



Civil Aviation Order 95.32

as amended

made under subregulation 308 (1) of the

Civil Aviation Regulations 1988

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SECTION 95.32

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

1 Application

- 1.1 This section 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;
 - (aa) paragraphs 1.2 and 1.3 do not apply to the aeroplane;
 - (b) the aeroplane was wholly assembled by a commercial manufacturer, or was assembled from a kit supplied by a commercial manufacturer;
 - (c) 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 in relation to the manufacture of, 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;
 - (d) if the aeroplane is a weight shift controlled aeroplane:
 - (i) the aeroplane is registered with the RAA or the HGFA; and
 - (ii) the aeroplane has a take-off weight of not more than 450 kilograms; and
 - (iii) the aeroplane has a stall speed not greater than 40 knots;
 - (e) if the aeroplane is a powered parachute:
 - (i) the aeroplane is registered with the RAA; and
 - (ii) the aeroplane has a take-off weight of not more than 300 kilograms; and
 - (iii) the aeroplane has a stall speed not greater than 10 knots;
 - (f) the aeroplane complies with:
 - (i) British Civil Aviation 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 section 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 and 1.3 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) for a weight-shift controlled aeroplane — the aeroplane is registered with the RAA or HGFA;
 - (e) for a powered parachute — the aeroplane is registered with the RAA;
 - (f) the aeroplane owner holds a current special certificate of airworthiness for the aeroplane.
- 1.3 This section 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 and 1.2 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) for a weight-shift controlled aeroplane — the aeroplane is registered with the RAA or the HGFA;
 - (e) for a powered parachute — the aeroplane is registered with the RAA;
 - (f) the aeroplane owner holds a current experimental certificate for the aeroplane.

2 Interpretation

2.1 In this section:

CASR 1998 means the *Civil Aviation Safety Regulations 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 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 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 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 Manual.

flight radiotelephone operator licence means a flight radiotelephone operator licence granted under Part 5 of the Regulations.

HGFA means the Hang Gliding Federation of Australia.

HGFA Manual means a manual prepared by the HGFA and approved by CASA, being a manual that:

- (a) contains the procedures and instructions necessary to ensure the safe operation of aeroplanes registered with the HGFA; and
- (b) contains:
 - (i) airworthiness, design and maintenance standards; and
 - (ii) aeronautical practices, test procedures and processes;

in respect of aeroplanes registered with the HGFA.

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

licensed aerodrome means an area of land that is:

- (a) licensed as an aerodrome under the Regulations; or
- (b) established as an aerodrome under the Air Navigation Regulations.

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

public road means a road or other thoroughfare open to, or used by, members of the public for the passage of vehicles.

RAA means Recreational Aviation Australia Incorporated.

RAA Operations Manual means a manual prepared by the RAA and approved by CASA, being a manual that contains the procedures and instructions necessary to ensure the safe operation of aeroplanes registered with the RAA.

RAA Technical Manual means a manual prepared by the RAA and approved by CASA, being a manual that contains:

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

in respect of aeroplanes registered with the RAA.

Regulations means the *Civil Aviation Regulations 1988*.

take-off weight, in relation to an aeroplane, means the total weight of the aeroplane at the time it starts 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 where flight control is attained primarily by weight shift.

[See Note 1.]

3 Exemption under regulation 308

- 3.1 If the conditions set out in this section are complied with in relation to an aeroplane to which this section applies, the aeroplane is exempt from compliance with the following provisions of the Regulations:
- (a) Parts 3, 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) Division 4 of Part 13;
 - (e) regulations 207 and 208;
 - (f) regulation 210 insofar as advertising of flying training to qualify for a pilot standard specified in the appropriate Operations Manual is concerned;
 - (g) regulation 230;
 - (h) subregulation 242 (2);
 - (i) regulations 252 and 252A.

