

Annex A

Proposed Civil Aviation Safety Regulations 1998 (CASR) Part 149 – Recreational Aviation Administration Organisations

Consultation Draft

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149.003 Definitions

In this Part:

accountable manager means the person, identified in the exposition, who has overall corporate authority and responsibility for the aircraft and aviation operations of a delegated RAAO and whose name the RAAO sends in writing to CASA as soon as practicable after the person is appointed.

aircraft and aviation activities, for a delegated RAAO means the aircraft and aviation activities that are administered by the RAAO in accordance with Parts 103 or 105 of CASR 1998, or Part 101 of CASR 1998 (except the provisions for UAVs).

air display means a public exhibition of flying or parachuting or both, but does not include a fly-in.

airworthiness certification means a certification for an aircraft given by a RAAO, in accordance with its procedures manual, that attests to the airworthiness of an aircraft, whether this is a certificate of airworthiness, an experimental certificate, a special flight authorisation or some other document having a similar effect.

aviation event includes:

- (a) an air display or air show;
- (b) a meeting for competition between operators of unmanned aircraft of a kind mentioned in Part 101, pilots of aircraft of a kind mentioned in Part 103 or parachutists mentioned in Part 105.

authorisation means permission (however described) given to a participant under and in accordance with this Part by a delegated RAAO to operate an aircraft, perform a function related to an aircraft or perform an aviation activity. An authorisation includes a certificate, registration, licence, approval, direction, instruction, permission or other authorisation under this Part,

designated person means a named natural person:

- (a) who is a participant of the RAAO; and
- (b) who is appointed by the RAAO to occupy a designated position defined in the exposition; and
- (c) who has the seniority, experience, and qualifications specified in the procedures manual for exercising a particular delegation conferred on the RAAO by the Director; and
- (d) whose name the RAAO sends in writing to CASA as soon as practicable after the person is appointed.

Note It is intended that each of these requirements is mandatory for the purposes of the definition. The number of names notified to CASA will depend on the size of the RAAO, and the scope and complexity of its operations.

designated position means a position in an RAAO whose holder for the time being is appointed by the RAAO and under the procedures manual is required to have the seniority, experience, and qualifications specified in the procedures manual for exercising a particular delegation conferred on the RAAO by the Director.

delegated RAAO means an eligible RAAO to which the Director has delegated RAAO-related functions.

duly authorised CASA officer means a CASA officer in the course of his or her duty who displays a CASA photographic identification card and on request produces a letter from a senior CASA officer authorising the conduct of a particular audit or surveillance, or the conduct of a class of audits or surveillance.

eligible RAAO means a RAAO, listed in Schedule 1.

exposition means the document prepared by an RAAO which:

- (a) describes its nature, structure, governance, participation rules and arrangements, executive, employees, accountable manager, designated persons, key persons, facilities, aircraft, aviation activities, operational procedures, and governance and disciplinary rules; and
- (b) contains the documents and information mentioned in regulation 149.110.

governance and disciplinary rules, for an eligible RAAO, means the rules under which the RAAO conducts its relationship with its participants, and must include, as a minimum, the matters set out in regulation 149.070.

key person means each person who holds a position that is defined in the RAAO's exposition as a position that may only be held by a person whose name the RAAO must send in writing to CASA as soon as practicable after the person is appointed.

participant means a person who agrees, in writing, with a RAAO to be bound by:

- (a) the RAAO's procedures manual that applies to the participant; and
- (b) the rules of the RAAO that apply to the participant.

Note 1 A participant may be a full member, an associate member or an affiliate member of the RAAO, or a person, however described in the RAAO's procedures manual, who formally agrees to be bound by the RAAO's rules and procedures.

Note 2 ***Participation*** has a similar meaning under section 18 of the *Acts Interpretation Act 1901*.

procedures manual means the manual as amended in accordance with the relevant procedure in the exposition that an RAAO uses to regulate the aircraft, the operations and the aviation activities that it administers and is taken to include its governance and disciplinary rules whether or not the governance and disciplinary rules are actually incorporated in the procedures manual.

