

# **Civil Aviation Regulations 1998 1998 No. 237**

## EXPLANATORY STATEMENT

Statutory Rules 1998 No. 237

(Issued by the authority of the Minister for Transport and Regional Development)

Civil Aviation Act 1988

Civil Aviation Regulations 1998

Subsection 98 (1) of the Civil Aviation Act 1988 (the, Act) provides that the Governor-General may make regulations for the purposes of the Act and in relation to the safety of air navigation.

Subsection 9 (1) of the Act specifies that the Civil Aviation Safety Authority (CASA) has the function of conducting safety regulation of civil air operations by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licenses, registrations and permits.

Part IV of the Regulations sets out airworthiness requirements in relation to design standards and certificates of type approval, certificates of airworthiness and certificates of approval. The Part establishes the requirements for the certification of aircraft and the issuing of certificates of type approval and certificates of airworthiness. The Part also specifies requirements for the approval to design and manufacture aircraft.

Part IVB of the Regulations sets out the requirements for the reporting of defects in Australian aircraft to CASA.

Part X of the Regulations sets out the conditions of flight and includes requirements for obtaining permission for certain flights and the provision of flight manuals.

Part XIV of the Regulations covers the refusal to grant, and suspension and cancellation of certificates issued under Part IV of the Regulations.

The Civil Aviation Regulations (CARs) 1998 extend the Australian aircraft manufacturing and certification regime to align with international standards by amendment to the current practices and requirements. The foundation for these CARs 1998 has been a CASA intent to harmonise the regulations to the greatest extent possible with the American Federal Aviation Regulations (FARs). These CARs 1998 reflect both the language and style inherent in the presentation of the FARs.

Conditions that may be imposed on certificates and approvals under these regulations relate only to the safety of air navigation and represent a continuance of the existing scheme described in Civil Aviation Regulations 1988. Penalty units prescribed in these regulations for contravention of the regulation remain unchanged to that already applied.

It is not considered that introduction of the CARs 1998 will be detrimental to the safety of air navigation.

Details of the CARs 1998 are attached.

The CARs 1998 commenced on gazettal.

## ATTACHMENT

### **DETAILS OF THE AMENDING REGULATIONS**

#### **CARs 1998 Part 1**

The regulations in this Part include citation and commencement regulations, exemption and administrative regulations, and regulations limiting CASA's liability in relation to limited category aircraft and experimental aircraft.

#### **CARs 1998 Part 21**

The regulations included in CARs 1998 Part 21 contain the procedural requirements for the issue of type certificates, production certificates, airworthiness certificates, experimental certificates, flight permits and the issue of export airworthiness approvals. The CARs 1998 Part 21 also includes the procedural requirements for the approval of materials, parts and appliances.

The CARs 1998 Part 21 comprises the following subparts:

Subpart A: General;

Subpart B: Type Certificates;

Subpart C: Provisional Type Certificates;

Subpart D: Changes to Type Certificates;

Subpart E: Supplemental Type Certificates;

Subpart F: Production Under Type Certificates;

Subpart G: Production Certificates;

Subpart H: Airworthiness Certificates (including experimental certificates, and special flight permits);

Subpart I: Provisional Airworthiness Certificates;

Subpart J: Delegation Option Authorisation Procedures;

Subpart K: Approval of Materials, Parts, Processes, and Appliances;

Subpart L: Export Airworthiness Approvals;

Subpart N: Approval of Engines, Propellers, Materials, Parts, and Appliances for Import

Subpart O: Technical Standard Order Authorisation.

#### **Subpart A: General**

The regulations in this subpart replace in part, the existing provisions of Parts IVB, X, XIV and XVI of the Regulations. This subpart mirrors the intent of FAR 21 subpart A, and contains proposed regulations relating to:

- \* falsification of applications, reports or records;

- \* reporting of failures, malfunctions and defects by holders of certain certificates issued under Part 21; and
- \* aeroplanes or rotorcraft type certificated without a flight manual.

