EXPLANATORY STATEMENT

CIVIL AVIATION ACT 1988

CIVIL AVIATION REGULATIONS 1988
SUBREGULATION 208 (1)

DIRECTION RELATING TO THE CARRIAGE OF CABIN ATTENDANTS IN BALLOONS

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

Under subregulation 208 (1) of the Civil Aviation Regulations 1988 (CAR 1988), CASA may give directions as to the operating crew required to be carried on an aircraft. Paragraph 6.1 of section 20.16.3 of the Civil Aviation Orders (CAOs) provides, among other things, that aircraft carrying more than 15 and not more that 36 passengers must carry a cabin attendant. Paragraph 7.1 of section 20.16.3 of the CAOs requires that whenever a cabin attendant is so required, the aircraft must also have an aisle.

This instrument is, in effect, an exemption from these requirements. It applies to the 300,000 cubic feet hot air balloons VH-AWE and VH-HTB which are designed to carry up to 18 passengers and a pilot. Because of the design of the balloon and its basket, and subject to certain conditions, CASA does not consider that safety will be compromised by the absence of an aisle or if the balloon does not carry a cabin attendant during operations with up to 18 persons.

Conditions include, where more than 16 passengers are carried, the presence of two support ground crew, in addition to the pilot, to supervise and assist in loading and unloading passengers. These ground crew personnel must be located at either end of the basket and the operator’s operations manual must set out the course of training they have undergone to qualify for the role of ground crew.

Other conditions require that the passengers be equally distributed between the balloon’s 4 compartments and that all passengers are able to hear the pilot’s instructions. Apart from paragraphs 6.1 and 7.1, other relevant provisions of section 20.16.3 of the CAOs continue to apply.

The instrument replaces a previous instrument (CASA 07/04) which expired at the end of January 2005, and remakes it in modified form with the same conditions. The modification reduces the maximum passenger capacity under the instrument from 20 to 18, the higher figure being an error in the previous instrument.

Under regulation 5A of CAR 1988, if CASA has issued a CAO, and CASA later issues a direction, instruction, notification, permission, approval or authority that in any way affects the operation of the CAO, the later document
is a legislative instrument by virtue of subparagraph 6 (d) (i) of the Legislative Instruments Act 2003.

The instrument affects the operation of paragraph 6.1 and paragraph 7.1 of section 20.16.3 of the CAOs. The instrument is therefore a legislative instrument for the purposes of section 5 of the Legislative Instruments Act 2003. It is subject to tabling and disallowance in the Parliament under sections 38 and 42 of that Act.

Consultation under section 17 of the Legislative Instruments Act 2003 has not been undertaken in this case. Renewal of the instrument has been specifically requested by Proflex Pty Ltd.

The instrument has been issued by a delegate of CASA. It takes effect at the start of the day after it is registered on the Federal Register of Legislative Instruments. It stops having effect at the end of January 2006.

[Instrument Number CASA 55/05]