**—see paragraph 2.2.

**RAAus** means Recreational Aviation Australia Limited, operating otherwise than as an ASAO.

**RAAus Operations Manual** means the manual, approved in writing by CASA from time to time, which is issued by RAAus and contains, consistent with the requirements of the civil aviation legislation, the practices, procedures, instructions and rules by which RAAus ensures the safe operation of aeroplanes registered with RAAus.

**RAAus Technical Manual** means the manual, approved in writing by CASA from time to time, which is issued by RAAus and contains RAAus's rules, consistent with the requirements of the civil aviation legislation, for initial and continuing airworthiness of aeroplanes registered with RAAus, including:

- (a) airworthiness, design and maintenance standards; and
- (b) aeronautical practices, test procedures and processes.

**recognised standard part** means a part specified in the list of standard parts for microlight aeroplanes that is included in the RAAus Technical Manual, SAFA Operations Manual or the relevant ASAO's exposition, as the case may be.

**relevant ASAO**, in relation to a microlight aeroplane, means an ASAO whose approved function is or includes administering microlight aeroplanes.

**SAFA** means Sports Aviation Federation of Australia Limited, operating otherwise than as an ASAO.

**SAFA Operations Manual** means the manual, approved in writing by CASA from time to time, which is issued by SAFA and contains:

- (a) the procedures and instructions necessary to ensure the safe operation of aeroplanes registered with SAFA; and
- (b) airworthiness, design and maintenance standards; and
- (c) aeronautical practices, test procedures and processes.

**suitable landing area**, in relation to a microlight aeroplane, means an area in which a microlight aeroplane may be landed without endangering the safety, or damaging the property, of persons unconnected with the operation of the aeroplane.

**weight-shift-controlled aeroplane** has the same meaning as in *Part 149 (Approved Self-administering Aviation Organisations) Manual of Standards 2018*.

- 2.2 Subject to paragraph 2.3, for the purposes of this Order, a microlight aeroplane is **privately built** only if:
- (a) the aeroplane was built by a person, or was jointly built by not more than 4 persons, with a view to the aeroplane being owned by the person, or by 1 or more of the persons, who built it; and
  - (b) the person who built the aeroplane was, or each of the persons who built the aeroplane was, at the time of completion of the aeroplane, an eligible private builder in relation to the aeroplane (within the meaning of paragraph 2.5); and
  - (c) the aeroplane:
    - (i) was designed by its builder, or by 1 or more of its builders; or
    - (ii) was built in accordance with a set of drawings or a data package, or a set of drawings and a data package, approved, in writing, by RAAus, SAFA or a relevant ASAO; or
    - (iii) was built from a kit approved, in writing, by RAAus, SAFA or a relevant ASAO; and
  - (d) except in a case to which sub-subparagraph (c) (iii) applies — the parts from which the aeroplane was built (other than any recognised standard parts) were made by, or at the direction of, the person, or 1 or more of the persons, who built the aeroplane.
- 2.3 CASA may determine, in writing, that a microlight aeroplane that would not otherwise comply with this Order:
- (a) substantially complies with specifications set out in this Order; and
  - (b) may safely be operated in accordance with its conditions.
- 2.4 The operator of a microlight aeroplane, the subject of a determination under paragraph 2.3, may operate the aeroplane in accordance with this Order, subject to compliance with any additional condition that CASA mentions in that determination.
- 2.5 For the purposes of this Order, a person is, at the time the building of a microlight aeroplane is completed, an **eligible private builder** in relation to the aeroplane only if the person has not, within the preceding 12 months, whether

alone or jointly with another person or other persons, completed building another microlight aeroplane that satisfies the requirements mentioned in subparagraph 2.2 (c).

- 2.6 In this Order, a reference to a class of airspace means the volumes of airspace of that class, as determined by CASA in the *Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument*, as in force from time to time.

