

## Exception by exemption

Response to large-scale natural disasters and rapid advances in technology are among reasons CASA issues exemptions.

**CARs:** Civil Aviation Regulation 308 permits CASA to issue exemptions for several reasons, and conditions attached to an exemption are as binding as if they were regulation.

Although CAR 308 currently enables CASA to issue exemptions against both the Civil Aviation Regulations (CARs) and the Civil Aviation Safety Regulations 1998 (CASRs), the enactment of new CASR Part 11 regulatory administrative procedures will mean CASA can only issue exemptions against the CARs under CAR 308.

**CASRs:** The new CASR Part 11 Regulatory Administrative Procedures will introduce provisions into the CASRs enabling CASA to issue exemptions against the requirements of the CASRs. Those provisions and supporting procedures are designed to ensure that exemptions are justifiable, transparent, maintain an appropriate level of safety and are monitored for their effect.



APTN

**A rescue helicopter hovers over a dismantled yacht during the Sydney-Hobart yacht race in December 1998. Exemptions were needed to allow the rescue effort to take place.**

Exemptions issued under Part 11 will be categorised as either “standard” or “exceptional circumstance”.

**Standard exemptions:** CASA can issue standard exemptions of a general nature for a maximum of 24 months. Applications for standard exemptions must reach CASA at least three months before they can commence.

This gives CASA time for proper assessment of the safety impact. It is also designed to discourage applicants from the exemption process in favour of alternative means of compliance.

In unforeseen circumstances in which a shorter assessment period is required, CASA will consider a late application

with suitable justification. “Suitable” does not mean poor planning or commercial impact on business.

**Exceptional circumstances:** When large-scale emergencies require the use of aircraft in ways that were not reasonably contemplated by the regulated

safety standards, CASA can issue an exceptional circumstance exemption for up to six months.

Regardless of the exemption, an appropriate level of safety associated with the short-term risk of the operation must be maintained.



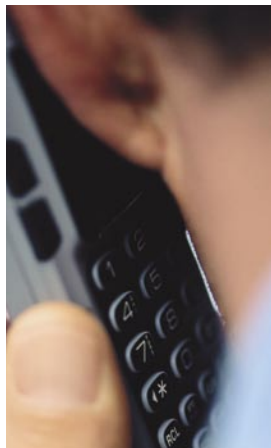
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### When enough's ENOUGH! Pilots are sometimes pressured to break rules

Peter (not his real name) wants to keep his job, but he fears it won't be long before there's an accident with the long hours he's been asked to work.

Peter called the confidential CASA hotline to report his concerns. His identity was protected, and CASA took action.

**CASA HOTLINE:  
1800 074 737**

**Transfer:** An exemption relating to a person is not transferable to another person. An exemption relating to a particular aircraft is tied to the aircraft owner; a new owner will not automatically obtain the benefit and must apply for a new exemption.

**On the public record:** CASA will continue to publish exemptions on its website ([www.casa.gov.au/avreg/rules/exempt](http://www.casa.gov.au/avreg/rules/exempt)) and will now use the register proactively to identify standards that are deficient or inappropriate. If many people require long-term exemptions against the same CASR, there's a good chance the rule has a problem that needs to be fixed.

## Legalities lag legitimate use

In the lead up to July 1995, one government organisation, the Civil Aviation Authority, handled the licensing of aviation personnel, provided national air traffic services, and arranged aerial search and rescue (SAR) operations.

Privacy of a person's contact details was not an issue, as the various departments in the CAA accessed a single central database.

But then the CAA was devolved into CASA (licensing) and Airservices Australia (air traffic and SAR), and later in 1998 AusSAR was formed as a functional unit of the Australian Maritime Safety Authority.

The need for information sharing remained but the freedom to exchange data was gone, as the Privacy Act effectively erected barriers between government agencies.

A new NPRM recently released by CASA proposes a legal mechanism to allow

certain personal information about licence and certificate holders to be released quickly and efficiently by CASA for the safety of air navigation.

The proposed change to CASR Part 201 would allow CASA to disclose specified information to:

- a person providing an air traffic service in Australian territory
- a person carrying out search and rescue operations in Australian territory
- the National Airworthiness Authority of a foreign country.

More details are on CASA's RRP website at [rrp.casa.gov.au/personalinfo](http://rrp.casa.gov.au/personalinfo), where you can download NPRM 0403OS or order it on CD-ROM.