Note CASA's only interest in that part of the procedures manual dealing with governance and disciplinary rules is in the effectiveness of the rules in enabling the delegated RAAO to maintain the safety of the operations and aircraft for whose administration it is holding CASA's delegation.

RAAO is the acronym for a recreational aviation administration organisation defined in regulation 149.015.

RAAO-related function means a function of CASA under section 9 of the Act or the regulations that is for the aircraft or aircraft operations administered by the RAAO.

regulations means the *Civil Aviation Regulations 1988*, and the *Civil Aviation Safety Regulations 1998*, and includes any instruments made under these regulations.

149.005 Transitional

- (1) The procedures manual of an RAAO listed in Schedule 1 at the commencement of this Part, and as amended from time to time is taken to be the exposition of the eligible RAAO until the end of the day before the 3rd anniversary of the commencement of this Part.
- (2) On and after the 3rd anniversary of the commencement of this Part, an eligible RAAO listed in Schedule 1 must have an exposition that complies with this Part if it has, or applies for, a delegation under this Part.

149.010 Object of Part

This Part sets out the rules under which a RAAO may carry out certain CASA functions for recreational aviation under a delegation from the Director.

149.015 What is a RAAO?

A RAAO is a company, organisation or enterprise, representing a distinct and significant group of persons and which engages in the administration of 1 or more of the following activities for or on behalf of the persons who participate in 1 or more of these activities in their capacity as participants:

- (a) the operation of rockets or unmanned aircraft mentioned in Part 101 of these regulation (except the provisions for UAVs);
- (b) sport and recreational aviation activity mentioned in Part 103 of these regulations;
- (c) parachuting activity mentioned in Part 105 of these regulations;
- (d) any other aviation activities or operations approved by CASA.

149.020 The Director may delegate the functions of CASA

- (1) The Director may delegate to an eligible RAAO a function of CASA under section 9 of the Act or under the regulations that is:
 - (a) for the aircraft or aviation activities that are administered by the RAAO in accordance with Parts 103, 105 or 101 of CASR 1998 (except the provisions for UAVs; and
 - (b) mentioned in subregulation (4) and
 - (c) specified in an instrument of delegation to the RAAO.
- (2) The delegation may be exercised on behalf of the delegated RAAO only by a designated person.

- (3) The delegation may permit the issue of authorisations, certificates, licences, registrations and permits only for the exercise of the function in accordance with:
 - (a) the Part or Subpart; and
 - (b) the RAAO's procedures manual.
- (4) The functions are:
 - (a) the certification, registration and maintenance of aircraft;
 - (b) the training, testing, licensing, checking and certification of competence of flight crew and maintenance personnel for aircraft including the suspension and revocation of licences and certificates;
 - (c) the training, testing, licensing, checking and certification of competence of participants engaged in parachuting activities, including the suspension and revocation of licences and certificates;
 - (d) CASA's functions under Part 101 of CASR 1998 (except the provisions for UAVs);
 - (e) the promotion of safety standards and practices;
 - (f) any other RAAO-related function of CASA.

149.025 The Director is taken to have delegated CASA's power

If the Director delegates a function in accordance with regulation 149.020, the powers to perform the function are taken to have been delegated also.

149.030 Delegations

- (1) A delegation:
 - (a) may be exercised by an RAAO only if the exercise of the delegation is in accordance with:
 - (i) the terms of the delegation instrument; and
 - (ii) the exposition; and
 - (iii) the procedures manual; and
 - (iv) the requirements of safety for the matter for which the delegation is being exercised.
- (2) A delegation:
 - (a) may be in force for not longer than 5 years; and
 - (b) may be renewed on application by the RAAO if the Director considers that renewal is in the interests of the safety of air navigation; and
 - (c) may be varied, suspended or revoked:
 - (i) on the written application of the RAAO; or
 - (ii) if the Director considers that variation, suspension or revocation is in the interests of the safety of air navigation.

