

## **Explanatory Statement**

### **Civil Aviation Regulations 1988**

#### **Civil Aviation Order 95.12.1 Amendment Order (No. 2) 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.

Regulation 5 of the *Civil Aviation Regulations 1988* (*CAR 1988*) empowers CASA to issue any direction or notification or give any permission, approval or authority in Civil Aviation Orders (the *CAOs*).

Under subregulation 308 (1) of CAR 1988, CASA may exempt 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 95.12.1 applies to certain 2 place gyroplanes. A flight condition imposed on the gyroplanes is that, except with the written permission of CASA, they are not allowed to be flown at a height of more than 500 feet above ground level or within 8 kilometres of a registered or certified aerodrome.

The amendment enables gyroplanes to operate above 500 feet or within 8 kilometres of a certified or registered aerodrome if the pilot holds a valid gyroplane pilot certificate endorsed for this type of activity and operates the gyroplane in accordance with the Australian Sport Rotorcraft Association's operations manual.

### **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. Under subsection 95 (5) of the Act, CAOs are declared to be disallowable instruments. 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**

Though formal consultation under section 17 of the LIA is not required, as the amendments are of a minor or machinery nature, CASA has discussed the development of the amendments with most affected parties, either directly or through the Standards Consultative Committee. The parties have had the opportunity to comment on it and have agreed to the amendments.

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 instrument 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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