

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX48/24 — DAMP Organisations (Collecting and Screening of Oral Fluid and Urine Body Samples Outside Capital City Areas) Exemption 2024

Purpose

Instrument *CASA EX48/24 — DAMP Organisations (Collecting and Screening of Oral Fluid and Urine Body Samples Outside Capital City Areas) Exemption 2024* (the **instrument**) allows DAMP organisations and non-DAMP organisations located in remote and regional Australia to use alternative trained persons to perform the tasks of a trained collector or collecting agency in circumstances where a trained collector or collecting agency is not reasonably available due to the remoteness of the location. The instrument is a reissue of instrument *CASA EX43/22 — DAMP Organisations (Collecting and Screening of Oral Fluid and Urine Body Samples Outside Capital City Areas) Exemption 2022 (CASA EX43/22)*, which will be repealed at the end of 31 July 2024.

Legislation

Section 98 of the *Civil Aviation Act 1988* (the **Act**) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made the *Civil Aviation Safety Regulations 1998 (CASR)*.

Under subsection 9(1) of the Act, the Civil Aviation Safety Authority (**CASA**) has the function of conducting the safety regulation of civil air operations by means that include administering Part IV of the Act.

Part IV of the Act includes section 34. Under section 34, regulations may provide for drug and alcohol management plans (**DAMPs**) for people who perform safety-sensitive aviation activities (**SSAAs**), and for CASA to conduct drug and alcohol testing of such people. Part 99 of CASR gives effect to Part IV of the Act, by establishing a framework for the development of DAMPs, similar to those already in place in other transport sectors, and by introducing a random drug and alcohol testing regime for all persons involved in SSAAs.

Under the definitions in subregulation 99.010(1) of CASR, a **DAMP** means a drug and alcohol management plan that complies, or purports to comply, with the requirements of regulation 99.045.

Subregulation 99.010(1) of CASR defines **relevant standard** for Part 99 of CASR as meaning:

- (a) AS 3547, *Breath alcohol testing devices for personal use*; and
- (b) NMI R 126, *Pattern Approval Specifications for Evidential Breath Analysers*; and
- (c) AS 4760, *Procedures for specimen collection and the detection and quantitation of drugs in oral fluid*; and
- (d) AS/NZS 4308, *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine*.

Subregulation 99.010(2) provides that in Part 99:

AS followed by a number is a reference to the Australian Standard so numbered or identified, as in force or existing from time to time, published by Standards Australia.

AS/NZS followed by a number is a reference to the Australian/New Zealand Standard so numbered or identified, as in force or existing from time to time, published jointly by Standards Australia and Standards New Zealand.

Under subparagraph 99.045(b)(ii) of CASR, a DAMP must include a drug and alcohol testing program that, among other things, meets the requirements specified in regulation 99.050.

Under subparagraph 99.050(1)(a)(ii) of CASR, oral fluid testing for drugs must be in accordance with the Standard mentioned in paragraph (c) of the definition of *relevant Standard*.

Under subparagraph 99.050(1)(a)(iii), urine testing for drugs must be in accordance with the Standard mentioned in paragraph (d) of the definition of *relevant Standard*.

CASA has issued instrument *CASA EX93/23 — Implementation of DAMPs (Provision of Safety-Sensitive Aviation Activities by Non-DAMP Organisations) Instrument 2023 (CASA EX93/23)* to enable a person required to have a DAMP under CASR to have a DAMP-like program of a person other than a DAMP organisation (a *non-DAMP organisation*) apply instead of the person's own DAMP in relation to particular employees of the non-DAMP organisation. This continues an arrangement that was originally established with instrument *CASA EX70/19 — Implementation of Drug and Alcohol Management Plans (Non-DAMP Organisations) Instrument 2019*.

Subpart 11.F of CASR provides for the granting of exemptions from particular provisions of the regulations. Subregulation 11.160(1) of CASR provides that, for subsection 98(5A) of the Act, CASA may grant an exemption from a provision of the regulations.

Under subregulation 11.160(2) of CASR, an exemption may be granted to a person or a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160(3) of CASR, an exemption may be granted on application by a person or on CASA's own initiative.

Under subregulation 11.175(4) of CASR, in deciding whether to reissue an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to grant an exemption on its own initiative.

