

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 100.23 Amendment Order (No. 1) 2011

Purpose

The purpose of *Civil Aviation Order 100.23 Amendment Order (No. 1) 2011* (the **CAO amendment**) is to take account of the enactment of Part 66 of the *Civil Aviation Safety Regulations 1998* (**CASR 1998**).

Legislative background

Regulation 33B of the *Civil Aviation Regulations 1988* (**CAR 1988**) provides that CASA may, in writing, and in accordance with the Civil Aviation Orders (**CAOs**), issue various kinds of airworthiness authorities (**AAs**).

CAO 100.23 sets out general rules for AA classes and ratings. It also addresses examiner authorities for dual holders of a maintenance certificate of approval under regulation 30 of CAR 1988 (**CAR 30 organisation**) and a recognised organisation maintenance approval under CAO 100.66 (an **RO**).

Background

Amendments made to CAR 1988 and CASR 1998 by the *Civil Aviation and Civil Aviation Safety Amendment Regulations 2010 (No. 1)* (registered on 14 December 2010) made Part 147 of CASR 1998 which deals with maintenance training organisations.

The rules for maintenance training organisations, contained in CASR Part 147, supersede the rules for issue of maintenance authorities following training by recognised organisations under CAO 100.66 (which has been separately revoked).

Consequently, the amendment to CAO 100.23 omits subsection 6 which is obsolete.

Legislative Instruments Act 2003 (the LIA)

Under paragraph 98 (5A) (a) of the *Civil Aviation Act 1988* (the **Act**), the regulations may empower CASA to issue instruments in relation to matters affecting the maintenance of aircraft. Under subsection 98 (5AA) of the Act, an instrument issued under paragraph 98 (5A) (a) is a legislative instrument subject to the LIA (other than Part 6 concerning sunseting) if it is expressed to apply in relation to a class of persons, aircraft or aeronautical products.

Under subsection 98 (5AB) of the Act, an instrument issued under paragraph 98 (5A) (a) is *not* a legislative instrument if it is expressed to apply in relation to a *particular* person, aircraft or aeronautical product.

Under regulation 33B of CAR 1988, CASA may make CAOs in relation to AAs.

Made under regulation 33B of CAR 1988, the CAO amendment is an instrument affecting the maintenance of aircraft and is of general application. It is, therefore, a legislative instrument subject to registration, tabling and disallowance in the Parliament under sections 24, 38 and 42 of the LIA.

Consultation

For section 17 of the LIA, extensive industry and public consultations were conducted on the maintenance suite of regulations (Parts 42, 66, 145 and 147 of CASR 1998). Advance notice of the consequential amendments was posted on the Standards Consultative Committee (SCC) discussion forum. No comments were received as a result of the posting.

Office of Best Practice Regulation (OBPR)

The instrument has only a low to nil impact on business. OBPR does not require a regulatory impact statement for the CAO amendment because a preliminary assessment of business compliance costs indicates that the amendment will have only a nil to low impact on business.

Commencement and making

The CAO amendment commences on 27 June 2011.

The CAO amendment has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the *Civil Aviation Act 1988*.

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