Explanatory Statement

Civil Aviation Regulations 1988

Determination — lowest safe altitude (Qantas Airways Limited)

**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 subregulation 178 (1) of the *Civil Aviation Regulations 1988* (***CAR 1988***), the pilot in command of an aircraft must not fly along a route segment at a height lower than the published lowest safe altitude (***LSALT***) for that segment. Under subregulation 178 (2), if there is no LSALT, the pilot must not fly lower than the LSALT calculated by a method determined by CASA.

**Instrument**

Qantas Airways Limited (the ***operator***) determines the LSALT in accordance with any 1 of 4 methods that have been approved by CASA. The method selected is based on many factors, including variations in available data, charting presentation, height of en route terrain and aircraft navigation capacity. The operator has applied to CASA to approve 2 methods that could be used for determining LSALT.

CASA, after taking into account any relevant considerations relating to the interest of safety, has determined that the operator may use either the Jeppesen Grid Minimum Off Route (MORA) method or the Digital Terrain method as a method of calculating the lowest safe en route altitude.

**Legislative Instruments Act**

Under subsections 5 (1) and (4) of the *Legislative Instruments Act 2003* (the ***LIA***), the determination is of legislative character since it determines the operator’s methods for calculating LSALT. It is therefore a legislative instrument and subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

**Consultation**

The instrument is a renewal of instrument CASA 327/11, which ceased to have effect at the end of 31 July 2014. Given that the instrument applies to the particular operator, it is CASA’s view that it is not necessary or appropriate to undertake any further consultation under section 17 of the LIA.

**Statement of Compatibility with Human Rights**

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

**Office of Best Practice Regulation (*OBPR*)**

A Regulation Impact Statement (***RIS***) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required (OBPR id: 14507).

**Making and commencement**

The determination has been issued 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 commences on 1 August 2014. It expires at the end of July 2017, as if it had been repealed by another instrument.

[Instrument number CASA 159/14]

**Attachment 1**

**Statement of Compatibility with Human Rights**

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

**Determination — lowest safe altitude (Qantas Airways Limited)**

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**

This legislative instrument allows Qantas Airways Limited to calculate the lowest safe en route altitude for an aircraft using either the Jeppesen Grid Minimum Off Route (MORA) method or the Digital Terrain method.

**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**