**Explanatory Statement**

**Civil Aviation Regulations 1988**

**Direction – number of cabin attendants – Jetstar Airways**

**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 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. Subparagraphs 6.1 (b) and (c) of Civil Aviation Order (***CAO***) 20.16.3 were made under regulation 208 of CAR 1988. Subparagraph 6.1 (b) provides that aircraft carrying more than 36 but not more than 216 passengers must carry a cabin attendant for each unit of 36 passengers or part of that number. Subparagraph 6.1 (c) provides that aircraft carrying more than 216 passengers shall carry the number of cabin attendants as prescribed by CASA.

CAO 20.16.3 has remained in the same form since 1960 and as such represents a 53 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 and the Joint Aviation Authorities (Europe), now European Aviation Safety Agency (***EASA***), certification standards. The recommendation was adopted.

The direction will allow Jetstar Airways Pty Limited (the ***operator***) to continue to operate either Airbus A321-200 or A320-200 series aircraft with 1 cabin attendant for every 50 passenger seats or part of that number. CASA considers that the operator has addressed the risks associated with the proposed change to procedures. CASA also considers that the operator has increased the awareness and capability of passengers seated at emergency exit rows in a manner equivalent to, or better than, that achieved when the Airbus A321-200 or the A320-200 series satisfied the requirements of EASA. CASA is satisfied the evacuation of a full complement of passengers could be achieved within 90 seconds, within the EASA guidelines for certification demonstrations.

**Legislative Instruments Act**

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 under legislation in force before the commencement of the LIA. Under regulation 5A of CAR 1988, if CASA has issued a 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.

**Consultation**

This instrument replaces instrument CASA 150/12, which is revoked by this instrument and would otherwise have stopped having effect at the end of 31 May 2013. CASA had consulted with the operator before issuing CASA 150/12. The consultation process for the making of CASA 150/12 was brought to a conclusion with CASA and the operator signing a document outlining agreements and undertakings.

The operator requested the issue of this instrument to allow it to continue to operate Airbus A321-200 or A320-200 series aircraft with 1 cabin attendant for every 50 passenger seats or part of that number. The policy behind CASA 150/12 has not changed since it was made and the operation of that instrument has been satisfactory. Previous agreements and undertakings entered into between CASA and the operator continue to apply. Consequently, CASA considers that no further consultation is appropriate.

The instrument is also similar to other instruments issued to other operators. In those instruments, the proposed change was also referred to the Office of Transport Security which has expressed no concerns.

**Senate Regulations and Ordinances Committee concerns**

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

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

**Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at Attachment 1.

**Making and commencement**

The instrument has been made by a delegate of CASA relying on the power of delegation under subregulation 11.260 (1) of the *Civil Aviation Safety Regulations 1998*.

The instrument comes into effect on the day of registration. It stops having effect at the end of May 2014 as if it had been repealed by another instrument.

[Instrument number CASA 94/13]

**Attachment 1**

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

Direction – number of cabin attendants – Jetstar Airways

This legislative 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*.

**Overview of the legislative instrument**

The legislative instrument allows Jetstar Airways Pty Limited (the ***operator***), to operate Australian registered Airbus A321-200 and Airbus A320-200 series aircraft if there is 1 cabin attendant for every 50 passenger seats or part of that number. In the absence of this instrument, 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, and aircraft carrying more than 216 passengers must carry the number of cabin attendants as prescribed by CASA.

The primary purpose of the legislative instrument is to allow the operator, in relevant circumstances, to operate those aircraft with fewer cabin attendants than would otherwise be required by Civil Aviation Order 20.16.3. The direction is subject to conditions, imposed in the interests of aviation safety, about seating and briefing of passengers, and the ability to quickly evacuate the aircraft.

**Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Civil Aviation Safety Authority**