

EXPLANATORY STATEMENT

CIVIL AVIATION ACT 1988

CIVIL AVIATION ORDERS

CIVIL AVIATION ORDER 82.1 AMENDMENT ORDER (NO. 1) 2005

Section 27 of the *Civil Aviation Act 1988* (the *Act*) empowers CASA to issue Air Operators' Certificates (*AOCs*) with respect to aircraft for the purpose of safety regulation. Under paragraph 28BA (1) (b) of the Act, an AOC has effect subject to any conditions specified in the Regulations or the Civil Aviation Orders (the *CAOs*). Part 82 of the CAOs specifies such conditions and section 82.1 contains conditions on AOCs that authorise charter, or aerial, work operations.

Section 27AB of the Act requires an applicant for an AOC to lodge with CASA the current or proposed operations manual for the aircraft if the *Civil Aviation Regulations 1988* (*CAR 1988*) or the CAOs require the operator to have such a manual.

Regulation 215 of CAR 1988 requires an operator engaged in commercial operations (aerial work, charter or regular public transport operations) to provide an operations manual containing appropriate instructional information for all types of aircraft operated by the operator.

Some aircraft types are manufactured in different models by the same or different manufacturers. However, regulation 215 only requires an operations manual to include specific instructional information about the aircraft type.

AOCs use different formulae to specify the aircraft to which they apply. For example, before the Amendment, they referred to the aircraft manufacturer, type and model, or to the aircraft manufacturer and type without reference to model, or to the aircraft class (for example "single engine land aeroplanes below 5 700 kg MTOW"). The reason for this specificity was to ensure that through the description of the aircraft (including where they may be different models of a single type), the operator is obliged to provide operations manual instructions for aircraft types and models as appropriate.

One consequence of this process is that when an operator commences operations with a different model of a type already on the AOC, a new AOC must be issued to ensure that an adequate operations manual is provided for that new model. This process is time-consuming and costly for both CASA and operators.

To alleviate the administrative burden, aircraft in charter, and aerial work, operations will be identified in the AOC by manufacturer and type only, or by aircraft class only. The CAO Amendment will then make it a general condition of all such AOCs that an adequate operations manual be provided for the type and model of aircraft actually used by an operator.

The Amendment, therefore, adds a new subsection 6 to section 82.1 of the CAOs. It applies to each operator who holds an AOC authorising charter, or aerial work, operations in an aircraft identified in the AOC by manufacturer and type only or by aircraft class only.

The operator must ensure that the operations manual contains current and appropriate operating information, procedures and instructions (the *specific instructions*) for each aircraft type and model operated. “Appropriate” means sufficiently detailed to enable the safe operation of the aircraft type and model in accordance with the legislative requirements.

A current manufacturer’s pilot operating handbook (*POH*) or aircraft flight manual (*AFM*), attached to the operations manual, will satisfy the requirement for specific instructions. However, if the POH or AFM does not contain instructions to ensure compliance with the particular Australian legislative requirements for operations of the aircraft type and model, these instructions must be stated in the operations manual itself.

The operator must ensure that before a pilot operates an aircraft, the chief pilot is satisfied that the pilot understands, and is competent to carry out, the specific instructions for that aircraft type and model, and understands the differences for each model of that aircraft type operated by the operator.

Maintenance control information must also be documented in respect of each aircraft type and model.

RPT operations, and charter and aerial work categories above 5 700kg, are not included in the scope and model as a minimum. Generally, these aircraft are also subject to regulation 217 of CAR 1988 (requirement for a training and checking organisation) designed to ensure pilot competence on different types and knowledge of differences.

Legislative Instruments Act

Under subsection 98 (4A) of the Act, CAOs made for the purposes of section 28BA of the Act 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 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 been undertaken with the aviation industry through the Standards Consultative Committee. There were no objections to the proposal. Notification of the proposed CAO Amendment was also posted on the CASA website for public information and comment and again no objections were received.

The Amendment is minor or machinery in nature and will not substantially alter existing arrangements. For these reasons, the Office of Regulation Review does not require a Regulation Impact Statement.

The instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

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

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