

EXPLANATORY STATEMENT
CIVIL AVIATION ACT 1988
CIVIL AVIATION REGULATIONS 1988
DIRECTION UNDER REGULATION 208 RELATING TO THE CARRIAGE OF A
CABIN ATTENDANT IN A HOT AIR BALLOON

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 regulation 5 of the *Civil Aviation Regulations 1988* (the Regulations), wherever CASA is empowered to issue any direction, CASA may, unless the contrary intention appears in the regulation conferring the power, issue the direction in Civil Aviation Orders (CAOs) or otherwise in writing.

Under regulation 208 of the Regulations, 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 CAOs provides, among other things, that aircraft carrying more than 15 and not more than 36 passengers must carry a cabin attendant.

The 400,000 cubic feet hot air balloon bearing the nationality and registration marks VH-OKA is designed to carry up to 20 passengers and a pilot. Because of the design of the balloon and its basket, CASA does not consider that safety will be compromised if the balloon does not carry cabin attendants, provided that two suitably trained ground crew in addition to the pilot are available to supervise and assist in loading and unloading passengers while the balloon is on the ground.

Under regulation 5A of the Regulations, if CASA has issued a CAO and then issues a direction that affects the operation of anything in the CAO, the later direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. This direction affects the operation of subparagraph 6.1(a) of section 20.16.3 by specifying that cabin attendants need not be carried on the hot air balloon VH-OKA, when carrying more than 15 passengers, provided that all conditions specified in the instrument are satisfied. This direction is a prescribed direction or exemption as defined in regulation 5A. It has been tabled as a disallowable instrument.

The direction has been issued by a delegate of CASA in accordance with regulation 7 of the Regulations.

The direction comes into effect on 1 July 2003 and stops having effect at the end of June 2006.