



Australian Government

Civil Aviation Safety Authority

Instrument number CASA 33/13

I, PETER WILLIAM BOYD, Executive Manager, Standards Division, a delegate of CASA, make this instrument under paragraph 6(1)(b) and subregulation 42ZC(6) of the *Civil Aviation Regulations 1988 (CAR 1988)*.

A handwritten signature in black ink, appearing to read 'P. Boyd'.

Peter Boyd
Executive Manager
Standards Division

14 March 2013

Authorisation of persons to carry out maintenance on certain amateur-built, kit-built and light sport aircraft with a special certificate of airworthiness

Appointment of authorised persons to issue maintenance releases for certain amateur-built, kit-built and light sport aircraft with a special certificate of airworthiness

1 Duration

This instrument:

- (a) commences on the day of registration; and
- (b) expires at the end of February 2016 as if it had been repealed by another instrument.

2 Definitions

- (1) In this instrument:

ABAA means Amateur Built Aircraft Acceptance.

AEL means aircraft engineer licence.

aircraft means an aircraft for which:

- (a) a special certificate of airworthiness for an amateur-built aircraft accepted under an ABAA has been issued in accordance with regulation 21.190 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*; or
- (b) a special certificate of airworthiness in the form of an experimental certificate has been issued in accordance with regulation 21.195A of CASR 1998 for a purpose mentioned in paragraph 21.191(g), (h) or (j) of CASR 1998.

knowledge level means a level of knowledge described in Annex 2.

primary builder means:

- (a) that member of a group of builders of an aircraft who has fabricated and assembled more than half of an amateur-built aircraft or assembled more than half of a kit-built aircraft; or
 - (b) if paragraph (a) does not apply to any member of the group — that member who has been nominated in writing by the group as the primary builder for the purpose of issuing maintenance releases.
- (2) Without limiting when 2 aircraft are not **essentially similar**, 2 aircraft are not **essentially similar**:
- (a) if they are made of different materials; or
 - (b) if 1 has retractable landing gear and the other has fixed landing gear; or
 - (c) if 1 has electrically powered landing gear and the other has hydraulically powered landing gear; or
 - (d) if 1 has electrically powered flaps and the other has hydraulically powered flaps.

3 Application

This instrument applies to each of the following:

- (a) a person who has fabricated and assembled more than half of an aircraft mentioned in the definition of **aircraft**;
- (b) for an amateur-built aircraft — a person, other than a person referred to in paragraph (a), who has contributed to the fabrication and assembly of an aircraft mentioned in the definition of **aircraft**;
- (c) for a kit-built aircraft or a light sport aircraft — a person who has assembled more than half of an aircraft mentioned in the definition of **aircraft**;
- (d) for a kit-built aircraft or a light sport aircraft — a person, other than a person referred to in paragraph (c), who has contributed to the assembly of an aircraft mentioned in the definition of **aircraft**;
- (e) the holder of an AEL, in a subcategory of category B1, or in category B2, issued under Part 66 of CASR 1998.

4 Authorisation of persons to carry out maintenance

For paragraph 42ZC(4)(e) of CAR 1988, I authorise a person mentioned in:

- (a) paragraph 3(a) to carry out maintenance on:
 - (i) the aircraft that the person fabricated and assembled; and
 - (ii) any aircraft of which the person is the sole owner and that is essentially similar to the aircraft that the person fabricated and assembled; and
- (b) paragraph 3(b) to carry out maintenance on the aircraft to which the person contributed to the fabrication and assembly; and
- (c) paragraph 3(c) to carry out maintenance on:
 - (i) the aircraft that the person assembled; and
 - (ii) any aircraft of which the person is the sole owner and that is essentially similar to the aircraft that the person assembled; and

- (d) paragraph 3(d) to carry out maintenance on the aircraft to which the person contributed to the assembly; and
- (e) paragraph 3(e) to carry out maintenance on an aircraft.

5 Appointment of authorised persons to issue maintenance releases

- (1) Subject to subsection (2):
 - (a) for regulation 43 of CAR 1988, I appoint a person authorised under section 4 to be an **authorised person** to issue a maintenance release for an aircraft on which he or she had carried out maintenance; and
 - (b) for regulation 47 of CAR 1988, I appoint a person authorised under section 4 to be an **authorised person** to enter an endorsement on a maintenance release mentioned in paragraph (a); and
 - (c) for regulation 48 of CAR 1988, I appoint a person authorised under section 4 to be an **authorised person** to cancel an endorsement entered on a maintenance release mentioned in paragraph (b).
- (2) Subsection (1) does not apply to the holder of an AEL in category B2, unless that person is:
 - (a) a person mentioned in paragraph 4(a), (b), (c), or (d) for the aircraft; or
 - (b) the holder of an AEL in a subcategory of category B1 issued under Part 66 of CASR 1998.

