

Civil Aviation Amendment Regulations 2002 (No. 8) 2002 No. 320

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 320

Issued by the authority of the Minister for Transport and Regional Services

Civil Aviation Act 1988

Civil Aviation Amendment Regulations 2002 (No. 8)

Section 98 of the *Civil Aviation Act 1988* (the Act) provides that the Governor-General may make regulations for the purposes of the Act and in relation to the safety of air navigation.

Part 21 of the Civil Aviation Regulations 1998 (the Principal Regulations) deals with the certification and airworthiness requirements for aircraft and parts.

The Regulations rectify a number of drafting anomalies identified in Part 21 of the Principal Regulations and make consequential changes.

Regulation 21.1B of the Principal Regulations currently limits the application of the whole of Part 21 to certain categories of air navigation. The provision omits from the scope of Part 21 all air navigation conducted by individuals entirely within one State. This has an unintended effect that some classes of intra-State operations, such as sport aviation and aerial agricultural operations could effectively be excluded from important airworthiness requirements such as type certificates and certificates of airworthiness. It was not intended for Part 21 to be limited in this way. The Regulations repeal regulation 21.1B. The effect of the repeal ensures that Part 21 applies to all civil air navigation within Australia as originally intended.

There has been no provision in Part 21 of the Principal Regulations for CASA to issue a type certificate for imported aircraft engines or propellers that are not type certificated by the national aviation authority (NAA) of a recognised country (i.e. Canada, Germany, New Zealand, France, the Netherlands, the United Kingdom or the United States of America). While such aircraft engines or propellers can be approved under regulation 21.500A, they cannot be issued with a type certificate. Existing airworthiness standards require an aircraft engine or propeller to have a type certificate in order to enable the engine or propeller to be installed in a type-certificated aircraft. Therefore, an aircraft engine or propeller approved under regulation 21.500A cannot be used in a type-certificated aircraft. The Regulations amend regulation 21.29 to give CASA the power to issue a type certificate for these aircraft engines or propellers. The Regulations also amend regulation 21.31 to define what elements constitute the type design for aircraft engines or propellers type certificated under regulation 21.29.

Regulation 21.183 of the Principal Regulations deals with the issue of standard certificates of airworthiness. Subregulation 21.183(6) includes special requirements relating to passenger emergency exit requirements for transport category aeroplanes and was modelled on a similar provision in section 21.183 of the Federal Aviation Regulations. The provision was found to be redundant and has been the source of confusion in the industry. The provision is not considered necessary in Australia because the same requirement is currently included in an Australian general Airworthiness Directive and will eventually be included in a new Part 90 of the Principal Regulations, ("Additional Airworthiness Requirements"). The Regulations repeal sub-regulation 21.183(6) to remove confusion.

As the result of a recent amendment to section 20AA of the *Civil Aviation Act 1988*, the references to subsections 20AA(3) and 20AA(4) of the Act in subregulations 21.197(4) and

21.197(5) of the Principal Regulations are no longer correct. The Regulations amend these subregulations to make the correct reference to the Act.

The Office of Regulation Review (ORR) has determined the amendments are mechanical and minor in nature, do not have a direct or significant impact on business and do not restrict competition, and therefore a Regulation Impact Statement is not required.

Details of the Regulations are attached.

The Regulations commenced on gazettal.

ATTACHMENT

Civil Aviation Amendment Regulations 2002 (No. 8)

DETAILS OF THE REGULATIONS

Regulation 1 - Name of Regulations

Regulation 1 names the amending regulations as the *Civil Aviation Amendment Regulations 2002 (No. 8)*.

Regulation 2 - Commencement

Regulation 2 provides that the Regulations commenced on gazettal.

Regulation 3 - Amendment of *Civil Aviation Regulations 1998*

Regulation 3 provides that Schedule 1 amends the *Civil Aviation Regulations 1998*.

Schedule 1 Amendments (regulation 3)

Item 1 - Regulation 21.0

Item 1 omits regulation 21.1B - Application of Part, from the make-up of Part 21.