*Note* The *Determination of Airspace and Controlled Aerodromes Etc. (Designated Airspace Handbook) Instrument* is a legislative instrument that is revised and reissued by CASA approximately every 6 months. Airspace details from the Determination in force at any particular time are also published by Airservices Australia in the Designated Airspace Handbook.

- 2.7 RAAus may exercise a power under this Order only in relation to an aeroplane that it is entitled to register (being a 3-axis aeroplane).
- 2.8 SAFA may exercise a power under this Order only in relation to a microlight aeroplane that it is entitled to register (being a weight-shift-controlled aeroplane).
- 2.9 An ASAO may exercise a power under this Order only in relation to a microlight aeroplane that it is authorised to register (being a weight-shift-controlled aeroplane or a 3-axis aeroplane).

### 3 Exemption

- 3.1 A person who would, but for this subsection, have an obligation under the exempted provisions in relation to a microlight aeroplane is exempt from complying with the obligation if the person complies with the conditions set out in this Order.

- 3.2 In this subsection:

***exempted provisions*** means:

- (a) the following provisions of CAR:

- (i) Parts 4, 4A, 4B, 4C and 4D;
- (ii) subregulation 83 (1) in respect of VHF equipment;
- (iii) regulations 133, 139, 155 and 157;
- (iv) paragraph 166A (2) (f), in respect of a weight-shift-controlled aeroplane;
- (v) Division 4 of Part 13;
- (vi) regulations 207, 208 and 230;
- (vii) subregulations 232 (2) and (5);
- (viii) subregulation 242 (2);
- (ix) regulations 252 and 258; and

- (b) in addition, in the case of a weight-shift-controlled aeroplane that has been certificated by SAFA as meeting the requirements set out in the SAFA Operations Manual—the provisions of CASR (other than the excluded provisions within the meaning of regulation 200.001A of CASR).

#### 4 Licence not required

- 4.1 For the purposes of section 20AB of the Act, a person is authorised to perform a duty essential to the operation of a microlight aeroplane without holding a flight crew licence if the person complies with the conditions set out in this Order.
- 4.2 Despite paragraph 4.1, a person who makes an airborne radio transmission on an aeronautical HF frequency must be authorised to transmit using an aeronautical radio under Part 61 or Part 64 of CASR.

#### 5 General conditions

Subject to paragraph 8.5, the exemptions granted by subsection 3 in relation to a microlight aeroplane are subject to the following general conditions:

- (a) the aeroplane must be registered with:
- (i) in the case of a weight-shift-controlled aeroplane — SAFA or a relevant ASAO; or
  - (ii) in the case of a 3-axis aeroplane — RAAus or a relevant ASAO;
- (b) if the aeroplane:
- (i) was first registered with RAAus, SAFA or a relevant ASAO on or after 1 March 1990; and
  - (ii) was privately built within the meaning of paragraph 2.2; and
  - (iii) is owned by a person who is not the builder or one of the builders; the aeroplane must not be flown unless a certificate or authorisation has been issued by RAAus, SAFA or a relevant ASAO stating that the aeroplane meets the requirements set out in the RAAus Technical Manual, the SAFA Operations Manual or the relevant ASAO's exposition, as the case may be;
- (c) there must be clearly displayed in the aeroplane, in a position visible to the pilot when occupying the control seat, a sign stating that:
- (i) CASA does not guarantee the airworthiness of the aeroplane; and
  - (ii) whichever body registered the aeroplane, being RAAus, SAFA or a relevant ASAO, does not guarantee the airworthiness of the aeroplane; and
  - (iii) the pilot operates the aeroplane at the pilot's own risk;
- (d) the aeroplane must not be used in aerial application operations within the meaning of regulation 137.010 of CASR;
- (e) the aeroplane must not be used for any purpose other than:
- (i) the personal carriage of the pilot; or
  - (ii) the aerial inspection, conducted as a private operation, of stock, fencing or farm or pastoral equipment that is located on land owned by, or under the control of, the pilot or a member of the pilot's immediate family;
- Note* **Conduct as a private operation** means that no remuneration must be received by the pilot of the aircraft or the owner (subregulation 2 (7) of CAR).
- (f) the aeroplane must not be operated by a person as pilot in command unless the person:
- (i) holds a valid pilot certificate; and