Note Except in a case where it is necessary to do so in the interest of safety, CASA will notify a RAAO of its intention to vary, suspend or revoke the delegation and ask the RAAO to show cause why the delegation should not be varied, suspended or revoked.

- (3) A delegation is subject to each condition that is:
 - (a) stated in this Part; or
 - (b) stated in the instrument of delegation, or varied by the Director after written notice to the RAAO; or
 - (c) added to the instrument of delegation after written notice to the RAAO.
- (4) It is a condition of a delegation that the delegate must comply with any written requirement of the Director in the performance of the function delegated.
- (5) CASA must publish each delegation, including as varied, on the world wide web.

149.035 Offence of failure to comply with a condition

- (1) A delegate must comply with each condition of his or her delegation, whether the condition is expressed in these regulations or in the instrument of delegation.
Penalty: 50 penalty units.
- (2) A contravention of subregulation (1) is an offence of strict liability.

149.040 Application for delegation

- (1) An eligible RAAO may apply for a delegation under this Part.
- (2) The application must be in writing, accompanied by a copy of the RAAO's:
 - (a) exposition; and
 - (b) procedures manual.

149.045 CASA's role remains unaffected

CASA may

- (a) carry out a function that it has delegated to the RAAO; and
- (b) issue a written requirement to the RAAO about the RAAO's carrying out of the function.

Note CASA has functions under the 'parallel path'. Otherwise, as far as practicable, CASA will immediately notify the RAAO that it has carried out or is carrying out a delegated function, if, for example, the safety of air navigation requires it. The authority to act in this manner if an RAAO exists and is active will only be exercised by a member of CASA's senior management.

149.050 Procedures manual to comply with CASA standards

- (1) A delegated RAAO must have a procedures manual that contains the rules and procedures, (including the operational rules and procedures), requirements, standards, limitations and conditions necessary to enable the RAAO to safely carry out each CASA function that is delegated to it and to provide for safety of the aircraft and aviation activities that the RAAO administers.
Note: An *Acceptable Means of Compliance for CASR Part 149 – Procedures Manuals* will be published containing items that RAAO procedures manuals could be expected to cover .
- (2) The Director may in writing require that a delegated RAAO or a class of delegated RAAOs, modify a relevant procedures manual to ensure that it complies with subregulation (1).

- (3) A delegated RAAO may amend its procedures manual only in accordance with the procedure for making such amendments that is set out in its exposition.
- (4) A delegated RAAO must keep its procedures manual up to date, in a readily usable form and appropriately accessible to all who are required to comply with it.

149.055 CASA's right to use procedures manual

- (1) It is a condition of a delegation that, subject to subregulation (2), the delegated RAAO is taken to have conferred on CASA the unrestricted and irrevocable legal right to use its procedures manual for the following purposes:
 - (a) audit and surveillance of the RAAO;
 - (b) supervision of an aircraft or aviation activity that corresponds to the aircraft or aviation activity that is administered by the RAAO but for which the RAAO does not carry out a delegated function;
 - (c) supervision of the aircraft or aviation activities that are administered by the RAAO in the event that the RAAO is unable to continue to carry out a delegated function for whatever reason;
- (2) CASA must not provide the procedures manual to any other person for his or her use unless this is authorised by the RAAO, or required by the law.

149.060 CASA audits and inspections

- (1) CASA may carry out an audit of the following in respect of a delegated RAAO:
 - (a) the RAAOs processes and decisions in relation to aircraft and aviation activities; and
 - (b) the RAAOs audits, surveillance activities and disciplinary actions under its delegation.
- (2) CASA may carry out surveillance of the aircraft and aviation activities of a delegated RAAO.
- (3) For audit and surveillance purposes the delegated RAAO must give a duly authorised CASA officer right of access or entry to any premises, facilities, equipment, aircraft or documents (in whatever form) that are controlled and used by the RAAO for carrying out any function delegated to the RAAO.

