

## **Explanatory Statement**

### **Civil Aviation Regulations 1988**

#### **Direction — stop bars**

##### **Purpose**

The instrument will replace an existing instrument that directs aircraft taxiing on the manoeuvring area of an aerodrome to stop and hold at all lighted stop bars and to proceed further only when the lights are switched off. The new instrument adds a mechanism for the pilot to pass an illuminated stop bar that remains illuminated due to a malfunction in accordance with contingency measures implemented by Airservices Australia (*AA*) as an air traffic control (*ATC*) service provider.

##### **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. Relevantly, the Governor-General has made the *Civil Aviation Safety Regulations 1998* (*CASR*) and *Civil Aviation Regulations 1988* (*CAR*).

Under subregulation 99AA (5) of CAR, CASA may give directions or instructions about the use of a class of airspace, a controlled aerodrome, a control area or a control zone by an aircraft engaged in either, or both, V.F.R. and I.F.R. flights.

Under subsection 33 (3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

##### **Background**

Stop bar lighting is prescribed in International Civil Aviation Organization (*ICAO*) Annex 14 for low-visibility operations. The installation of stop bars, together with other new facilities, allows landings and take-offs to take place in low-visibility conditions where extensive delays would otherwise occur. In addition to facilitating low-visibility operations, stop bars are considered a valuable defence against aircraft inadvertently entering a runway without ATC clearance.

Stop bar operations require no special equipment in aircraft but merely require the pilot of an aircraft to stop and hold at an illuminated stop bar and to only proceed when ATC gives the appropriate verbal instruction and switches off the stop bar.

There are no regulations requiring compliance with stop bar operations in Australia. Instrument CASA 466/07 was made in 2007 to ensure that aircraft operating in Australia comply with the ICAO standard by directing pilots not to pass illuminated stop bars.

From time to time, however, stop bars malfunction and in this situation are designed to remain in the illuminated position to avoid aircraft entering runways without clearance. Where a malfunction persists for a significant period, instrument CASA 466/07 required ATC to manage aerodrome operations without use of the holding point at which the malfunctioning stop bar was located.

AA, as an ATC service provider, has developed contingency measures that enable its air traffic controllers to direct aircraft to pass an illuminated stop bar without compromising safety.

### **Instrument**

In accordance with subsection 33 (3) of the *Acts Interpretation Act 1901*, the instrument repeals instrument CASA 466/07. For subregulation 99AA (5) of CAR, the instrument restates the direction not to pass an illuminated stop bar at a controlled aerodrome and also adds a direction allowing a pilot to pass an illuminated stop bar in the circumstances mentioned in the instrument.

To pass an illuminated stop bar, a pilot must be advised by ATC that ATS stop bar contingency measures are in effect in relation to the stop bar. “ATS stop bar contingency measures” is not defined and is intended to be a phrase for effective communication between ATC and the pilot. However, the direction does not direct that precise phrase to be used.

The pilot must also be instructed by ATC to pass the illuminated stop bar, and the ATC instruction must identify the particular stop bar by reference to the aerodrome holding point at which the stop bar is located.

Before any use of contingency measures under this instrument, CASA will require AA to incorporate the ATS stop bar contingency measures into its operations manual. AA must comply with its operations manual under regulation 172.080 of CASR. CASA monitors AA’s operations manual as part of its safety surveillance program.

CASA is satisfied that the provision for contingency measures is appropriate to safely enable efficient operations at an aerodrome, will reduce workload on pilots and air traffic controllers when a malfunctioning stop bar would otherwise preclude use of an aerodrome holding point, and is consistent with international practice.

### **Legislation Act 2003 (the LA)**

Paragraph 98 (5A) (a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation or the maintenance of aircraft. Additionally, paragraph 98 (5AA) (a) of the Act provides that an instrument issued under paragraph 98 (5A) (a) is a legislative instrument for the LA if the instrument is expressed to apply in relation to a class of persons.

The instrument gives directions to a class of persons, being pilots of aircraft. The instrument is, therefore, a legislative instrument and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

### **Consultation**

The direction not to pass a stop bar that is illuminated reflects the ICAO standard in Annex 2 of the Convention on International Civil Aviation and in the legislative requirements of most countries.

CASA conducted consultation under section 17 of the LA in relation to the original direction not to pass a stop bar that is illuminated (CASA 466/07). Melbourne Airport consulted with local airport users and the broader aviation community in the Victoria/Tasmania region via the Regional Airspace and Procedures Advisory Committee. AA also notified the aviation industry via an Aeronautical Information Publication (*AIP*)

Supplement and covering letter. The requirement to stop and hold short of a lit stop bar has been incorporated in the AIP since 2007.

The direction replicates the direction in CASA 466/07 and adds measures in which an illuminated stop bar may be passed if the stop bar is malfunctioning. CASA has consulted with AA in relation to the instrument and the contingency measures that AA will implement in support of the instrument. The aviation industry will be notified about the new stop bar arrangements via an AIP Supplement.

In these circumstances, CASA is satisfied that no further consultation is appropriate or reasonably practicable for this instrument for section 17 of the LA.

#### **Office of Best Practice Regulation (OBPR)**

A Regulation Impact Statement (*RIS*) is not required in this case, as the direction is covered by a standing agreement between CASA and OBPR under which a RIS is not required for directions (OBPR id: 14507).

#### **Statement of Compatibility with Human Rights**

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights as it does not raise any human rights issues.

#### **Making and commencement**

The direction has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of CASR.

The instrument comes into effect on 15 August 2017 and does not state a repeal date. The direction will endure until repealed by separate instrument or other operation of law.

[Instrument number CASA 70/17]

## Statement of Compatibility with Human Rights

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

### **Direction — stop bars**

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 instrument will replace an existing instrument that directs aircraft taxiing on the manoeuvring area of an aerodrome to stop and hold at all lighted stop bars and to proceed further only when the lights are switched off. The new instrument adds a mechanism for the pilot to pass a stop bar that remains illuminated due to a malfunction in accordance with contingency measures implemented by Airservices Australia as an air traffic control service provider.

### **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**