Explanatory Statement

Civil Aviation Regulations 1988

Amendment of instrument CASA 321/06

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

Under subregulation 207 (2) of the *Civil Aviation Regulations 1988* (CAR 1988), a person must not use an Australian aircraft in a class of operation if the aircraft is not fitted with the instruments and equipment approved and directed by CASA.

Under subregulation 207 (3) of CAR 1988, where CASA approves, or directs, that an instrument or item of equipment be fitted or carried on an aircraft, a person must fit, carry or use the instrument or item of equipment on the aircraft only in accordance with the directions of CASA.

Under subregulation 308 (1) of CAR 1988, CASA may, in relation to a particular aircraft or a specified type or category of aircraft, exempt the aircraft, or persons in, on, or otherwise associated with the operation of the aircraft, from compliance with specified provisions of CAR 1988.

Civil Aviation Order 20.18 (*CAO 20.18*) sets out approval and directions for aircraft instruments and equipment to meet basic operational requirements.

Under paragraph 9B.2 of CAO 20.18, ADS-B transmitting equipment carried by an Australian aircraft for operational use in any class of operation in Australia must comply with an approved equipment configuration set out in Appendix XI, or as approved in writing by CASA.

Under paragraph 9B.3 of CAO 20.18, ADS-B transmitting equipment that does not comply must be deactivated before flight in Australia. Under paragraph 9B.4 of CAO 20.18, ADS-B transmitting equipment must transmit particular flight identification particulars.

Appendix XI sets out the standards that ADS-B transmitting equipment must meet if it is to comply with the requirements under the Civil Aviation Orders. Those standards are in conformity with the relevant ICAO standards and recommended practices.

Airservices Australia (AA) has donated 6 automatic dependent surveillance – broadcast (ADS-B) capable Honeywell KT73 transponders to the Royal Flying Doctor Service of Australia (RFDS) (Western Operations). While the KT73 is approved for ADB-S, the proposed GPS data source is not yet included in the approved list in Advisory Circular AC 21-45. RFDS (Western Operations) wished to conduct flight tests within the range of AA’s ADB-S ground stations and for AA staff to confirm that the transmission satisfies their requirements. The exemption will enable the flight tests to be conducted in the Pilatus PC-12 aircraft with nationality and registration marks VH-MWO and VH-VMO.

CASA is satisfied that the flight tests do not give rise to any safety concerns.
**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. Subregulation 308 (4) of CAR 1988 declares an exemption to be a disallowable instrument. The instrument is, therefore, a legislative instrument and 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 in this case because the instrument amends CASA EX35/07 to correct a typographical error in section 2 of the instrument.

The Amendment has been issued by a delegate of CASA. It commences on 27 July 2007 and stops having effect at the end of 22 September 2007.

[Instrument number CASA EX38/07]