



**Australian Government**  
**Civil Aviation Safety Authority**

Instrument number CASA EX03/10

I, JOHN FRANCIS McCORMICK, Director of Aviation Safety, on behalf of CASA, make this instrument under subregulation 308 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

John F. McCormick  
Director of Aviation Safety

27 January 2010

**Exemption — gross weight for operation of Aerochute 34m<sup>2</sup> powered parachutes**

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**1 Duration**

This instrument:

- (a) commences on 1 February 2010; and
- (b) stops having effect at the end of 31 January 2012.

**2 Application**

This instrument applies to an operator of an aeroplane that is a powered parachute that consists of the Aerochute Dual base with the Aerochute 34 square metre canopy (wing) to authorise it to operate at weights of up to 350 kg (the *aeroplane*).

**3 Exemption**

An operator of the aeroplane is exempt from complying with the following provisions of CAR 1988:

- (a) Parts 3, 4, 4A, 4B, 4C, 4D and 5 and 7;
- (b) subregulations 83 (1), (2) and (3) in respect of VHF equipment;
- (c) Division 4 of Part 13;
- (d) regulations 133, 139, 155, 157, 207, 208;
- (e) regulation 210 insofar as advertising of flying operations to qualify for a standard specified in the RAA Operations Manual is concerned;
- (f) regulation 230;
- (g) subregulation 242 (2);
- (h) regulations 252 and 252A.

**4 Conditions**

The exemption is subject to the conditions mentioned in Schedule 1.

**Schedule 1 Conditions**

1 In this Schedule:

**appropriate pilot certificate** means a valid pilot certificate including a Group D (powered parachutes) aircraft group rating issued by RAA in accordance with the RAA Operations Manual.

**flight instructor certificate** means a flight instructor rating on a pilot certificate including a Group D (powered parachutes) aircraft group rating issued by the RAA in accordance with the RAA Operations Manual.

**flight radiotelephone operator licence** means a flight radiotelephone operator licence granted under Part 5 of CAR 1988.

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

**RAA** means Recreational Aviation Australia Incorporated, Aviation Reference Number 224806.

**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.

**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.

- 2 The aeroplane must comprise:
  - (a) an Aerochute Dual base built or upgraded to Master Drawing List MRI 003 dated 8/4/2005 or later, accompanied by Operator's Manual AC-OM, issue 3, rev 2, September 2007 or later issue; and
  - (b) an Aerochute 34 square metre canopy (wing) built to Master Drawing List MRI 015 dated 10/2/1999, accompanied by Ram Air Parachute Owner's Manual, issue 2, September 2007 or later issue.
- 3 The aeroplane must:
  - (a) be registered with the RAA; and
  - (b) have a take-off weight of not more than 350 kilograms.
- 4 The aeroplane must not be used in agricultural operations.
- 5 The aeroplane must not be used for any purpose other than:
  - (a) the carriage (free of charge) of persons or goods; or
  - (b) 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
  - (c) flying training in order to enable a person to obtain a pilot certificate from the RAA.
- 6 The aeroplane must not be operated by a person as pilot in command unless the person:
  - (a) holds an appropriate pilot certificate; and
  - (b) subject to the other conditions set out in this section, flies the aeroplane in accordance with the privileges and limitations of that certificate.
- 7 If the aeroplane is being used for flying training, the person conducting the training must hold a valid flight instructor certificate.
- 8 Subject to the other conditions set out in this Schedule, the aeroplane must be operated in accordance with the requirements of the RAA Operations Manual.
- 9 The aeroplane must be maintained in accordance with the maintenance standards set out in the RAA Technical Manual.
- 10 If the aeroplane is fitted with radiotelephone equipment — the radiotelephone equipment must not be used by a person unless the person:
  - (a) holds a valid flight radiotelephone operator licence; or
  - (b) holds a valid RAA pilot certificate including a Radio Operator endorsement.
- 11 For paragraph 20AB (1) (b) of the *Civil Aviation Act 1988*, a person is authorised to perform a duty essential to the operation of an aircraft to which this instrument applies without holding a flight crew licence if he or she complies with the conditions set out in clauses 3-10 of this Schedule.
- 12 In spite of clause 11, a person must hold a flight radiotelephone operator licence if he or she makes airborne radio transmissions on aeronautical HF frequencies.

- 13 Subject to clauses 15 and 19, the exemption given by section 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 clause 15 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 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 *Airspace Regulations 2007*.
- (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 V.M.C.;
  - (h) the aeroplane must only be flown during daylight hours;
  - (i) the aeroplane must not be flown over a built-up area at a height:
    - (i) that is lower than 1 000 feet above ground level; and
    - (ii) from which it cannot glide clear of all dwellings, buildings and persons within the built-up area;
  - (j) the aeroplane must not be flown in acrobatic flight.
- 14 For the purposes of paragraph 13 (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 CAR 1988, authorised low flying.
- 15 A person who wants to fly an aeroplane to which this section applies, otherwise than in accordance with the flight conditions set out in clause 13 may apply to CASA for approval of the flight.
- 16 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.
- 17 CASA may, by writing, approve the application.

- 18 The approval:
- (a) must specify which of the flight conditions set out in clause 13 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.
- 19 If the proposed flight takes place in accordance with the approval (including any conditions specified in the approval in accordance with paragraph 18 (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 paragraph 18 (a).
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## Explanatory Statement

### Civil Aviation Regulations 1988

#### Exemption — gross weight for operation of Aerochute 34m<sup>2</sup> powered parachutes

##### Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation.

Civil Aviation Order 95.32 (*CAO 95.32*) allows powered parachute aeroplanes to operate if they meet a number of conditions. There is a weight limit of 300 kg maximum take-off weight (*MTOW*) if the powered parachute is not certificated as Light Sport Aircraft (*LSA*).

Aerochute Industries (*Aerochute*) is the sole Australian manufacturer of powered parachute aeroplanes. Aerochute has applied to CASA to allow it to operate its powered parachute with the 34 square metre canopy (wing) at weights of up to 350 kg MTOW. Aerochute has provided evidence that it complies with the current version British Civil Airworthiness Requirements (*BCAR-S*). This is one of the acceptable certification standards under CAO 95.32. This also allows for the issue of a special certificate of airworthiness as an LSA.

The exemption allows Aerochute to operate its powered parachute aeroplanes as if they were covered by CAO 95.32. CAO 95.32 would apply to them at weights of up to 300 kg or if the aircraft were certificated as LSA. CASA does not believe that safety would be compromised if the powered parachute is allowed to operate with the increased weight. The proposed Part 103 of the *Civil Aviation Safety Regulations 1998* (*CASR 1998*) will ensure that such aeroplanes are covered and there would be no need for exemptions.

##### Legislative Instruments Act

Subregulation 308 (4) of the *Civil Aviation Regulations 1988* (*CAR 1988*) declares an exemption to be a disallowable instrument. Under subparagraph 6 (d) (i) of the *Legislative Instruments Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. The exemption is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

##### Consultation

CASA has consulted with Recreational Aviation Australia Incorporated whose members will be the users of the aircraft. No adverse comments were received. This instrument replaces an instrument in similar terms, CASA EX04/09, which expires at the end of 31 January 2010.

The instrument commences on 1 February 2010 and stops having effect at the end of 31 January 2012.

The instrument has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.