

Explanatory Statement

Civil Aviation Safety Regulations 1998

AD/A320/199 Amdt 2 — State of Design Airworthiness Directives

Legislation

Under section 98 of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the Convention on International Civil Aviation relating to safety, amongst other things. Under regulation 39.001 of the *Civil Aviation Safety Regulations 1998* (**CASR**), the Civil Aviation Safety Authority (**CASA**) may issue an airworthiness directive (**AD**) for a kind of aircraft or aeronautical product. Under subsections 98 (5B) and (5BA) of the Act, an AD is a legislative instrument unless it is expressed to apply in relation to a particular person, a particular aircraft or a particular aeronautical product.

Subsection 98 (5D) of the Act provides that a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

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.

Under Annex 8 to the Convention on International Civil Aviation, the State of Design has overall responsibility for continuing airworthiness of an aircraft type, and must provide any information necessary to ensure the continuing airworthiness of a type to appropriate States of Registry. ADs (and their equivalents) are the most common form of continuing airworthiness information, and are issued by most International Civil Aviation Organization Contracting States.

The State of Registry of an individual aircraft is responsible for its continuing airworthiness. Under Annex 8, the State of Registry must develop or adopt requirements to ensure the continuing airworthiness of aircraft. When a foreign State of Design issued an AD before 1 October 2009 for a type of aircraft on the Australian Register, CASA, as Australia's national airworthiness authority, must assess that information and, if appropriate, issue an Australian AD to mandate the requirements of the foreign State of Design.

CASA issued AD/A320/199 in 2007 to mandate the requirements of several French Directorate General of Civil Aviation (**DGAC**) ADs requiring one-time compliance actions to correct various unsafe conditions for Airbus A319 series aeroplanes. CASA subsequently issued AD/A320/199 Amdt 1 in 2010 to extend the applicability of the AD to include A320 and A321 series aeroplanes and incorporate an additional eight ADs requiring compliance. One of the ADs requiring compliance was French DGAC

AD 1996-293(B)R1 which addressed an unsafe condition relating to Hamilton Sundstrand APS 3200 auxiliary power units (APU). At the time of issue of this DGAC AD 1996-293(B)R1, the United States of America Federal Aviation Administration (*FAA*), which is the State of Design for these APUs, had not yet taken corrective action to address the unsafe condition. The FAA subsequently issued AD 97-03-06 to correct the unsafe condition. As a result of a request from industry, CASA has issued AD/A320/199 Amdt 2 to replace the reference to DGAC AD 1996-293(B)R1 with a reference to FAA AD 97-03-06 as the FAA is the State of Design for the affected APUs. The AD includes a statement that actions previously carried out in accordance with the DGAC AD constitute compliance with equivalent actions required by the FAA AD to ensure no disadvantage for operators who have already complied with the French AD which requires the same corrective action. This AD repeals and replaces the previous AD on this subject.

Documents Incorporated by Reference

The AD incorporates by reference FAA AD 97-03-06, as in force from time to time, which is freely available on the FAA website at the following internet address:

https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgad.nsf/0/17E219BBC64B019086256A40005AE13C?OpenDocument&Highlight=97-03-06

The AD also incorporates by reference various French DGAC ADs, as in force from time to time, which are freely available by carrying out a search by AD number on the EASA website at the following website address:

<https://ad.easa.europa.eu/>

Consultation

This AD is being made at the request of industry. As this change from the previous AD is of a minor or machinery nature and does not substantially alter existing arrangements apart from replacing reference to a French DGAC AD with reference to an equivalent FAA AD requiring the same corrective actions, while providing credit for actions previously taken in accordance with the French DGAC AD, it is CASA's view that it was not necessary or appropriate to undertake any further consultation under section 17 of the *Legislation Act 2003*.

Regulation Impact Statement

A Regulation Impact Statement (**RIS**) is not required because ADs are covered by a standing agreement between CASA and the Office of Best Practice Regulation under which a RIS is not required for ADs (OBPR id. 14507).

Statement of Compatibility with Human Rights

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

Making and commencement

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of CASR and subsection 94 (1) of the Act.

The instrument commences on 31 March 2021.

[Instrument number AD/A320/199 Amdt 2]

Statement of Compatibility with Human Rights

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

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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

CASA issued AD/A320/199 in 2007 to mandate the requirements of several French Directorate General of Civil Aviation (**DGAC**) ADs requiring one-time compliance actions to correct various unsafe conditions for Airbus A319 series aeroplanes. CASA subsequently issued AD/A320/199 Amdt 1 in 2010 to extend the applicability of the AD to include A320 and A321 series aeroplanes and incorporate an additional eight ADs requiring compliance. One of the ADs requiring compliance was French DGAC AD 1996-293(B)R1 which addressed an unsafe condition relating to Hamilton Sundstrand APS 3200 auxiliary power units (APU). At the time of issue of this DGAC AD 1996-293(B)R1, the United States of America Federal Aviation Administration (**FAA**), which is the State of Design for these APUs, had not yet taken corrective action to address the unsafe condition. The FAA subsequently issued AD 97-03-06 to correct the unsafe condition. As a result of a request from industry, CASA has issued AD/A320/199 Amdt 2 to replace reference to DGAC AD 1996-293(B)R1 with reference to FAA AD 97-03-06 as the FAA is the State of Design for the affected APUs. The AD includes a statement that actions previously carried out in accordance with the DGAC AD constitute compliance with equivalent actions required by the FAA AD to ensure no disadvantage for operators who have already complied with the French AD which requires the same corrective action.

The primary purpose of this legislative instrument is to reference the correct State of Design AD.

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