Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Order 20.7.1B Amendment Instrument 2014 (No. 1)

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

Subregulation 235 (2) of the *Civil Aviation Regulations 1988* (***CAR 1988***) authorises CASA to issue directions setting out the manner of determining a maximum weight for an aeroplane that its gross weight must not exceed at take-off or landing.

Subregulation 5 (1) of CAR 1988 provides that where the regulations authorise CASA to issue any directions, it may do so in the form of Civil Aviation Orders (the ***CAOs***). For aeroplanes with a maximum take-off weight exceeding 5 700 kg, CASA has issued such directions in Civil Aviation Order 20.7.1B (***CAO 20.7.1.B***). The Amendment Instrument modifies CAO 20.7.1B as follows.

Explanation of changes
The amendments recognise the use of new technology and manufacturer's data. They also recognise and define what in some cases is existing practice. The coverage of CAO 20.7.1B is extended to cover light jet-engined aeroplanes driven by 2 or more engines, with maximum take-off weight in excess of 2 722 kg. These aircraft were previously covered by CAO 20.7.4 which deals with light aircraft, but the performance limitations specified in that CAO are not compatible with the certification performance scheduled for these light jet-engined aeroplanes.

The applicability provision has been changed to include jet-engined aeroplanes with maximum take-off weight in excess of 2 722 kg and to make it clear that it only applies to aeroplanes driven by 2 or more engines.

A Note has been added to the definition of ***take-off run available*** to state that account must be taken of any part of the take-off run available that is lost due to the alignment of the aeroplane before take-off. This recognises the international accepted practice which takes into account the length of the aeroplane and the distance used in taxiing onto the runway and lining up before setting thrust for take-off.

Inclusion of reference to *actual landing distance* in new section 11
Pilots of jet-engine aeroplanes that have *actual landing distance* information can make in-flight calculations of landing distance required using information with a safety factor of 1.15. Actual landing distance information is intended to show landing performance that can realistically be achieved by flight crews in commercial operations as distinct from landing performance demonstrated by test pilots during test flights in aircraft undergoing certification procedures. The actual landing distance is a realistic representation of operational achievable landing performance. As a result, the safety factor applicable to actual landing distance information, if provided by the manufacturer, is 1.15 for the in-flight calculation of landing distance required as opposed to the pre-flight planning landing distance safety factor of 1.67 applied for the in-flight case.

Required Navigation Performance
Paragraph 12.1 has been amended to recognise the improved navigational capabilities of aircraft following required navigation performance (***RNP***) procedures. Aeroplanes capable of flying take-off flight paths designed to RNP criteria are authorised to take advantage of reduced lateral obstacle take-off clearance at increased bank angles up to 25°. For the same reason subparagraph 12.1.1 (b) has been amended to allow a reduced lateral take-off area for aircraft meeting RNP requirements. Paragraph 12A.5 has been amended for consistency with the new subparagraph 12.1.1 (b).

These amendments facilitate the incorporation of new technology and provide for relaxation of current performance requirements while maintaining safety.

Legislative Instruments Act
Under subsection 98 (5) of the Act, where the regulations provide for certain instruments to be issued in the form of CAOs, such CAOs are declared to be disallowable instruments. 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 Amendment Instrument is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation
Consultation under section 17 of the LIA has been undertaken through discussions with the relevant industry sectors and Standards Consultative Committee forums.

Details of the proposed amendments were published by CASA on the Internet as Project OS 13/03 and comment was invited.

Response was favourable, as the proposed changes recognised practices that were already accepted by the industry, as with landing distance requirements and the loss of part of a take-off run due to aeroplane alignment. In other cases, they clarified uncertainty as to an operator's or pilot's obligations, for instance, with performance requirements for small jet aeroplanes with an MTOW of more than 2 722 kg being changed from those in CAO 20.7.4 to those in CAO 20.7.1B. This change is acknowledged as more consistent with the aircraft flight manuals and the higher performance of the aircraft. The reduction of the take-off area in RNP operations and increases in the permitted bank angle, due to improvements in navigation equipment, will lead to reduced obstacles during take-off. In the last case, previous requirements have been retained in the CAO for use by operators who do not have the required navigation performance for the new procedures.

Statement of Compatibility with Human Rights
A Statement of Compatibility with Human Rights is at Attachment 1.

Office of Best Practice Regulation (*OBPR*)
OBPR assessed that the proposed amendments will have minor impacts and no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 14402).

These provisions are enabling legislative changes that facilitate the incorporation of the accountability of new technology, and provide for an easing to the current performance requirements while maintaining safety.

Making and commencement

The instrument has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument commences on the day after registration.

[Civil Aviation Order 20.7.1B Amendment Instrument 2014 (No. 1)]

Attachment 1

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011

Civil Aviation Order 20.7.1B Amendment Instrument 2014 (No. 1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument
This legislative instrument amends operational requirements in the Order to recognise current accepted practices and technological advances.

Human rights implications
This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion
This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority