

Explanatory Statement

Civil Aviation Regulations 1988

Direction — number of cabin attendants for Airbus A320 and Fokker F100 aircraft

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. Subparagraph 6.1 (b) of Civil Aviation Order 20.16.3 (**CAO 20.16.3**) was made under regulation 208 and provides, 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 number.

The requirements in subparagraph 6.1 (b) of CAO 20.16.3 have remained in the same form since 1960 and as such represent a 52 year gap since a reassessment of cabin attendant numbers against a criterion of allowable seating rather than passenger numbers.

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 safety procedures that are specific to the operator, which are evaluated, thus there is a 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. CASA has increased passenger awareness and capability for passengers seated at self-help exit rows in a manner equivalent to, or better than, that achieved when the Airbus A320 and the Fokker F100 satisfied the Joint Aviation Authorities (Europe), now European Aviation Safety Agency, standards.

CASA is satisfied that the evacuation of a full complement of passengers for the aircraft is able to be achieved in a time of 90 seconds. CASA is satisfied that the evacuation procedures adopted by Skywest Airlines (Australia) Pty Ltd (the **operator**) to support its application to operate with the certification criterion for the number of cabin attendants have been demonstrated successfully. For Airbus A320 aircraft, the certification criterion is 4 cabin attendants to a maximum of 162 passenger seats fitted to the aircraft. For Fokker F100 aircraft, the certification criterion is 2 cabin attendants to a maximum of 100 passenger seats fitted to the aircraft. The maximum permitted time of 90 seconds is set out as a condition in Schedule 1 of the instrument.

The other conditions include a requirement that the briefing of passengers in self-help exit rows must be as approved by CASA and in the manner set out in the operator's operations manual.

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 (b) 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.

Compatibility with human rights and freedoms

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* as it does not raise any human rights issues. It does not engage any of the applicable rights or freedoms.

Consultation

The operator has applied for this instrument. This instrument replaces instrument CASA 512/11, which stops having effect at the end of June 2012. CASA consulted both internally and with the operator before issuing earlier instruments that had the same effect. The instrument is similar to instruments issued to other operators that have been the subject of consultation within CASA and with other bodies.

Senate Committee concerns

This direction provides for the operator to meet a new standard for cabin crew numbers. The new standard differs from that currently promulgated in CAO 20.16.3, but it is considered to be a standard consistent with international safety standards and practice.

The development and preparation of suitable CAO amendments to avoid the need for individual directions and set a suitable standard for cabin crew numbers is also continuing.

Commencement and making

The instrument commences on 1 July 2012 and stops having effect at the end of June 2013.

The direction has been issued by a delegate of CASA under subregulation 11.260 (1) of the *Civil Aviation Safety Regulations 1998*.

[Instrument number CASA 205/12]