## Invalid student licences

On June 30 this year, as part of new background security check arrangements, CASA revoked the delegations allowing CFIs and ATOs to issue student pilot licences (SPLs).

From that date, applicants for SPLs have had to apply to CASA, providing suitable identification and undergoing background security checks before getting photographic licences.

Some SPLs have been issued by delegates since June 30, however. CASA needs to know about such licences because they might not have been validly issued. It is easier for CASA to rectify problems now than later, when the holders apply for subsequent licences.

Please inform CASA of any SPLs that have been issued to you by a delegate after June 30, 2004.

CASA will not take action against CFIs or ATOs who issued the licences at this time.

## GPS or GNSS?

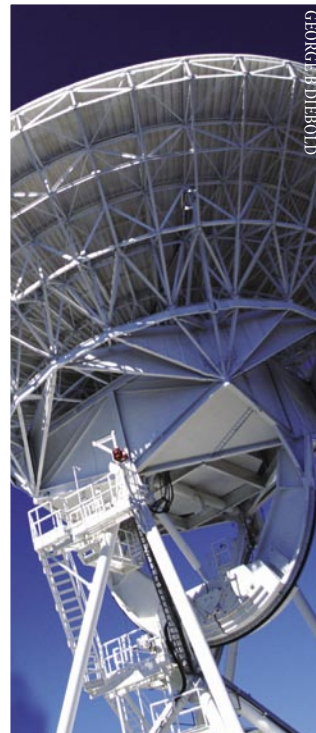
GPS (global positioning system) has been replaced by GNSS (global navigation satellite system), under new ICAO naming conventions.

GNSS includes the US GPS, Russian GLONAS, and European EGNOS satellite systems.

Civil Aviation Orders 40.2.1 and 40.2.3 have been amended to ensure flight crew holding GPS qualifications can continue to conduct the new GNSS procedures under transitional arrangements.

Flight crew should ensure that from November 25, 2004 initial issue or renewal of instrument ratings and private IFR ratings use the correct terminology in their log books:

- GPS/NPA is now called RNAV (GNSS).
- GPS primary means of navigation is now GNSS as primary means of navigation.
- Navigation using GPS FPA is navigation using GNSS;



**A NASA GNSS satellite dish, Hawaii, USA.**

• GPS holding FPA is now GNSS holding.

• GPS/NPA FPA is RNAV (GNSS).

The titles of DME or GPS arrival procedures have not changed and remain GPS-specific.

## New number for charter ops

Proposed new rules for small air transport aeroplanes have been renumbered from Part 121B to 135. The move is a response to calls from industry, a directive from CASA's CEO and a consultative process involving a subcommittee of the Standards Consultative Committee.

At a recent Regional Airlines Association meeting, CASA's Richard Macfarlane, co-chairman of the operations subcommittee's working group, announced that CASR Part 121A (large air transport aeroplanes) had been renumbered Part 121, with Part 121B (small air transport aeroplanes) changing to Part 135.

He said the working group recommended that Part 135 "provide graded standards depending on the number of passengers carried, with the demarcation between Parts 121 and 135 maintained at 5700kg maximum take off weight".

Development of a new Notice of Proposed Rule Making is under way to explain to industry all the changes now proposed. NPRMs are posted on CASA's rules development website at [rrp.casa.gov.au/nprm](http://rrp.casa.gov.au/nprm).

To be advised of an NPRM's release, subscribe online at [rrp.casa.gov.au/alertme](http://rrp.casa.gov.au/alertme). Background to the proposed rules is at [rrp.casa.gov.au/121](http://rrp.casa.gov.au/121) and [rrp.casa.gov.au/135](http://rrp.casa.gov.au/135).

# ALL AIRCRAFT

- OWNERS AND OPERATORS • REGISTRATION CERTIFICATE HOLDERS
- PROPERTY INTEREST HOLDERS

## Have you changed your registration to Part 47?

CASR Part 47 introduces the concept of **registration holder** and **registered operator**. The registration holder is essentially the owner of the aircraft and the registered operator will be the person responsible for the continuing airworthiness and maintenance control of the aircraft.

### REGISTRATION HOLDER

To be a registration holder you must be a legal entity and be able to supply proof of this. A legal entity is an individual, an incorporated body, a corporation with an ACN, or a government or government agency. An example of the proof required for an individual is a certified true copy of a current driver's licence or one that expired in the last two years. An organisation would need to supply their ACN or a certified true copy of a Certificate of Incorporation.

