Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Order 40.1.0 Amendment Order (No. 1) 2006

Aircraft endorsements — aeroplanes

Section 98 of the Civil Aviation Act 1988 (the Act) empowers the Governor-General to make regulations for the purposes of the Act and in the interests of the safety of air navigation.

Subregulation 5.22 (1) of the Civil Aviation Regulations 1988 (CAR 1988) provides that CASA may give directions in Civil Aviation Orders (the CAOs) prescribing the aircraft endorsements that must be held by a licence holder before the holder is permitted to carry out the duties authorised by the licence in a particular type or class of aircraft.

Paragraph 5.22 (2) (a) of CAR 1988 provides that CASA may give directions in the CAOs classifying types of aeroplanes into classes.

Subregulation 5.23 (1) of CAR 1988 provides that CASA may give directions in the CAOs setting out requirements for the issue of aircraft endorsements.

Civil Aviation Order 40.1.0 (CAO 40.1.0) prescribes aircraft endorsements for aeroplanes, classifies types of aeroplanes into classes and sets out the requirements for the issue of aircraft endorsements for aeroplanes.

Subsections 6 and 7 of CAO 40.1.0 list the requirements for the issue of a type or class endorsement. This does not include holders of special pilot licences. The Amendment Order provides for the inclusion of special pilot licences in the list of requirements.

The Amendment Order also provides an alternative path for obtaining an Australian aeroplane endorsement if the training for the endorsement is completed overseas.

Currently, if training for an endorsement has been completed overseas, CASA can only issue the endorsement if the endorsement was issued on an overseas licence that CASA recognises, or if the person seeking the endorsement gives to CASA documents from an overseas training provider that shows that the person has satisfactorily undergone training for the issue of an overseas endorsement and the responsible authority in the Contracting State where the training was completed provides a written statement that the person would meet the requirements for the issue of the overseas endorsement.

Under the Amendment Order, the endorsement can be issued if the person has completed training equivalent to the training that would be required in Australia.
The Amendment Order also includes new aeroplane endorsements to facilitate new aircraft coming onto the Australian Civil Aircraft Register. It also places some endorsements, which had previously been inserted in the wrong locations, in their correct locations in the appendices.

**Legislative Instruments Act**

Under subsection 98 (5) of the Act, where the regulations provide for certain instruments to be issued in the form of CAOs, such CAOs are declared to be disallowable instruments. Under subparagraph 6 (d) (i) of the *Legislative Instruments 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. The Amendment Order is, therefore, a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

**Consultation**

Consultations under section 17 of the LIA have not been undertaken as the Amendment Order is of a minor or machinery nature.

For the same reason, the Office of Regulation Review does not require a Regulation Impact Statement as the instrument is of a minor or machinery nature.

The instrument comes into effect on the day after it is registered.

The Amendment Order has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.

[Civil Aviation Amendment Order 40.1.0 Amendment Order (No. 1) 2006]