

## **EXPLANATORY STATEMENT**

### **CONDITIONS UNDER SUBSECTION 28BA (1) OF THE CIVIL AVIATION ACT 1988**

### **DIRECTIONS UNDER SUBREGULATION 207 (2) OF THE CIVIL AVIATION REGULATIONS 1988**

### **USE OF TERRAIN AVOIDANCE WARNING SYSTEMS**

#### **Conditions under subsection 28BA (1)**

Subsection 28BA (1) of the *Civil Aviation Act 1988* (the *Act*) states that an Air Operator's Certificate has effect subject to any conditions specified in the regulations or the Civil Aviation Orders (*CAOs*).

Part 82 contains conditions on Air Operators' Certificates. Section 82.1 deals with Air Operators' Certificates authorising aerial work, or charter, operations.

Section 82.1 contains, in subsection 5, conditions relating to the carriage of ground proximity warning systems (*GPWS*) by foreign registered aircraft engaged in charter operations.

#### **Directions under subregulation 207 (2)**

Subregulation 207 (2) of the *Civil Aviation Regulations 1988* (*CAR 1988*) provides that an Australian aircraft shall not be used in any class of operations unless it is fitted with such instruments and is fitted with or carries such equipment as the Civil Aviation Safety Authority approves or directs.

Regulation 5 of *CAR 1988* provides that where *CASA* is empowered to issue directions, it may issue those directions in Civil Aviation Orders.

Section 20.18 of the *CAOs* sets out instruments and equipment required for Australian aircraft engaged in certain classes of operations. Section 20.18 included a requirement under paragraph 9.1C that a turbine engine aeroplane that has a maximum take-off weight of more than 15 000 kg or is carrying 10 or more passengers and is engaged in regular public transport, or charter, operations could not be operated under the Instrument Flight Rules unless it was fitted with a *GPWS*.

#### **Effect of recent amendments**

Civil Aviation Amendment Order (No. 1) 2005 amended sections 20.18 and 82.1 of the *CAOs* to allow aircraft with a maximum take-off weight of 5 700 kilograms or less that carry 10 or more passengers to use a *TAWS B+* Terrain Awareness and Warning System incorporating a visual terrain display, that complies with 1 of the

following Technical Standard Orders — TSO C-151, TSO C-151a or TSO C-151b. The purpose of the amendments was to enable smaller aircraft to take advantage of technological developments and use a less costly alternative to the GPWS.

In the amendments, there were 2 typographic errors. Subparagraph 9.1C (c) as remade omitted a reference to “regular public transport operations” and subparagraph 5.5 (b) as remade referred to regular public transport operations instead of charter operations. This Order amends both subparagraphs to correct the errors.

The draft Order also amends paragraph 9.1D of CAO 20.7.1B and paragraph 5.2 of CAO 82.0 to include a reference to TSO C-151b, the latest development of TSO C-151. TSO C-151b is referred to in the provisions relating to the use of the TAWS B+ Terrain Awareness and Warning System.

### **Consultation**

Consultation under section 17 of the *Legislative Instruments Act 2003 (LIA)* has not been undertaken. It is also not considered necessary to refer the amendments to the Office of Regulation Review. The purpose of the amendments is not to introduce new policy but to correct typographic errors and to update references to the applicable Technical Standard Order. Neither of these actions will impose additional obligations on persons.

### **Registration under the LIA**

The instrument has been lodged for registration under section 25 of the LIA together with a copy of this explanatory statement.

The Order has been made by the Director of Aviation Safety in accordance with subsection 84A (2) of the Act. The Order takes effect at the start of the day after registration on the Federal Register of Legislative Instruments.

[Civil Aviation Amendment Order (No. ) 2005]