Regulation 11.205 provides that CASA may impose conditions on an exemption if necessary in the interests of the safety of air navigation. Under regulation 11.210, it is a strict liability offence not to comply with the obligations imposed by a condition.

Regulation 11.225 of CASR requires an exemption to be published on the internet. Under subregulation 11.230(1), the maximum duration of an exemption is 3 years.

Under subsection 14(1) of the *Legislation Act 2003* (the **LA**), a legislative instrument may make provision in relation to matters by applying, adopting or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences. Under subsection 14(2) of the LA, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. However, subsection 98(5D) of the Act provides that, despite section 14 of the LA, a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

In accordance with subsection 98(5D) of the Act, the oral fluid standard and urine standard, as defined in the instrument, are incorporated into the instrument, that is, as they exist from time to time.

The preface to the oral fluid standard states that the objective of the standard is to:

ensure that the detection of drugs in oral fluid meets the expectations for testing of specimens for applications such as workplace medico-legal, or court-directed purposes. This standard is not intended for clinical use or for drug exposure detection in sport, but it may be used if deemed relevant. This Standard addresses the procedures for the collection of oral fluid, on-site drug testing, handling and dispatch of specimens to the laboratory for screening tests (if applicable) and confirmatory testing.

The preface to the urine standard states that the objective of the standard is to:

ensure that the detection of drugs in urine meets the expectations for testing of specimens for medico-legal, workplace or court-directed purposes. This Standard addresses appropriate procedures for the collection of urine, on-site screening, handling and dispatch of specimens to the laboratory for screening and confirmatory tests. Testing for clinical use or in sport is not covered.

Clause 1.3.14 of the oral fluid standard (AS/NZS 4760) defines a **collector** as a person who has successfully completed a course of instruction on oral fluid collection and on-site drug screening (if applicable), handling, storage and dispatch of specimens and demonstrates ongoing competence. A note below the clause states that courses may be those provided by the Vocational Education and Training (VET) Quality Framework, the Faculty of Clinical Forensic Medicine (RCPA), the New Zealand Qualifications Authority (**NZQA**) or courses that would be recognised as providing equivalent training.

Clause 1.3.24 of the urine standard (AS/NZS 4308) defines **on-site screening** as a screening test carried out at the point of collection. Clause 1.3.32 defines **screening tests** as methods used to exclude the presence of a drug, or class of drugs, and to identify whether specimen integrity is compromised. Collection for this purpose is done by a collector.

Clause 1.3.14 of the urine standard defines a **collector** as a person who has successfully completed a course of instruction for specimen collection and on-site screening (if

applicable), handling, storage and despatch of specimens and who has received a statement of attainment in accordance with the Australian Quality Training Framework (*AQTF*) or NZQA.

The applicable standards set out the roles and tasks of collecting agencies. Consistent with the applicable standards, the instrument defines *collecting agency* to cover an organisation assuming professional, organisational, educational and administrative responsibility for collection, on-site screening (if applicable), storage and despatch of urine specimens, and hence parallel responsibility for collectors.

The applicable standards describe on-site specimen collection and screening procedures, including the role and tasks of a collecting agency.

The applicable standards also specify requirements and verification standards for devices that can be used under the standards.

Background

There are DAMP and non-DAMP organisations located in remote and regional Australia which must, under the terms of their DAMP (or DAMP-like program), conduct drug testing in accordance with the applicable standards using technicians and collectors as defined above in terms of having successfully completed a course of instruction, and being collectors of a collecting agency.

However, in remote and regional Australia, such trained persons and collecting agencies are not available for urine or oral specimen collection and on-site urine testing. In the short to medium term, they are not likely to become available unless small DAMP or non-DAMP organisations go to the large expense of sending appropriate persons for training in initial drug testing in one of the major Australian cities where training courses may periodically be run, and the DAMP or non-DAMP organisation in turn establishes itself as a collecting agency with its associated overheads and requirements. Alternatively, commercial collecting agencies with trained collectors may expand their reach into remote and regional Australia, but this has not yet occurred.

CASA considers it is not realistic at this stage to expect that the testers used by DAMP and non-DAMP organisations in remote and regional Australia will complete such training or that the DAMP and non-DAMP organisations will establish themselves as collecting agencies. CASA has, therefore, issued a general exemption from specific training and collection agency requirements. The exemption is, however, tightly circumscribed by conditions designed, as far as practicable, to require alternative and acceptable tester training, and the use of proven, highly reliable, urine specimen testing equipment. It is intended in this way to protect the integrity of DAMP and non-DAMP organisations' drug testing.

