



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX150/15

I, JONATHAN ALECK, Associate Director of Aviation Safety, a delegate of CASA, make this instrument under regulation 11.160 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*.

A handwritten signature in black ink that reads 'Jonathan Aleck'.

Jonathan Aleck
Associate Director of Aviation Safety

27 August 2015

Exemption — flight in class D airspace within 16 kilometres of an aerodrome

1 Duration

This instrument:

- (a) commences on 1 September 2015; and
- (b) expires at the end of August 2018, as if it had been repealed by another instrument.

2 Definitions

hang-glider, for the purposes of this instrument, has the same meaning as given by subregulation 200.001 (2) of CASR 1998.

HGFA means the Hang Gliding Federation of Australia Incorporated, Aviation Reference Number 527469.

3 Application

This instrument applies to the operation of hang-gliders by members of the Sunshine Coast Sports Aviators Inc. (the *Association*) for operations in Class D airspace and within 16 kilometres of Sunshine Coast Airport (YBSU).

4 Exemption

A member of the Association is exempt from the requirements of sub-subparagraph 7.1 (i) (iii) and paragraph 7.6 of Civil Aviation Order 95.8.

5 Conditions

The exemption is subject to the conditions mentioned in Schedule 1.

Schedule 1 — Conditions

- 1 A person must not act as pilot in command of a hang-glider unless he or she is a member of the HGFA.

- 2 The operations must be within the 2 areas:
 - (a) Area A (Point Cartwright), the line drawn between Beacon Lighthouse, Lat 26° 40' 47" and Long 153° 8' 18" south and 100 m offshore to a point at the northern end of the residential area at coordinates Lat 26° 41' 47", Long 153° 8' 10" and 100 m offshore; and
 - (b) Area B within the boundaries of a line following the coastline from coordinate Lat 26° 40' 16", Long 153° 6' 36" and 100 m offshore to a position at coordinates Lat 26° 40' 42", Long 153° 7' 8".
- 3 Operations must not be above 300 ft AMSL.
- 4 Operations must be conducted only in V.M.C.
- 5 The duty pilot must obtain approval from Airservices Australia (AA) Sunshine Coast Tower on each occasion that flying is planned to occur.
- 6 The duty pilot must also advise AA each time flying operations are completed.
- 7 As soon as possible after an incident or accident, the Duty Pilot must report it to:
 - (a) the Australian Transport Safety Bureau; and
 - (b) the Team Leader, Self-Administering Sport Aviation Organisations Section, CASA; and
 - (c) the HGFA.

Note Reports to the Team Leader, Self-Administering Sport Aviation Organisations Section, CASA, may be sent by email to sport@casa.gov.au.

Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — flight in class D airspace within 16 kilometres of an aerodrome

Legislation

Subsection 98 (1) of the *Civil Aviation Act 1988* (the *Act*) provides that the Governor-General may make regulations for the Act and the safety of air navigation. Subsection 98 (5A) of the Act provides that the regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft.

Civil Aviation Order 95.8 (*CAO 95.8*) applies to powered and unpowered hang-glider and paraglider aircraft and contains exemptions from the *Civil Aviation Regulations 1988*, subject to conditions such as the pilot being issued a certificate by the Hang Gliding Federation of Australia Incorporated (the *HGFA*). Among the various conditions imposed, sub-subparagraph 7.1 (i) (iii) of CAO 95.8 provides that an aircraft may be flown in Class C or Class D airspace that is below 300 feet above ground level but not within 16 kilometres of a controlled aerodrome. Paragraph 7.6 of CAO 95.8, however, provides that an aircraft may be flown in Class C or Class D airspace if the pilot holds a valid aeroplane pilot licence issued under Part 61 of the *Civil Aviation Safety Regulations 1998* (*CASR 1998*) that allows the holder to fly in that airspace, and the pilot has completed a valid flight review for the class rating in accordance with Part 61 of CASR 1998.

Subregulation 11.160 (1) of CASR 1998 provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations or a Civil Aviation Order in relation to a matter mentioned in that subsection. Under subregulation 11.160 (2), an exemption may be granted to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.205 (1) of CASR 1998, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.225 of CASR 1998, an exemption must be published on the Internet. Under subregulation 11.230 (1), an exemption ceases on the day specified within it (but no longer than 3 years after its commencement) or, if no day is specified, 3 years after commencement.

Instrument

Generally, members of the Sunshine Coast Sports Aviators Inc. (the *Association*) do not hold a valid aeroplane pilot licence issued under Part 61 of CASR 1998 or have not completed a valid flight review. The Association has, therefore, applied for the continuation of an exemption from sub-subparagraph 7.1 (i) (iii) and paragraph 7.6 of CAO 95.8 for its members to operate at 2 sites at Point Cartwright on the coast of Maroochydore in Queensland, near Sunshine Coast Airport. CASA previously issued CASA EX154/12, which expires at the end of August 2015, for this purpose.

CASA EX150/15 (the *instrument*) is an instrument that replaces CASA EX154/12. The conditions of the exemption, which include limiting the boundary of operations, have remained unchanged except for the addition of conditions relating to HGFA membership requirements and obligations relating to incident and accident reporting. The instrument will allow members of the Association to operate hang-gliders and paragliders within 16 kilometres of Sunshine Coast Airport.

Legislative Instruments Act 2003 (the LIA)

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the regulations or Civil Aviation Orders. An instrument issued under paragraph 98 (5A) (a) of the Act is a legislative instrument if the instrument is expressed to apply to a class of persons or aircraft. The instrument applies to a class of persons and is, therefore, a legislative instrument. As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

The instrument has been issued at the request of the Association. The instrument replaces a previous exemption issued to the Association that expires at the end of August 2015 (CASA EX154/12 refers). It is CASA's view that it is not necessary or appropriate to conduct any further consultation under section 17 of the LIA.

Statement of Compatibility with Human Rights

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

Office of Best Practice Regulation (OBPR)

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

Making and commencement

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of CASR 1998.

The instrument commences on 1 September 2015 and expires at the end of August 2018, as if it had been repealed by another instrument.

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Statement of Compatibility with Human Rights

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

Exemption — flight in class D airspace within 16 kilometres of an aerodrome

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

Overview of the legislative instrument

This legislative instrument allows members of the Sunshine Coast Sports Aviators Inc. to conduct hang-gliding and paragliding operations at 2 sites at Point Cartwright, Maroochydore within 16 kilometres of Sunshine Coast Airport. In the interest of aviation safety, the instrument contains conditions such as operational boundaries and aerodrome control tower notification requirements.

Human rights implications

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

Conclusion

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

Civil Aviation Safety Authority