



Australian Government

Civil Aviation Safety Authority

I, JOHN FRANCIS McCORMICK, Director of Aviation Safety, on behalf of CASA, make this instrument under subregulation 308 (1) of the *Civil Aviation Regulations 1988*.

[Signed John F. McCormick]

John F. McCormick
Director of Aviation Safety

6 April 2011

Civil Aviation Order 95.32 Instrument 2011

1 Name of instrument

This instrument is the *Civil Aviation Order 95.32 Instrument 2011*.

2 Commencement

This instrument commences on the day after it is registered.

3 New Civil Aviation Order 95.32

Civil Aviation Order 95.32 is repealed and a new Civil Aviation Order 95.32 is substituted as set out in Schedule 1.

Schedule 1 Civil Aviation Order 95.32

Exemption from provisions of the *Civil Aviation Regulations 1988* — weight shift controlled aeroplanes and powered parachutes

1 Application

- 1.1 This Order applies to a single-place or 2-place aeroplane in relation to which the following requirements are satisfied:
- (a) the aeroplane is a weight shift controlled aeroplane or a powered parachute;
 - (b) paragraphs 1.2, 1.3 and 1.4 do not apply to the aeroplane;
 - (c) the aeroplane was wholly assembled by a commercial manufacturer, or was assembled from a kit supplied by a commercial manufacturer;
 - (d) 1 of the following conditions is satisfied:
 - (i) the manufacturer of the aeroplane, or of the kit, was the holder of a certificate of approval for the manufacture of aeroplanes, or of kits for aeroplanes, of a kind that includes the particular aeroplane;

- (ii) the aeroplane, or the kit, was manufactured in accordance with an approval given by CASA;
 - (iii) if the aeroplane, or the kit, was exported to Australia, a certificate that is acceptable to CASA and that relates to the airworthiness of the aeroplane, or the aeroplane that could be assembled from the kit, has been issued by the appropriate authority of the country from which the aeroplane, or the kit, was exported;
- (e) the aeroplane is registered with the RAA or the HGFA and:
- (i) has a take-off weight of not more than 600 kg or, if it is equipped to land on water, not more than 650 kg; and
 - (ii) has a stall speed not greater than 45 knots;
- (f) the aeroplane complies with:
- (i) British Civil Airworthiness Requirements, Section S (CAP 482) — Small Light Aeroplanes; or
 - (ii) such other design requirements as CASA has determined to be acceptable in relation to the aeroplane, or to aeroplanes of a kind that includes the aeroplane.
- 1.2 This Order also applies to a single-place or 2-place aeroplane if the following conditions are satisfied:
- (a) the aeroplane is a weight shift controlled aeroplane or a powered parachute;
 - (b) paragraphs 1.1, 1.3 and 1.4 do not apply to the aeroplane;
 - (c) the aeroplane is a light sport aircraft manufactured by a qualified manufacturer as defined in regulation 21.172 of CASR 1998;
 - (d) the aeroplane is registered with the RAA or the HGFA;
 - (e) the aeroplane owner holds a current special certificate of airworthiness for the aeroplane.
- 1.3 This Order also applies to a single-place or 2-place aeroplane if the following conditions are satisfied:
- (a) the aeroplane is a weight shift controlled aeroplane or a powered parachute;
 - (b) paragraphs 1.1, 1.2 and 1.4 do not apply to the aeroplane;
 - (c) the aeroplane is a light sport aircraft to which paragraph 21.191 (j) or (k) of CASR 1998 applies;
 - (d) the aeroplane is registered with the RAA or the HGFA;
 - (e) the aeroplane owner holds a current experimental certificate for the aeroplane.
- 1.4 This Order also applies to an aeroplane if the following conditions are satisfied:
- (a) the aeroplane is a powered parachute or a weight shift controlled aeroplane, the major portion of which has been fabricated and assembled by a person who undertook the construction project solely for the person's own education or recreation;
 - (b) paragraphs 1.1, 1.2 and 1.3, and Order 95.10, do not apply to the aeroplane;

- (c) the aeroplane is registered with the RAA or the HGFA;
- (d) the aeroplane has 1 propeller, 1 engine and a maximum of 2 seats;
- (e) the aeroplane has a maximum take-off weight not exceeding 600 kg or, if it is equipped to land on water, 650 kg;
- (f) the aeroplane has a stall speed not greater than 45 knots.