Note — Audit and surveillance activity will only be carried out under the authority of a senior CASA officer. Such activity will generally be carried out with reasonable notice and in the company of appropriate RAAO personnel, unless circumstances exist in which a senior CASA officer considers that there are compelling reasons justifying a different approach.

149.065 Compliance with the exposition and procedures manual

- (1) A delegated RAAO must comply with its exposition and its procedures manual.
- (2) A delegated RAAO must make it an express condition of participation that a participant must comply with all relevant requirements of the procedures manual.
- (3) A delegated RAAO must use its best endeavours to ensure that each participant complies with the relevant requirements of the procedures manual.

149.070 Compliance with the governance and disciplinary rules

A delegated RAAO's governance and disciplinary rules must, as a minimum, include the following:

- (a) a rule that each participant, and all aircraft and aviation activities, must comply with the procedures manual; and
- (b) a rule that each participant must submit to the disciplinary jurisdiction of the RAAO for breach of the procedures manual; and
- (c) a rule that suspension of an authorisation given to a participant by the RAAO under a delegation may occur if the RAAO has evidence that a participant has failed, is failing or is demonstrably likely to fail to observe the procedures manual; and
- (d) a rule that disciplinary action involving revocation of an authorisation given by the RAAO under a delegation must proceed in accordance with the principles of natural justice and

Note The principles of natural justice require that: (a) a person must be given a reasonable opportunity to respond to any statements, claims or allegations made about or against them, and to the reasons for any decision affecting their rights or interests that is to be taken on the basis of those statements claims or allegations; and (b) there is no real or reasonably perceived bias against the person affected by the decision on the part of the person or persons deciding the matter. Implicit in (a) are the requirements that relevant statements, claims, allegations and reasons will normally be provided to the person in writing, and that, except where it is otherwise necessary in the interests of safety, this information will be provided to the person *before* a decision is taken, and with enough time to allow the person to formulate a meaningful response. Where the interests of safety require that a decision be taken immediately, that information must be provided to the person *as soon as possible* after the decision has been taken. Implicit in (b) is the requirement that the person or persons deciding the matter does/do not have a personal or pecuniary interest in the outcome of that decision.

- (e) a rule that if the RAAO considers that its disciplinary procedures have failed or are failing to prevent unsafe conduct by a participant, the participant will be reported to CASA and notified in writing that a report has been made to CASA.

149.075 Conditions on delegations — duty to administer

Within the terms of its delegation instrument, and in accordance with its procedures manual, and the Act and the regulations, a delegated RAAO must issue the following to participants, as required, for its aircraft and aviation activities:

- (a) for aircraft administered by the RAAO — airworthiness certifications;
- (b) for aircraft administered by the RAAO — aircraft registration certificates or authorisations of substantially the same effect;
- (c) continuing airworthiness instructions;
- (d) acceptances or approvals of continuing airworthiness programs;
- (e) maintenance authorisations;
- (f) authorisations of aircraft maintenance facilities, where appropriate;
- (g) authorisations of aircraft maintenance training facilities, where appropriate;

- (h) instructions for the safe operations of aircraft;
- (i) approvals and instructions for the conduct of aviation events;
- (j) pilot and pilot instructor authorisations;
- (k) authorisations of flight training facilities;
- (l) parachute operating maintenance, manufacturing and training authorisations;
- (m) authorisations for aviation activities that are mentioned in Part 101 of CASR 1998 except the provisions for UAVs
- (n) safety promotion materials and programmes related to functions that the Director has delegated to the RAAO.
- (o) directions or authorisations that are incidental to any of the matters mentioned in the paragraphs above.

