



17 October 2019

The Hon Michael McCormack MP  
Minister for Infrastructure, Transport and Regional Development  
Parliament House  
Canberra ACT 2600  
Via email: [Michael.McCormack.MP@aph.gov.au](mailto:Michael.McCormack.MP@aph.gov.au)  
CC: [cameron.rimington@infrastructure.gov.au](mailto:cameron.rimington@infrastructure.gov.au)

  
Dear Minister,

**CASA EX101/19 — Helicopter Aerial Application Endorsements Exemption 2019  
[F2019L01132]**

The Senate Standing Committee on Regulations and Ordinances assesses all disallowable legislative instruments against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and seeks your advice in relation to this matter.

***Significant matters in delegated legislation***

Senate standing order 23(3)(d) requires the committee to consider whether an instrument may contain matters more appropriate for parliamentary enactment. This may include instruments that grant or extend exemptions from primary or enabling legislation.

The instrument exempts certain persons from requirements in the Civil Aviation Safety Regulations 1998 (CASR) relating to helicopter aerial application ratings, if they meet alternative requirements set out in the instrument. The explanatory statement justifies the exemptions on the basis that the Civil Aviation Safety Authority (CASA) has determined that the alternative requirements in the instrument are 'more effective' than those prescribed by the CASR.<sup>1</sup> However, it does not explain why an exemption instrument has been used to prescribe these alternative requirements, instead of amending the CASR.

The exemptions in the present instrument were initially introduced by CASA EX120/17, which commenced on 10 October 2017. In November 2017, the committee raised concerns that CASA EX120/17 had been used to make 'improvements' to the CASR, rather than directly amending those regulations. The committee sought the minister's advice as to why that approach was taken, and whether the government proposed to amend the CASR to address the matters covered by CASA EX120/17.<sup>2</sup> In response, the (then) Minister for

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1 Explanatory statement, p. 1.

2 Senate Standing Committee on Regulations and Ordinances, *Delegated Legislation Monitor 14 of 2017*, pp. 5-6.

Infrastructure and Transport advised that CASA would amend the CASR to address the matters covered by CASA EX120/17, with amending regulations to be made in 2019.<sup>3</sup>

Despite the former minister's advice, the present instrument appears to remake CASA EX120/17 in substantially the same terms, thereby extending the operation of the relevant exemptions to 31 August 2022. The committee is therefore concerned that the amendments to the CASR have not been progressed in accordance with the former minister's undertaking, and, consequently, the relevant exemptions have now been in force for such time as to constitute de facto amendments to the CASR. In this respect, the committee emphasises that where an undertaking is provided by a minister, the committee would expect the undertaking to be implemented in a timely manner.

**In light of the matters above, the committee requests your advice as to:**

- **whether the government proposes to amend the Civil Aviation Safety Regulations 1998 (CASR) to address the matters covered by the present instrument, in accordance with the former minister's undertaking to the committee; and**
- **if so, when the relevant amendments are likely to be made.**

**If the government does not propose to make such amendments, the committee requests your advice as to why it is considered necessary and appropriate to further extend exemptions to the CASR, instead of amending those regulations.**

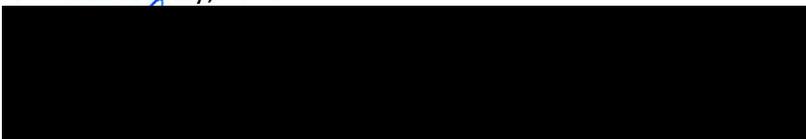
The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **31 October 2019**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website. If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au).

Thank you for your assistance with this matter.

Yours sincerely,



**Senator the Hon Concetta Fierravanti-Wells**

**Chair**

**Senate Standing Committee on Regulations and Ordinances**

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<sup>3</sup> Senate Standing Committee on Regulations and Ordinances, *Delegated Legislation Monitor 16 of 2017*, pp. 39-41. The former minister's correspondence may be accessed on the committee's website at [https://www.aph.gov.au/Parliamentary Business/Committees/Senate/Regulations and Ordinances/Monitor/mon2017/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Monitor/mon2017/index)



**The Hon Michael McCormack MP**

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**Deputy Prime Minister  
Minister for Infrastructure, Transport and Regional Development  
Leader of The Nationals  
Federal Member for Riverina**

Ref: MC19-005069

07 NOV 2019

Senator the Hon Concetta Fierravanti-Wells  
Chair  
Standing Committee on Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

*Connie*  
Dear Senator

Thank you for the letter of 17 October 2019 from the Senate Standing Committee on Regulation and Ordinances (Committee), regarding concerns identified by Senate standing order 23 relating to the disallowable instrument - Helicopter Aerial Application Endorsements Exemptions 2019 [F2019L01132].

I have sought advice from the Civil Aviation Safety Authority (CASA) regarding concerns raised by the Committee that exemptions made under the disallowable instrument named above would more appropriately be achieved by amendments to the Civil Aviation Safety Regulations 1998 (CASR) in the long term.

I propose to provide a regulation amendment addressing these concerns to the Federal Executive Council for consideration in 2020. The exemption allows helicopter operations to continue without disruption while CASA looks to complete a number of planned amendments to CASR Part 61 – Flight Crew Licensing, which deals with matters arising from the implementation of the licensing suite of regulations identified as needing attention.

Thank you for bringing your concerns to my attention and I trust this is of assistance.

Yours sincerely

  
Michael McCormack



14 November 2019

The Hon Michael McCormack MP  
Minister for Infrastructure, Transport and Regional Development  
Parliament House  
Canberra ACT 2600  
Via email: [Michael.McCormack.MP@aph.gov.au](mailto:Michael.McCormack.MP@aph.gov.au)  
CC: [Cameron.rimington@infrastructure.gov.au](mailto:Cameron.rimington@infrastructure.gov.au)

  
Dear Minister,

**CASA EX101/19 — Helicopter Aerial Application Endorsements Exemption 2019 [F2019L01132]**

Thank you for your response of 7 November 2019 to the Senate Standing Committee on Regulations and Ordinances, in relation to the above instrument. The committee considered your response at its private meeting on 13 November 2019.

The committee welcomes your undertaking to amend the Civil Aviation Safety Regulations 1998 (CASR) in 2020 to incorporate the exemptions set out in the present instrument, in accordance with the committee's request.

While this amendment remains outstanding, the committee has resolved to place a protective notice of motion to disallow the instrument, to ensure that the undertaking is implemented. The committee will withdraw the notice once the CASR is amended in accordance with your undertaking.

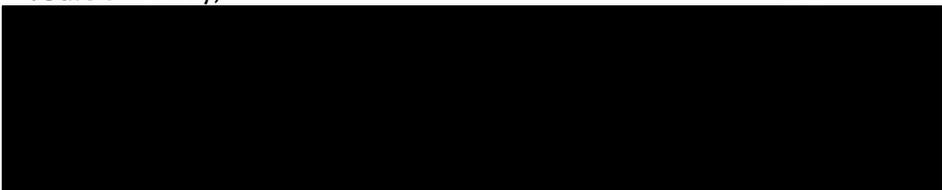
In this regard, please inform the committee if you envisage any difficulties in making the amendments before the revised disallowance period is due to expire in mid-February 2020 (subject to confirmation of the 2020 sitting calendar).

Finally, please note that, in the interests of transparency, all correspondence relating to this matter will be published on the committee's website, and recorded in the *Delegated Legislation Monitor*.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au).

Thank you for your assistance with this matter.

Yours sincerely,



Senator the Hon Concetta Fierravanti-Wells  
Chair  
Senate Standing Committee on Regulations and Ordinances



**The Hon Michael McCormack MP**

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**Deputy Prime Minister  
Minister for Infrastructure, Transport and Regional Development  
Leader of The Nationals  
Federal Member for Riverina**

Ref: MS20-000073

31 JAN 2020

Senator the Hon Concetta Fierravanti-Wells  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

*Connie*

Dear Chair

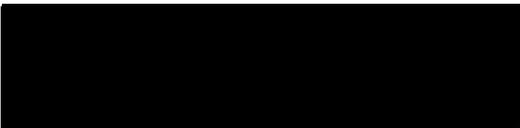
I write regarding your Giving of Notice of 14 November 2019 in relation to the disallowance motion for CASA EX101/19 – Helicopter Aerial Application Endorsements Exemption 2019 [F2019L01132].

The Civil Aviation Safety Authority (CASA) is currently progressing a package of regulatory amendments to Part 61 of the Civil Aviation Safety Regulations (CASR). This includes amendments to provisions which are the subject of this exemption. These amendments will remove the requirement for the issuance of an exemption of this type in the future.

CASA continues to work closely with the Office of Parliamentary Council on these amendments together with other high priority regulatory work. I expect the regulatory amendments related to this exemption to be made in mid-2020.

I trust this information is of assistance.

Yours sincerely



Michael McCormack



AUSTRALIAN  
SENATE

**Senate Standing Committee for the  
Scrutiny of Delegated Legislation**

Parliament House, Canberra ACT 2600  
02 6277 3066 | [sdlc.sen@aph.gov.au](mailto:sdlc.sen@aph.gov.au)  
[www.aph.gov.au/senate\\_sdlc](http://www.aph.gov.au/senate_sdlc)

13 February 2020

The Hon Michael McCormack MP  
Minister for Infrastructure, Transport, Regional Development and Communications  
Parliament House  
CANBERRA ACT 2600

Via email: [Michael.McCormack.MP@aph.gov.au](mailto:Michael.McCormack.MP@aph.gov.au)  
CC: [dlo.mccormack@infrastructure.gov.au](mailto:dlo.mccormack@infrastructure.gov.au)

  
Dear Minister,

**CASA EX101/19 – Helicopter Aerial Application Endorsements Exemption 2019  
[F2019L01132]**

Thank you for your response of 31 January 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument.

The committee considered your response at its private meeting on 12 February 2020. On the basis of your advice that the Civil Aviation Safety Authority is progressing amendments to Part 61 of the Civil Aviation Safety Regulations 1998 with a view to completing the amendments by mid-2020, the committee has concluded its examination of the instrument. The committee has also resolved to withdraw the 'protective' notice of motion to disallow the instrument. The committee will continue to monitor the implementation of this undertaking.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,



**Senator the Hon Concetta Fierravanti-Wells**  
Chair  
Senate Standing Committee for the Scrutiny of Delegated Legislation