

Explanatory Statement

Civil Aviation Safety Regulations 1998

Approval – means of compliance with Airworthiness Directive for Grob G 109 and Grob G 109 B aircraft

Legislation

Under section 98 of the *Civil Aviation Act 1988 (the Act)*, the Governor-General may make regulations for the purposes of the Act and in the interests of the safety of air navigation.

Regulation 39.003 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)* makes it an offence to operate an Australian aircraft covered by an airworthiness directive (**AD**) in breach of the requirements of the AD.

In accordance with paragraph 39.004 (3) (a) of CASR 1998, CASA may in writing approve a means of compliance (an **AMOC**) with an AD for a particular kind of aircraft. Under paragraph 39.002 (c) of CASR 1998, an aircraft for which an AD has been issued ceases to be covered by the AD if the requirements of an AMOC have been complied with.

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. As of 1 October 2009, when a State of Design issues an AD against a type of aircraft on the Australian Register, Part 39 of CASR 1998 requires compliance with these State of Design ADs. However CASA, as Australia's national airworthiness authority, may assess this information and, if appropriate, issue an AMOC for the State of Design AD. In making a decision whether to approve an AMOC, CASA must regard the preservation of a level of aviation safety that is at least acceptable as paramount.

Approval

The European Aviation Safety Authority (**EASA**), the national airworthiness authority of the State of Design for Grob G 109 and G 109 B aircraft issued AD 2012-0027 (the **EASA AD**). The EASA AD requires installation of an access panel on the vertical stabiliser in accordance with a Grob Mandatory Service Bulletin, and inspections of the nose plate within the vertical stabiliser using the access panel.

This AMOC allows Australian operators to address the unsafe condition mentioned in the EASA AD in a manner not mentioned in the EASA AD.

CASA has reviewed the data and finds that use of 2 borescope access holes to accomplish the intended inspection, without the need to install the dedicated access panel, provides an equivalent level of access. Gliding Federation of Australia (**GFA**) Engineering Order 2012-3 also contains specific inspection instructions which are equivalent to or better than the inspection instructions required by the EASA AD.

Legislative Instruments Act

An AMOC issued under paragraph 39.004 (3) (a) of CASR 1998 is issued for paragraph 98 (5A) (b) of the Act, which provides that the regulations may empower CASA to issue instruments in relation to the airworthiness of, or design standards for, aircraft. Subsection 95 (5B) provides that an instrument issued under subsection 98 (5A) (b) of the Act is a legislative instrument. Therefore, in accordance with subsection 98 (5B) of the Act, this instrument is a legislative instrument and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instrument Act 2003*.

Consultation

The AMOC was issued at the request of industry, particularly the GFA, on behalf of Grob G 109 and G 109 B operators. The AMOC will alleviate the burden of installing an access panel and performing the inspections in accordance with the EASA AD.

The issue of the instrument is in accordance with Part 39 of CASR 1998 and will facilitate compliance by operators of the affected aircraft with the EASA AD. Therefore, the instrument is not likely to have a direct, or substantial indirect, adverse effect on business and is not likely to restrict competition. CASA's position is that no further external consultation on the issue of the AMOC is appropriate or necessary, because of the nature of the AMOC as a relief from compliance with an AD and its beneficial effect on business and aviation safety. Therefore, no further external consultation has been conducted.

A Regulation Impact Statement (RIS) is not required because the approved means of compliance for an airworthiness directive is covered by a standing agreement between CASA and OBPR under which a RIS is not required for airworthiness directives.

Statement of Compatibility with Human Rights

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

Making and commencement

The instrument commences on the day of registration and ceases to have effect if the AD is amended or cancelled.

The instrument has been made by a delegate of CASA relying on the power of delegation in subregulation 11.260 (1) of CASR 1998 and subsection 94 (1) of the Act.

[Instrument number CASA A&ESB 12/3050]

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

The purpose of this legislative instrument is to approve a means of compliance with a foreign State of Design airworthiness directive (*AD*) other than that set out in the AD.

This legislative instrument provides the operator of Grob G 109 and Grob G 109 B aircraft registered in Australia with a means of compliance with European Aviation Safety Agency Airworthiness Directive 2012-0027. In the absence of this instrument, the operators of those aeroplanes would be required to install an access panel on the vertical stabiliser of the aircraft for the purpose of conducting inspections of the nose plate within the vertical stabiliser. This instrument allows them to instead install 2 borescope access holes for the purpose of conducting those inspections.

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