### Explanatory Statement

**Civil Aviation Safety Regulations 1998**

**AD/B737/224 Amdt 3 — Horizontal Stabiliser Attachment Pins and Bolts - Inspection**

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. Therefore, this AD is a legislative instrument.

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. When a foreign State of Design issued an AD before 1 October 2009 for a type of aircraft on the Australian Register, CASA, as Australia’s national airworthiness authority, must assess that information and, if appropriate, issue an Australian AD to mandate the requirements of the foreign State of Design.

The Federal Aviation Administration (***FAA***) of the United States of America issued AD 2004-05-19 affecting Boeing 737 series aeroplanes in 2004. The United States of America is the State of Design for this aircraft type. CASA subsequently issued AD/B737/224 Amdt 2 to mandate the requirements of FAA AD 2004-05-19. This AD required inspection of horizontal stabiliser attachment bolts and pins for wear, pits and corrosion damage in accordance with Boeing Service Bulletin (***SB***) 737-55-1086, Original Issue.

Boeing issued SB 737-55-1093, Original Issue, relating to replacement of the horizontal stabiliser rear spar pins with improved pins. As a result, the FAA accepted SB 737-55-1093, Original Issue as an alternate method of compliance (***AMOC***) to the requirements of FAA AD 2004-05-19 to inspect or replace the rear spar attach pins.

Boeing also developed an improved version of the front spar bolts and rear spar pins that are not subject to the discrepant condition identified in FAA AD 2004-05-19. Aeroplanes with line number 3535 and higher have these bolts and pins installed. As a result, the FAA has excluded aeroplanes with line number 3535 and higher from the requirements of paragraphs (a) and (b) of FAA AD 2004-05-19. Those requirements relate to an initial inspection and repetitive inspections where the pins and bolts are not damaged and not replaced or repaired.

CASA received a request from an operator of affected aircraft to exclude aircraft line numbers 3535 and higher from compliance with the CASA AD and also to allow the use of Boeing SB 737-55-1093, Original Issue, as an AMOC. CASA reviewed the request and as a result has decided to issue AD/B737/224 Amdt 3. This AD repeals and replaces the previous AD on this subject.

**Consultation**

This AD is being made at the request of industry, in particular an operator of Boeing 737 aeroplanes. As this AD is of a minor or machinery nature and does not substantially alter existing arrangements apart from excluding specified aircraft from compliance with some requirements of the CASA AD and providing for an alternate means of compliance with the AD, it is CASA’s view that it was 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 16 May 2014.

[Instrument number AD/B737/224 Amdt 3]

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

**AD/B737/224 Amdt 3 – Horizontal Stabiliser Attachment Pins and Bolts - Inspection**

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 Federal Aviation Administration (***FAA***) of the United States of America issued airworthiness directive (***AD***) 2004-05-19 affecting Boeing 737 series aeroplanes in 2004. The United States of America is the State of Design for this aircraft type. CASA subsequently issued AD/B737/224 Amdt 2 to mandate the requirements of FAA AD 2004-05-19.

This legislative instrument repeals and replaces AD/B737/224 Amdt 2 to exclude aircraft with line numbers 3535 and higher from compliance with some requirements of the FAA AD and to allow the use of Boeing Service Bulletin 737-55-1093, Original Issue, as an alternative method of compliance with the AD.

The primary purpose of this legislative instrument is to update the description of the aircraft to which requirements of the AD apply and provide for a suitable alternative method of compliance.

**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**