

Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Order 20.7.4 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 not exceeding 2 722 kg, CASA has issued such directions in Civil Aviation Order (*CAO*) 20.7.4. The Amendment Instrument modifies CAO 20.7.4 as follows.

Explanation of changes

The amendments clarify the coverage of CAO 20.7.4. The Application subsection has been changed to specifically include jet-engined aeroplanes with a maximum take-off weight of not more than 2 722 kg that are engaged in the operations described in the new Application subsection.

As in the present Application subsection, CASA may determine that CAO 20.7.1 or 20.7.2 apply to an aircraft that would otherwise be subject to CAO 20.7.4, if it considers that the characteristics of the aeroplane require it to do so.

The amendments also update certain out-of-date references.

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 clarified uncertainty. The removal of small jet aeroplanes with an MTOW of more than 2 722 kg from the ambit of CAO 20.7.4 to CAO 20.7.1B was acknowledged as more consistent with the aircraft flight manuals and the higher performance of the aircraft.

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).

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 20.7.4 Amendment Instrument 2014 (No. 1)]

Statement of Compatibility with Human Rights

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

Civil Aviation Order 20.7.4 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

The legislative instrument clarifies the application of the Order to light jet aircraft with a maximum take-off weight not more than 2 272 kg in order to eliminate previous uncertainties as to what standards applied to those aircraft.

It also updates certain references.

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