

**SECTION 3
THE REGULATIONS**

The operation of hang gliders, paragliders and weightshift microlights is a form of aviation and as such is subject to controls and regulations. Within Australia all Civil Aviation is subject to the provisions of the Civil Aviation Act 1988.

3.1 Civil Aviation Act

This Federal Act establishes the regulatory framework of Australian Civil Aviation giving due regard to International standards and agreements. The Act amongst other things establishes the Civil Aviation Safety Authority (CASA) and empowers the Governor General (on advice from CASA) to make regulations in relation to air navigation safety, the registration, marking and airworthiness of aircraft and the licensing of persons involved with the operation, maintenance or construction of aircraft. The requirements are contained in the Civil Aviation Regulations (CARs) – and 1998 (to be called Civil Aviation Safety Regulations – CASRs).

3.2 Civil Aviation Regulations

The Civil Aviation Regulations 1988 (CARs) contain about 700 regulations in twenty-four parts as follows:

- Part 1 Preliminary.
- Part 2 Administration and Organisation.
- Part 3 Registration and Marking of Aircraft.
- Part 4 Airworthiness Requirements.
- Part 4A Maintenance.
- Part 4B Defect Reporting.
- Part 4C Flight Manuals.
- Part 4D Removal of Data Plates and Aircraft Registration Identification Plates

- Part 5 Qualifications of Flight Crew.
- Part 6 Medical.
- Part 7 Personal Log Books and Navigation Logs.
- Part 8 Radio Systems for Use in, or in Connection with, Aircraft.
- Part 9 Aerodromes.
- Part 10 Air Traffic Services and Other Services.
- Part 11 Conditions of Flight.
- Part 12 Rules of the Air.
- Part 13 Signals for the Control of Air Traffic.
- Part 14 Air Service Operations.
- Part 15 Dangerous Goods.
- Part 16 Refusal to Grant, and Suspension and Cancellation of, Licences, Certificates and Authorities.
- Part 17 Penal Provisions and Prosecutions.
- Part 18 Evidence.
- Part 19 Miscellaneous
- Part 20 Transitional

These regulations relate to all civil air navigation within Australia and as such are fairly general in their requirements. To ensure the requirements are adequately specified there is additional detail specified in other documents.

The Civil Aviation Safety Authority has commenced a long term project to redraft aviation legislation into a two tier format in which all mandatory requirements will be contained within the Civil Aviation Act or in the Civil Aviation Regulations. These will be introduced progressively, replacing the CAOs and CARs.

Items which are of an advisory nature will be contained within the Civil Aviation Advisory Publications (CAAPs). As the title indicates the material contained in the CAAP's is advisory only and provides a suggested method or procedure which may be followed to comply with the

requirements of a particular Civil Aviation Regulation.

At the date of issue of this Operations Manual details of the requirements for the operation of hang gliders, paragliders and weightshift microlights are set out in Civil Aviation Orders (CAOs).

3.3 Air Navigation Act and Air Navigation Regulations

When the Civil Aviation Act established the Civil Aviation Regulations the bulk of the regulations under the Air Navigation Act were repealed.

Section XIV of the Air Navigation Regulations relating to the reporting of accidents was not repealed. It has been subsequently raised in status and now appears at section 2A of the Air Navigation Act. It is the level of power under which the Bureau of Air Safety Investigation (BASI) operates.

3.4 Civil Aviation Orders

Civil Aviation Orders (CAOs) are the detailed requirements governing civil aviation activities.

The principal CAOs of interest to HGFA members are:

CAO 95.10 Exemption from provisions of the Civil Aviation Regulations - Aeroplanes having a maximum take off weight not in excess of 300 kg.

CAO 95.32 Exemption from provisions of the Civil Aviation Regulations - Weight shift controlled aeroplanes and powered parachutes.

CAO 95.8 Exemption from provisions of the Civil Aviation Regulations - Hang gliders.

You will notice that these CAOs contain the words "Exemption from provisions of the Civil Aviation Regulations". Because of the immense

diversity of aviation activities it has been necessary for CASA to make numerous exemptions to certain provisions of the CARs so that aircraft such as hang gliders, paragliders, weightshift microlights and ultralights may operate legally.

The text of CAO 95.8, CAO 95.10 and 95.32 are included in this section. The text was correct at the time of printing, but should not be relied on to be correct. CASA maintains an updated current version on its Internet site.

This operations manual has been compiled to meet the requirements of these three CAOs, and has been drafted in a form that hopefully will require little revision when these CAOs are ultimately withdrawn or replaced as part of the process of redrafting aviation legislation.

This operations manual, sets standards and procedures for the operation of hang gliders, paragliders and weightshift microlights in Australia. As standards they are prescriptive. Operation in accordance with these standards ensures that the requirements of the Civil Aviation Act and the Civil Aviation Regulations are met. Operations that are not in accordance with these standards and procedures MAY result in breaches of the Act and/or the Regulations.

To distinguish between material in this operations manual that is information and/or advice for safe operation and those standards that are necessary to ensure compliance with legislative requirements, standards are presented in *italics*.

This manual has been approved by the Civil Aviation Safety Authority.

3.5 Civil Aviation Orders 95.8

**COMMONWEALTH OF AUSTRALIA
CIVIL AVIATION AUTHORITY**

**CIVIL AVIATION ORDERS
PART 95 SECTION 95.8 Issue 4**

**EXEMPTION FROM PROVISIONS OF
THE CIVIL AVIATION REGULATIONS
1988 - HANG GLIDERS**

SUBSECTIONS

1. **Applicability**
2. **Definitions**
3. **Exemptions**
 - 3A. **Licence not required**
 - 3B. **Hang Glider not required to be Registered**
4. **Conditions**

1. **APPLICABILITY**

This section of the Civil Aviation Orders applies to hang gliders used solely in private operations for recreational purposes and for flying training for the issue of a pilot certificate under this Part.

2. **DEFINITIONS**

In this section:-

Authorised person means a person included in a class of persons appointed under regulation 6 of the Regulations.

Empty weight means the actual weight of the hang glider in its airborne configuration including all fittings and equipment but excluding recovery or personnel parachutes.

Federation means the Hang Gliding Federation of Australia.

Hang glider means a glider, or a powered paraglider, having an empty weight not exceeding 70 kg.

HGFA Operations Manual means a manual acceptable to CASA containing the procedures and instructions necessary to ensure an acceptable level of pilot training and proficiency and the safe conduct of hang gliding operations.

Mandatory Broadcast Zone means airspace designated under subregulation 99A(1) of the Regulations as an area in which mandatory broadcast requirements specified under subregulation 99A(3) apply.

Military Control Zone means a control zone administered by a military authority and so designated in Aeronautical Information Publication or by Notice to Airmen.

powered paraglider means an aircraft that:

- (a) is launched by its pilot's feet; and
- (b) does not have rigid wings; and
- (c) is powered by a power unit worn on its pilot's back.

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

Regulations means the Civil Aviation Regulations 1988.

3. **EXEMPTIONS**

3.1 - A person is exempt from compliance with the following provisions of the Regulations while he or she is associated with the flying of a hang glider if he or she complies with the conditions set out in subsection 4:

- (a) Part 3;
- (b) Part 4;

- (c) Part 4A;
- (d) Part 4B;
- (e) Part 5;
- (f) Part 7;
- (g) Part 11 (other than regulations 140, 143, 144, 149, 150, 151, 152, and 153);
- (h) paragraphs 166 (1)(c), (d), (f) and (g).

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 radio-telephone operator licence if he or she makes airborne transmissions on an aeronautical frequency other than a VHF frequency.

3B. HANG GLIDER NOT REQUIRED TO BE REGISTERED

3B.1 - For the purposes of paragraph 20AA (1) (b) of the Act, a hang glider is not required to be registered under the Regulations when it is flown in accordance with the conditions set out in subsection 4.

4. CONDITIONS

4.1 - A person shall not act as pilot in command of a hang glider unless he is the holder of a pilot certificate issued by the Federation or he is under the supervision of an instructor approved by the Federation.

4.2 - A person shall not be issued with a pilot certificate unless he or she has undergone (as the case requires) the

training for and met the requirements applicable to the certificate applied for as specified in the HGFA Operations Manual.

4.3 - The holder of a pilot certificate is subject to the privileges and limitations specified in the HGFA Operations Manual as being appropriate to the pilot certificate held.

4.4. - The Federation may suspend, cancel or otherwise vary a pilot certificate but unless the Federation has exercised such power that certificate shall remain in force for the period specified in the HGFA Operations manual.

4.5 - A person seeking renewal of a pilot certificate shall apply to the Federation and shall meet the renewal requirements applicable to that certificate as specified in the HGFA Operations Manual.

4.6 - A hang glider shall be operated in accordance with the rules, regulations and directions made by the Federation for the operation of hang gliders and specified in the HGFA Operations Manual or in any other manual or document of the Federation.

4.7 - A person must not fly a hang glider:

- (a) at a height in excess of 10,000 feet above mean sea level;
- (b) at a height in excess of 300 feet above ground level unless a serviceable altimeter which meets the standards specified in section 103.3 of the Civil Aviation Orders and set to QNH is carried in a position so as to be easily read by the pilot at all times whilst in flight;

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| <p>(c) <i>within an area designated by CASA as an area where the operation of hang gliders would constitute a hazard to other aircraft;</i></p> <p>(d) <i>within 8 kilometres of a military aerodrome;</i></p> <p>(e) <i>in controlled airspace:</i>
<i>(i) within 16 kilometres of a controlled aerodrome; or</i>
<i>(ii) more than 300 feet above ground level;</i></p> <p>(h) <i>over any city, town or populous area below 1000 feet above terrain or such a height that the hang glider could land outside the city, town or populous area, whichever is the higher, except that during the launching and landing phase of flight only the requirement to be able to land clear of a city, town or populous area shall apply;</i></p> <p>(i) <i>except as provided for in (j) at a height lower than 100 feet within a horizontal distance of 25 metres from:</i>
<i>(i) a public road;</i>
<i>(ii) persons other than those persons directly associated with the operation of hang gliders at the launch or landing sites; or</i>
<i>(iii) a dwelling except with the permission of the occupier;</i></p> <p>(j) <i>during the launching phase closer than a horizontal distance of 25 metres from persons other than those persons directly associated with the operation of hang gliders unless those other persons are behind a line passing through the launch point at right angles to the intended direction of flight; or</i></p> | <p>(k) <i>at any regatta, race meeting or public gathering.</i></p> <p>4.8 - <i>A hang glider to which this section applies shall not be flown:</i></p> <p>(a) <i>at night;</i></p> <p>(b) <i>if the flight visibility during the flight is less than the applicable distance determined by CASA under subregulation 172(2A) of the Regulations; or</i></p> <p>(ba) <i>if the hang glider's vertical distance from cloud is less than the applicable vertical distance determined by CASA under subregulation 172(2A) of the Regulations; or</i></p> <p>(bb) <i>if the hang glider's horizontal distance from cloud is less than the applicable horizontal distance determined by CASA under subregulation 172(2A) of the Regulations; or</i></p> <p>(c) <i>at any height within a military control zone unless the prior approval of the appropriate military authority has been obtained.</i></p> <p>4.9 - <i>Upon the request of an authorised person the owner or operator of a hang glider to which this section applies shall furnish satisfactory evidence that the hang glider meets the weight requirements of this section.</i></p> <p>4.10 - <i>An authorised person shall, at all reasonable times, have access to any hang glider to which this section applies for the purpose of inspecting the hang glider to determine that it meets the weight requirements of this section.</i></p> |
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4.11 - A person must not carry out acrobatic flight in a hang glider over a city, town, populous area, regatta, race meeting or meeting for public games or sports.

4.12 - A person must not carry out acrobatic flight in a hang glider unless he or she has taken action to ensure that the following requirements are met:

- (a) any loose articles are made secure in the aircraft;*
- (b) each person attached to the aircraft is secured with a correctly adjusted safety harness.*

4.13 - A person must not fly a hang glider unless:

- (a) the flight is a private operation for recreational purposes; or*
- (b) the flight is for the purpose of flying training.*

NOTE: Attention is drawn to the fact that the exemption granted by this section does not confer on an operator of hang glider to which this section applies any rights as against the owner or occupier of any land on or over which the operations are conducted, or prejudice in any way the rights and remedies which a person may have in respect of any injury to persons or damage to property caused or indirectly by the hang glider.

3.6 Civil Aviation Orders 95.10

**COMMONWEALTH OF AUSTRALIA
Civil Aviation Safety Authority**

**CIVIL AVIATION ORDERS
PART 95 SECTION 95.10 Issue 5**

**PRIVATELY BUILT SINGLE PLACE
ULTRALIGHT AEROPLANES -
EXEMPTION FROM PROVISIONS OF
THE CIVIL AVIATION REGULATIONS**

**COMMENCEMENT DATE: 28 February
1990, Amended 18 July 2001**

SUBSECTIONS

- 1 - Application**
- 2 - Interpretation**
- 3 - Exemption under regulation 308**
- 3A - Licence not required**
- 4 - General conditions of exemption**
- 5 - Flight conditions**
- 6 - Provisions relating to flight height limitations.**
- 7 - Approval of flights not complying with flight conditions.**

1 - APPLICATION

1.1 - This section applies to a privately built single place aeroplane in relation to which the following requirements are satisfied:

- (a) the aeroplane is registered with the AUF;
- (c) the aeroplane has a take-off weight of not more than 300 kilograms;
- (d) if the aeroplane first became registered with the AUF on or after 1 March 1990:
 - (i) the aeroplane has a wing loading not greater than 30 kilograms per square metre at maximum all-up weight; and

- (ii) if the aeroplane is owned by a person who is not the builder, or one of the builders, of the aeroplane - there is a certificate from the AUF in force in relation to the aeroplane that certifies that the aeroplane meets the requirements set out in the AUF Technical Manual.

2 - INTERPRETATION

2.1 In this section:

approved kit means a kit for the assembly of an aeroplane, being a kit:

- (a) that was manufactured by the holder of a certificate of approval in relation to the manufacture of kits of that kind; or
- (b) that was manufactured in accordance with an approval given by CASA; or
- (c) if the kit was exported to Australia - in relation to which there has been issued, by the appropriate authority of the country from which the kit was exported, a certificate that is acceptable to CASA and that relates to the airworthiness of the aeroplane that can be assembled from the kit; or
- (d) in relation to which the AUF has issued a certificate stating that the kit meets the standards set out in the AUF Technical Manual.

"AUF means the Australian Ultralight Federation.

AUF Operations Manual means a manual prepared by the AUF and approved by the General Manager, Flying Operations Branch, of CASA, being a manual that contains the procedures and instructions necessary to ensure the safe operation of aircraft registered with the AUF.

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AUF Technical Manual means a manual prepared by the AUF and approved by the General Manager, Airworthiness Branch, of 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 AUF.

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

empty weight wing loading in relation to an aeroplane, means the number of kilograms per square metre obtained by dividing the aeroplane's empty weight (expressed in kilograms) by the aeroplane's wing area (expressed in square metres).

empty weight in relation to an aeroplane, means the weight of the aeroplane, including unusable fuel and undrainable oil but excluding recovery or personnel parachutes, flotation equipment and items of optional equipment.

immediate family in relation to a person, means the persons 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.

pilot certificate means a pilot certificate issued by the AUF in accordance with the AUF Operations Manual.

public road means a road or other thoroughfare open to, or used by,

members of the public for the passage of vehicles.

recognised standard part means a part specified in the list of standard parts for aeroplanes to which this section applies that is included in the AUF Technical Manual.

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.

[See Note 1]

2.2 Subject to paragraph 2.3, an aeroplane is privately built for the purposes of this section only if:

- (a) the aeroplane was built by a person, or was jointly built by not more than 4 persons, with a view to the aeroplane being owned by the person, or by one or more of the persons, who built it; and
- (b) the person, or each of the persons, who built the aeroplane was, at the time of completion of the aeroplane, an eligible private builder; and
- (c) the aeroplane:
 - (i) was designed by its builder, or by one or more of its builders; or
 - (ii) was built in accordance with a set of drawings or a data package, or a set of drawings and a data package, approved by the AUF; or
 - (iii) was built from an approved kit; and
- (d) except in a case to which sub-subparagraphs (c)(iii) applies -

the parts from which the aeroplane was built (other than any recognised standard parts) were made by, or at the direction of, the person, or one or more of the persons, who built the aeroplane.

2.3 - CASA may, by writing, determine that an aeroplane that would not otherwise be privately built is to be taken, for the purposes of this section, to be privately built.

2.4 - For the purposes of this subsection, a person is, at the time the building of an aeroplane is completed, an eligible private builder only if the person has not, within the preceding 12 months and whether alone or jointly with another person or other persons, completed building another privately built single place aeroplane that satisfies the requirements of subparagraphs 1.1(c).

2.5 - In this subsection:

person does not include a body corporate.

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) Part 3, 4, 4A and 4B and 5;
- (b) regulations 155 and 157;
- (c) Division 4 of Part 13;
- (d) regulations 207 and subregulations 230(2) and 242(2).

