

EXPLANATORY STATEMENT

CIVIL AVIATION ACT 1988

CIVIL AVIATION REGULATIONS 1988

REGULATION 208

DIRECTION — CARRIAGE OF CABIN ATTENDANTS IN 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 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 (the *CAOs*) provides, among other things, that aircraft carrying more than 15 and not more than 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 Kavanagh B400 Balloon with nationality and registration marks VH-URF which is designed to carry up to 20 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 20 passengers.

Conditions include, where more than 16 passengers are carried, the presence of 2 support ground crew, in addition to the pilot, to supervise and assist in loading and unloading of 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 paragraph 6.1 and paragraph 7.1, other relevant provisions of section 20.16.3 of the *CAOs* continue to apply.

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 *LIA*).

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 *LIA*. It is subject to tabling and disallowance in the Parliament under sections 38 and 42 of that Act.

Consultation under section 17 of the LIA has not been undertaken in this case. The operator has previous instruments for the type of balloon and operations.

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

[Instrument Number CASA 193/05]