2 Definitions

In this Order:

Act means the *Civil Aviation Act 1988*.

aerial application operation has the same meaning as in regulation 137.010 of CASR 1998.

appropriate flight instructor certificate means:

- (a) in relation to an aeroplane that is registered with the RAA — a flight instructor certificate issued by the RAA in accordance with the RAA Operations Manual; and
- (b) in relation to an aeroplane that is registered with the HGFA — a flight instructor certificate issued by the HGFA in accordance with the HGFA Operations Manual.

appropriate Operations Manual means:

- (a) in relation to an aeroplane that is registered with the RAA — the RAA Operations Manual; and
- (b) in relation to an aeroplane that is registered with the HGFA — the HGFA Operations Manual.

appropriate pilot certificate means:

- (a) in relation to an aeroplane that is registered with the RAA — a valid pilot certificate issued by the RAA in accordance with the RAA Operations Manual; and
- (b) in relation to an aeroplane that is registered with the HGFA — a valid pilot certificate issued by the HGFA in accordance with the HGFA Operations Manual.

appropriate Technical Manual means:

- (a) in relation to an aeroplane that is registered with the RAA — the RAA Technical Manual; and
- (b) in relation to an aeroplane that is registered with the HGFA — the HGFA Operations Manual to the extent that it covers matters dealt with in the RAA Technical Manual.

CAR 1988 means the *Civil Aviation Regulations 1988*.

CASR 1998 means the *Civil Aviation Safety Regulations 1998*.

closely-settled area, in relation to an 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 aeroplane or damaging property in the area.

ELT means emergency locator transmitter.

flight radiotelephone operator licence means a flight radiotelephone operator licence granted under Part 5 of CAR 1988.

HGFA means the Hang Gliding Federation of Australia Inc.

HGFA Operations Manual means a manual acceptable to CASA that is issued by the HGFA and contains procedures and instructions necessary to ensure the safe operation of aeroplanes registered with the HGFA, and also, in respect of those aeroplanes, contains:

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

immediate family, in relation to an individual, means the individual's spouse, parents and children (if any).

Order means Civil Aviation Order.

powered parachute means an aeroplane with a ram air parachute wing.

public road means a street, road, lane, thoroughfare or place open to, or used by, the public for passage of vehicles.

RAA means Recreational Aviation Australia Incorporated.

RAA Operations Manual means a manual acceptable to CASA that is issued by the RAA and contains the procedures and instructions necessary to ensure the safe operation of aeroplanes registered with the RAA.

RAA Technical Manual means a manual acceptable to CASA that is issued by the RAA and contains:

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

in respect of aeroplanes registered with the RAA.

suitable landing area means an area in which an aeroplane, to which this Order, applies can be landed without endangering the safety, or damaging the property, of persons unconnected with the aeroplane.

take-off weight, in relation to an aeroplane, means 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.

weight shift controlled aeroplane means an aeroplane, however described, where flight control is attained primarily by weight shift.

Note Definitions of some expressions used in this Order can be found in regulation 2 of CAR 1988 (as applied by subregulation 5 (2)). Expressions defined in regulation 2 include (for example) ***acrobatic flight***, ***agricultural operations***, ***flying training area*** and ***pilot licence***.

3 Exemption under regulation 308

3.1 If the conditions set out in this Order are complied with, in relation to an aeroplane to which this Order applies, the aeroplane is exempt from compliance with the following provisions of CAR 1988:

- (a) Parts 4, 4A, 4B, 4C, 4D, 5 and 7;
- (b) subregulations 83 (1), (2) and (3) in respect of VHF equipment;
- (c) regulations 133, 139, 155 and 157;
- (d) regulation 163AA;
- (e) paragraph 166A (2) (f) in respect of powered parachutes;

- (f) Division 4 of Part 13;
 - (g) regulations 207 and 208;
 - (h) regulation 210 as far as advertising of flying training to qualify for a pilot standard specified in the appropriate Operations Manual is concerned;
 - (i) regulation 230;
 - (j) subregulation 242 (2);
 - (k) regulation 252;
 - (l) regulation 258.
- 3.2 Except in the case of a flight that is to take place wholly within a radius of 50 miles from its departure point, a 2-place aeroplane to which this Order applies may be flown only if it carries:
- (a) an approved ELT, or an approved portable ELT, as defined in regulation 252A; or
 - (b) a personal locator beacon that has been approved by CASA for use with such an aeroplane.

Note Regulation 252A of CAR 1988 does not apply to single-seat aircraft (see subregulation 252A (7) of CAR 1988).