3A- LICENCE NOT REQUIRED

3A.1 - For the purposes of paragraph 20AB 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) there must be clearly displayed in the aeroplane, in a position visible to the pilot when occupying the control seat, a sign stating that:
 - (i) neither CASA nor the AUF guarantee the airworthiness of the aeroplane; and
 - (ii) the pilot operates the aeroplane at the pilot's own risk;
- (b) the aeroplane must not be used in agricultural operations;
- (c) the aeroplane must not be used for any purpose other than:
 - (i) the personal carriage of the pilot; 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;
- (d) the aeroplane must not be operated by a person as pilot in command unless the person:
 - (i) holds a valid pilot certificate; and
 - (ii) subject to the other conditions set out in this section, operates the

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aeroplane in accordance with the privileges and limitations of that certificate;

- (e) *subject to the other conditions set out in this section, the aeroplane must be operated in accordance with the requirements of the AUF Operations Manual;*
- (f) *the aeroplane must be maintained in accordance with the maintenance standards set out in the AUF Technical Manual;*
- (g) *if the aeroplane is fitted with radiotelephone equipment - the radiotelephone equipment must not be operated by a person unless the person:*
 - (i) *holds a valid flight radiotelephone operator licence; or*
 - (ii) *holds a valid certificate, issued by the AUF in accordance with the AUF Operations Manual, relating to the operation of radiotelephone equipment.*

5 - FLIGHT CONDITIONS

5.1 *Subject to paragraph 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 on board 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 one 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 kilometre; 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) *the aeroplane must not be flown inside controlled airspace;*
- (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) *the aeroplane must not be flown over any city or town;*

- (k) *the aeroplane must not be flown in acrobatic flight.*

6 - PROVISIONS RELATING TO FLIGHT HEIGHT LIMITATIONS

6.2 - *For the purposes of subparagraph 5.1(b), the conditions one 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 may apply to a District Flight Operations Manager of 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 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 Civil Aviation 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'.

Note: CASA has indicated that HGFA members may operate 95.10 weightshift microlights which are registered with the HGFA in accordance with the HGFA Operations Manual.

3.7 Civil Aviation Orders 95.32

COMMONWEALTH OF AUSTRALIA
Civil Aviation Safety Authority

CIVIL AVIATION ORDERS PART 95
SECTION 95.32 Issue 2

**WEIGHT SHIFT CONTROLLED
AEROPLANES AND POWERED
PARACHUTES - EXEMPTION
FROM PROVISIONS OF THE CIVIL
AVIATION REGULATIONS 1988**

COMMENCEMENT DATE:
28 February 1990,
Amended 18 October 2000

SUBSECTIONS

1 - Application

2 - Interpretation

3 - Exemption under CAR 308

3A - Licence not required

4 - General conditions of exemption

5 - Flight Conditions

**6 - Provisions relating to flight height
limitations.**

**7 - Approval of flights not complying
with flight conditions.**

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;
- (b) the aeroplane was wholly assembled by a commercial manufacturer, or was assembled from a kit supplied by a commercial manufacturer;
- (c) one 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 AUF or the HGFA; and
 - (ii) the aeroplane has a maximum 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 AUF; 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.

2 - INTERPRETATION

2.1 In this section:

appropriate flight instructor certificate means:

- (a) *in relation to an aircraft registered with the AUF - a flight instructor certificate issued by the AUF in accordance with the AUF 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 aircraft that is registered with the AUF - the AUF 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 AUF - a valid pilot certificate issued by the AUF in accordance with the AUF 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 AUF - the AUF Technical Manual; and*
- (b) *in relation to an aeroplane that is registered with the HGFA - the HGFA Manual.*

AUF means the Australian Ultralight Federation.

AUF Operations Manual means a manual prepared by the AUF and approved by the General Manager, Flying Operations Branch, of CASA, being a manual that contains the procedures and instructions necessary to ensure the safe operation of those aircraft registered with the AUF.

AUF Technical Manual means a manual prepared by the AUF and approved by the General Manager, Airworthiness Branch, of 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 AUF.

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 the General Manager, Flying Operations Branch, of 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.

regulations means the Civil Aviation Regulations.

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 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) Part 3, 4, 4A and 4B;
- (b) Part 5;
- (d) regulations 134, 155 and 157;
- (f) Division 4 of Part 13;
- (g) regulation 207 and subregulations 230(2) and 242(2).

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 AUF 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 a pilot in command unless the person:

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- (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 operated by a person unless the person:
 - (i) holds a valid flight radiotelephone operator licence; or
 - (ii) holds a valid certificate, issued by the AUF or the HGFA in accordance with the appropriate Operations Manual, relating to the operation of radiotelephone equipment.

5 - FLIGHT CONDITIONS

5.1 Subject to paragraph 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 one 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) the aeroplane must not be flown inside controlled airspace;
- (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) *the aeroplane must not be flown over any city or town;*
- (k) *the aeroplane must not be flown in acrobatic flight.*

6 - PROVISIONS RELATING TO FLIGHT HEIGHT LIMITATIONS

6.2 For the purposes of subparagraph 5.1(b), the conditions one 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 may apply to a District Flight Operations Manager of 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 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 Civil Aviation 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.**