



Australian Government
Civil Aviation Safety Authority

Instrument number CASA 51/09

I, RICKI JOHN LEEDS, Acting Group General Manager, Air Transport Operations, a delegate of CASA, make this instrument under regulation 208 of the *Civil Aviation Regulations 1988*.

A handwritten signature in black ink, appearing to read 'Rick Leeds'.

Rick Leeds
Acting Group General Manager
Air Transport Operations

23 January 2009

Direction — number of cabin attendants in ATR 42-500 aircraft

1 Duration

This instrument:

- (a) commences on the day after it is registered; and
- (b) stops having effect at the end of 31 January 2011.

2 Application

This instrument applies to the aircraft mentioned in Schedule 1 operated by Macair Airlines Pty Ltd, Aviation Reference Number 539853 (the *operator*), that is engaged in regular public transport operations.

3 Direction

I direct that, in spite of subparagraph 6.1 (b) of Civil Aviation Order 20.16.3, the operator may operate the aircraft mentioned in Schedule 1 with 1 flight attendant.

4 Conditions

This direction is subject to the conditions mentioned in Schedule 2.

Schedule 1 Aircraft

The Australian registered ATR 42-500 aircraft VH-UYJ, with a maximum passenger seating capacity of 46 passengers, and 2 flight crew and 1 flight attendant.

Schedule 2 Conditions

- 1 Only physically competent (able-bodied) persons may occupy seats in the emergency exit rows that are referred to as Type III exit rows in ATR 42 aircraft.

Note In ATR 42 aircraft a Type III exit row is located in front of the wing on each side.

- 2 During take-off, landing and in prepared emergencies, the Type III exit rows must be occupied by not less than 2 physically competent (able-bodied) persons.
 - 3 If a Type III exit row is not occupied by at least 2 able-bodied persons, the preflight safety briefing must be modified to refer only to those rows that are occupied in accordance with clause 2.
 - 4 All passengers seated in the Type III exit rows must receive and respond to a briefing approved by CASA which instructs them in the opening of the emergency exits and subsequent actions required in the event of an emergency.
 - 5 The operator must ensure that the aircraft can be evacuated in 90 seconds.
 - 6 Arrangements for the seating and briefing of passengers must be in accordance with procedures set out in the operator's operations manual and approved by CASA.
 - 7 Arrangements for the seating of passengers must also be in accordance with the arrangements that allowed evacuation of the aircraft in less than 90 seconds in the evacuation test carried out on 23 May 1985 in an ATR 42 aircraft, with 46 passengers, 2 flight crew and 1 flight attendant, as mentioned in the European Aviation Safety Agency type certificate data sheet for ATR 42 aircraft.
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Explanatory Statement

Civil Aviation Regulations 1988

Direction — number of cabin attendants in ATR 42-500 aircraft

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 regulation 208 of the *Civil Aviation Regulations 1988* (*CAR 1988*), CASA may give directions as to the operating crew required to be carried on an aircraft, having regard to the safety of air navigation. Subsection 7 and subparagraph 6.1 (a) of Civil Aviation Order 20.16.3 (*CAO 20.16.3*) were made under regulation 208 of CAR 1988 and provide, among other things, that aircraft carrying more than 36 and not more than 216 passengers must carry a cabin attendant for each unit of 36 passengers or part of that.

CAO 20.16.3 has remained in the same form since 1960 and as such represents a 49 year gap since a reassessment of cabin attendant numbers against a criterion of allowable seating rather than passenger numbers.

CASA in a report *Review of Policies and Practices for First-Of-Type Certification of Imported Aircraft* recommended the recognition of the Federal Aviation Administration and the European Aviation Safety Agency (*EASA*) certification standards. This has affected the assessment of the aircraft in the context of emergency evacuation procedures. The certification of the aircraft requires consideration of the design of the floor plan and the seating configuration, as well as the location of exits, in determining whether an aircraft can be evacuated safely. CASA does not call for a re-evaluation of the aircraft design; instead CASA accepts the design criterion. CASA does require operators to demonstrate the procedures that are specific to the operator, which are then evaluated, thus there is a distinction between the certification criterion and an operator imposed safety procedure which may or may not enhance the evacuation of the aircraft in an emergency evacuation.

The directions require the operator to ensure that the aircraft can be evacuated in less than 90 seconds. In the case of the ATR 42 aircraft, an emergency evacuation test carried out on the aircraft has shown that the aircraft can be evacuated in less than 90 seconds with only 1 flight attendant, 46 passengers and 2 flight crew. The test is referred to in detail in the type certificate data sheet for the ATR 42 issued by EASA.

Further conditions have been included in Schedule 2 to the instrument to ensure that safe evacuation can take place within the stated time. Emergency exit rows have to be occupied by at least 2 able-bodied persons who have to receive a briefing approved by CASA on the opening of emergency exits and subsequent actions in the event of an emergency.

CASA also requires arrangements for the seating and briefing of passengers to be in accordance with the procedures set out in the operator's operations manual and

acceptable to CASA. They must also be in accordance with the arrangements under which the emergency evacuation test referred to was carried out.

CASA does not consider that safety would be compromised if an ATR 42-500 aircraft carried 1 cabin attendant with a maximum of 46 passengers and 2 flight crew.

Legislative Instruments Act

Under subparagraph 6 (d) (i) of the *Legislative Instrument Act 2003* (the *LIA*), an instrument is a legislative instrument for section 5 of the LIA if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. Under regulation 5A of CAR 1988, if CASA has issued a Civil Aviation Order (the *CAO*), and CASA later issues a direction that affects the operation of the CAO, the later document is declared to be a disallowable instrument. The instrument affects the operation of subparagraph 6.1 (a) of CAO 20.16.3. As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

CASA has consulted both within CASA and with Macair Airlines Pty Ltd on the proposal. The consultation process was brought to a conclusion with CASA and Macair Airlines Pty Ltd signing a document outlining agreements and undertakings. This instrument contains more detailed requirements to ensure the safety of persons on the aircraft.

The direction has been issued by a delegate of CASA in accordance with subregulation 7 (1) of CAR 1988. It commences on the day after registration and stops having effect at the end of 31 January 2011.

[Instrument number CASA 51/09]