

## Explanatory Statement

### Civil Aviation Regulations 1988

#### Instructions — for approved use of P-RNAV procedures

##### Legislation

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

Under subregulation 179A (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*, CASA may issue instructions in relation to Instrument Flight Rules (*I.F.R.*) flights specifying, among other things, the method by which an aircraft is to be navigated and how a positive position fix is to be obtained. Under subregulation 179A (2) of CAR 1988, the pilot in command of an aircraft must not fly it under the I.F.R. if it is not equipped for navigation and to obtain positive position fixes in accordance with instructions issued under subregulation 179A (1). Under subregulations 179A (3) and (3A), if an instruction is not issued in the form of a Civil Aviation Order (*CAO*), it is a disallowable instrument and must be either served on the person to whom it applies or published in a Notice to Airmen (NOTAMS) or in an Aeronautical Information Publication (AIP).

##### Instructions

The instrument applies to the Bombardier BD-700-1A10 aircraft VH-VLA (the *aircraft*) operated by Holypeak Proprietary Limited (the *operator*). It contains instructions which the operator must follow if using precision area navigation (*P-RNAV*) procedures. P-RNAV may only be used in a place where P-RNAV procedures are authorised by the air safety authority or air navigation service provider for the place. Under the instrument, the operator is instructed to comply with a series of safety standards and procedures set out in Schedule 3.

##### Standards and procedures

The operator must comply with the requirements for P-RNAV procedures mentioned in its operations manual and flight manual. These manuals must comply with the standards and procedures mentioned in sections 9 and 10 of Temporary Guidance Leaflet No. 10 (*Airworthiness and Operational Approval for Precision RNAV operations in designated European airspace*) issued by the Joint Aviation Authorities (the *temporary guidance leaflet*).

Airborne systems installed in the aircraft must meet the performance certification criteria and functional criteria mentioned in sections 6 and 7 of the temporary guidance leaflet and must have been approved by CASA for use with P-RNAV procedures.

The training program for flight crew using P-RNAV procedures must comply with the standards for training programs mentioned in paragraph 10.5 of the temporary guidance leaflet. Flight crew members must have received appropriate briefings and guidance material as set out in Section 10 of the temporary guidance leaflet. The operator must tell CASA in writing not later than 14 days after ceasing to be the operator of an aircraft mentioned in Schedule 1.

**Legislative Instruments Act**

Subregulation 179A (3A) of CAR 1988 declares instructions that are not in a CAO to be a disallowable instrument. Under subparagraph 6 (d) (i) of the *Legislative Instruments 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 in legislation in force before the commencement of the LIA. The instructions are, therefore, a legislative instrument and are 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. The instrument is similar to many other instruments issued to operators all of whom meet the same requirements for operations using P-RNAV procedures.

**Human Rights Compatibility Statement**

This legislative instrument does not engage any of the applicable rights or freedoms. It is compatible with human rights as it does not raise any human rights issues.

**Duration**

The instrument commences on the day after it is registered and stops having effect at the end of February 2015.

The instrument has been made by a delegate of CASA under subregulation 11.260 (1) of CASR 1998.

[Instrument number CASA 105/12]