

Explanatory Statement

Civil Aviation Regulations 1988

Repeal of instrument CASA 61/12 — minimum runway width for aeroplanes

Legislation

Subsection 98 (1) of the *Civil Aviation Act 1988* (the **Act**) provides that the Governor-General may make regulations for the Act and the safety of air navigation.

Under subregulation 235A (1) of the *Civil Aviation Regulations 1988* (**CAR 1988**), CASA may issue instructions specifying the minimum runway width applicable to an aeroplane or a type of aeroplane.

Under subsection 33 (3) of the *Acts Interpretation Act 1901* (the **AIA**), 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.

New CASA instructions on minimum runway widths came into effect on 1 March 2012 (instrument CASA 61/12).

A new regulation 235A has been prepared and will come into effect on 13 November 2014. After the commencement of the new regulation, exemption CASA EX126/12 will no longer be required.

The repeal of instrument CASA 61/12 will not affect the operation of aircraft that previously operated in accordance with it or were exempted from its effect under CASA EX 126/12 (which is also being repealed). Provision has been made so that they may continue as before.

The new regulation will, in fact introduce more flexibility into calculating what is the minimum runway width applicable to aeroplanes engaged in particular operations.

Legislative Instruments Act

Under paragraph 5 of the *Legislative Instruments Act 2003* (the **LIA**), an instrument is a legislative instrument if it is of a legislative character and was made in the exercise of a power delegated by the Parliament and determines the law or alters the content of the law. The instructions met all the above requirements. The instrument was, therefore, a legislative instrument and subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

As a consequence its repeal must also be treated as a legislative instrument.

Consultation

Consultation under section 17 of the LIA was undertaken with industry in connection with the replacement of regulation 235A.

In addition to extensive consultation on the amendments in the *Civil Aviation Amendment (Narrow Runways) Regulation 2014*, CASA published Notice of Proposed Change 139/05 (the **NPC**) on its website in March 2014. The NPC included details of the proposed changes to the Manual of Standards (**MOS**) — Part 139 Aerodromes relating to consequential changes following the *Civil Aviation Amendment (Narrow Runways) Regulation 2014* and a draft MOS amendment instrument.

CASA received 16 responses to the NPC by 5 May 2014. CASA considered all of those responses received, and made some amendments to the draft instrument.

It is CASA's view that no further consultation in relation to this instrument of repeal is necessary or appropriate.

Office of Best Practice Regulation

The Office of Best Practice Regulation assessed that the proposed replacement of regulation 235A will have minor impacts and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 13895, 17497 and 17793).

Statement of Compatibility with Human Rights

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

Making and commencement

The repeal has been issued by a delegate of CASA appointed under regulation 11.260 of the *Civil Aviation Safety Regulations 1998*.

The instrument commences on 13 November 2014 immediately after the commencement of the *Civil Aviation Amendment (Narrow Runways) Regulation 2014*.

[Instrument number CASA 266/14]

Statement of Compatibility with Human Rights

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

Repeal of instrument CASA 61/12 — minimum runway width for aeroplanes

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 repeals an instrument which is no longer required following the repeal and replacement of the regulation under which it was granted.

The persons to whom the repealed instrument applied will not be affected in any way by the repeal.

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