

Aviation Ruling

Classification of aerial work operations carrying passengers

Effective Date: This ruling is effective from 13 September 2004.

Catchwords: Classification of operations
aerial work operations
charter operations
CAR 206
media operations, aerial photography
operations for multiple purposes
passengers

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Issue

- 1 This ruling states CASA's position on the proper classification of certain operations involving the carriage of passengers for aerial work purposes and the application of CAR 206 and section 27 of the Act.

Background

- 2 Section 27 of the *Civil Aviation Act 1988 (the Act)* relevantly provides:
(2) Except as authorised by an AOC, or by a permission under section 27A:
(a) an aircraft shall not fly into or out of Australian territory; and
(b) an aircraft shall not operate in Australian territory; and
(c) an Australian aircraft shall not operate outside Australian territory.
...
(9) Subsection (2) applies only to the flying or operation of an aircraft for such purposes as are prescribed.
- 3 Regulation 206 of the *Civil Aviation Regulations 1988 (CAR 1988)* prescribes 'commercial purposes' for the purpose of subsection 27(9) of the Act. These include the 'aerial work' purposes in CAR 206(1)(a) and 'charter' purposes in CAR 206(1)(b). Subject to CAR 206, a person is prohibited from conducting operations for any of the commercial purposes prescribed in CAR 206 unless the person holds an AOC authorising those operations.
- 4 CASA understands that passengers are sometimes transported, for hire or reward, from A to B on a positioning flight before continuing on the same aircraft for an aerial work purpose. These passengers may also carry out aerial work activities between A and B.
- 5 Sometimes such operations also carry additional persons not involved in the aerial work purpose of the operation.

Ruling

- 6 In determining the application of CAR 206, CASA will determine the purpose(s) of an operation on the basis of the objectively ascertained purpose(s) of the operator in relation to the operation as a whole.

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- 7 CASA may treat a series of individual flights as a single operation if the objectively ascertained purposes of the flights are the same. Whether CASA will treat a series of flights as an operation will depend on the circumstances of the flights – no statement of general application can apply in all situations.
- 8 The purpose of an operation is determined at the start of the first flight forming part of that operation.
- 9 CASA will classify as ‘aerial work’ a flight on which passengers are carried for the sole purpose of performing an aerial work activity during the flight. The role of such passengers should be detailed in the operations manual of the operator.
- 10 A flight (e.g. a positioning flight) will also be classified as ‘aerial work’ where a passenger is carried for the sole purpose of enabling the passenger to perform an aerial work activity on a subsequent flight in the same aircraft. This will be so even if the passenger does not perform any aerial work activity during the initial flight (i.e. the positioning flight). CASA will consider the initial flight to be part of a single operation the purpose of which is the performance of the aerial work activity during the subsequent flight.
- 11 If an operation of the type described in paragraph 10 also carries a passenger, for hire or reward, who is not performing an aerial work activity during that operation, then CASA will classify the operation as being for both ‘aerial work’ and ‘charter’ purposes.
- 12 An operation classified for more than 1 of the purposes in CAR 206 must comply with the requirements applicable to both classifications. Generally, a person who complies with the higher level classification (e.g. charter) will also comply with the lower level classification (e.g. aerial work). Guidance should be sought if there is any inconsistency between 2 (or more) sets of applicable regulatory requirements.
- 13 It is possible that the objectively ascertained purposes of an operation will be:
- 13.1 the carriage of a passenger for an aerial work purpose (as described in paragraph 9 above); and
 - 13.2 the purpose of the transportation of that same passenger for hire or reward.
- This could occur if an operation (conducted for hire) included a stop for the passenger to engage in an activity that does not contribute to any operational aspect of the aerial work purpose.
- 14 An example of this type of operation is the hire of an aircraft to carry a media employee (a passenger) for the purposes of conducting aerial photography (an aerial work purpose) and the stopping en route to carry out an interview related to the photography (a non-aerial work purpose). Even though the interview may relate to the aerial photography activity for media purposes, the interview is not one of the operational aspects of the aerial photography purpose. The carriage of the passenger for the conduct of interviews is therefore a charter purpose, and

the operation will therefore be conducted for multiple purposes, as discussed in paragraph 11 above.

- 15 Another example of this type of operation is the hire of an aircraft for both carriage of ground-based fire fighters (passengers) to and from the base of a fire, and to engage in aerial dropping of water or fire retardant on the fire. The carriage of the ground-based fire fighters does not relate to the aerial work purpose of aerial dropping – the carriage of the ground-based fire fighters is not one of the operational aspects of the aerial dropping purpose. Hence the carriage of the ground-based fire fighters is not part of the same operation as the aerial dropping of water or fire retardant. On the other hand, carriage of a spotter for the aircraft, or the operator of the water bucket or hopper, does relate to the aerial dropping purpose, and will be regarded as part of the aerial dropping operation.
- 16 Examples of activities that would generally form part of the operational aspects of an aerial work operation include: en route refuelling necessary to continue the aerial work operation, the collection of equipment or provisions (including food etc) required during the conduct of the aerial work activity, overnight stops (including accommodation etc) necessary in the course of the aerial work operation, and stops to permit ground reconnaissance or similar activities that have the sole purpose of assisting the performance of the operational aspects of the aerial work activity.

Definitions

- 17 In this ruling:

'AOC' means an air operator's certificate issued under section 27 of **the Act**;

'CAR' means the *Civil Aviation Regulations 1988*;

'operation' means, in accordance with this ruling, an individual flight or a series of flights conducted in the same aircraft;

'operator', in relation to an **operation**, means the person holding the **AOC** under which an operation is conducted;

'passenger' has the meaning given in subregulation 2(1) of the **CAR**; and

'the Act' means the *Civil Aviation Act 1988*.

[signed]

Bruce Byron
Director of Aviation Safety and
Chief Executive Officer

12 September 2004