**Explanatory Statement**

**Civil Aviation Regulations 1988**

**Civil Aviation Order 20.2 Amendment Order (No. 1) 2006**

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations.

Paragraph 6.1 of Civil Aviation Order 20.2 (*CAO 20.2*) provides that the pilot in command of an aircraft with a maximum take-off weight of more than 5 700 kg must not commence a flight unless the quantity of fuel on board has been checked by 2 separate methods. In addition, paragraph 6.2 requires the aircraft operator to have procedures to ensure that any discrepancy does not exceed 3% of the higher amount identified by the cross-check.

The provisions in paragraphs 6.1 and 6.2 of CAO 20.2 appear to be a unique Australian requirement. Other national airworthiness authorities such as the Federal Aviation Administration of the USA and the European Aviation Safety Agency (*EASA*) all have outcome based rules that require the pilot in command to check that there is sufficient fuel on the aircraft for the intended flight. Examples of their requirements are as follows:

- FAR 91.103 requires that, prior to flight, the pilot in command becomes familiar with (among other things) fuel requirements for the flight to be dispatched
- FAR 121.645 requires that the aircraft may not be dispatched without sufficient fuel for the flight
- EASA JAR-OPS 1.290 (b) (9) provides that the commander (of an aircraft) shall not commence a flight unless he is satisfied that (among other things) the provisions mentioned in the operations manual in respect of fuel, oil etc. can be complied with for the planned flight.

CAO 20.2 has been amended to provide an outcome based provision that reflects international standards.

**Legislative Instruments Act**

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. Under subsection 95 (5) of the Act, CAOs are declared to be disallowable instruments. 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**

Though formal consultation under section 17 of the LIA is not required as the amendments are of a minor and machinery nature, CASA has discussed the development of the amendments with most affected parties, either directly or through the Standards Consultative Committee. The parties have had the opportunity to comment on them and have agreed to the amendments.
The Office of Regulation Review does not require a Regulation Impact Statement as the amendments are of a minor or machinery nature.

The instrument commences on the day after it is registered.

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

[Civil Aviation Order 20.2 Amendment Order (No. 1) 2006]