### REGISTERED OPERATOR

To be a registered operator you must be an eligible person in accordance with CASR 47.010 and be able to supply proof of this.

An **eligible person** is defined as one of the following:

- A. a resident of Australia who is
  - i. 18 years of age or older; and
  - ii. an Australian citizen or the holder of a permanent visa (within the meaning of the Migration Act 1958)
- B. a corporation incorporated under the Corporations Act 2001

C. a body incorporated under a law (other than the Corporations Act 2001) in force in Australia

D. the Commonwealth, a State or a Territory

E. an agency of the Commonwealth, a State or a Territory

F. a foreign corporation that is lawfully carrying on business in Australia.

Identification for a registered operator is a little more complicated for an individual, as they need to prove Australian residency, age and Australian citizenship or permanent visa holder status. This would require two forms of ID, for example, a certified true copy of a current driver's licence plus a certified true copy of one of the following:

- full birth certificate.
- an Australian citizenship certificate.
- An Australian passport showing nationality as Australian.

An organisation would need to supply its ACN, a certified true copy of a Certificate of Incorporation, or for a foreign corporation, proof that it is lawfully conducting business in Australia.

## FOR SINGLE OWNERS OF AIRCRAFT

**Under existing CARs 1988, you hold the certificate of registration and are the sole property interest holder.**

If you are the sole legal owner of an aircraft, you will become the registration holder under Part 47. If you are an eligible person in accordance with CASR 47.010, you can be the registered operator, thereby accepting responsibility for the continuing airworthiness and maintenance control of the aircraft. You will need to complete a registration transition form and supply additional documents (such as certified true copies of two forms of identification) before your aircraft can be registered under Part 47.

## FOR MULTIPLE OWNERS OF AIRCRAFT (JOINT LEGAL OWNERS)

**Under existing CARs 1988, one person holds the certificate of registration while all are noted in CASA's database as having a property interest in the aircraft.**

If there are several owners of an aircraft, they must decide who will become the registration holder. The registration holder must then nominate a registered operator. The registered operator must be an eligible person in accordance with CASR 47.010 and accept the responsibility for the continuing airworthiness and maintenance control of the aircraft. Everyone recorded in CASA's aircraft register under the 1988 regulations must sign section 5 of the registration transition form. The registration holder and nominated registered operator must fill in their own sections on the form. When complete, the form must be lodged by the registration holder along with additional documents (such as certified true copies of identification) before the aircraft can be registered under Part 47.



## FOR LEASED AIRCRAFT

**Under existing CARs 1988, one entity holds the certificate of registration and operates the aircraft under a lease agreement with the legal owner(s).**

The registration holder always nominates who will be the registered operator. (Depending on contractual arrangements, the legal owner (the lessor) may become the registration holder under Part 47.) The registered operator must be an eligible person in accordance with CASR 47.010 and accept the responsibility for the continuing airworthiness and maintenance control of the aircraft. As property interest holders are recorded in CASA's Aircraft Register under the 1988 regulations, all noted parties must sign section 5 of the registration transition form. The registration holder and nominated registered operator must fill in their own sections on the form. When complete, the form must be lodged by the registration holder along with additional documents (such as certified true copies of identification) before the aircraft can be registered under Part 47.



## PARTNERSHIPS & TRUSTS

**CASA's database has some partnerships and trusts noted as property interest holders.**

Even if a partnership or trust currently holds the registration certificate or a property interest in an aircraft under the 1988 regulations, they do not fall within the definition of an eligible person under CASR 47.010. Partners and trustees will need to work out how they will address the situation before 14 November 2005. After then, aircraft that have not transitioned to Part 47 may become unregistered.



## OTHER OWNERSHIP SCENARIOS.

There are other, more complex ownership situations (involving finance companies, for example) which have not been dealt with here. Please discuss these with CASA's Part 47 Implementation Team.

## WHAT TO DO NOW.

**No matter how your aircraft is owned, the most important things to do right now are:**

1. If you have a choice, decide who will be the new registration holder under Part 47 (make sure they're a legal entity).
2. Find out who will take responsibility for the aircraft's continuing airworthiness and maintenance control and become the registered operator under Part 47 (make sure they're willing and an "eligible person").
3. Complete and lodge registration transition form 025 as soon as you can, but definitely well in advance of 15 November 2005.

A special team has been set up to answer any questions about the new rules:  
ph 131 757 and ask for the Part 47 Implementation Team fax 02 62171466 email [part47@casa.gov.au](mailto:part47@casa.gov.au)

