



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX60/16

I, GERARD JOHN CAMPBELL, Executive Manager, Operations Division, a delegate of CASA, make this instrument under regulation 11.160 of the *Civil Aviation Safety Regulations 1998*.

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Gerard J. Campbell
Executive Manager
Operations Division

05 April 2016

Exemption — operating in vicinity of non-controlled aerodrome, VHF radio broadcasts and maintaining a listening watch

1 Duration

This instrument:

- (a) commences on the day of registration; and
- (b) expires at the end of March 2019, as if it had been repealed by another instrument.

2 Application

This instrument applies to the Australian Aerobatic Club Ltd, Aviation Reference Number (*ARN*) 802745, and its affiliated chapters (the *Club*) when organising aerobatic competitions or training within the vicinity of a non-controlled aerodrome.

3 Exemption

The pilot in command of an aircraft participating in a competition organised by the Club (the *competition*) is exempt from compliance with regulation 166C and subregulation 243 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

4 Conditions

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

Schedule 1 Conditions

- 1 The Club, acting through its Competition Coordinator or a person approved by CASA (an *approved person*), must ensure that a ground communications station (the *station*) is established at the non-controlled aerodrome.

- 2 The Club, acting through its Competition Coordinator or an approved person, must ensure that the station:
 - (a) operates daily during the competition period in order to advise other aircraft that are operating in the vicinity of the aerodrome of the activities, location and direction of the participants in the competition; and
 - (b) has a radio operator to operate any radio communications; and
 - (c) is active on the VHF frequency nominated by the Club and the common traffic advisory frequency (*CTAF*); and
 - (d) commences operations at least 10 minutes before competition activities begin and continues throughout the duration of the competition activities.
- 3 The Club, acting through its Competition Coordinator or an approved person, must ensure that only aircraft carrying serviceable VHF radio transceivers are allowed to participate in the competition.
- 4 The Club, acting through its Competition Coordinator or an approved person, must ensure that competition stops 10 minutes before the arrival of any aircraft engaged in a regular public transport operation (*RPT operation*).
- 5 The Club, acting through its Competition Coordinator or an approved person, must ensure that activities relating to the competition are not started or resumed until a period of 10 minutes has elapsed after the departure of any RPT operation or until the RPT aircraft is outside 10 nautical miles of the aerodrome reference point of any non-controlled aerodrome.
- 6 The Club, acting through its Competition Coordinator or an approved person, must ensure that radio operations for the competition cease before the arrival of any RPT operation and must not resume until a period of 10 minutes has elapsed after the departure of any RPT operation or until the RPT aircraft is outside 10 nautical miles of the aerodrome reference point of any non-controlled aerodrome. Radio operation must be returned to CTAF while radio operations for the competition have ceased.
- 7 The Club, acting through its Competition Coordinator or an approved person, must ensure that the pilot in command of any aircraft taking part in the competition:
 - (a) makes all the required broadcasts; and
 - (b) monitors CTAF frequency at times other than when flying in the performance zone; and
 - (c) returns to CTAF frequency if advised by the radio operator at the station.
- 8 The Club, acting through its Competition Coordinator or an approved person, must ensure that participants in the competition are briefed daily:
 - (a) on the performance zone area of activity; and
 - (b) on times a frequency change is permitted to a frequency other than the aerodrome CTAF frequency; and
 - (c) on information on procedures to comply with this instrument; and
 - (d) on any requirements for operating in the area; and
 - (e) on procedures if a radio communication fails.
- 9 The Club, acting through its Competition Coordinator or an approved person, must arrange with CASA for publication of daily NOTAMs setting out the boundaries of the areas of activity and the applicable procedures.

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- 10 The pilot in command must comply with the procedures published in NOTAMs and any internal documentation or operating procedure published by the Club.
 - 11 Not later than 5 working days before the commencement of a competition, the Club must provide CASA with:
 - (a) an intention to conduct operations; and
 - (b) details of any operating procedures to be used, including CTAF frequency; and
 - (c) updates to the published daily NOTAMs.
 - 12 The Competition Coordinator must be appointed by the Club for all events.
 - 13 The Club must include details of this instrument in the internal documents published by the Club.
 - 14 The pilot in command must comply with regulation 166C and subregulation 243 (1) of CAR 1988 if the pilot believes that the Club is failing to comply with any of the requirements imposed on the Club by this instrument.
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Explanatory Statement

Civil Aviation Safety Regulations 1998

Exemption — operating in vicinity of non-controlled aerodrome, VHF radio broadcasts and maintaining a listening watch

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 the following:

- (a) matters affecting the safe navigation and operation, or the maintenance, of aircraft; or
- (b) the airworthiness of, or design standards for, aircraft.

