

Aviation Ruling

Use of electronic versions of legislation to comply with section 28BH of the Act

Effective Date: This ruling is effective from 27 September 2012.

Catchwords: *Civil Aviation Act 1988* section 28BH
reference library
electronic versions of legislation
CASA website
ComLaw website

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Issue

- 1 The purpose of this ruling is to state CASA's position on whether an **AOC** holder accessing or proposing to access **legislation** via the **CASA website** or via the **ComLaw website** maintained by the Commonwealth Attorney-General's Department, will meet the requirements of section 28BH of **the Act** in relation to the **legislation**.

Background

- 2 Section 28BH of **the Act** relevantly provides:
 - (1) The holder of an AOC must maintain a reference library within the organisation, the contents of which must be readily available to all members of the holder's operating crews.
 - (2) The contents of the reference library must include:
...
 - (b) all material required by the regulations or Civil Aviation Orders.
 - (3) The holder must keep the contents of the reference library up-to-date and in a readily accessible form.
...
- 3 Subsections 82.1, 82.3, 82.5 and 82.7 of the **CAOs** impose conditions on **AOCs**. Each subsection applies to **AOCs** authorising particular types of operations. Each subsection makes it a condition of an **AOC** (to which the subsection applies) that the holder of the **AOC** provide and maintain facilities and documentation sufficient to enable the **AOC** holder to conduct services with safety and in compliance with Appendix 1 to that subsection of the **CAOs**.
- 4 Paragraph 2.1 of Appendix 1 to each of subsections 82.1, 82.3, 82.5 and 82.7 of the **CAOs** requires an **AOC** holder to provide a reference library:
 - 4.1 containing the **legislation**; and
 - 4.2 that is 'readily available' to all **operating crews** of the **AOC** holder.
- 5 Paragraph 2.2 of Appendix 1 to each of subsections 82.1, 82.3, 82.5 and 82.7 of the **CAOs** has the effect of requiring an **AOC** holder to regularly update **legislation** in the reference library. CASA considers this to be the effect of paragraph 2.2 of Appendix 1 to subsections 82.1 and 82.7 of the **CAOs** where those provisions refer to the requirement to provide an 'amendment system'.

- 6 Depending on the nature of the operations authorised by the **AOC**, the reference library may need to be provided and updated at 1 or more locations.

CASA AND COMLAW WEBSITES

- 7 Subject to this ruling an **AOC** holder will, at a particular location, comply with the section 28BH requirement to provide the **legislation** by providing access to the **CASA website** at that location.
- 8 The CASA website contains links to all current and relevant aviation legislation on the **ComLaw** website maintained by the Commonwealth Attorney-General's Department
- 9 Therefore an **AOC** holder will, at a particular location, also comply with the section 28BH requirement to provide the **legislation** by providing access to the **ComLaw website** at that location.
- 10 An **AOC** holder is only entitled to rely on the ruling in paragraphs 8 and 9 if the **AOC** holder ensures that:
- 10.1 access to the **CASA website** or the **ComLaw website** is available at the location at all times when **operating crews** of the **AOC** holder require access to the **legislation** for the purpose of their duties; and
- 10.2 all **operating crews** of the **AOC** holder are sufficiently competent to access the **legislation** on the **CASA website** or the **ComLaw website**.
- 11 An **AOC** holder may breach section 28BH of **the Act** if any **operating crew** of the **AOC** holder are unable to access the **CASA website** or the **ComLaw website** at any particular time when that **operating crew** requires access to the **legislation** for the purpose of their duties. This is a risk of relying on an on-line service.
- 12 Subject to this ruling an **AOC** holder will avoid the problem identified in the previous paragraph if the **AOC** holder:
- 12.1 'downloads' the **legislation** from the **ComLaw website** onto a computer or computer network that is maintained by the **AOC** holder; and
- 12.2 otherwise complies with the requirements of this ruling.
- 15 If the **AOC** holder 'downloads' the **legislation** from the **ComLaw website**, the **AOC** holder must ensure that the downloaded **legislation** is regularly updated to incorporate changes to the **legislation**. In addition, **AOC** holders must ensure that outdated versions of the **legislation** are rendered inaccessible.
- 16 For the purposes of this ruling, whether or not an **AOC** holder updates a downloaded version of the **legislation** with sufficient regularity will depend on the circumstances. Since **AOC** holders can readily identify 'recent legislative changes' on the **CASA website**, CASA takes the view that the **legislation** must be updated with little delay.
- 17 Paragraphs 11 to 16 above apply in relation to the provision of the **legislation** by hard copies printed from the **ComLaw website**.
- 18 To secure compliance with section 28BH of **the Act**, an **AOC** holder may choose to provide access to the **CASA website** or **ComLaw website** at some locations and

provide hard copies of the **legislation** at other locations. Any reliance on the **CASA website** or the **ComLaw website** must comply with the applicable requirements of this ruling.

Definitions

19 In this ruling:

'**AOC**' means an air operator's certificate issued under section 28 of **the Act**;

'**CAO**' means Civil Aviation Orders;

'**CAR**' means the *Civil Aviation Regulations 1988*;

'**CASA website**' means the website of the Civil Aviation Safety Authority of Australia located at 'www.casa.gov.au'.

'**ComLaw website**' means the website maintained by the Commonwealth Attorney-General's Department located at 'www.comlaw.gov.au'.

'**legislation**' means **the Act**, regulations made under **the Act** as well as those Parts of the **CAOs** that apply to the operations of an **AOC** holder;

'**operating crews**' has the same meaning as in section 28BH of **the Act** except that, in relation to **AOCs** to which CAO 82.5 applies, **operating crews** also includes **staff**;

'**staff**' has the same meaning as in paragraph 2.1 of Appendix 1 to **CAO 82.5**;

'**the Act**' means the *Civil Aviation Act 1988*.

[signed by]
John F McCormick
CASA Ruling 4/2003(2)
Director of Aviation Safety
27 September 2012