

Explanatory Statement

Civil Aviation Regulations 1988

Civil Aviation Order 95.4 Amendment Order (No. 1) 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 (**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 95.4 (**CAO 95.4**) applies to gliders, powered sailplanes and power-assisted sailplanes used for sporting and recreational purposes or practical flight instructions conducted in accordance with the Gliding Federation of Australia (**GFA**) Operational Regulations.

After considering a request from the GFA, CASA has agreed to amend CAO 95.4 to permit a flight that is described by paragraph 157 (4) (b) of CAR 1988, so that a flight may be conducted below 500 feet above the ground when approaching its intended landing place if the flight is conducted in accordance with procedures contained in the GFA Operational Regulations.

The opportunity has also been taken to update the definition of **GFA** to give the correct description of the **GFA**.

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 comes into effect 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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