Overview of instrument

The instrument continues the arrangement in instrument CASA EX43/22 that is repealed at the end of 31 July 2024.

The effect of the exemption in section 5 of the instrument is that a DAMP or non-DAMP organisation is not required to comply with the applicable standards insofar as the standards are relevant to the collection of body samples *in remote and regional Australia* for the purpose of drug screening and for the conduct of such screening.

Section 6 of the instrument limits the extent of the exemption to permit specified persons to perform *the role or tasks of a collecting agency* in relation to the collection and screening of oral fluid and urine samples (the screening of oral fluid samples is excluded by a subsequent condition in the instrument).

The role and tasks may be undertaken by a “trained collector”, “doctor” or “nurse” each of which must have successfully completed a “course of instruction” in the relevant applicable standard. A course of instruction means, in effect, an accredited course within the AQTF or the NZQA. Utilisation of these persons in effect exempts the DAMP or non-DAMP organisation from meeting the requirements of AS/NZS 4308 *for the role and involvement of a collecting agency* when utilised in *remote and regional Australia*.

The role or tasks may also be undertaken by a **capable person**, defined to be a person who, before collecting oral fluid or urine body samples or conducting on-site screening of urine body samples, provides specified information to CASA that the person has completed **training** and is competent to collect oral fluid or urine body samples and to conduct screening of urine body samples. **Training** is defined for the definition of capable person.

Section 6 also limits the extent of the exemption to ensure that the permitted collection and screening activities are otherwise carried out in accordance with the requirements of the applicable standards, including the verification and other requirements for devices specified in the applicable standards.

Remote and regional Australia

The exemption applies to areas *outside* Australian capital cities. The capital cities are defined by reference to the Greater Capital City Statistical Area delineated in the Australian Statistical Geography Standard (**ASGS**) maintained by the Australian Bureau of Statistics (**ABS**).

The reason it does not apply within capital cities is that, in CASA’s view, Australian capital cities currently have an adequate number of Standards-accredited collecting agencies to meet collecting and testing demand. There are also, within the capital cities, appropriate training opportunities for doctors and nurses to meet the Standard and become accredited for this potentially expanding role. It is CASA’s intention to allow departure from the Standards only where it is clearly necessary and with the application of acceptable alternative procedures.

The circumstances outside capital cities are different to those within capital cities — there is not an adequate number of reasonably accessible Standards-accredited collecting agencies to meet demand, nor is there reasonably accessible training for Standards accreditation of doctors and nurses (and others).

The exemption is, therefore, intended to assist DAMP and non-DAMP organisations and organisations in remote and regional Australia by facilitating the use of doctors, nurses and other persons who have undertaken required training in such areas. To address the contingency, medical professionals in these areas can carry out drug testing for DAMPs or DAMP-like programs provided they meet the requirements of the exemption.

The exemption does not apply to enable a DAMP or non-DAMP organisation to collect a sample in a capital city and to send the sample to a remote or regional area for screening in accordance with the requirements of the instrument.

Conditions

For regulation 11.205 of CASR, section 7 of the instrument imposes conditions on the exemption.

It is a condition that a capable person may perform the role or tasks of a collecting agency, as permitted by the exemption and extent of the exemption in sections 5 and 6, only if a doctor, nurse or a trained collector is not reasonably available because of the remoteness of the location of the DAMP or non-DAMP organisation at which the role or tasks are to be performed.

It is also a condition that on-site screening of oral fluid body samples must not be carried out by trained collectors, doctors, nurses or capable persons. This is because appropriate testing devices that are acceptable to CASA for this kind of usage in these kinds of circumstances are not yet available.

Documents incorporated by reference

In accordance with subsection 98(5D) of the Act, the instrument incorporates the whole of the following documents, as they exist from time to time:

- AS/NZS 4760, *Procedure for specimen collection and the detection and quantification of drugs in oral fluid*
- AS/NZS 4308, *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine*
(the **applicable standards**)
- the ASGS and the Greater Capital City Statistical Areas.

The ASGS and the Greater Capital City Statistical Areas are freely available online and can be downloaded through the ABS website. The Greater Capital City Statistical Areas is presently able to be downloaded at <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026/main-structure-and-greater-capital-city-statistical-areas>.