- (ii) subject to the other conditions set out in this Order, operates the aeroplane in accordance with the valid privileges and limitations of that certificate;
- (g) subject to the other conditions set out in this Order, the aeroplane must be operated in accordance with the requirements of the RAAus Operations Manual, SAFA Operations Manual or the relevant ASAO's exposition, as the case may be;
- (h) the aeroplane must be maintained in accordance with the maintenance standards set out in the RAAus Technical Manual, SAFA Operations Manual or the relevant ASAO's exposition, as the case may be.

## **6 Flight conditions**

- 6.1 A microlight aeroplane may only be flown subject to the following conditions:
- (a) the aeroplane must not be flown at a height of less than 500 feet above ground level unless at least one of the conditions set out in paragraph 7.1 is satisfied;
  - (b) subject to paragraph 6.3, the aeroplane must not be operated above a body of water at a horizontal distance from a suitable landing area of more than:
    - (i) the distance that the aeroplane can glide in the case of engine failure; or
    - (ii) if in accordance with paragraph 6.2 — 25 nautical miles;
  - (c) the aeroplane must only be flown in:
    - (i) Class G airspace; or
    - (ii) Class E airspace; or
    - (iii) in accordance with paragraph 6.4 — Class A, B, C or D airspace;
  - (d) the aeroplane must not be flown inside an area designated as an area where the operation of microlight aeroplanes would constitute a hazard to other aircraft;
  - (e) the aeroplane must only be flown in V.M.C.;
  - (f) the aeroplane must only be flown during daylight hours;
  - (g) the aeroplane must not be flown over any closely-settled area unless:
    - (i) an approval under subregulation 262AP (5) of CAR is in force in relation to the aeroplane; and
    - (ii) the aeroplane is not subject to any conditions that would prevent the flight;
  - (h) the aeroplane must not be flown in acrobatic flight;
  - (i) if the aeroplane is fitted with radiotelephone equipment, the radiotelephone equipment must not be used by a person unless the person:
    - (i) for a transmission mentioned in paragraph 4.2 — is authorised to transmit using an aeronautical radio under Part 61 or Part 64 of CASR; or
    - (ii) for a transmission using aeronautical VHF frequencies — holds a valid certificate issued by RAAus, SAFA or a relevant ASAO in accordance with the RAAus Operations Manual, SAFA Operations Manual or the relevant ASAO's exposition, as the case may be, relating to the operation of radiotelephone equipment.

- 6.2 Subject to paragraph 6.3, a microlight aeroplane may be flown over a body of water up to a horizontal distance from a suitable landing area of not more than 25 nautical miles if:
- (a) the pilot is wearing a life jacket; and
  - (b) the aeroplane is equipped with a serviceable radiocommunication system and:
    - (i) an approved ELT, or approved portable ELT, within the meaning of regulation 252A of CAR; or
    - (ii) a personal locator beacon that has been approved by CASA for use in that aeroplane on such flights.
- 6.3 Despite the limit of 25 nautical miles mentioned in paragraph 6.2, an aeroplane to which that limit would otherwise apply may be flown between Tasmania and mainland Australia, in either direction by a longer route, if taking advantage of safer weather conditions.
- 6.4 A microlight aeroplane may be flown inside Class A, B, C or D airspace (the **controlled airspace**) only if the following conditions are satisfied:
- (a) an approval under subregulation 262AP (5) of CAR is in force in relation to the aeroplane;
  - (b) the aeroplane is not subject to any conditions that would prevent the flight;
  - (c) the aeroplane is fitted with a radio capable of two-way communication with air traffic control;
  - (d) the pilot in command:
    - (i) holds a pilot licence with an aeroplane category rating, the valid privileges of which include operating in controlled airspace; and
    - (ii) has a valid flight review for the aeroplane's class rating, under Part 61 of CASR;
  - (e) if the controlled airspace in which the aeroplane is operating requires a transponder to be fitted — the aeroplane is fitted with a transponder suitable for use in the airspace.

