

## **Explanatory Statement**

### **Civil Aviation Regulations 1988**

#### **Direction — flight time limitations**

##### **Legislation**

Section 98 of the *Civil Aviation Act 1988* empowers the Governor-General to make regulations.

Regulation 5.55 of the *Civil Aviation Regulations 1988 (CAR 1988)* provides that CASA may give directions to the holder of a flight crew licence, or to an aircraft operator, about matters relating to the regulation of flight time. These matters include the number of hours that a person may fly in any period, the rest periods that must be taken and the circumstances in which a person must not fly or undertake other duties associated with his or her employment.

This direction has been issued under regulation 5.55 of CAR 1988. It provides a uniform set of rules applicable to operators engaged in helicopter mustering operations. It provides an alternative to the standard limitations and requirements in Civil Aviation Order 48.1 (*CAO 48.1*) and will apply to any operator who notifies CASA in writing that he or she wishes to comply with it.

Apart from the maximum number of hours that a pilot may fly in any given period and the duty free periods that a pilot is required to have, the instrument also deals with the circumstances in which a pilot must not fly or in which an operator must not require a pilot to fly. It also requires the accurate recording of flight time and duty time and of helicopter flying time.

The direction sets out 2 sets of flight time limitations, depending on whether the pilot in question is an entry level pilot or an experienced pilot. All pilots must hold an approval to engage in helicopter mustering operations or be undergoing training to obtain that approval. In addition, an experienced pilot is one who has a minimum of 500 flying hours in helicopter mustering operations as pilot in command or acting in command under supervision.

The direction provides for a pilot to have a minimum number of duty free days in each 16 day period and not to exceed the maximum number of flight hours provided for any of the specified periods. In addition, pilots must not fly, or be required to fly, in a mustering operation if unfit for duty because of fatigue, illness or injury or for any other reason.

##### **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 Civil Aviation Order (*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 CAO 48.1. It is, therefore, a legislative instrument and 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 is a renewal of a previous instrument and is available to any operator who notifies CASA in writing that he or she wishes to comply with them.

The instrument commences on the day after it is registered and stops having effect at the end of 31 October 2010.

The direction has been issued by the Deputy Chief Executive Officer, Strategy and Support, a delegate of CASA, under subregulation 7 (1) of CAR 1988.

[Instrument number CASA 407/07]