The applicable standards are publicly available but subject to copyright, and therefore not freely available. Despite its searches, CASA has not been able to identify any freely available online or library source of the applicable standards. The standards can be purchased online from several entities, including SAI Global and Standards New Zealand. CASA is unable to make the applicable standards available due to copyright restrictions.

The applicable standards relate to matters that are not specific to aviation, although they relate to matters that impact aviation safety. CASA does not have the expertise or resources to set standards for training, collection of body samples, testing of samples or acceptable testing devices in relation to drug testing to be implemented by entities that provide services to DAMP and non-DAMP organisations but are not necessarily part of the aviation community regulated by CASA.

In these circumstances, to ensure that the relevant drug testing activities are conducted to appropriate standards in the interests of aviation safety, CASA has determined that the most

appropriate course is to incorporate the applicable standards that are nationally recognised even though they are not freely available.

The cost of obtaining a copy of the applicable standards is a matter for DAMP or non-DAMP organisations, or entities that provide drug testing services to DAMP or non-DAMP organisations, that elect to conduct the relevant drug testing. CASA has no effective control over those costs. It is also CASA's expectation that DAMP and non-DAMP organisations would not need to purchase the applicable standards as the course of instruction would be completed by a registered training organisation that has incorporated the information in the applicable standards into their courseware.

CASA considers it extremely unlikely that the owner of an applicable standard would sell CASA the copyright, so that CASA could make the document freely available, at a price that would be an effective and efficient use of CASA funds. However, by prior arrangement with CASA, a copy of the document can be made available for viewing free of charge at any office of CASA.

CASA EX93/23 is also incorporated by reference in this instrument. See the definitions of **DAMP-like program** and **non-DAMP organisation** in the instrument. CASA EX93/23 is freely available on the Federal Register of Legislation (F2023L01346).

Content of instrument

Section 1 sets out the name of the instrument.

Section 2 sets out the duration of the instrument, which commences on 1 August 2024 and is repealed at the end of 31 July 2027.

Section 3 sets out definitions that are used in the instrument, including of **oral fluid standard** and **urine standard**. A note under the definition of **oral fluid standard** explains why the name of the standard in paragraph (c) of the definition of **relevant standard** differs from that of the current version of that standard. Section 3 also sets out definitions of **trained collector**, **doctor** and **nurse**. Each of these definitions requires the person to have successfully completed a course of instruction in the oral fluid standard or the urine standard (as defined in the instrument), as the case requires.

Section 4 sets out the application of the instrument, which is in relation to the collection and screening of a body sample for the purpose of screening, if the collection of the body sample occurs outside the Greater Capital City Statistical Area under a DAMP of a DAMP organisation or a DAMP-like program of a non-DAMP organisation.

Section 5 sets out the exemption for DAMP and non-DAMP organisations from the requirement to have a DAMP or DAMP-like program (as the case may be) that complies with subparagraphs 99.050(1)(a)(ii) and (iii) of CASR in relation to the collection of body samples for the purpose of screening and screening.

Section 6 states that the exemption in section 5 is limited to allow the organisation to use a trained collector, doctor, nurse or capable person to perform the role or tasks of a collecting agency in accordance with the requirements for the role or tasks expressly or impliedly specified in the oral fluid standard or the urine standard, as the case requires.

Section 7 sets out the conditions on the exemption in section 5. Subsection (1) states that a capable person may perform the role or tasks mentioned in section 6 only if a trained collector, a doctor or a nurse is not reasonably available to perform the role or tasks because of the remoteness of the location at which the role or tasks are performed. Subsection (2) states that a trained collector, a doctor, a nurse or a capable person is not permitted to conduct on-site screening of an oral fluid body sample.

Legislation Act 2003

Paragraph 98(5A)(a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation or the maintenance of aircraft. Additionally, paragraph 98(5AA)(a) of the Act provides that an instrument issued under paragraph 98(5A)(a) is a legislative instrument if the instrument is expressed to apply in relation to a class of persons. The instrument exempts classes of persons, being DAMP and non-DAMP organisations, from complying with the provisions in subparagraphs 99.050(1)(a)(ii) and (iii) of CASR and also applies in relation to trained collectors, doctors, nurses and capable persons. The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Sunsetting

Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to the instrument, because the instrument relates to aviation safety and is made under CASR (item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*).