3AA Conditions on special certificate of airworthiness

3AA.1 The exemption given by subsection 3 for an aeroplane to which paragraph 1.2 applies is subject to the following conditions:

- (a) the special certificate of airworthiness 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) suspension of the certificate; or
 - (iii) 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 available for inspection by CASA or the authorised person;
- (c) the aeroplane must continue to be registered in Australia;
- (d) CASA or an authorised person may suspend or cancel the special certificate of airworthiness 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 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 the Regulations applies to special light sport aircraft. The conditions in this paragraph form an additional operating limitation under subregulation 262APA (4).

3AB Conditions on experimental certificate

- 3AB.1 The exemption given by subsection 3 for an aeroplane to which paragraph 1.3 applies is subject to the following conditions:
- (a) the 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) suspension of the certificate; or
 - (iii) cancellation of the certificate; or
 - (iv) 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 experimental certificate available for inspection by CASA or the authorised person;
 - (c) the aeroplane must continue to be registered in Australia;
 - (d) CASA or an authorised person may suspend or cancel the experimental certificate if CASA or the authorised person considers it necessary to do so in the interests of the safety of other airspace users and persons on the ground or water;
 - (e) if 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 262AP of the Regulations applies to an experimental light sport aircraft.

3A Licence not required

- 3A.1 For the purposes of paragraph 20AB (1) (b) of the Act, a person is authorised to perform a duty essential to the operation of an aircraft to which this section applies without holding a flight crew licence if he or she complies with the conditions set out in subsection 4.
- 3A.2 In spite of paragraph 3A.1, a person must hold a flight radiotelephone operator licence if he or she makes airborne radio transmissions on aeronautical HF frequencies.

4 General conditions of exemption

- 4.1 The exemption given by subsection 3, in relation to an aeroplane, is subject to the following general conditions:
- (a) the aeroplane must not be used in agricultural 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 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; or

- (iv) if the aeroplane is a weight shift controlled aeroplane that is registered with the HGFA — the aero-towing of hang gliders;
- (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 section, 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 section, 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;
- (g) if the aeroplane is fitted with radiotelephone equipment — the radiotelephone equipment must not be used by a person unless the person:
 - (i) holds a valid flight radiotelephone operator licence; or
 - (ii) holds a valid certificate, issued by the RAA or the HGFA in accordance with the appropriate Operations Manual, relating to the operation of radiotelephone equipment.

5 Flight conditions

5.1 Subject to paragraphs 5.2 and 7.5, the exemption given by subsection 3 in relation to an aeroplane is further subject to the following flight conditions:

- (a) the aeroplane may be flown 5 000 feet above mean sea level or higher:
 - (i) only if it is flying over an area of land, or water, the condition, and location, of which is such that, during the flight, the aeroplane would be unable to land with a reasonable expectation of avoiding injury to persons aboard the aeroplane; and
 - (ii) only if it is equipped with a radiocommunication system;

Note When flying at, or above, 5 000 feet, pilots are expected to make radio broadcasts as set out in AIP.
- (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 paragraph 6.2 is complied with;
- (c) the aeroplane must not be flown above the sea at a horizontal distance from land of more than:
 - (i) if all persons on the aeroplane are wearing life jackets and the aeroplane is fitted with flotation equipment that is capable of ensuring that the aeroplane will remain afloat if it is forced to land on water — 20 kilometres; or
 - (ii) in any other case — the lesser of the distance that the aeroplane can glide in the event of an engine failure and 20 kilometres;

(d) unless authorised under paragraph 5.2, the aeroplane must only be flown in:

- (i) Class G airspace; or
- (ii) Class E airspace in V.M.C.;

Note Class G and E airspace are as defined in the Air Services Regulations.

- (e) the aeroplane must not be flown inside an area that has been designated in the AIP as a prohibited or restricted area at such times as any such prohibited or restricted area is active;
- (f) the aeroplane must not be flown inside an area designated as an area where the operation of ultralight aeroplanes would constitute a hazard to other aircraft;
- (g) the aeroplane must only be flown in visual meteorological conditions;
- (h) the aeroplane must only be flown during daylight hours;
- (i) 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 built-up area at a height:
 - (A) that is lower than 1 000 feet above ground level; and
 - (B) from which it cannot glide clear of all dwellings, buildings and persons within the built-up area;
- (ia) an aeroplane to which paragraph 1.3 applies, or an aeroplane that was assembled from a kit supplied by a commercial manufacturer to which paragraph 1.1 applies, must not be flown over a built-up area:
 - (A) unless CASA or an authorised person has approved it; and
 - (B) at a height lower than 1 000 feet above ground level; and
 - (C) at a height from which it cannot glide clear of all dwellings, buildings and persons within the built-up area;
- (k) the aeroplane must not be flown in acrobatic flight.