Item 2 - Regulation 21.0

Item 2 replaces the heading of regulation 21.29 'Type certificate for imported aircraft not type certificated by NAA of recognised country' in the make-up of Part 21 with the new heading 'Type certificate for imported aircraft, aircraft engines or propellers not type certificated by NAA of recognised country' which is introduced by Item 4. This amendment is consequential upon the amendment in item 5.

Item 3 - Regulation 21.1B

Item 3 omits regulation 21.1B to correct the application of Part 21 with respect to air navigation categories.

Item 4 - Regulation 21.29, heading

Item 4 adds the words 'aircraft engines or propellers' to the heading of regulation 21.29. This amendment is consequential upon the amendment in item 5.

Item 5 - Subregulation 21.29(1)

Item 5 adds the words 'aircraft engine or propeller' to subregulation 21.29(1) to give CASA the power to issue a type certificate for imported aircraft engines or propellers not type certificated by the NAA of a recognised country.

Item 5 also adds the word 'foreign' before 'type certificate issued by the NAA of a recognised country' to clarify that the certificate is a foreign type certificate as defined in regulation 21.41.

Item 6 - Paragraph 21.29 (1) (b)

Item 6 adds the words 'aircraft engines or propellers' to paragraph 21.29 (1) (b). This amendment is consequential upon the amendment in item 5.

Item 7 - Subregulations 21.29 (2) and (4)

Item 7 adds the words 'aircraft engine or propeller' to subregulations 21.29 (2) and 21.29 (4). This amendment is consequential upon the amendment in item 5.

Item 8 - Subregulation 21.31 (1)

Item 8 adds the words 'aircraft engine or propeller' to subregulation 21.31(1) as aircraft engines or propellers now can be type certificated under regulation 21.29. This amendment is consequential upon the amendment in item 5.

Item 9 - Subregulation 21.31 (2)

Item 9 adds the words 'aircraft engine or propeller' to subregulations 21.31(2) to give the meaning of type design for an aircraft engine or propeller type certificated under regulation 21.29. This amendment is consequential upon the amendment in item 5.

Item 10 - Paragraph 21.31 (2) (a)

Item 10 omits the words 'accepted by CASA or an authorised person' after 'drawings and specifications' as these words are superfluous.

Item 11 - Paragraph 21.31 (2) (a)

Item 11 adds the words 'aircraft engine or propeller' to paragraph 21.31 (2) (a). This amendment is consequential upon the amendment in item 5.

Item 12 - Paragraph 21.31 (2) (b)

Item 12 adds the words 'aircraft engine or propeller' to paragraph 21.31 (2) (b). This amendment is consequential upon the amendment in item 5.

Item 13 - Paragraph 21.31 (2) (c)

Item 13 adds Parts 32, 33 and 35 as the airworthiness standards for aircraft engines and propellers type certificated under regulation 21.29. This amendment is consequential upon the amendment in item 5.

Item 14 - Paragraph 21.31 (2) (d)

Item 14 adds the words 'aircraft engine or propeller' to paragraph 21.31 (2) (d). This amendment is consequential upon the amendment in item 5.

Item 14 also adds Parts 32, 33 and 35 as the airworthiness standards for aircraft engines and propellers type certificated under regulation 21.29. This amendment is also consequential upon the amendment in item 5.

Item 15 - Paragraph 21.31 (2) (f)

Item 15 adds the words 'aircraft engines or propellers' to paragraph 21.31 (2) (f). This amendment is consequential upon the amendment in item 5.

Item 16 - Subregulation 21.183 (5), at the foot

Item 16 inserts a note at the end regulation 21.183, 'Source FARs section 21.183 modified'. This reference previously appeared at the end of subregulation 183(6), which is being repealed by Item 17.

Item 17 - Subregulation 21.183 (6), including the note

Item 17 omits subregulation 21.183(6) as it is surplus and the cause of confusion.

Item 18 - Subregulation 21.197 (4)

Item 18 changes the obsolete reference to the Act from 'subsection 20AA (3)' to 'paragraph 20AA (3) (a)'.

Item 19 - Subregulation 21.197 (5)

Item 19 changes the obsolete reference to the Act from 'subsection 20AA (4)' to 'paragraph 20AA (3) (b)'.