However, this instrument will be repealed at the end of 31 July 2027, which will occur before the sunsetting provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunsetting does not affect parliamentary oversight of this instrument.

Consultation

Consultation under section 17 of the LA was undertaken for the initial issue of this exemption, instrument number CASA EX27/09, in 2009 with the Australian Aerial Agricultural Association and with representatives of larger airlines. Further consultation with the National Association of Testing Authorities Australia led to another issue of the exemption, instrument number CASA EX82/10. No specific consultation was undertaken with respect to the other previous iterations of this exemption, instrument numbers CASA EX117/12, CASA EX112/13, CASA EX84/14, CASA EX74/17, CASA EX91/20, and CASA EX43/22, except in relation to the omission of specific prescribed devices from CASA EX84/14.

The exemption is beneficial to stakeholders in remote and regional areas, and no concerns have been raised with CASA regarding the previous exemptions.

CASA is still progressing amendments to Part 99 of CASR under which this exemption will no longer be required. CASA will be consulting on those amendments.

In these circumstances, CASA is satisfied that no consultation is appropriate or necessary for this instrument for section 17 of the LA.

Sector risk, economic and cost impact

Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A(3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

As the instrument replaces an expiring instrument with the same provisions and conditions, there will be no change of economic or cost impact on individuals, businesses or the community.

The economic and cost impact of the instrument has been determined by:

- (a) the identification of individuals and businesses affected by the instrument;
- (b) consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements;
- (c) consideration of community impacts, beyond those direct impacts on individuals and businesses affected by the instrument, that are relevant if the instrument were to result in flow-on effects to other aviation businesses, or local non-aviation businesses that experience a change in their activity due to the instrument.

CASA has assessed that the economic and cost impact of the instrument is not significant. The exemptions in the instrument are intended to assist DAMP organisations and non-DAMP organisations in remote and regional communities by providing alleviation to these organisations from the costs involved in using a trained collector or collecting agency in circumstances where a trained collector or collecting agency is not reasonably available in those areas.

Impact on categories of operations

The instrument is likely to have a beneficial effect on all categories of aircraft operations because it ensures the continued conduct of drug testing of persons who undertake SSAA in remote and regional areas which will in turn protect the safety of those operations.

Impact on regional and remote communities

The instrument would have a beneficial impact on regional and remote communities. The instrument facilitates the use by DAMP and non-DAMP organisations of doctors, nurses and other persons, who have undertaken the required training, to perform the tasks of a trained collector or collecting agency in relation to the collection and screening of oral fluid and urine samples. This will protect aviation safety in those remote and regional areas by enabling the conduct of drug testing of persons who undertake SSAA in those areas.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) is not required in this case, as the exemption is covered by a standing agreement between CASA and OIA under which an IA is not required for exemptions (OIA reference number: OIA23-06252).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

Making and commencement

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260(1) of CASR.

The instrument commences on 1 August 2024 and is repealed at the end of 31 July 2027.

Statement of Compatibility with Human Rights

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

CASA EX48/24 — DAMP Organisations (Collecting and Screening of Oral Fluid and Urine Body Samples Outside Capital City Areas) Exemption 2024

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

Background

Part 99 of the *Civil Aviation Safety Regulations 1998 (CASR)* regulates drug and alcohol management plans (**DAMPs**) for people who perform safety-sensitive aviation activities (**SSAAs**), and for CASA to conduct drug and alcohol testing of such people. Part 99 of CASR establishes a framework for the development of DAMPs, similar to those already in place in other transport sectors, and by introducing a random drug and alcohol testing regime for all persons involved in SSAAs. A person who is required to have a DAMP is defined in Part 99 as a **DAMP organisation**.

CASA issued instrument *CASA EX93/23 — Implementation of DAMPs (Provision of Safety-Sensitive Aviation Activities by Non-DAMP Organisations) Instrument 2023* to enable a person required to have a DAMP under CASR to have a DAMP-like program of a person other than a DAMP organisation (a **non-DAMP organisation**) apply instead of the person's own DAMP in relation to particular employees of the non-DAMP organisation. The exemptions in that instrument cease to be in force at the end of 30 September 2026.

There are DAMP and non-DAMP organisations located in remote and regional Australia which must, under the terms of their DAMP (or DAMP-like program), conduct drug testing in accordance with the oral fluid standard and urine standard mentioned in the instrument (the **applicable standards**) using technicians and collectors who have successfully completed a course of instruction as required under the relevant applicable standard, and being collectors of a collecting agency.