5.1A CASA, or an authorised person under regulation 262AP (5) of the Regulations, may authorise the operation of an aeroplane mentioned in subparagraph 5.1 (ia) over a built-up 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.

5.2 The aeroplane may be flown inside controlled airspace only if all of the following conditions are complied with:

- (a) the aeroplane is certificated to the design standards mentioned in subparagraph 1.1 (f) or meets the criteria mentioned in paragraph 21.024 (1) (a) or 21.026 (1) (a) or regulation 21.186 of CASR 1998;
- (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 section 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 (other than a student pilot licence):
 - (i) issued under Part 5 of the Regulations; and
 - (ii) that allows the holder to fly in 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 the Regulations;
- (e) 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.

6 Provisions relating to flight height limitations

- 6.2 For the purposes of subparagraph 5.1 (b), the conditions, 1 of which must be complied with for an aeroplane to be flown at less than 500 feet above ground level, are:
- (a) the aeroplane must be flying in the course of actually taking-off or landing; or
 - (b) the aeroplane must be flying:
 - (i) over land that is owned by, or under the control of, the pilot or of another person (including the Crown) who, or an agent or employee of whom, has given permission for the flight over the land at such a height; and
 - (ii) at a distance of at least 100 metres horizontally from any person (other than any person associated with the operation of the aeroplane) and from any public road; or
 - (c) the pilot of the aeroplane must be engaged in flying training and the aeroplane must be flying over a part of a flying training area over which CASA has, under subregulation 141 (1) of the Regulations, authorised low flying.

7 Approval of flights not complying with flight conditions

- 7.1 A person who wants to fly an aeroplane to which this section applies, otherwise than in accordance with the flight conditions set out in paragraph 5.1 or 5.2, may apply to CASA for approval of the flight.
- 7.2 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.
- 7.3 CASA may, by writing, approve the application.
- 7.4 The approval:
- (a) must specify which of the flight conditions set out in paragraph 5.1 or 5.2 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.
- 7.5 If the proposed flight takes place in accordance with the approval (including any conditions specified in the approval in accordance with subparagraph

7.4 (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 7.4 (a).

Note 1 Definitions of some expressions used in this section can be found in regulation 2 of the Regulations (subregulation 5 (2) of those Regulations provides for this). Expressions defined in regulation 2 include (for example) ***acrobatic flight, agricultural operations*** and ***certificate of approval***.

Notes to Civil Aviation Order 95.32

Note 1

The Civil Aviation Order (in force under the *Civil Aviation Regulations 1988*) as shown in this compilation comprises Civil Aviation Order 95.32 amended as indicated in the Tables below.

Table of Orders

Year and number	Date of notification in <i>Gazette</i>/ registration on FRLI	Date of commencement	Application, saving or transitional provisions
CAO 2004 No. R79	23 December 2004	23 December 2004 (see s. 2)	
CAO 95.32 2005 No. 1	FRLI 6 January 2006	7 January 2006 (see s. 2)	
CAO 95.32 2006 No. 1	FRLI 31 May 2006	1 June 2006 (see s. 2)	

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
s. 95.32	rs. 2004 No. R79
subs. 1	am. CAO 95.32 2005 No. 1
subs. 2	am. CAO 95.32 2005 No. 1
subs. 3AA	ad. CAO 95.32 2005 No. 1
subs. 3AB	ad. CAO 95.32 2005 No. 1
subs. 5	am. CAO 95.32 2005 No. 1, CAO 95.32 2006 No. 1
subs. 7	am. CAO 95.32 2005 No. 1