

Explanatory Statement

Civil Aviation Regulations 1988

Direction — number of cabin attendants

Legislation

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

Under regulation 208 of the *Civil Aviation Regulations 1988* (**CAR 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 of CAR 1988 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 47 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 of the United States of America (the **FAA**) certification standards. The recommendation was adopted.

The Airbus 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, Airbus, 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.

Tiger Airways Australia Pty Limited (the **operator**) 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. The operator 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. 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 Airbus A320 series aircraft is able to be achieved in a time of 90 seconds. CASA is satisfied that the demonstration of the evacuation procedures adopted by the operator to support their application to operate with the certification criterion of 4 cabin attendants has been

demonstrated successfully. The maximum permitted time of 90 seconds is set out as a condition in Schedule 1 of the instrument.

CASA does not consider that safety would be compromised if an Airbus A320 series aircraft carried cabin attendants during operations with a complement of 1 cabin attendant to each 50 seats, or part of that number, fitted to the aircraft.

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 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

CASA has consulted both internally and with the operator on the proposal. The consultation process was brought to a conclusion with CASA and the operator signing a document outlining agreements and undertakings. The proposed change was also referred to the Office of Transport Security which has expressed no concerns. The instrument replaces instrument CASA 450/07 which ceases to have effect at the end of November 2008.

The instrument commences on 1 December 2008 and stops having effect at the end of 30 November 2010.

The direction has been issued by a delegate of CASA, under subregulation 7 (1) of CAR 1988.

[Instrument number CASA 627/08]