Explanatory Statement

Civil Aviation Order 29.10 Amendment Order (No. 1) 2006

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.

Paragraph 157 (4) (b) of the Civil Aviation Regulations 1988 (CAR 1988) provides that the Civil Aviation Safety Authority (CASA) may permit flights to be made at a height lower than a minimum height specified in subregulation 157 (1).

Civil Aviation Order 29.10 (CAO 29.10) titled “Air service operations — aircraft engaged in aerial stock mustering operations – low flying permission” permitted such flights for the purposes of aerial stock mustering. It contained conditions that had to be complied with and set various operational limitations relating to the pilot’s qualifications, minimum aeronautical experience and maintaining recency.

CAO 29.10 currently requires at sub-subparagraph 12.5 (b) (ii) that an approved pilot seeking a renewal of his or her approval must, every 2 years, satisfactorily demonstrate to a CASA Flying Operations Inspector (FOI) in the operational environment his or her ability in order to have the approval renewed. CASA considers that this process is unwieldy and unnecessarily restrictive and that industry could be delegated with the responsibility for stock mustering pilot approvals.

The demonstration required to a CASA FOI has little or no real safety value in relation to ongoing operations. This is because the type of flying skills to be demonstrated are of a specialist nature.

These FOIs would not, in most circumstances, have the knowledge or experience in such operations as the person being tested. Furthermore, the cost of such a test, which must be done in the operational environment, entails high travel costs and CASA FOI time. These costs must be recovered from industry at cost-recovery rates.

The Amendment Order will permit persons approved by CASA to renew the approval of stock mustering “approved pilots”. CAO 29.10 is also amended to remove a requirement in subparagraph 12.5 (a) for CASA to re-approve pilots after they have reached 20 hours and replace this with a recency requirement which achieves the exact same result at much less cost to industry and CASA.

Legislative Instruments Act

Under subsection 98 (5) of the Act, where the regulations provide for certain instruments to be issued in the form of Civil Aviation Orders (the 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
Consultation under section 17 of the LIA has not been undertaken as the amendments are of a minor or machinery nature.

For the same reason, 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 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 (No. 1) 2006]