



Australian Government

Civil Aviation Safety Authority

Instrument number CASA EX17/06

I, BRUCE ROBERT GEMMELL, Deputy Chief Executive and Chief Operating Officer, a delegate of the CASA, make this instrument under subregulation 308 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

A handwritten signature in black ink that reads "B. Gemmell".

Bruce Gemmell
Deputy Chief Executive and
Chief Operating Officer
12 May 2006

Exemption — powered weight shift controlled aircraft

1 Application

This instrument applies to a powered weight shift controlled aircraft as defined in Civil Aviation Order 95.8 (*CAO 95.8*) or Civil Aviation Order 95.32 (*CAO 95.32*) that is operated by the holder of a current Air Operator's Certificate that authorises flights for aerial work purposes and is performing 1 or more of the following operations:

- (a) aerial advertising including towing of flags and banners;
- (b) aerial photography (photography from an aircraft and photography of an aircraft);
- (c) aerial surveying;
- (d) aerial spotting.

2 Exemption

The aircraft is exempt from complying with the following provisions of CAR 1988:

- (a) Parts 4, 4A, 4B, 4C, 4D, 5 and 7;
- (b) regulations 133, 139, 141, 149, 150, 151, 155 and 157;
- (c) paragraphs 166 (2) (d), (e), (g) and (h);
- (d) regulation 174C (powered paragliders, powered hang gliders and powered parachutes only);
- (e) regulations 207, 208 and 230;
- (f) subregulation 242 (2);

(g) regulation 252.

3 Conditions

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

4 Expiry

This instrument stops having effect at the end of 29 February 2008.

Schedule 1 Conditions

1 In this Schedule:

HGFA certificate means:

- (a) an advanced pilot certificate with a motorised endorsement; or
- (b) a weight shift microlight pilot certificate issued by the Hang Gliding Federation of Australia (***HGFA***).

display pilot endorsement means an endorsement issued by the HGFA on an HGFA certificate that authorises the holder to fly an aircraft that is taking part in a public display.

RAA pilot certificate means a pilot certificate or pilot instructor certificate issued by Recreational Aviation Australia Inc (***RAA***) that includes a Group B (weight shift control) or Group D (powered parachute) endorsement as applicable to the aircraft type.

powered weight shift controlled aircraft means:

- (a) a powered hang glider, or a powered paraglider, as defined in CAO 95.8; or
- (b) a powered parachute or weight shift controlled aeroplane as defined in CAO 95.32.

2 A powered hang glider or powered paraglider to which this exemption applies may only be flown by a person who currently holds:

- (a) an HGFA certificate; and
- (b) a display pilot endorsement.

3 A powered parachute to which this exemption applies may only be flown by the holder of a RAA pilot instructor certificate who has accrued at least 100 hours in command of a powered parachute.

4 A weight shift controlled aeroplane to which this exemption applies may only be flown by the holder of a RAA pilot certificate or an HGFA certificate who:

- (a) has accrued at least 100 hours in command of a weight shift controlled aeroplane; and
- (b) holds a commercial pilot (aeroplane) licence.

5 An aircraft to which this exemption applies must be equipped with a serviceable altimeter that is easily visible to the pilot.

- 6 If the aircraft is lower than 100 feet above ground level, it must not be flown within a horizontal distance from persons not directly associated with its operation that is less than:
 - (a) for a powered hang glider or powered paraglider — 25 metres; or
 - (b) for a powered parachute — 50 metres; or
 - (c) for a weight shift controlled aeroplane — 100 metres.
 - 7 An aircraft to which this exemption applies may be operated in controlled airspace only if the pilot in command:
 - (a) obtains Air Traffic Control (*ATC*) clearance; and
 - (b) operates the aircraft in accordance with that clearance and any instructions given by ATC.
 - 8 An aircraft to which this exemption applies must only be flown if the pilot is able, in the prevailing weather and visibility, to glide safely to, and land at, an area clear of persons, buildings, vehicles and other obstacles.
 - 9 A powered hang glider, powered paraglider or powered parachute to which this exemption applies must only be flown at night if the pilot is able, in the prevailing illumination, to glide safely to, and land at, an area clear of persons, buildings, vehicles and other obstacles.
 - 10 An aircraft to which this exemption applies must only be flown in V.M.C.
 - 11 A weight shift controlled aeroplane may only be flown by day.
 - 12 A powered hang glider, or a powered paraglider or powered parachute may be operated:
 - (a) by day; or
 - (b) at night, if the area has good ground illumination.
 - 13 All flights conducted under this exemption must be conducted in accordance with the operations manual of the holder of the AOC.
 - 14 An aircraft to which this exemption applies must be flown in accordance with the general conditions and flight conditions in CAO 95.8 or CAO 95.32 applicable to the aircraft.
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Explanatory Statement

Civil Aviation Regulations 1988

Exemption — powered weight shift controlled aircraft

Section 98 of the *Civil Aviation Act 1988* (the *Act*) provides that the Governor-General may make regulations for the Act and to the safety of air navigation.

Subregulation 308 (1) of the *Civil Aviation Regulations 1988* (**CAR 1988**) provides that CASA may, in relation to a particular aircraft or specified type or category of aircraft, exempt that aircraft or specified type or category of aircraft from compliance with specified provisions of CAR 1988.

The instrument exempts powered weight shift controlled aircraft undertaking aerial work operations, including aerial advertising, aerial photography, aerial surveying and aerial spotting from compliance with certain Parts and provisions of CAR 1988.

The exemption is subject to conditions set out in Schedule 1. According to the conditions, powered weight shift controlled aircraft may only be flown by a person who holds a pilot certificate and an endorsement, issued by the Hang Gliding Federation of Australia or Recreational Aviation Australia Inc, and in accordance with the operations manual provided by the relevant AOC holder.

The conditions also ensure that a powered weight shift controlled aircraft is not flown unless, in the event of an engine failure, the pilot is able to glide safely to, and land at, an appropriate area. Additional conditions relate to the height at which powered weight shift controlled aircraft may be flown, the requirement to operate in accordance with air traffic control clearance when in controlled airspace, and other operational requirements.

The classes of aircraft are such that it is not possible to outline all conditions in the instrument. Other conditions will be incorporated into the operator's operations manual.

Legislative Instruments Act

Subregulation 308 (4) of CAR 1988 declares an exemption to be a disallowable instrument. Under subparagraph 6 (d) (i) of the *Legislative Instruments Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. The exemption is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

Consultation under section 17 of the LIA has not been undertaken because the instrument is of a minor or machinery nature.

The instrument commences on the day after it is registered and stops having effect at the end of 29 February 2008.

It has been made by the Deputy Chief Executive and Chief Operating Officer, a delegate of CASA, in accordance with subregulation 7 (1) of CAR 1988.

[Instrument number CASA EX17/06]