Explanatory Statement

Civil Aviation Regulations 1988

Amendment of instrument CASA 321/06

Subsection 98 (1) of the Civil Aviation Act 1988 (the Act) provides that the Governor-General may make regulations for the purposes of the Act and in the interests of the safety of air navigation.

Under regulation 208 of the Civil Aviation Regulations 1988, CASA may give directions as to the operating crew required to be carried on an aircraft having regard to the safety of air navigation. Subsection 7 and subparagraph 6.1 (a) of Civil Aviation Order 20.16.3 (CAO 20.16.3) were made under regulation 208 and provide, among other things, that aircraft carrying more than 36 and not more than 216 passengers must carry a cabin attendant for each unit of 36 passengers or part of that.

CAO 20.16.3 has remained in the same form since 1960 and as such represents a 46 year gap since a reassessment of cabin attendant numbers against a criterion of allowable seating rather than passenger numbers. CASA in a report Review of policies and practices for first-of-type certification of imported aircraft recommended the recognition of the Federal Aviation Administration (the FAA) certification standards. The recommendation was adopted.

The Boeing certification of the aircraft relates to the design of the floor plan and the seating configuration in relation to the location of exits. CASA does not call for a re-evaluation of the aircraft design; instead CASA accepts the design criterion. CASA does require operators to demonstrate the procedures that are specific to the operator, which are evaluated, thus there is a subtle distinction between the certification criterion and an operator imposed safety procedure which may or may not enhance the evacuation of the aircraft in an emergency evacuation.

Safety improvements in redesign of the “Self-Help” Type III overwing exits by the aircraft manufacturer, Boeing, and safety recommendations from Cranfield University on briefing passengers seated in overwing exit row seating are cause to reassess the emergency evacuation procedures in conjunction with the aircraft certification requirements of the FAA.

Virgin Blue Airlines has incorporated procedures for the briefing of passengers seated at self-help exit rows as part of the pre-departure passenger safety briefing, taking into account the conclusions of the Cranfield University research.

Virgin Blue Airlines has incorporated pre-warned emergency briefings, for passengers seated in Type I and III exit rows based on the verbal briefing criteria specified in the Cranfield University research.

Virgin Blue Airlines have incorporated passenger briefing procedures for a pre-warned emergency where there is time to prepare for an emergency evacuation.

The revised briefings are acceptable to CASA and are seen as a safety enhancement.

CASA is satisfied the evacuation of a full complement of passengers for the Boeing 737-800 is able to be achieved in a time of 90 seconds.
CASA is satisfied that the demonstration of the evacuation procedures, adopted by Virgin Blue Airlines, to support their application to operate with the certification criterion of four cabin attendants, has been demonstrated successfully.

CASA does not consider that safety would be compromised if a Boeing 737-800 carried cabin attendants during operations with passenger seating complement of 1 cabin attendant to 50 seats fitted to the aircraft or part of that.

**Legislative Instruments Act**

Under subparagraph 6 (d) (i) of the *Legislative Instrument Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. Under regulation 5A of CAR 1988, if CASA has issued a CAO, and CASA later issues a direction that affects the operation of the CAO, the later document is declared to be a disallowable instrument. The instrument affects the operation of subparagraph 6.1 (a) of CAO 20.16.3. As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

**Consultation**

Consultation under section 17 of the LIA has not been undertaken in this case because the instrument amends CASA 321/06 to correct typographical errors.

The Amendment has been issued by a delegate of CASA. It commences on 13 October 2006 and stops having effect at the end of 30 June 2009.

[Instrument number CASA 393/06]