Currently, under Part IVB of the Regulations (CAR 1988), only persons connected with the operation of, or engaged in maintenance of, an Australian aircraft, and who become aware of a defect in the aircraft are required to report the defect. This subpart proposes to extend the requirement to report defects, failures and malfunctions, to holders of type certificates or supplemental type certificates, and persons holding an approval to manufacture aircraft products, parts or articles manufactured by them.

### **Subpart B: Type certificates**

The regulations in this subpart replace in part the regulations contained in Part IV, Division 1 and Division 5 of the Regulations and is based on FAR 21 subpart B.

This subpart contains the regulations relating to:

- \* the issue of type certificates for aircraft, aircraft engines and propellers, and the holders of those certificates;
- \* flight testing as it relates to issue of a type certificate;
- \* the acceptability of foreign National Airworthiness Authorities (NAAs) as "recognised authorities"; and
- \* designation of the applicable airworthiness requirements for aircraft, aircraft engines and propellers.

This subpart extends the type certification scope to include Primary, Intermediate and Restricted category aircraft and retains the current CASA practice of automatic acceptance of type certificated aircraft from a recognised authority.

### **Subpart C: Provisional type certificates**

The regulations in this subpart relate to:

- \* the issue of provisional type certificates, amendments to provisional type certificates and provisional amendments to type certificates; and
- \* regulations governing the holders of those certificates.

There are no corresponding regulations in the existing Australian legislation. This facility will permit a manufacturer wider scope in demonstrating an aircraft pending finalisation of the type certificate - the technical side of the compliance has been demonstrated but the administrative side is still outstanding. For example, the aircraft may be used for training flight crews, market surveys and demonstrating to prospective purchasers.

### **Subpart D: Changes to type certificates**

The regulations in this subpart are essentially the same as, but more explicit than, existing Part IV of the Regulations, with the addition of a requirement on the type certificate holder to institute design changes required either as the result of an Airworthiness Directive (AD) to

correct an unsafe condition or that have been shown by service experience to contribute to the safety of the aircraft, engine or propellers.

### **Subpart E: Supplemental type certificates**

The regulations in this subpart relate to the issue and validation of supplemental type certificates. This subpart mirrors the intent of FAR 21 subpart E. These regulations will strengthen the legal basis for issuing supplemental type certificates. This subpart sets out the procedural requirements for issue of supplemental type certificates - something that is currently lacking in the existing Regulations. In addition, this subpart automatically validates supplemental type certificates or equivalent documents issued by the National Airworthiness Authorities of those countries accepted for the automatic validation of type certificates (United States of America, Canada, United Kingdom, France and The Netherlands).

### **Subpart F: Production under type certificates**

The regulations in this subpart have no parallel in existing Australian legislation. Current legislation and advisory material require a certificate of approval for manufacture to be in place before manufacturing a type certificated aircraft or component. This subpart contains regulations relating to production of aircraft, engines or propellers by a type certificate holder or a licensee without a related production certificate. This subpart mirrors the intent of FAR 21 subpart F.

### **Subpart G: Production certificates**

The regulations in this subpart relate to:

- \* the issue of production certificates for products covered by type certificates or supplemental type certificates; and
- \* the responsibilities of the holders of production certificates.

This subpart mirrors the intent of FAR 21 subpart G and introduces the production certificate into Australian legislation. Current legislation addressing manufacture of aircraft, aircraft components and aircraft materials is contained in CAR 30 of the Regulations. This subpart is more specific in its requirements for the control of manufacturing products covered by either a type certificate or supplemental type certificate. Other manufacturing activities covered by CAR 30 of the Regulations are addressed in subpart K and subpart O.

### **Subpart H: Certificates of airworthiness (including experimental certificates, and special flight permits)**

The regulations in this subpart replace the existing regulations contained in Division 2 of Part IV and various regulations in Division 1 of Part X of the Regulations. This subpart covers:

- \* Standard Certificates of Airworthiness; and
- \* Special Certificates of Airworthiness, including: - Experimental Certificates; and - Special Flight Permits.

The regulations will introduce the experimental aircraft requirements to Australia. Standard airworthiness certificates will be issued for aircraft in the standard aircraft categories, i.e. the normal, utility, acrobatic, commuter and transport categories, and for manned free balloons and special classes of aircraft. Special airworthiness certificates will be issued for aircraft in categories other than the standard categories; i.e. for primary, restricted, intermediate and limited categories, and for experimental aircraft.

## **Subpart 1: Provisional airworthiness certificates**

The regulations in this subpart relate to:

- \* the issue of provisional airworthiness certificates; and
- \* requirements on the holders of those certificates.

This subpart has no existing equivalent regulations. Provisional type and airworthiness certification is normally applied to aircraft being used in operations directly related to a type certification program. Only an aircraft manufacturer, an aircraft engine manufacturer or certificated air carrier may apply for a provisional airworthiness certificate. This subpart is based on subpart I of the FAR 21.

## **Subpart J: Delegation option authorisation procedures**

The regulations in this subpart introduce a form of delegation that allows manufacturers to issue type certificates, airworthiness certificates, airworthiness approvals, conformity certifications and export approvals. This subpart is based on, and subpart J of FAR 21

## **Subpart K: Approval of materials, parts, processes and appliances**

The regulations in this subpart relate to the approval process for certain materials, parts, processes and appliances for replacement or installation in a type certificated aircraft, engine or propeller. This subpart mirrors the intent of FAR 21 subpart K, but includes two additional provisions that allows for the manufacture of parts by an approved maintenance organisation in the course of maintenance. However, these provisions prohibit the sale of those parts except when they are included in the spares holdings of an aircraft at the time of disposal.

## **Subpart L: Export airworthiness approvals**

The regulations in this subpart replace regulation 28 of the Regulations. This subpart is based on subpart L of FAR 21.

## **Subpart N: Approval of engines, propellers, materials, parts and appliances**

The regulations in this subpart relate to the approval of engines, propellers, materials, parts and appliances that are imported into, or manufactured in, Australia for use on Australian manufactured or registered aircraft. This subpart mirrors the intent of FAR 21 subpart N, but includes regulations that recognise that Australia both imports and manufactures the equipment addressed by this subpart.

## **Subpart O: Australian Technical Standard Order authorisation**

The regulations in this subpart have no equivalent Australian regulations. This subpart is based on subpart O of the FAR 21. This subpart harmonises with an internationally recognised system for one method of obtaining approvals of materials, parts, processes and appliances used on civil aircraft.

## **CARs 1998 Part 22**

The regulations in this Part specify the airworthiness standards for sailplanes and powered sailplanes

## **CARs 1998 Part 23**

The regulations in this Part specify the airworthiness standards for normal utility acrobatic and commuter category aeroplanes

#### **CARs 1998 Part 25**

The regulations in this part specify the airworthiness standards in transport category aeroplanes;

#### **CARs 1998 Part 26**

The regulations in this Part specify the airworthiness standards for primary category and intermediate category aircraft

#### **CARs 1998 Part 27**

The regulations in this Part specify the airworthiness standards for normal category rotorcraft

#### **CARs 1998 Part 29**

The regulations in this Part specify the airworthiness standards for transport category rotorcraft

#### **CARs 1998 Part 32**

The regulations in this Part specify the airworthiness standards for engines for very light aeroplanes

#### **CARs 1998 Part 33**

The regulations in this Part specify the airworthiness standards for aircraft engines

#### **CARs 1998 Part 35**

The regulations in this Part specify the airworthiness standards for aircraft propellers.

#### **Schedule to the CARs 1998**

The schedule to the CARs 1998 contains the dictionary defining particular words and expressions used in the proposed regulations.