149.080 Audit and surveillance

- (1) To enhance the safety of the aircraft and aviation activities it administers, a delegated RAAO must:
 - (a) frequently and effectively carry out audit and surveillance of participants and organisations to whom the RAAO has issued any authorisation; and
 - (b) when it is appropriate to do so — take suitable disciplinary or other action, in accordance with its procedures manual, against any participant of the RAAO who infringes the safety, operational or other aviation rules of the RAAO; and
 - (c) take appropriate action to correct or disassociate from any organisation whose activities jeopardise the safety of the RAAO's aircraft and aviation activities; and
 - (d) if the Director issues a written requirement about audit and surveillance for this regulation — implement the requirement; and
 - (e) report in writing to CASA, as soon as practicable, any action of a participant or organisation that may, despite the disciplinary action of the RAAO, jeopardise the safety of aviation.
- (2) It is a condition of a delegation that the delegated RAAO must, at all times, act in a manner that enhances the safety of the aircraft and aviation activities it administers.
- (3) It is a condition of a delegation that the delegated RAAO must report to CASA in writing, on the approved form, the action taken by the RAAO under paragraphs (1) (a) to 1 (d).
- (4) A report under subregulation (3) must be made at the time specified in the exposition, but in no case earlier than 6 months after the last report.

Note The reporting time will depend on various factors, including the size of the RAAO, the scope and complexity of its operations, whether it is new or established, and its history of operations.

149.085 Personnel and competency

- (1) A delegated RAAO must establish and adopt, in its procedures manual, procedures to assess and maintain the competency of each designated person.
- (2) The RAAO must appoint a sufficient number of qualified people to carry out the functions to which the delegation relates.

149.090 Observance of exclusions orders, suspensions and cancellations

A delegated RAAO must refuse an application for the issue, under its delegation, of an authorisation if:

- (a) an order under section 30A of the Act excludes the applicant from the activity to be covered by the authorisation; or
- (b) the applicant is the holder of an authorisation that:
 - (i) is for the same or a similar activity; and
 - (ii) was issued by the RAAO, another delegated RAAO, CASA or the national aviation authority of another country; and
 - (iii) is suspended; or
- (c) the applicant was the holder of an authorisation that:
 - (i) was for the same or a similar activity; and
 - (ii) was issued by the RAAO, another delegated RAAO, CASA or the national aviation authority of another country; and
 - (iii) was cancelled (other than at the request of the person) within the 6 months before the application to the RAAO.

Note Section 30A of the Civil Aviation Act refers to the power of a Court to impose an exclusion period if an offence is committed and it is in the interests of air navigation safety for the person to be excluded from that activity.

149.095 Limit on the scope of authorisations issued under delegation

An authorisation that a delegated RAAO issues to a participant may only authorise the participant to act, operate or fly:

- (a) in the aircraft or aviation activities that are administered by the RAAO in accordance with Parts 103, 105 or 101 of CASR 1998 (except the provisions for UAVs); and
- (b) in accordance with the RAAO's procedures manual.

149.100 Facilities, equipment, systems and records

A delegated RAAO must have the following:

- (a) access to the relevant aircraft and equipment manuals, technical standards and practices, technical bulletins and instructions, legislation, and any other documents that it is necessary or prudent to have to carry out a delegated function;

- (b) a system, for controlling documents and records relating to a delegated function, including the policies and procedures for making, amending and retaining the documents and records.

149.105 Notifications of changes, aircraft, personnel and discipline to CASA

- (1) A delegated RAAO must tell CASA in writing of any change that materially affects its capacity to carry out a delegated function not more than 14 days after the change occurs.
- (2) In response to a written requirement from CASA, a delegated RAAO must give CASA in writing the following particulars of each aircraft that is included in its aircraft register, including, if required, particulars of each aircraft that is deleted from or added to the register:
 - (a) type, model and make of aircraft and;
 - (b) registration marks assigned to the aircraft by the RAAO.
- (3) A delegated RAAO must give CASA detailed written particulars of each airworthiness certification it issues, within:
 - (a) 24 hours of issuing the certificate; or
 - (b) such longer period as is specified in the procedures manual.
- (4) A delegated RAAO must promptly give CASA in writing the details of changes to the persons performing the role of the accountable manager, designated person or key person.
- (5) A delegated RAAO must promptly give CASA in writing the details of, and, where known, the reasons for:
 - (a) any infringement of the RAAO's governance and disciplinary rules that results in an action mentioned in paragraphs (b) or (c);

Note This includes matters in which disciplinary action may be pending.