*Note* Operations in Class A airspace in V.F.R. are only possible in accordance with an approval issued by CASA under regulation 99AA of CAR.

## **7 Provisions relating to flight height limitations**

- 7.1 For the purposes of subparagraph 6.1 (a), a microlight aeroplane may be flown at less than 500 feet above ground level over land owned by a person (including the Crown) if:
- (a) the aeroplane is flying in the course of actually taking off or landing; or
  - (b) the aeroplane is flying over land that is owned by, or under the control of, the pilot; or
  - (c) the owner or occupier (including the Crown) of the land, or an agent or employee of the owner or occupier, has given permission for the flight to take place at such a height.
- 7.2 Except when taking off or landing, a microlight aeroplane that is flown at a height lower than 500 feet above ground level must be at a distance of at least 100 metres horizontally from:
- (a) a public road (being a street, road, lane, thoroughfare or place open to, or used by, the public for passage of vehicles); or

- (b) a person, other than a person associated with the operation of the aeroplane;  
or
  - (c) a dwelling, except with the permission of the occupier.
- 7.3 When taking off or landing a microlight aeroplane that is flown at a height of less than 500 feet above ground level, the pilot must, during the take-off or landing, maintain a horizontal distance from a person or place referred to in subparagraph 7.2 (a), (b) or (c) that may be less than 100 metres but is:
  - (a) enough to avoid endangering any person or causing damage to any property; and
  - (b) as far as possible from such a person or place, having regard to carrying out a safe take-off or landing.
- 7.4 A microlight aeroplane may only be flown at a height of 5 000 feet above mean sea level or higher if it is equipped with serviceable radiotelephone equipment and the pilot is qualified to use it in accordance with subparagraph 6.1 (i).
- 7.5 A microlight aeroplane may only be flown at a height of more than 10 000 feet above mean sea level in accordance with an approval given by CASA under subsection 8.

## **8 Approval of flights not complying with flight conditions**

- 8.1 A person who wants to fly a microlight aeroplane, otherwise than in accordance with the flight conditions set out in subsections 5 to 7, may apply to CASA for approval of the flight.
- 8.2 The application must:
  - (a) be in writing; and
  - (b) include details of the proposed flight; and
  - (c) be made at least 28 days before the proposed flight.
- 8.3 CASA may, in writing, approve the application.
- 8.4 The approval:
  - (a) must specify which of the flight conditions set out in subsections 5 and 6 do not apply to the use, by the applicant, of the aeroplane in the proposed flight; and
  - (b) may specify conditions to be satisfied in relation to the proposed flight.
- 8.5 If the proposed flight takes place in accordance with the approval (including any conditions specified in the approval in accordance with subparagraph 8.4 (b)), the use by the applicant of the aeroplane in the flight is not subject to the flight conditions specified in the approval in accordance with subparagraph 8.4 (a).

## **9 Transitional provisions**

- 9.1 Any certificate, approval or authorisation given under the previous Order by RAA that was current or in force immediately before the commencement of this Order, continues on and from that commencement as if it were an equivalent certificate, approval or authorisation, as the case may be, given by RAAus under this Order.
- 9.2 Any certificate, approval or authorisation given under the previous Order by HGFA that was current or in force immediately before the commencement of this Order, continues on and from that commencement as if it were an



equivalent certificate, approval or authorisation given by SAFA under this Order.

9.3 Any approval given, or determination made, under the previous Order by CASA that was in force immediately before the commencement of this Order, continues on and from that commencement as if it were an equivalent approval given, or determination made, by CASA under this Order.

9.4 In this subsection:

**HGFA** has the meaning given by the previous Order.

**previous Order** means *Civil Aviation Order 95.10 Instrument (Repeal and Remake) 2017*.

**RAA** has the meaning given by the previous Order.

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