

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **AD/DHC-8/40 Amdt 1 — Black Thermal Insulation Retrofit Kits**

##### **Legislation**

Under section 98 of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may make regulations. 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. AD/DHC-8/40 Amdt 1 applies to the Bombardier DHC-8 Series aircraft.

Transport Canada issued AD CF-94-25 affecting Bombardier DHC-8 series aeroplanes in 1994. Canada is the State of Design for this aircraft type. CASA subsequently issued AD/DHC-8/40 to mandate the requirements of Canadian AD CF-94-25. As a result of a request from industry, CASA has issued AD/DHC-8/40 Amdt 1 to update the reference to the Canadian AD to its latest revision (CF-94-25R1) and to align the AD applicability with that of AD CF-94-25R1. This AD repeals and replaces the previous AD on this subject.

The Bombardier Service Bulletin referred to in the AD, as in force from time to time, can be obtained from Bombardier, however, any Australian airline or operator which operates the DHC-8 aircraft are provided with these documents by Bombardier via subscription.

Transport Canada AD CF-94-25R1, as in force at the time of issue of AD/DHC-8/40 Amdt 1, is freely available from the Transport Canada website at the following internet address:

[http://wwwapps3.tc.gc.ca/Saf-Sec-Sur/2/cawis-swimn/awd-display-cs2101-wnd.asp?rand=&vMode=0&showPdf=False&ovid=CF\\_CF-94-25\\_1](http://wwwapps3.tc.gc.ca/Saf-Sec-Sur/2/cawis-swimn/awd-display-cs2101-wnd.asp?rand=&vMode=0&showPdf=False&ovid=CF_CF-94-25_1)

### **Consultation**

This AD is being made at the request of industry, in particular an operator of the Bombardier DHC-8 series aircraft. As this AD amendment is of a minor or machinery nature and does not substantially alter existing arrangements apart from updating the revision status of a referenced document and adding one aircraft model to the applicability, it is CASA's view that it was not necessary or appropriate to undertake any further consultation under section 17 of the *Legislation 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 3 November 2017.

[Instrument number AD/DHC-8/40 Amdt 1]

**Attachment 1****Statement of Compatibility with Human Rights**

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

**AD/DHC-8/40 Amdt 1 – Black Thermal Insulation Retrofit Kits**

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**

Transport Canada issued AD CF-94-25 affecting Bombardier DHC-8 series aeroplanes in 1994. Canada is the State of Design for this aircraft type. CASA subsequently issued AD/DHC-8/40 to mandate the requirements of Canadian AD CF-94-25. As a result of a request from industry, CASA has repealed and replaced AD/DHC-8/40 to update the reference to the Canadian AD to the latest revision (CF-94-25R1) and to align the AD applicability with that of AD CF-94-25R1. This AD repeals and replaces the previous AD on this subject.

The primary purpose of this legislative instrument is to update the revision status of a referenced document and amend the model applicability.

**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**