



Civil Aviation Order 95.10

as amended

made under subregulation 308 (1) of the

Civil Aviation Regulations 1988

This compilation was prepared on 31 May 2006
taking into account amendments up to *Civil Aviation Order 95.10*
Amendment Order (No. 1) 2006

Prepared by the Legislative Drafting Branch, Legal Services Group,
Civil Aviation Safety Authority, Canberra

Contents

Section 95.10 (Privately built single place ultralight aeroplanes — exemption from compliance with certain provisions of the *Civil Aviation Regulations 1988*)

1	Application	3
2	Interpretation	3
3	Exemption under regulation 308	5
3A	Licence not required	5
4	General conditions of exemption	5
5	Flight conditions	6
6	Provisions relating to flight height limitations	7
7	Approval of flights not complying with flight conditions	7
	Notes to Civil Aviation Order 95.10	8

Section 95.10

Privately built single place ultralight aeroplanes — exemption from compliance with certain provisions of the *Civil Aviation Regulations 1988*

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 RAA;
 - (c) the aeroplane has a take-off weight of not more than 300 kilograms;
 - (d) if the aeroplane first became registered with the RAA 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 1 of the builders, of the aeroplane, there is a certificate from the RAA in force in relation to the aeroplane that certifies that the aeroplane meets the requirements set out in the RAA 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 RAA has issued a certificate stating that the kit meets the standards set out in the RAA Technical Manual.

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 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.

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

public road means a road or other thoroughfare open to, or used by, members of the public for the passage of vehicles.

RAA means Recreational Aviation Australia Incorporated.

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.

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 RAA 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 1 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 1 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 RAA; or
 - (iii) was built from an approved kit; and
 - (d) except in a case to which sub-subparagraph (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 1 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 subparagraph 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) Parts 3, 4, 4A, 4B, 4C, 4D and 5;
 - (b) subregulations 83 (1) (2) and (3) in respect of VHF equipment;
 - (c) regulations 133, 139, 155 and 157;
 - (d) Division 4 of Part 13;
 - (e) regulations 207, 208 and 230;
 - (f) subregulation 242 (2);
 - (g) regulation 252;
 - (h) regulation 322.

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 RAA 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 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 RAA Operations Manual;
- (f) the aeroplane must be maintained in accordance with the maintenance standards set out in the RAA Technical Manual;
- (g) if the aeroplane is fitted with radiotelephone equipment the radiotelephone equipment must not be used by a person unless the person:
 - (i) holds a valid flight radiotelephone operator licence; or
 - (ii) holds a valid certificate, issued by the RAA in accordance with the RAA 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 1 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 the pilot is wearing a life jacket 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 Air Services Regulations.

- (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 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 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 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 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'.

Notes to Civil Aviation Order 95.10

Note 1

The Civil Aviation Order (in force under the *Civil Aviation Regulations 1988*) as shown in this compilation comprises Civil Aviation Order 95.10 amended as indicated in the Tables below.

Table of Orders

Year and number	Date of notification in <i>Gazette</i>/ registration on FRLI	Date of commencement	Application, saving or transitional provisions
CAO 2004 No. R65	23 December 2004	23 December 2004 (see s. 2)	
CAO 95.10 2006 No. 1	FRLI 31 May 2006	1 June 2006 (see s. 2)	

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
s. 95.10	rs. CAO 2004 No. R65
subs. 5	am. CAO 95.10 2006 No. 1