Explanatory Statement

Civil Aviation Safety Regulations 1998

AD/CESSNA 210/16 Amdt 1 — Exhaust Manifold Heat Exchanger Inspection

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. AD/CESSNA 210/16 Amdt 1 applies to the Textron Aviation (Cessna) 210 Series aircraft.

The United States of America Federal Aviation Administration **(*FAA*)** issued AD 71-09-07 **(*FAA AD*)** affecting Textron Aviation (Cessna) 206, 207 and 210 series aeroplanes in 1971. CASA subsequently issued AD/CESSNA 210/16 to mandate the requirements of FAA AD 71-09-07 in 1971. The FAA then issued AD 71-09-07R1 to

revise the applicability of the FAA AD in 1986. The United States of America is the State of Design for this aircraft type. As a result of a request from industry, CASA has issued AD/CESSNA 210/16 Amdt 1 to update the applicability statement to align with FAA AD 71-09-07R1 which more accurately reflects the affected aircraft population, and to make minor editorial changes throughout the text. This AD repeals and replaces the previous AD on this subject.

Documents Incorporated by Reference

Under subsection 14 (2) of the *Legislation Act 2003* (the ***LA***), unless the contrary intention appears, a legislative instrument may not incorporate any matter contained in an instrument or other writing as existing from time to time. Subsection 98 (5D) of the Act provides that, despite section 14 of the LA, 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.

Textron Aviation (Cessna) Service Letter No. SE71-11 dated 16 April 1971 which provides instructions for the inspection and testing of the Cessna 210 exhaust manifold heat exchanger, is incorporated by reference in the AD. For subsection 98 (5D) of the Act, the technical document is incorporated as it exists on the date of commencement of this AD. The technical document is not freely available.

The technical document incorporated into this AD, which is not freely available, is a proprietary, copyright, fee-for-service document, prepared on a commercial basis. It can be purchased from the aircraft or component manufacturer by subscription.

As a matter of practicality, it would not be possible for aircraft operators to operate aircraft in Australian and foreign airspace without having their own subscription access to relevant technical documents of the aircraft or engine manufacturer. Nevertheless, as a current subscriber for the documents, CASA will make the relevant sections of the incorporated technical document available, in its Canberra or regional offices, by arrangement, and, in keeping with the proprietary nature of the documents, for viewing only, to any aircraft operator who is affected by the instrument, or to any interested person.

The FAA AD is freely available from the FAA's website at the following internet address:

https://drs.faa.gov/browse/excelExternalWindow/592E0C9F8A6DD2DD86256A340062E13C.0001

Consultation

This AD is being made at the request of industry, in particular an operator of the Textron Aviation (Cessna) 210 series aircraft. As this AD amendment is of a minor or machinery nature and does not substantially alter existing arrangements apart from updating the applicability statement to align with FAA AD 71-09-07R1 which more accurately reflects the affected aircraft population and making minor editorial changes throughout the text, 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*.

Sector risk, economic and cost impact

Subsection 9A (1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration. Subsection 9A (3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9 (1) (c), CASA must:

(a) consider the economic and cost impact on individuals, businesses and the community of the standards; and

(b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The economic and cost impact of the instrument has been determined by:

(a) the identification of individuals and businesses affected by the instrument;

(b) consideration of how the requirements to be imposed on individuals and businesses under the instrument will be different compared to existing requirements;

(c) a valuation of the impact, in terms of direct costs on individuals and businesses affected by the instrument to comply with the different requirements. This valuation is consistent with the principles of best practice regulation of the Australian Government.

CASA has assessed that the economic and cost impact of the instrument is not significant. The requirements of the instrument apply to holders of certificates of registration of relevant aircraft. The instrument will reduce cost to industry by reducing the number of affected aircraft.

Impact on categories of operations

The instrument is likely to have a beneficial effect on operations conducted by the relevant aircraft because it will reduce the maintenance burden for some aircraft owners.

Impact on regional and remote communities

The instrument will not have a negative impact on regional and remote communities and may reduce the maintenance costs of individuals and businesses operating Textron aircraft in those communities.

Office of Impact Analysis (OLA)

An Impact Analysis (***IA***) is not required because ADs are covered by a standing agreement between CASA and OIA under which an IA is not required for ADs (OIA 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.

As an instrument relating to aviation safety made under CASR, Part 4 of Chapter 3 of the *Legislation Act 2003* (sunsetting of legislative instruments) does not apply to this instrument (item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). The instrument requires that the action set out in the instrument, that relates to aircraft or aeronautical products, be taken to correct an unsafe condition. As such, the instrument is intended to have enduring operation and it would not be appropriate for it to be subject to sunsetting.

The instrument commences on 7 June 2024.

[Instrument number AD/CESSNA 210/16 Amdt 1]

Attachment 1

Statement of Compatibility with Human Rights

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

AD/CESSNA 210/16 Amdt 1 – Exhaust Manifold Heat Exchanger Inspection

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 United States of America Federal Aviation Administration **(*FAA*)** issued AD 71-09-07 **(*FAA AD*)** affecting Textron Aviation (Cessna) 206, 207 and 210 series aeroplanes in 1971. The Civil Aviation Safety Authority **(*CASA*)** subsequently issued AD/CESSNA 210/16 to mandate the requirements of FAA AD 71-09-07 in 1971. The FAA then issued AD 71-09-07R1 to revise the applicability of the AD in 1986. The United States of America is the State of Design for this aircraft type. As a result of a request from industry, CASA has repealed and replaced AD/CESSNA 210/16 to update the applicability statement to align with FAA AD 71-09-07R1 which more accurately reflects the affected aircraft population, and to make minor editorial changes throughout the text.

The primary purpose of this legislative instrument is to update the applicability statement to align with FAA AD 71-09-07R1 which more accurately reflects the affected aircraft population, thereby reducing the number of affected aircraft.

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