



Australian Government
Civil Aviation Safety Authority

Instrument number CASA EX21/09

I, MICHAEL DAVID QUINN, Deputy Chief Executive Officer, Operations, a delegate of CASA, make this instrument under subregulation 308 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

A handwritten signature in black ink, appearing to read 'Mick Quinn'.

Mick Quinn
Deputy Chief Executive Officer
Operations

9, March 2009

Amendment of instrument CASA EX15/09

1 Duration

This instrument:

- (a) commences on the day after it is registered; and
- (b) stops having effect at the end of June 2009.

2 Amendment of instrument CASA EX15/09

Instrument CASA EX15/09 is amended as set out in Schedule 1

Schedule 1 Amendment

[1] Schedule 1, Conditions

substitute

- 1 The pilot in command of an aircraft to which this exemption applies (the *aircraft*) must lodge with Air Traffic Services (*ATS*) a comprehensive flight plan or flight note.
 - 2 The pilot in command of an aircraft must nominate a SARTIME for each visual flight rules (V.F.R.) flight.
 - 3 The pilot in command of an aircraft must advise *ATS* of a deviation from the flight plan or flight note.
 - 4 The pilot in command of the aircraft must ensure that a 121.5 MHz beacon either exists in the aircraft or is carried in the aircraft.
 - 5 The pilot in command of an aircraft must ensure that if the aircraft is to be flown through a designated remote area, it is equipped with HF and also carries a 121.5 MHz portable or fixed beacon.
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Explanatory Statement

Civil Aviation Regulations 1988

Amendment of instrument CASA EX15/09

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.

Subregulation 308 (1) of the *Civil Aviation Regulations 1988* (**CAR 1988**) provides that CASA may exempt aircraft, or persons in, on, or otherwise associated with the operation of, the aircraft from compliance with specified provisions of CAR 1988. Subregulation 308 (2) provides that before making an exemption, CASA must take into account any relevant considerations relating to the interests of safety.

Subregulation 308 (3) provides that CASA may make an exemption subject to any condition specified in the exemption as being necessary in the interests of safety.

Subregulation 252A (1) of CAR 1988 provides that the pilot in command of an Australian aircraft that is not an exempted aircraft may begin a flight only if the aircraft is fitted with an approved emergency locator transmitter (**ELT**) that is in working order and whose switch is set to the position marked "armed" if that switch has a position so marked or the aircraft carries in a place readily accessible to the operating crew an approved portable ELT that is in working order.

CASA has received feedback in relation to the carrying of 406 beacons. There is an alleged ongoing issue with the availability of these beacons. CASA has decided to exempt all pilots in command from the requirements of having an approved ELT for a very short period of time. To ensure the safety of aviation conditions have been imposed, the pilot in command must lodge with Air Traffic Services a comprehensive flight plan or flight note and also nominate a SARTIME for each visual flight rules (V.F.R.) flight.

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 this instrument is an amendment of instrument CASA EX15/09 to clarify condition 4 of the instrument.

The instrument commences on the day after it is registered and stops having effect at the end of June 2009.

The exemption has been made by a delegate of CASA under subregulation 7 (1) of CAR 1988.

[Instrument number CASA EX21/09]