

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA ADCX 002/24 — Repeal of Airworthiness Directive AD/BELL 412/58 - Fuselage Left Upper Cap Angle

Legislation

Under section 98 of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the Convention on International Civil Aviation relating to safety, amongst other things. Under regulation 39.001 of the *Civil Aviation Safety Regulations 1998* (**CASR**), the Civil Aviation Safety Authority (**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. Regulation 39.001A of CASR, defines “airworthiness directive” to include foreign State of Design ADs issued on or after 1 October 2009. Accordingly, when a foreign State of Design issues an AD for a type of aircraft on the Australian Register, that AD applies to Australian aircraft. However, CASA may grant an exclusion from the AD or approve an acceptable means of compliance other than that set out in the AD.

Background

The European Aviation Safety Agency (**EASA**) has superseded EASA AD 2009-0185 by issuing EASA AD 2024-0104 which is automatically adopted by CASA under Part 39 of CASR.

Repeal

This instrument repeals AD/BELL 412/58 - Fuselage Left Upper Cap Angle (**AD/BELL 412/58**), which applies to specified Agusta Bell AB412 and AB412EP series helicopters, because the requirements of AD/BELL 412/58 have been cancelled

by EASA AD 2024-0104 issued on 24 May 2024 with an effective date of 31 May 2024.

Consultation

No public or other consultation has taken place on the repeal of AD/BELL 412/58 because the requirements of AD/BELL 412/58 have been cancelled by EASA AD: 2024-0104, which must be complied with from its effective date because it is a foreign State of Design AD. For this reason, it is CASA's view that it is not necessary or appropriate to undertake any consultation under section 17 of the *Legislation Act 2003 (LA)*.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) 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 IAs (OBPR id. 14507).

Sunsetting

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the ***sunsetting provisions***) does not apply to the instrument (as per item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). However, this instrument will be repealed in accordance with section 48A of the LA, which will occur before the sunseting provisions would have repealed the instrument if they had applied. Therefore, the exemption from sunseting does not affect parliamentary oversight of this instrument.

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 and subsection 94 (1) of the Act.

The instrument commences on 14 June 2024.

[Instrument number CASA ADCX 002/24]

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

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

**CASA ADCX 002/24 — Repeal of Airworthiness Directive
AD/BELL 412/58 - Fuselage Left Upper Cap Angle**

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 is no longer required as the requirements of the AD have been cancelled by European Aviation Safety Agency (**EASA**) AD 2024-0104 issued on 24 May 2024 with an effective date of 31 May 2024.

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