

## EXPLANATORY STATEMENT

### CIVIL AVIATION REGULATIONS 1988

#### APPROVAL AND DIRECTIONS — OPERATIONS WITHOUT AN APPROVED DIGITAL FLIGHT DATA RECORDER

Section 98 of the *Civil Aviation Act 1988* empowers the Governor-General to make regulations.

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

Civil Aviation Order 20.18 sets out instruments and equipment required for Australian aircraft engaged in certain classes of operations. Paragraph 6.1 provides that certain aircraft may be flown only if equipped with an approved flight data recorder system.

This approval under subregulation 207 (2) permits the aircraft VH-VFP to operate without an approved flight data recorder system while being operated in private operations. The aircraft must, however, be equipped in all other respects, as required by Civil Aviation Order 20.18 and must not be used for training flights.

Under regulation 5A of CAR 1988, if CASA has issued a direction in the form of a CAO and later issues another direction which has the effect of amending, varying or repealing the CAO, the later instrument is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. The instrument affects the operation of paragraph 6.1.

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.

As a legislative instrument, it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

No consultation has taken place. The instrument is similar to a previous instrument (CASA 48/04) issued for aircraft VH-MGC, which lapsed after a change of aircraft registration mark, and remakes it in a modified form. This is a continuation of the current policy.

The instrument has been issued by a delegate of CASA. It commences on the day after it is registered on the Federal Register of Legislative Instruments and stops having effect at the end of 28 February 2006.

[Instrument number CASA 379/05]