4 Conditions on special certificate of airworthiness and experimental certificates

- 4.1 The exemptions given by subsection 3 for an aeroplane to which paragraph 1.2 or 1.3 applies are subject to the following conditions:
- (a) the special certificate of airworthiness, or experimental certificate, issued for the aeroplane stops having effect at the earliest of:
 - (i) the end of the validity period, if any, mentioned in the certificate; or
 - (ii) the suspension of the certificate; or
 - (iii) the cancellation of the certificate; or
 - (iv) a modification being made to the aeroplane that was not authorised by the manufacturer; or
 - (v) the aeroplane no longer complying with LSA standards as defined by regulation 21.172 of CASR 1998;
 - (b) the holder must, on request by CASA or an authorised person, make the special certificate of airworthiness, or the experimental certificate, available for inspection by CASA or the authorised person;
 - (c) the aeroplane must continue to be registered in Australia with the RAA or the HGFA;
 - (d) CASA, or an authorised person, may suspend or cancel the special certificate of airworthiness, or the experimental certificate, if CASA or the authorised person considers it necessary to do so in the interest of aviation safety;
 - (e) if the special certificate of airworthiness, or the experimental certificate, stops having effect or is cancelled or suspended, the holder must, at the written request of CASA or an authorised person, surrender the certificate to CASA or the authorised person.

Note Regulation 262APA of CAR 1988 applies to special light sport aircraft. The conditions in this subsection form an additional operating limitation under subregulation 262APA (4) of CAR 1988.

5 Licence not required

- 5.1 For section 20AB of the Act, a person is authorised to perform a duty essential to the operation of an aeroplane to which this Order applies, without holding a flight crew licence if he or she complies with the conditions set out in subsections 6 and 7.
- 5.2 In spite of paragraph 5.1, a person must hold a flight radiotelephone operator licence if he or she makes airborne radio transmissions on aeronautical HF frequencies.

Note A licence is not required to make airborne radio transmissions that are not on aeronautical HF frequencies.

6 General conditions

- 6.1 The exemptions given by subsection 3, in relation to an aeroplane to which this Order applies, are subject to the following general conditions:
- (a) the aeroplane must not be used in aerial application operations;
 - (b) the aeroplane must not be used for any purpose other than:
 - (i) the carriage (free of charge) of persons or goods; 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 or members of the pilot's immediate family; or
 - (iii) if the aeroplane is a 2-place aeroplane — flying training in order to enable a person to obtain a pilot certificate from the RAA or the HGFA;

Note Conduct as a private operation means that no remuneration must be received by the pilot of the aircraft or owner (subregulation 2 (7) of CAR 1988).

- (c) the aeroplane must not be operated by a person as pilot in command unless the person:
 - (i) holds an appropriate pilot certificate; and
 - (ii) subject to the other conditions set out in this Order, flies the aeroplane in accordance with the privileges and limitations of that certificate;
- (d) if the aeroplane is being used for flying training, the person conducting the training must hold a valid appropriate flight instructor certificate;
- (e) subject to the other conditions set out in this Order, the aeroplane must be operated in accordance with the requirements of the appropriate Operations Manual;
- (f) the aeroplane must be maintained in accordance with the maintenance standards set out in the appropriate Technical Manual.

7 Flight conditions

- 7.1 The exemptions given by subsection 3, in relation to an aeroplane to which this Order applies, are further subject to the following flight conditions:
- (a) the aeroplane may be flown 5 000 feet above mean sea level or higher only in accordance with paragraphs 8.4 and 8.5;

- (b) the aeroplane must not be flown at a height of less than 500 feet above ground level unless 1 of the conditions set out in subsection 8 is complied with;
- (c) Subject to paragraph 7.2, a powered parachute or a weight shift controlled aeroplane must not be operated above a body of water at a horizontal distance from a suitable landing area of more than:
 - (i) if each occupant is wearing a life jacket and the aeroplane is equipped with a serviceable radiocommunication system and the equipment referred to in subparagraph 3.2 (a) or (b) — 25 nautical miles; or
 - (ii) in any other case — the distance (not greater than 25 nautical miles) that the aeroplane can glide in the event of engine failure;
- (d) the aeroplane must only be flown in:
 - (i) Class G airspace; or
 - (ii) Class E airspace in V.M.C.; or
 - (iii) in accordance with paragraph 7.3 — Class A, B, C or D airspace;

Note Classes of airspace are defined in the *Australian Airspace Policy Statement*.