 - (b) any disciplinary action taken to revoke an authorisation; and
 - (c) any disciplinary action that suspends an authorisation, or imposes conditions on an authorisation resulting from the endangering of any person (other than the person committing the infringement) or property (other than the property of the person committing the infringement) .

Note For audit purposes, CASA will expect a delegated RAAO's exposition, under paragraph 149.110 (2) (j) (document control and retention procedures), to ensure retention of records of the nature and processing of any matter in which disciplinary action was considered or taken, whether or not that matter was reported to CASA under this subregulation.

149.110 Exposition of a RAAO

- (1) An exposition must include copies of the following documents for the RAAO:
 - (a) the certificate of incorporation or equivalent document for the company, organisation or enterprise; and
 - (b) the procedures manual; and

- (c) the governance and disciplinary rules (unless physically incorporated in the procedures manual); and
 - (d) the management system for the aircraft and aviation activities.
- (2) An exposition must include the following information for the RAAO:
- (a) a statement signed by the accountable manager that the exposition and procedures manual demonstrate that the RAAO complies, and will comply, with the requirements of this Part;
 - (b) the name and organisational title of the accountable manager;
 - (c) the names and organisational titles of each nominated designated person, and each key person whose duties are to assist the accountable manager to ensure that the RAAO complies with the requirements of this Part;
 - (d) the duties and responsibilities of the persons and positions mentioned in paragraphs (b) and (c);
 - (e) the minimum qualifications and experience requirements that each person and position holder mentioned in paragraphs (b) and (c) must meet;
 - (f) an organisation chart showing chains of personal responsibility from the accountable manager and anyone who is responsible to the accountable manager, through nominated designated persons and key persons, to any State and Territory parts or branches (however described);
- Note* The organisation chart need only mention the relevant organisational titles, not names, of the persons concerned,
- (g) the quality management system;
 - (h) the procedure for amending the exposition, including for an unapproved minor amendment of a typographical nature that does not amend the substance of, or the sense intended by, the exposition or a part of it;
 - (i) the procedure for amending the procedures manual;
 - (j) the document control and retention procedures;
 - (k) the facilities and equipment to be used in carrying out a CASA function under a delegation;
 - (l) a description of:
 - (A) who may be a participant; and
 - (B) how the person may become a participant; and
 - (C) how the governance and disciplinary rules of the RAAO will ensure that each participant obeys the rules and complies with the procedures manual of the RAAO.
- (3) A delegated RAAO may only amend the procedures mentioned in paragraphs (2) (h) and (2) (i) if the amendment is approved by CASA.

Consequential amendments to existing regulations and orders will be provided for public consultation when a final regulation is provided by OLDP.

Schedule 1 — Listed RAAOs

Australian Ballooning Federation Incorporated – Part 103 balloons

Australian Parachute Federation Incorporated – parachuting – Part 105

Australian Skydiving Association Incorporated – parachuting – Part 105

Australian Sport Rotorcraft Association Incorporated – Part 103 rotorcraft

Australian Warbirds Association Limited – limited category aircraft – CAR 1988

Gliding Federation of Australia Incorporated – gliders over 70 kg – Part 103

Hang Gliding Federation of Australia Incorporated – gliders under 70 kg and weight-shift controlled aeroplanes – Part 103

Model Aeronautical Association of Australia – model aircraft – Part 101

Subpart G

Recreational Aviation Australia Incorporated – aeroplanes including 3-axis and weight-shift controlled and powered parachutes – Part 103