

## Explanatory Statement

### Civil Aviation Regulations 1988

#### Exemption — from standard take-off and landing minima – Jetstar

##### Legislation

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

Under subregulation 257 (1) of the *Civil Aviation Regulations 1988* (**CAR 1988**), CASA may determine the meteorological minima, that is the visibility requirements, for landing or take-off at an aerodrome. Under subregulation 257 (2), the determination must be published in AIP or NOTAMS. Under subregulation 257 (3), it is an offence for an aircraft to take off if an element of the meteorological minima for that operation is less than that determined for the aircraft at the aerodrome.

The determination of standard meteorological minima for take-off and landing was made in instrument CASA 237/10. An exemption would be required to operate in visibility less than any of the standard minima contained in the instrument.

Subregulation 11.160 (1) of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) provides that, for subsection 98 (5A) of the Act, CASA may grant an exemption from a provision of the regulations, including CAR 1988, or a provision of the Civil Aviation Orders, in relation to a matter mentioned in that subsection. Under subregulation 11.160 (2), an exemption may be granted to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.205 (1) of CASR 1998, CASA may impose conditions on an exemption if this is necessary in the interests of the safety of air navigation. Under regulation 11.225 of CASR 1998, an exemption must be published on the Internet. Under subregulation 11.230 (1), an exemption ceases on the day specified within it (but no longer than 3 years after its commencement) or, if no day is specified, 3 years after commencement.

CASA issued 2 instruments (CASA EX69/10 and CASA 105/10) exempting aeroplanes operated by Jetstar Airways Pty Limited (**Jetstar Airways**) from the standard meteorological minima for take-off and landing. This exemption revokes and replaces the previous instruments. It allows all A320, A321 and A330 aircraft to operate to CAT II and CAT III minima in low visibility landings.

As with the previous instruments, the operator must ensure that specified visibility standards are met for landings and take-offs. They may be performed only at aerodromes properly equipped to support them. Flight crew training, experience, recency and competency must meet specified benchmarks. Aircraft equipment must be maintained. Operational restrictions and limitations must be observed. Appropriate foreign approvals for the operations must be obtained. A range of documents for inspection must be carried on board the aircraft.

### **Legislative Instruments Act**

For subsection 98 (5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of the regulations or Civil Aviation Orders. An instrument issued under paragraph 98 (5A) (a) of the Act is a legislative instrument if the instrument is expressed to apply to a class of persons or aircraft. The exemption applies to a class of aircraft, and class of persons, employed by the operator. The exemption is, therefore, a legislative instrument subject to tabling and disallowance in the Parliament under sections 38 and 42 of the *Legislative Instrument Act 2003* (the *LIA*).

### **Consultation**

Consultation under section 17 of the LIA has not been undertaken in this case. The instrument is required by Jetstar Airways to enable low visibility take-offs and landings inside and outside Australian territory, consistent with the standards and requirements specified in the instrument which are not considered prejudicial to the interests of safety. It replaces 2 previous instruments issued for the same purpose.

### **Human rights implications**

The instrument sets out an exemption from legislative requirements as described above. The instrument does not engage any of the applicable rights or freedoms.

The OBPR does not require preparation of a Regulation Impact Statement in this case because a preliminary assessment of business compliance costs in the context of the nature of a similar instrument indicates that it will have only a nil to low impact on business.

### **Duration**

The instrument commences on the day after it is registered. It stops having effect at the end of 31 May 2015.

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

[Instrument number CASA EX93/12]