- (e) a powered parachute or weight shift controlled aeroplane must not be flown inside an area designated as an area where the operation of that aeroplane would constitute a hazard to other aircraft;
- (f) the aeroplane must only be flown in V.M.C.;
- (g) the aeroplane must only be flown during daylight hours;
- (h) an aeroplane to which paragraph 1.2 applies, or an aeroplane that was wholly assembled by a commercial manufacturer to which paragraph 1.1 applies, must not be flown over a closely-settled area at a height:
 - (i) that is lower than 1 000 feet above ground level; and
 - (ii) from which it cannot glide clear of the closely-settled area to a suitable landing area;
- (i) subject to paragraph 7.5, an aeroplane to which paragraph 1.3 or 1.4 applies, or an aeroplane that was assembled from a kit to which paragraph 1.1 applies, must not be flown over a closely-settled area:
 - (i) unless CASA or an authorised person has approved it; and
 - (ii) at a height lower than 1 000 feet above ground level; and
 - (iii) at a height from which it cannot glide clear of the closely-settled area to a suitable landing area;
- (j) the aeroplane must not be flown in acrobatic flight;
- (k) the radiotelephone equipment (if any) fitted to an aeroplane must not be used by a person unless the person holds:
 - (i) for transmissions on VHF frequencies only — a valid certificate, issued by the RAA or the HGFA in accordance with the appropriate Operations Manual, relating to the operation of radiotelephone equipment; or
 - (ii) for all transmissions — a flight radiotelephone operator licence.

7.2 In spite of the limit of 25 nautical miles mentioned in subparagraph 7.1 (c), 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.

- 7.3 An aeroplane may be flown inside Class A, B, C or D airspace only if all of the following conditions are complied with:
- (a) the aeroplane is certificated to the design standards specified in regulation 21.186 of CASR 1998 or is approved under regulation 262AP of CAR 1988 in regard to flights over closely-settled areas;
 - (b) the aeroplane is fitted with an engine of a kind to which paragraph 6.1 of Civil Aviation Order 101.55 applies, or that CASA has approved as being suitable for use in an aircraft to which this Order applies, and 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 aeroplane is flown by the holder of a valid pilot licence (not being a student pilot licence):
 - (i) issued under Part 5 of CAR 1988; and
 - (ii) that allows the holder to fly inside the controlled airspace;
 - (e) the pilot has satisfactorily completed an aeroplane flight review in accordance with regulation 5.81, 5.108 or 5.169 of CAR 1988;
 - (f) 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 a permission issued by CASA under regulation 99AA of CAR 1988.

- 7.4 An aeroplane to which this Order applies may be used to tow another aircraft only if:
- (a) the pilot in command is qualified to do so; and
 - (b) both aircraft are operated in accordance with limitations in their flight manuals, or equivalent instructions or directions, whether in the form of a placard or some other document; and
 - (c) the towing aeroplane is certified as suitable for that purpose and is mentioned in a Civil Aviation Advisory Publication for this Order.
- 7.5 CASA, or an authorised person under subregulation 262AP (5) of CAR 1988, may authorise the operation of an aeroplane mentioned in subparagraph 7.1 (i) over a closely-settled area subject to the conditions and limitations that CASA or the authorised person considers necessary in the interests of the safety of other airspace users or of persons on the ground or water.

8 Provisions relating to flight height limitations

- 8.1 An aeroplane, to which this Order applies, may be flown at a height of less than 500 feet above ground level, or 300 feet in the case of a powered parachute, 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; or
 - (d) the pilot of the aeroplane is engaged in flying training and the aeroplane is flying over a part of a flying training area over which CASA has, under subregulation 141 (1) of CAR 1988, authorised low flying.
- 8.2 Except when taking off or landing, an aeroplane flown at a height lower than 500 feet above ground level, or 300 feet in the case of a powered parachute, must be at a distance of at least 100 metres horizontally from:
 - (a) a public road; 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 owner or occupier.
- 8.3 When taking off or landing, an aeroplane flown at a height lower than 500 feet above ground level, or 300 feet in the case of a powered parachute, must, during the take-off or landing, maintain a horizontal distance from a place or person referred to in subparagraph 8.2 (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 place or person, having regard to carrying out a safe take-off or landing.
- 8.4 An aeroplane to which this Order applies 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 subsection 7.
- 8.5 An aeroplane to which this Order applies 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 paragraph 9.3.
- 9 Approval of flights not complying with flight conditions**
- 9.1 A person who wants to fly an aeroplane, to which this Order applies, otherwise than in accordance with the flight conditions set out in paragraph 7.1, may apply to CASA for approval of the flight.
- 9.2 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.
- 9.3 CASA may, in writing, approve the application.
- 9.4 The approval:
 - (a) must specify which of the flight conditions set out in paragraph 7.1 do not apply to the use, by the applicant, of the aeroplane in the proposed flight; and
 - (b) may specify conditions to be complied with in relation to the proposed flight.

9.5 If the proposed flight takes place in accordance with the approval (including any conditions specified in the approval in accordance with subparagraph 9.4 (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 9.4 (a).
