

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA ADCX 008/14 — Repeal of Airworthiness Directive

Legislation

Under section 98 of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may make regulations for the Act and in the interests of the safety of air navigation. Under regulation 39.001 of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**), CASA may issue an airworthiness directive (**AD**) for a kind of aircraft or aeronautical product. Under subsections 98 (5B) and (5BA) of the Act, an AD is a legislative instrument unless it is expressed to apply in relation to a particular person, a particular aircraft or a particular aeronautical product.

Under subsection 33 (3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Under Annex 8 to the Convention on International Civil Aviation, the State of Design has overall responsibility for continuing airworthiness of an aircraft type and must provide any information necessary to ensure the continuing airworthiness of a type to appropriate States of Registry. ADs (and their equivalents) are the most common form of continuing airworthiness information and are issued by most International Civil Aviation Organization Contracting States.

The State of Registry of an individual aircraft is responsible for its continuing airworthiness. Under Annex 8, the State of Registry must develop or adopt requirements to ensure the continuing airworthiness of aircraft. Foreign State of Design ADs issued on or after 1 October 2009 are defined as ADs under regulation 39.001A of CASR 1998. When a foreign State of Design issues an AD for a type of aircraft on the Australian Register, CASA, as Australia's national airworthiness authority, must accept that AD. However, CASA may grant an exclusion from the AD or approve an acceptable means of compliance other than that set out in the AD.

Repeal

This instrument repeals AD/S-76/74 because the requirements of AD/S-76/74 have been superseded by United States Federal Aviation Administration AD 2014-08-06 issued on 11 April 2014 with an effective date of 2 June 2014.

Consultation

No consultation with the Australian public has taken place on the repeal of AD/S-76/74. This AD applied a foreign State of Design AD that will no longer be in force in the State of Design and its retention would have been purposeless. The repeal results in a reduction of the regulatory burden. For this reason, it is CASA's view that it is not necessary or appropriate to undertake any further consultation under section 17 of the *Legislative Instruments Act 2003*.

Regulation Impact Statement

A Regulation Impact Statement (*RIS*) is not required because ADs are covered by a standing agreement between CASA and the Office of Best Practice Regulation under which a RIS is not required for ADs.

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 CASR 1998 and subsection 94 (1) of the Act.

The instrument commences on 2 June 2014.

[Instrument number CASA ADCX 008/14]

Statement of Compatibility with Human Rights

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

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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 purpose of this legislative instrument is to repeal an airworthiness directive (**AD**) that has been superseded by a foreign State of Design AD issued by the national airworthiness authority of the State of Design of the aircraft or aeronautical product.

This AD relates to inspection and rectification or maintenance of specified aircraft or aeronautical products.

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