

Explanatory Statement

Civil Aviation Regulations 1988

Exemption — from standard take-off minima

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 257 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*, CASA may determine the meteorological minima, that is the visibility requirements, for landing or take-off at an aerodrome. Under subregulation 257 (2), the determination must be published in AIP or NOTAMS. Under subregulation 257 (3), it is an offence for an aircraft to take off if an element of the meteorological minima for that operation is less than that determined for the aircraft at the aerodrome.

The determination of standard meteorological minima for take-off and landing was made in instrument CASA 70/11. The minima are also set out in AIP En Route 1.5, sections 4.3 and 4.4. If conditions are met, the minimum visibility for take-off inside or outside Australian territory is 550 metres. If conditions are met, the minimum visibility for landing inside or outside Australian territory is 800 metres, or 550 metres runway visual range. An exemption would be required to operate with lower minimum visibility (low visibility operations or LVO).

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998 (CASR 1998)* allows CASA to grant an exemption from compliance with a provision of CAR 1988, CASR 1998 or a Civil Aviation Order in relation to a matter mentioned in subsection 98 (5A) of the Act. Subregulation 11.205 (1) provides that an exemption may be made subject to any conditions necessary in the interests of the safety of air navigation. Under these provisions, it is possible to relax certain aviation rules and provide conditional alternatives if it is safe to do so.

Delta Air Lines Inc of Delaware Newcastle, USA

Delta Air Lines Inc. of Delaware Newcastle, United States of America (the *operator*), is a highly experienced US airline operator which has applied for approval to conduct low visibility take-offs in Australia, initially from Sydney, using its B777 type aircraft (the *aircraft*).

CASA has assessed the operator's operations manuals and instructor guides covering all aspects of pilot training and operating procedures for low visibility take-offs and found them satisfactory. The operator already holds a US FAA Operational Specification C078, approving low visibility take-off operations in the aircraft with runway visual range of at least 150 metres.

Instrument and conditions

The instrument, therefore, exempts the aircraft operated by the operator from the minimum take-off visibility requirements of instrument CASA 70/11. To ensure the safety of air navigation, the exemption is subject to certain performance conditions and limitations.

Legislative Instruments Act

The instrument is made under the regulations in relation to matters affecting the safe operation, or the maintenance, of aircraft. It is expressed to apply in relation to a class

of aircraft. Therefore, under subsection 98 (5AA) of the Act, the instrument is a legislative instrument.

The instrument is, therefore, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instruments Act 2003* (the **LIA**).

Consultation

Consultation under section 17 of the LIA has not been undertaken in this case. The instrument is required by the operator to enable low visibility take-offs at Sydney consistent with the standards and requirements specified in the instrument which are not considered prejudicial to the interests of safety. The instrument is similar to other instruments issued to various operators.

The instrument comes into effect on 1 September 2011. It stops having effect at the end of 31 August 2014.

[Instrument number CASA EX101/11]