However, in remote and regional Australia, such trained persons and collecting agencies are not available for urine or oral specimen collection and on-site urine testing. In the short to medium term, they are not likely to become available unless small DAMP or non-DAMP organisations go to the large expense of sending appropriate persons for training in initial drug testing in one of the major Australian cities where training courses may periodically be run, and the DAMP or non-DAMP organisation in turn establishes itself as a collecting agency with its associated overheads and requirements. Alternatively, commercial collecting agencies with trained collectors may expand their reach into remote and regional Australia, but this has not yet occurred.

Instrument

Instrument *CASA EX48/24 — DAMP Organisations (Collecting and Screening of Oral Fluid and Urine Body Samples Outside Capital City Areas) Exemption 2024* (the **instrument**) allows DAMP organisations and non-DAMP organisations located in remote and regional Australia to use alternative trained persons to perform the tasks of a trained collector or collecting agency, in circumstances where a trained collector or collecting agency is not reasonably available due to the remoteness of the location.

The effect of the exemption in section 5 of the instrument is that a DAMP or non-DAMP organisation is not required to comply with the applicable standards insofar as the standards are relevant to the collection of body samples *in remote and regional Australia* for the purpose of drug screening and for the conduct of such screening.

Section 6 of the instrument limits the extent of the exemption to permit specified persons to perform *the role or tasks of a collecting agency* in relation to the collection and screening of oral fluid and urine samples (the screening of oral fluid samples is excluded by a subsequent condition in the instrument).

The role and tasks may be undertaken by a “trained collector”, “doctor” or “nurse” each of which must have successfully completed a “course of instruction” in the relevant applicable standard. A course of instruction means, in effect, an accredited course within the Australian Quality Training Framework or the New Zealand Qualifications Authority. Utilisation of these persons in effect exempts the DAMP or non-DAMP organisation from meeting the requirements of AS/NZS 4308 *for the role and involvement of a collecting agency* when utilised in *remote and regional Australia*.

Section 6 also limits the extent of the exemption to ensure that the permitted collection and screening activities are otherwise carried out in accordance with the requirements of the applicable standards, including the verification and other requirements for devices specified in the applicable standards.

Section 7 sets out the conditions on the exemption in section 5. Subsection (1) states that a capable person may perform the role or tasks mentioned in section 6 only if a trained collector, a doctor or a nurse is not reasonably available to perform the role or tasks because of the remoteness of the location at which the role or tasks are performed. A **capable person** is defined as a person who provides specified information to CASA that the person has completed **training** and is competent to collect oral fluid or urine body samples and to conduct screening of urine body samples. **Training** is defined for the definition of capable person.

Subsection (2) states that a trained collector, a doctor, a nurse or a capable person is not permitted to conduct on-site screening of an oral fluid body sample.

Remote and regional Australia

The exemption applies to areas *outside* Australian capital cities. The capital cities are defined by reference to the Greater Capital City Statistical Area delineated in the Australian Statistical Geography Standard maintained by the Australian Bureau of Statistics.

The reason it does not apply within capital cities is that, in CASA’s view, Australian capital cities currently have an adequate number of Standards-accredited collecting agencies to meet

collecting and testing demand. There are also, within the capital cities, appropriate training opportunities for doctors and nurses to meet the Standard and become accredited for this potentially expanding role. It is CASA's intention to allow departure from the Standards only where it is clearly necessary and with the application of acceptable alternative procedures.

The circumstances outside capital cities are different to those within capital cities — there is not an adequate number of reasonably accessible Standards-accredited collecting agencies to meet demand, nor is there reasonably accessible training for Standards accreditation of doctors and nurses (and others).

The exemption is, therefore, intended to assist DAMP and non-DAMP organisations and organisations in remote and regional Australia by facilitating the use of doctors, nurses and other persons who have undertaken required training in such areas. To address the contingency, medical professionals in these areas can carry out drug testing for DAMPs or DAMP-like programs provided they meet the requirements of the exemption.

The exemption does not apply to enable a DAMP or non-DAMP organisation to collect a sample in a capital city and to send the sample to a remote or regional area for screening in accordance with the requirements of the instrument.

Human rights implications

The instrument does not engage any of the applicable rights or freedoms.

Conclusion

The instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority