

## **GUIDANCE ON THE NEW AVIATION SELF REPORTING SCHEME**

This document provides general guidance for submitting an Aviation Self Reporting Scheme (ASRS) report to the ATSB and claiming protection from administrative action. The information is derived from the *Civil Aviation Amendment Act 2003* which amends the *Civil Aviation Act 1988* (CA Act) and the *Civil Aviation Amendment Regulations 2004* which amend the *Civil Aviation Safety Regulations 1998* (CASRs). The Act and Regulations establishing the scheme commence operation on 21 February 2004.

### **Who can Report?**

The holder of a civil aviation authorisation who has committed a 'reportable contravention' can report this to the ATSB.

### **What is a 'reportable contravention'?**

A reportable contravention is defined by section 30DL of the CAA Act as a contravention of the *Civil Aviation Regulations 1988* and the *Civil Aviation Safety Regulations 1998*, other than the following:

- (a) a contravention that is deliberate;
- (b) a contravention that is fraudulent;
- (c) a contravention that causes or contributes to an accident or to a serious incident (whether before or after the contravention is reported);
- (d) a contravention of the listed *Civil Aviation Regulations 1988*:
  - 282 (Offences relating to licences, certificates and authorities);
  - subregulation 288(2) (Detention of Aircraft);
  - 298A (Cheating by examination candidates)
  - 298B (Examination misconduct by persons other than examination candidates);
  - 298C (Personation at examinations);
  - 301 (Surrender of documents);
  - 302 (Production of licences etc);
  - 305(1A) (Access of authorised persons).

### **Submitting a Report:**

The holder of a civil aviation authorisation may make a report as often as they wish but they will only be able to claim protection from administrative action once every five years. CASR regulation 13.345 provides that the report must be made to the ATSB's Executive Director, in writing, within 10 days of the reportable contravention. The report must be made in a form approved by the Executive Director. The approved form will be made available before the scheme commences operation.

To be eligible for acceptance, the report must contain the following information:

- (a) the name, postal address and daytime telephone number of the holder making the report;
- (b) if applicable - the aviation reference number of the holder;
- (c) the class or classes of civil aviation authorisation held by the holder;

- (d) the time, date, place and nature of the contravention;
- (e) a description of the circumstances of the contravention; and
- (f) so far as is practicable, the regulations contravened by the holder.

The mandatory fields on the form are highlighted by a red asterisk. If you have any concerns about being contacted via the details you have provided please indicate this and how best to get in contact with you. If you would prefer that the ATSB does not leave a message on your answering machine please state this.

The following contacts may be used for submitting a report:

- (a) Mail: Reply Paid 22, PO Box 600, CIVIC SQUARE ACT 2608
- (b) Facsimile: (02) 6274 6461
- (c) E-Mail: [asrs@atsb.gov.au](mailto:asrs@atsb.gov.au)
- (d) Online via a secure reporting form on the ATSB website [www.atsb.gov.au](http://www.atsb.gov.au)

If you have any queries where you would like to speak directly to a designated ASRS officer you can contact the ATSB on 1-800-020-505.

#### **ATSB action upon receiving a report:**

Provided the report is made in accordance with CASR regulation 13.345, as described above, the report will be accepted unless it appears on its face that the contravention for which the report is made is not a reportable contravention.

Once accepted the ATSB will:

- ensure the report is given a unique number. The receipt number is placed on the front page with the date when the report was made; and
- give the reporter a receipt that sets out:
  - the authorisation holder's name;
  - the date the report was made;
  - the date and nature of the contravention;(the receipt must be kept for the purpose of claiming protection from administrative action)
- determine what information is to be kept in the ASRS files and database;
- return the report to the reporter.

#### **Unacceptable report:**

The designated staff member must return the report to the reporter unless it is a report about unlawful interference. Such a report must be sent to the aviation security duty officer in the Department. A report of an unlawful interference for the purpose of these regulations is defined as:

(Definition given for guidance purposes)

Acts or attempted acts such as to jeopardise the safety of civil aviation and air transport, i.e.

- Unlawful seizure of an aircraft;
- Unlawful seizure of an aircraft on the ground;
- Hostage-taking on board aircraft or aerodromes;

- Forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility;
- Introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes;
- Communication of false information such as to jeopardise the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility.

***Transport Safety Investigation Act 2003 matters:***

A report made under the ASRS by the holder of a civil aviation authorisation does not satisfy the reporting obligations under the *Transport Safety Investigation Act 2003* for Immediately or Routine Reportable Matters. These reports must be made to the Executive Director of Transport Safety Investigation through the ATSB's open reporting scheme. Where a person makes a report that does not satisfy the criteria for it to be accepted as an ASRS report it may be used for other transport safety purposes associated with the submission of reports under the *Transport Safety Investigation Act 2003*.

**Protection from Administrative Action:**

Section 30DO of the CA Act sets out the type of protection that a civil aviation authorisation holder can claim and the circumstances in which they can claim it.

*Cancellation of Authorisation:*

A civil aviation authorisation holder may claim protection from CASA exercising a power under the CA Act or Regulations to vary, suspend or cancel their civil aviation authorisation. To claim this protection the authorisation holder must produce to CASA the receipt provided to them by the ATSB for the report to show that the authorisation holder reported the contravention to the ATSB:

- within 10 days after the contravention; and
- before the holder was given the show cause notice for the proposed decision.

*Infringement Notice:*

If an infringement notice is issued under the regulations the authorisation holder is not required to pay the penalty specified in the infringement notice and the notice is taken to be withdrawn. Again to claim the protection the authorisation holder must produce to CASA the receipt provided to them by the ATSB for the report to show that the authorisation holder reported the contravention to the ATSB:

- within 10 days after the contravention;
- before the holder was given the infringement notice.

*When must the receipt be produced?*

To claim the protection the receipt must be produced to CASA before CASA varies, suspends or cancels the authorisation or before the due date for payment of the penalty specified in the infringement notice.

*Period in which immunity can be claimed:*

The period in which protection from administrative action cannot be claimed (for a subsequent infringement) runs for 5 years from when either:

- CASA was required by section 30DO to disregard a contravention by the reporter;  
or
- An infringement notice given to the reporter is taken to be withdrawn.

For further inquiries on claiming immunity contact the Management of Enforcement and Investigations at CASA on 131 757.

### **Confidentiality:**

The CASRs do not permit the ATSB to disclose information about a reportable contravention that identifies the reporter unless the reporter gives their consent. Further, the report, receipt or any other evidence of the fact that a report of a reportable contravention was made by the aviation authorisation holder are not admissible in evidence in criminal proceedings against the reporter.

### **Other Uses of Information Contained in Accepted Reports:**

In addition to the information in an accepted report being used for the purpose of providing the reporter with the capacity to obtain protection from administrative action for a breach of a reportable contravention the information may also be used to:

- strengthen the foundation of aviation human factors safety research;
- to identify deficiencies and problems in the Australian aviation safety system; and
- provide data for planning and improvements to the Australian aviation safety system.

However, when used for these purposes, information from the report that is personal information may not be disclosed without the reporter's consent.

De-identified data based on ASRS reports will from time to time be provided to CASA for the purposes of aviation safety.