

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **Direction — Cessna 441 Conquest**

##### **Legislation**

Subsection 9 (1) of the *Civil Aviation Act 1988* (the *Act*) provides that CASA has the function of conducting the safety regulation, in accordance with the Act and the regulations, of civil air operations in Australian territory and of the operation of Australian aircraft outside Australian territory.

Section 98 of the Act empowers the Governor-General to make regulations for the Act and the safety of air navigation.

Under subregulation 11.245 (1) of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**), CASA may issue a direction about any matter affecting the safe navigation and operation, or maintenance, of aircraft.

Under subregulation 11.245 (2) of CASR 1998, a direction may only be issued if it is reasonably necessary for the safe navigation and operation, or maintenance, of aircraft, is not inconsistent with the Act and is for the purposes of CASA's functions.

Under regulation 11.250 of CASR 1998, in no circumstances may a direction be in force for longer than 1 year. A direction ceases to be in force on the day specified in it or, if no day is specified, 1 year after it commences.

Under subregulation 11.260 (2) of CASR 1998, the power to issue a direction under regulation 11.245 may only be exercised by the Director of CASA personally.

##### **Background**

The Cessna Aircraft Corporation (the *manufacturer*) has recently issued a Supplemental Inspection Document for the Cessna 441 Conquest which recommends that the aircraft be retired when it has accumulated 22 500 flight hours because continued airworthiness can no longer be assured due to the aircraft's structural limitations at this level of usage. The manufacturer has not developed a remedial maintenance program.

CASA considers that, in view of the manufacturer's recommendation, these aircraft should be immediately grounded in the interests of the safety of air navigation.

There are some 34 Cessna 441 Conquest aircraft on the Australian Civil Aircraft Register. CASA has alerted the operators to the problem and notified them that CASA's only safe course of action in the circumstances is to ground the relevant aircraft if they are at, or have exceeded, the flight hour threshold of 22 500 hours.

##### **Direction**

CASA has, therefore, issued a direction to each operator, and each pilot, of a Cessna 441 Conquest that has 22 500 hours or more time-in-service and is an Australian aircraft or a foreign registered aircraft in Australian territory.

The direction is to the effect that the aircraft may not be flown at any time or for any purpose while the direction is in force unless, being satisfied that it is safe to do so, the Director approves in writing the details of the flight, including the time, route, purpose and risk mitigators. For

example, if it were safe to do so, the Director could approve a flight to enable an aircraft to return to base from its current location.

Directions under regulation 11.245 of CASR 1998 are temporary in nature. The direction will be in force for 1 year. During that time CASA will be consulting the manufacturer, the Federal Aviation Administration of the United States and the aircraft operators to determine the safest future course of action in relation to these aircraft.

### **Legislative Instruments Act 2003 (LIA)**

Under subsection 98 (5A) of the Act, regulations may empower CASA to issue a direction in relation to the safe navigation and operation, or maintenance, of aircraft. Under subsection 98 (5B) of the Act, such a direction is a legislative instrument under the LIA. The direction is, therefore, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

### **Consultation**

Due to the need for immediate action in the interests of safety, consultation under section 17 of the LIA has not been carried out.

### **Commencement and making**

The direction commences on 19 September 2008. It stops having effect at the end of 18 September 2009.

The direction has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.

[Instrument number CASA 496/08]