

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 20.11 Amendment Order (No. 1) 2007

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Under subregulation 252 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*, CASA may give directions for the provision in Australian aircraft of such emergency systems and equipment, and such life-saving equipment, as CASA considers necessary to safeguard the aircraft and persons on board.

Under subregulation 252 (2) of CAR 1988, in giving a direction, CASA must have regard to the type of operation in which the aircraft is to be used.

Under subregulation 5 (1) of CAR 1988, where CASA is empowered to issue certain instruments such as directions, it may do so in a Civil Aviation Order (*CAO*).

Requirements for life rafts

For subregulation 252 (2) of CAR 1988, CASA made *Civil Aviation Order 20.11 (CAO 20.11)* setting out directions for emergency and life-saving equipment and passenger control in emergencies.

Under paragraph 5.2.1 of CAO 20.11, an aircraft flown over water at a distance from land greater than the “*permitted distance*” must carry sufficient life rafts to provide a place for each person on board. Within that distance, the aircraft need not carry life rafts.

Under subparagraph 5.2.1.1 (a) of CAO 20.11, the “*permitted distance*” is defined, for certain 4-engined, 3 turbine-engined and 2 turbine-engined aircraft, as being a distance equal to 120 minutes at normal cruising speed, or 400 miles, whichever is the less. Otherwise, the permitted distance is only 30 minutes at normal cruising speed, or 100 miles, whichever is the less.

Under sub-subparagraph 5.2.1.1 (a) (iii), the 2 turbine-engined aircraft to which the longer time or distance applies may only be an aircraft that is engaged in an extended range operation and to which the performance requirements in Civil Aviation Order 20.7.1B (*CAO 20.7.1B*) apply.

Performance requirements including inoperative engine

CAO 20.7.1B applies to 2 turbine-engined aircraft that have a maximum take-off weight (*MTOW*) in excess of 5 700 kg and a current certificate of airworthiness for the transport, commuter or normal category.

CAO 20.7.1B requires the aircraft to which it applies to be capable of meeting strict performance and weight limitations for take-off, landing, and en route flight, including with the critical engine inoperative.

Extended range operations

Under subsection 2 of CAO 82.0, dealing with the generic conditions imposed on Air Operators' Certificates, an extended range operation for a 2-engined aeroplane means an operation to a distance in excess of 60 minutes flight time from an adequate aerodrome calculated at single engine cruise speed (i.e. with 1 engine inoperative).

Under paragraphs 3B.4 and 3B.7 of CAO 82.0, an extended range operation in a 2 turbine-engined aircraft in which passengers are carried, must be approved in writing by CASA.

Background

With 1 qualification, the rules for the carriage of life rafts in paragraph 5.2 of CAO 20.11 (including the rules that, up to a time or distance limit, permit life rafts not to be carried in certain aircraft that meet performance requirements) are consistent with the standards of the International Civil Aviation Organization (**ICAO**) established under the Chicago Convention.

The qualification is that ICAO does *not* limit what is in effect an exemption from carriage of life rafts in 2 turbine-engined aircraft in excess of 5 700 kg MTOW that meet CAO 20.7.1B performance requirements, only to aircraft engaged in extended range operations.

CASA is moving to harmonise its rules for life rafts with the ICAO standards and this will be reflected in proposed Part 121 of the *Civil Aviation Safety Regulations 1998 (CASR Part 121)* which will replace aspects of the rules in CAO 20.11.

CASR Part 121 will also harmonise the rules relating to extended range operations generally. However, CASR Part 121 is still under development and drafting and finalisation have, therefore, been delayed.

Pending the finalisation of CASR 121, CASA has taken the opportunity to achieve temporary harmonisation in respect of extended range operations by *Civil Aviation Order 82.0 Amendment Order (No. 3) 2007* which, when it takes effect, amends relevant provisions of CAO 82.0 mentioned above.

Consistent with this approach, pending the finalisation of CASR Part 121, CASA has also taken the opportunity to amend CAO 20.11 to temporarily achieve the required harmonisation in respect of rules for carriage of life rafts.

Details of the CAO Amendment

Civil Aviation Order 20.11 Amendment Order (No. 1) 2007 (the **CAO Amendment**) amends sub-subparagraph 5.2.1.1 (a) (iii) effectively by omitting the reference to

“extended range” from the description of the operations in which a 2 turbine-engined aircraft meeting CAO 20.7.1B performance requirements need not carry life rafts up to the permitted distance.

Legislative Instruments Act

Under subregulation 5 (1) of CAR 1988, if CAR 1988 empowers CASA to issue instruments such as directions, CASA may do so in the form of CAOs. Under subsection 98 (5) of the Act, where regulations provide for an instrument to be issued in the form of a CAO, the CAO so made is declared to be a disallowable instrument. Under subparagraph 6 (d) (i) of the *Legislative Instruments Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. The CAO Amendment is, therefore, a legislative instrument. It is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

Consultation on this particular proposal, under section 17 of the LIA, has been undertaken as part of the consultation for proposed CASR Part 121 mentioned above.

Best Practice Regulation

The Office of Best Practice Regulation does not require preparation of a Regulation Impact Statement in this case. A preliminary assessment of business compliance costs in the context of the nature of the CAO Amendment indicates that the amendment removes a condition that previously had to be met by certain operators wishing to take advantage of the safety rules for non-carriage of life rafts. The CAO Amendment will, therefore, have only a low or no cost-impact on business.

Commencement and making

The CAO Amendment takes effect on the day after it is registered. It has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.

[Civil Aviation Order 20.11 Amendment Order (No. 1) 2007]