Subsection 98(1) of the Civil Aviation Act 1988 (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. That subsection also provides that the Governor-General may make regulations in relation to the safety of air navigation, being regulations with respect to any other matters with respect to which the Parliament has power to make laws.

Subsection 9(1) of the Act specifies, in part, that the Civil Aviation Safety Authority (CASA) has the function of conducting the safety regulation of civil air operations in Australian territory by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

The Regulations remove regulations 5.26B to 5.26J which relate to Airborne Collision Avoidance System (ACAS) training from Part 5 – “Qualifications of Flight Crew” of the Civil Aviation Regulations 1988 (CAR) following a review of the Part as a result of aviation community feedback on complications relating to the completion of pilot training on aircraft required to be equipped with an ACAS. The Regulations also remove a note from subregulation 262AC (2) in Part 14 – “Air Service Operations” of CAR which refers to regulations 5.26B to 5.26J.

Currently, regulations 5.26B to 5.26J of CAR provide the training requirements for pilots in Australian aircraft required to be equipped with an ACAS.

Amendment to Civil Aviation Order (CAO) 40.0
The ACAS pilot training will be addressed in Civil Aviation Order (CAO) Part 40, Section 40.0 (Conditions – Flight crew licensing) which will be amended to contain new ACAS competency-based training standards. ACAS will become a non-renewable endorsement rather than a logbook entry, and the training will be signed off by any ACAS-approved flight or ground instructor (including airline check pilots). The addition of "or an approved person" will also make it possible for CASA to evaluate an overseas ACAS training course and grant approval on merit to an overseas instructor to sign off the training. The amendment to CAO 40.0 will be made by CASA’s Director of Aviation Safety to coincide with the making and commencement of these proposed Regulations.

Background
Regulations 5.26B through 5.26J of CAR were amended in December 2000 to detail the training requirements that applied on or after 1 May 2001 for all Australian pilots wishing to use Airborne Collision Avoidance System (ACAS) equipment. These requirements were considered necessary in the light of international statistics on ACAS events that indicated a generally poor level of pilot understanding of how ACAS operates and a consequent potential compromise of the level of safety offered by this equipment.

The original intent of the regulation amendment then was to make sure that Australian pilots were properly trained in the use of ACAS and that the training was signed off as having been completed. Originally, the sign off was to have been a simple entry in the pilot's logbook.
These regulations however were found to be overly complex, and not easy to read or understand, either by industry or CASA inspectorate staff. There were also some unintended consequences of the regulations relating to how collision avoidance simulations are to be carried out, and lack of clarity about who could approve that the pilot has successfully completed the ACAS training and the role of CASA flying operation inspectors (FOIs) in approving instructors and training syllabuses.

These issues were to be resolved by the forthcoming introduction of new Part 61 (Flight crew licensing) and Part 121 (Air transport operations – large aeroplanes) of the Civil Aviation Safety Regulations (CASR) which would have clarified the provisions of regulations 5.26B to 5.36J of CAR and which would put in place a new competency-based approach to pilot training.

It is now unclear when CASR Part 61 and CASR Part 121 will be made due to delays in CASA's regulatory reform programme. However, the problems caused by the current wording of regulations 5.26B through 5.26J of CAR are continuing, with frequent concerns expressed by field FOIs that some pilots are not ACAS-current as required by regulation 5.26F and industry feedback identifying that certain sectors of the aviation industry are having difficulty in complying with regulations 5.26B through 5.26J.

**Consultation**

CASA considered the aviation community input and having conducted consultation on CASR Part 61 and CASR Part 121 previously, then directly consulted with the affected stakeholders through the Standards Consultative Committee (an aviation industry/CASA consultative forum) and concluded that Part 5 and Part 14 of CAR should be amended as soon as practicable to remove the unintended consequences preventing certain sectors of the aviation industry complying with the regulations.

**Impact of Regulations**

The Regulations bring forward the positive benefits of changes that would have been eventually made in CASR Part 61. The Regulations being made in advance of the new proposed CASR Parts will result in there being no impact of CASR Part 61 and CASR Part 121 on ACAS requirements when the new Parts are finally made.

The Office of Regulation Review (ORR) has assessed that the substance of the proposed Regulations were adequately considered by the RIS prepared by CASA and cleared by the ORR on 20 August 2004 (ORR ID No. 2777), and that no further RIS is necessary. (ORR ID No. 7999 refers).

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Details of the Regulations are attached.
Details of the Civil Aviation Amendment Regulations 2006 (No. 1)

Regulation 1 - Name of Regulations
Regulation 1 provides that the title of the Regulations is the Civil Aviation Amendment Regulations 2006 (No. 1).

Regulation 2 - Commencement
Regulation 2 provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 - Amendment of Civil Aviation Regulations 1988
Regulation 3 provides that Schedule 1 amends the Civil Aviation Regulations 1988.

Schedule 1 Amendments

Item [1] omits regulations 5.26B, 5.26F, 5.26G, 5.26GA, 5.26H and 5.26J which previously provided the requirements for the completion of pilot training on aircraft required to be equipped with an Airborne Collision Avoidance System (ACAS).

ACAS is currently required to be fitted to all turbine aircraft above 5,700 kg MTOW and 36 or more seats, carrying out hire and reward operations, including passenger operations (approx 400 large aircraft).

The current complicated ACAS training provisions will now be substantially simplified by deleting the regulatory requirements and placing the mandatory training requirements in Civil Aviation Order (CAO) Part 40, Section 40.0 (Conditions – Flight crew licensing).

It is expected the complexity of the requirements will be reduced. A set of competency-based training standards will replace the existing syllabus requirements, which effectively convert the syllabus into an outcome-based system, rather than prescriptive training elements that must be complied with.

The change from a pilot logbook entry to an endorsement for ACAS training will simplify compliance for the major airlines. The new CAO requirements will also make it simpler for operators to access overseas ACAS training and make it simpler for CASA to approve such training and overseas instructors.

The administrative aspects of ACAS training approvals will be simplified for CASA inspectors and the requirements clarified and eased for operators. There are no additional compliance costs for operators in moving to this simpler regulatory format. However, flying training organisations may need to amend their manuals to reflect the new regulatory reference but this is expected to have a very minor impact.

Item [2] Subregulation 262AC (2), note
Item [2] omits the Note following subregulation 262AC (2) which made reference to the repealed regulations 5.26B, 5.26F, 5.26G, 5.26GA, 5.26H and 5.26J as a consequence of these Regulations.