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998 (CASR 1998)* provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations, including the *Civil Aviation Regulations 1988 (CAR 1988)*, or a provision of the Civil Aviation Orders, 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), the maximum duration of an exemption is 3 years.

Regulation 166C of CAR 1988 provides that if an aircraft is operating on the manoeuvring area of, or in the vicinity of, a non-controlled aerodrome and the aircraft is carrying a serviceable aircraft VHF radio and the pilot in command of the aircraft holds a radiotelephone qualification, the pilot is responsible for making a broadcast on the VHF frequency in use for the aerodrome. The pilot must make a broadcast that includes the following information whenever it is reasonably necessary to do so to avoid a collision, or the risk of a collision, with another aircraft:

- (a) the name of the aerodrome;
- (b) the aircraft's type and call sign;
- (c) the position of the aircraft and the pilot's intentions.

Subregulation 243 (1) of CAR 1988 provides that when an aircraft is equipped with radio apparatus for use during flight, the pilot in command must maintain a listening watch, or must ensure that a listening watch is maintained, at all times commencing immediately before the time at which the aircraft commences to move on the manoeuvring area before flight and lasting until the aircraft is brought to a stop at the apron or other point of termination of the flight.

The Australian Aerobatic Club Ltd, and its affiliated chapters (the *Club*), has been organising aerobatic championships for many years. The requirements in regulations 166C and 243 of CAR 1988 for the pilot in command to maintain a listening watch and broadcast on the common traffic advisory frequency when operating in the vicinity of a non-controlled aerodrome has affected its ability to conduct various activities during competitions. The Club

has applied for an exemption for its pilots from these requirements while competing in competitions. CASA has approved the request for exemption, subject to conditions which are necessary in the interest of safety.

This instrument renews CASA EX35/13 which expired at the end of March 2016.

Legislation Act 2003 (the LA)

Under subsection 8(4) of the LA, an instrument made under a power delegated by the Parliament is a legislative instrument if any provision of the instrument determines the law or alters the content of the law, rather than determining particular cases or particular circumstances in which a legislative provision is to apply or is not to apply, and the provision has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right.

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the regulations. 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, the pilots in command of the aircraft participating in the competitions.

As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

The exemption allows competitions to be held subject to conditions that safeguard the interests of other users of the airspace. This instrument renews CASA EX35/13 which expired at the end of March 2016.

The Club has applied for renewal of the exemption in CASA EX35/13. CASA considers that events organised by the Club have been satisfactorily administered under the previous exemption and there is no reason why it should not be renewed. Therefore, it is expected that the instrument will not have a negative impact on aviation safety.

In these circumstances, it is CASA's view that it is not necessary or appropriate to undertake any further consultation under section 17 of the LA.

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 for subordinate instruments of this kind (OBPR id: 14507).

Statement of Compatibility with Human Rights

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

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 the day of registration and expires at the end of March 2019, as if it had been repealed by another instrument.

[Instrument number CASA EX60/16]

Statement of Compatibility with Human Rights

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

**Exemption — operating in vicinity of non-controlled aerodrome, VHF radio
broadcasts and maintaining a listening watch**

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

The Australian Aerobatic Club Ltd, and its affiliated chapters (the *Club*), has been organising aerobatic championships for many years. The requirements in regulations 166C and 243 of the *Civil Aviation Regulations 1988* for the pilot in command to maintain a listening watch and broadcast on the common traffic advisory frequency when operating in the vicinity of a non-controlled aerodrome have affected its ability to conduct various activities during competitions.

This legislative instrument exempts pilots from these requirements while competing in competitions. The exemption is subject to conditions imposed in the interests of the safety of air navigation, including conditions relating to the establishment and operation of a ground communications station and briefing of participants in competitions.

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



Australian Government
Civil Aviation Safety Authority

Instrument Number CASA.LOFLY.0157

I, PETER CHARLES MARSH, Flying Operations Inspector, Southern Region, Operations Division, a delegate of CASA, make this instrument under subregulation 157 (4) (b) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

A handwritten signature in black ink, appearing to read 'Peter Marsh', written over a horizontal line.

Peter Marsh
Flying Operations Inspector
Southern Region
Operations Division

Monday, 2 May 2016

Permit — Low flying – Australian Aerobic Club members

1 Application

This instrument applies to the owner and operator of an aeroplane conducting an aerobatic practice, recency or competition flight during daylight hours in conjunction with a competition or activity sanctioned by the Australian Aerobic Club, Aviation Reference Number 802745, or an affiliated club listed in Schedule 1 (the *AAC*), where the pilot of the aeroplane:

- (a) is a members of the AAC; and
- (b) is authorised under Part 61 of the *Civil Aviation Safety Regulations 1998* to conduct aerobatic manoeuvres in an aeroplane.

2 Definitions

In this instrument:

aerobatic performance zone means a clearly and distinctly marked area of 1000 x 1000 metres whose central point will be the intersection of the longitudinal (X) and lateral (Y) directional axes.

Contest Director means the person appointed by the AAC Committee in accordance with paragraph 2.2 of the AAC Regulations 2016.

3 Permit

Aerobatic practice, recency and competition flights are permitted to be conducted at a height that is not lower than 150 feet AGL within an aerobatic performance zone that is within 3 nautical miles of an aerodrome nominated by the AAC (the *Aerodrome*).

4 Conditions

The permit in section 3 is subject to the conditions mentioned in Schedule 2.

5 Expiry

This instrument expires at the end of May 2019, as if it had been revoked by another instrument.

Schedule 1 — Affiliated clubs

- 1 Australian Aerobatic Club (New South Wales Chapter) Incorporated
- 2 Australian Aerobatic Club (Queensland Chapter) Limited
- 3 Australian Aerobatic Club - Victoria Chapter (Inc).
- 4 Australian Aerobatic Club Adelaide Chapter Incorporated
- 5 Aerobatic Association of WA Incorporated

Schedule 2 — Conditions

- 1 The pilot must not conduct a practice, recency or competition flight without the specific approval of the Contest Director.
- 2 The Contest Director must not grant an approval to a pilot to conduct a practice, recency or competition flight unless the Contest Director is satisfied that the pilot has the required qualifications and recent experience to conduct the proposed flight.
- 3 The flights must be conducted in accordance with the AAC regulations as published in the AAC Regulations Manual 2016.
- 4 The flights must be conducted in accordance with the conditions imposed on the low level acrobatic flight permit or aerobatic flight activity endorsement issued by CASA to the pilot.
- 5 The flights may be conducted only after a pre-flight briefing has been conducted by the Contest Director or a person nominated by the Contest Director. This briefing must include all operational aspects that are likely to affect the safety of the flying activity.
- 6 The aeroplane must be fitted with a serviceable VHF transceiver.
- 7 The pilot must monitor the Aerodrome common traffic advisory frequency, or operate in accordance with CASA EX60/16, at all times during flight.
- 8 The Contest Director must ensure that a NOTAM is published to advise other aerodrome and airspace users of the increased aviation aerobatic activity at the Aerodrome for the duration of the practice and competition periods.
- 9 The Contest Director must ensure that the local CASA regional office is provided with the following information:
 - (a) the nominated Aerodrome for the planned activity;
 - (b) the duration of the planned activity;
 - (c) any special circumstances associated with the planned activity.
- 10 The information mentioned in clause 9 must be provided to the local CASA regional office:
 - (a) if the planned activity is to be conducted on any day between 23 December and 31 January — at least 28 days before the planned activity;
 - (b) otherwise — at least 21 days before the planned activity.
- 11 The pilot in command must not fly at a height lower than 500 feet if the pilot believes that the Contest Director has failed to comply with any of the requirements imposed on the Contest Director by this instrument.

Note The pilot must also comply with regulation 155 of CAR 1988 which relates to the conduct of aerobatic manoeuvres.