6 Conditions

Each authorisation under section 5 and each appointment under section 6 is subject to the conditions mentioned in Schedule 1.

Schedule 1 Conditions

- 1 An authorised person may only issue a maintenance release for an aircraft if all required maintenance has been carried out and properly certified by a person authorised to conduct maintenance under this instrument.
- 2 An authorised person must sign each maintenance release he or she issues under this instrument.
- 3 For a maintenance release to be issued for an aircraft by a person mentioned in paragraph 3(b) or (d), the authorised person must have been nominated in writing by the group of builders as the primary builder of the aircraft.
- 4 A person authorised to carry out maintenance on an aircraft must do so:
 - (a) in accordance with the appropriate data for proper maintenance of the aircraft; and
 - (b) using the appropriate tooling.
- 5 An authorised person must ensure that each maintenance release issued includes any information required to be entered on the maintenance release by any direction, permit or permission issued under the *Civil Aviation Act 1988* (the *Act*), its Regulations or Civil Aviation Orders (**CAOs**) that applies to the aircraft, the aircraft components or the aircraft materials.

- 6 When issuing a maintenance release, an authorised person must do so in accordance with the applicable requirements of Civil Aviation Order 100.5 and regulation 43 of CAR 1988.
- 7 A person mentioned in paragraph 3(b) may only carry out maintenance on the elements of the aircraft the person fabricated and assembled.
- 8 A person mentioned in paragraph 3(d) may only carry out maintenance on the elements of the aircraft the person assembled.
- 9 A person mentioned in paragraph 3(e), who is not also a person mentioned in paragraph 3(a), (b), (c) or (d) for the aircraft, may only carry out maintenance:
 - (a) that is covered by his or her AEL; and
 - (b) on those types of aircraft or aircraft engines that are covered by the AEL; and
 - (c) subject to any conditions placed on the AEL.
- 10 A person must not carry out manual welding unless the welding is carried out:
 - (a) by the person who performed the welding during the fabrication of the aircraft; or
 - (b) by a person who is the sole owner of the aircraft and performed the welding during the fabrication of an aircraft that is essentially similar to the aircraft; or
 - (c) in accordance with an aircraft welding authority granted under regulation 33D of CAR 1988.
- 11 A person, who is not the holder of an AEL in category B2, must not carry out maintenance:
 - (a) on aircraft instruments or equipment that are specifically required by the Act, its Regulations or the CAOs for I.F.R. operations; or
 - (b) specified in an airworthiness directive in relation to aircraft instruments or equipment that are required by the Act, its Regulations or the CAOs for I.F.R. operations.
- 12 Before a person performs any activity authorised by this instrument, the person must:
 - (a) satisfactorily complete a course of training which covers the topics and standards specified in column 2 of the table at Annex 1; and
 - (b) for each topic and standard — attain the knowledge level listed in column 3 of the table.
- 13 Before a person performs any activity authorised by this instrument, the person must hold a ***certificate of attainment***, in the topics and standards specified in clause 12, from a course or an organisation mentioned in Annex 3.
- 14 Clauses 12 and 13 do not apply to:
 - (a) a person mentioned in paragraph 3(e); or
 - (b) for maintenance of a manned balloon — a person who:
 - (i) holds an authority issued under paragraph 33B(1)(a) of CAR 1988; or
 - (ii) is authorised under subregulation 42ZC(6) of CAR 1988 (other than by this instrument);to carry out maintenance on that balloon.

- 15 A person who:
- (a) holds an authority issued under paragraph 33B(1)(a) of CAR 1988; or
 - (b) is authorised under subregulation 42ZC(6) of CAR 1988 (other than by this instrument);
- to carry out maintenance on a manned balloon may carry out maintenance on a manned balloon mentioned in paragraph (b) of the definition of *aircraft* in subsection 2(1) without holding a certificate of approval that applies to that maintenance.

Annex 1

1	2	3
Item	Topics and standards	Knowledge levels
1	ICAO and CASA's obligations to ICAO	1
2	CASA priorities	1
3	Role of self-administering organisations	1
4	Australian Aviation Law overall structure	1
5	CARs that apply to maintenance by owner-builders	1
6	CASRs that apply to maintenance by owner-builders	1
7	Responsibility of registered operator	3
8	Responsibilities of maintainer	3
9	Guidance material for operators and maintainers	1
10	Type Certificates	1
11	Special Certificates of Airworthiness — amateur-built experimental, kit-built experimental, and amateur-built aircraft acceptance (ABAA)	2
12	Maintenance Authorities and CASR Part 66 Licences	1
13	Systems of Maintenance (<i>SOM</i>) — General	1
14	CASA SOM	2
15	Owner generated SOM	2
16	Log book statement	3
17	Minimum Equipment Lists (MELs)	1
18	Flight manuals and placards	2
19	Maintenance data sources	2
20	CAR 2A approval of data	1
21	Automatic approvals of data from foreign NAAs	1
22	Generic data	1
23	Airworthiness Directives (ADs)	3

1	2	3
Item	Topics and standards	Knowledge levels
24	Service Bulletins, Instructions and Notices	2
25	Major Defect reporting	2
26	Safety Management Systems	1
27	Human factors affecting maintenance	1
28	Safety in the aircraft workplace	1
29	Drugs and alcohol in safety sensitive aviation activities	1
30	Fuelling of aircraft	1
31	Continuing Airworthiness records	2
32	Weight and balance records	2
33	Recording of maintenance	3
34	Coordination of maintenance	2
35	Certification of maintenance	3
36	Duplicate inspections of control systems after maintenance	2
37	Maintenance work sheets	2
38	Aircraft log book	3
39	Maintenance release	3
40	Modifications of aircraft	1
41	Approval of modification and major repair data	1
42	Use and care of calibrated equipment	2
43	Fabrication in the course of maintenance (FITCOM)	2
44	AD/ENG/4 Engine condition report	3
45	Authorised Release Certificate	1

Annex 2

Knowledge levels

Level 1

A familiarity with the principal elements of the topic such that the following objectives are met.

Objectives:

- The applicant must be familiar with the basic elements of the topic
- The applicant must be able to give a simple description of the topic, using common words and examples
- The applicant must be able to use typical terms.

Level 2

A general knowledge of the theoretical and practical aspects of the topic and an ability to apply that knowledge, such that the following objectives are met.

Objectives:

- The applicant must be able to understand the theoretical fundamentals of the topic
- The applicant must be able to give a general description of the topic using, as appropriate, typical examples
- The applicant must be able to demonstrate awareness of practical applications of the topic.

Level 3

A detailed knowledge of the theoretical and practical aspects of the topic, and a capacity to combine and apply the separate elements of knowledge in a logical and comprehensive manner, such that the following objectives are met.

Objectives:

- The applicant must be able to describe the underlying intent and implications of the topic
- The applicant must be able to give a detailed description of the topic using theoretical fundamentals and specific examples
- The applicant must be able to explain in detail the theoretical and practical application of the topic.

Annex 3

Training course and training organisations recognised by CASA for the purpose of this instrument

- 1 Sport Aircraft Association of Australia (SAAA) Maintenance Procedures Course as approved by CASA.
 - 2 A CASR Part 147 Maintenance Training Organisation that is approved by CASA to provide category licence training.
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Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Safety Regulations 1998

Authorisation of persons to carry out maintenance on certain amateur-built, kit-built and light sport aircraft with a special certificate of airworthiness

Appointment of authorised persons to issue maintenance releases for certain amateur-built, kit-built and light sport aircraft with a special certificate of airworthiness

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 Regulations 1988 (CAR 1988)

Under regulation 6 of CAR 1988, CASA may, in writing, appoint persons included in a class of persons to be authorised persons for the purpose of a provision of the regulations in which the expression “authorised person” occurs. An appointment may be made subject to conditions specified in the instrument of appointment.

Under regulation 33B of CAR 1988, CASA may, in writing and in accordance with the Civil Aviation Orders (the *CAOs*), issue authorities to carry out maintenance on aircraft. Under regulation 33D of CAR 1988, CASA may grant an application for an aircraft welding authority to carry out manual welding of a specified type, and on a specified parent metal group.

Regulation 42ZC of CAR 1988 describes in detail who may perform maintenance on an Australian aircraft in Australian territory. Subregulation 42ZC(4) addresses who may carry out maintenance on a Class B aircraft, which includes a person authorised by CASA for that purpose under subregulation 42ZC(6).

Regulation 43 of CAR 1988 states that maintenance releases in respect of Australian aircraft shall be issued only by authorised persons.

Regulation 47 of CAR 1988 states that an authorised person engaged in the maintenance of an aircraft in respect of which a maintenance release is in force may, in specified circumstances, enter an endorsement on a maintenance release stating that the aircraft is unairworthy. The effect of such an endorsement is that the maintenance release ceases to be in force.

Where a maintenance release has an endorsement under regulation 47 stating that an aircraft is unairworthy, an authorised person may, under regulation 48 of CAR 1988, make a further endorsement on the maintenance release which cancels the first endorsement.

Civil Aviation Safety Regulations 1998 (CASR 1998)

Regulation 21.190 of CASR 1998 states that an applicant is entitled to a special certificate of airworthiness for an aircraft in the amateur-built category if, amongst other

criteria, CASA or an authorised person has given an Amateur Built Aircraft Acceptance (*ABAA*) for the aircraft.

Regulation 21.195A requires CASA or an authorised person to issue an experimental certificate to an applicant for the certificate if specified criteria are met, including that the applicant is eligible, under regulation 21.192, to apply for the certificate.

Regulation 21.192 of CASR 1998 states that an aircraft registration holder, or the owner of an aircraft that is registered with a sport aviation body, is eligible to apply for an experimental certificate for 1 or more of the purposes mentioned in regulation 21.191.

Regulation 21.191 of CASR 1998 sets out the purposes for which an experimental certificate may be issued.

Under paragraph 21.191(g), an experimental certificate may be issued for the purpose of operating an amateur-built aircraft: that is, an aircraft the major portion of which has been fabricated and assembled by a person who undertook the construction project solely for the person's own education or recreation.

Under paragraph 21.191(h), an experimental certificate may be issued for the purpose of operating a kit-built aircraft: that is, an aircraft in the primary category that meets specified criteria and that was assembled by a person from a kit manufactured by the holder of a production certificate for that kit, without the supervision and quality control of the production certificate holder.

Under paragraph 21.191(j), an experimental certificate may be issued for the purpose of operating a light sport aircraft that has been assembled from a kit and meets other specified criteria.

Part 66 of CASR 1998 deals with aircraft engineer licences and ratings for the performance of maintenance certification for maintenance carried out on aircraft, and issuing certificates of release to service for aircraft in relation to maintenance carried out on aircraft.

Background

CASA issued an instrument of authorisation and appointment for maintenance of certain amateur-built and kit-built aircraft (CASA 146/11), which ceased to have effect at the end of 28 February 2013. Under regulation 42ZC of CAR 1988, that instrument authorised people who contributed to the fabrication and assembly of amateur-built aircraft or the assembly of kit-built aircraft, and holders of aircraft engineer licences in specified categories, to carry out maintenance on the aircraft. It also appointed them, under regulations 43, 47 and 48 of CAR 1988 to issue maintenance releases and to enter endorsements on maintenance releases for aircraft on which they had carried out maintenance.

The authorisations and appointments were subject to a number of conditions, including the satisfactory completion of a course of training.

Instrument

Several aspects of the instrument are different from CASA 146/11. The aircraft covered by the instrument have been extended to include aircraft mentioned in paragraph 21.191(j) of CASR 1998, that is, light sport aircraft assembled from a kit.

The instrument allows maintenance by a person who is the sole owner of an aircraft and has fabricated or assembled an essentially similar aircraft. Holders of an aircraft engineer licence, and holders of a maintenance authority for manned balloons, are not required to complete the course that other owner-builders are required to complete.

The instrument does not cover welded repairs unless the person performed the original welding on the aircraft or an essentially similar aircraft or holds a welding authority. The instrument also does not apply to maintenance of aircraft instruments and equipment specifically required by the regulations or CAOs for operations under the IFR, nor maintenance specified in an airworthiness directive relating to those instruments and equipment, except by a holder of an aircraft engineer licence in category B2.

Legislative Instruments Act

Paragraph 98(5A)(a) of the *Legislative Instruments Act 2003* (the **LIA**) states that the regulations may empower CASA to issue instruments in relation to matters affecting the maintenance of aircraft. Subsection 98(5AA) of the Act states that an instrument issued under paragraph (5A)(a) is a legislative instrument if it applies to a class of persons or a class of aircraft. This instrument applies to a class of persons and class of aircraft and so is a legislative instrument. As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

Consultation under section 17 of the LIA has been undertaken with the Sports Aviation Association of Australia (**SAAA**), the association that represents and partially administers the owners and operators of these types of aircraft, about the changes from CASA 146/11. SAAA has requested or agreed to those changes. No further consultation has been conducted or is considered appropriate.

Compatibility with human rights and freedoms

A Statement of Compatibility with Human Rights is at Attachment 1.

Office of Best Practice Regulation (OBPR)

The instrument is of beneficial, not adverse, effect to the operators of the aircraft. OBPR does not require preparation of a Regulation Impact Statement in this case because a preliminary assessment of business compliance costs in the context of the nature of the instrument indicates that it will have only a nil to low impact on business.

Commencement and making

The instrument commences on the day of registration and expires at the end of February 2016 as if it had been repealed by another instrument.

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260(1) of CASR 1998.

[Instrument number CASA 33/13]

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

Authorisation of persons to carry out maintenance on certain amateur-built, kit-built and light sport aircraft with a special certificate of airworthiness

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The legislative instrument allows people who have contributed to the fabrication and assembly of certain amateur-built, kit-built and light sport aircraft to conduct maintenance on those aircraft and to issue maintenance releases for those aircraft.

The primary purpose of the legislative instrument is to allow builders of these aircraft who have the appropriate levels of experience and training to maintain them and issue maintenance releases for them.

The authorisation and appointment are subject to conditions imposed by CASA in the interests of the safety of air navigation.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority