

## **Explanatory Statement**

### **Airspace Regulations 2007**

#### **Designation of air routes**

##### **Determination of conditions for use of air routes**

Section 15 of the *Airspace Act 2007* (the *Act*) provides that the Governor-General may make regulations for the Act.

Under subsection 11 (1) of the Act, regulations may confer functions and powers on CASA in connection with the administration and regulation of Australian-administered airspace.

Under paragraph 11 (2) (e) of the Act, regulations may make provision for, and in relation to, the designation of air routes and airways in Australian-administered airspace, and the conditions for use of a designated air route or airway.

##### **Legislation**

Under subregulation 11 (1) of the *Airspace Regulations 2007* (the *AsR 2007*), CASA may, in writing, designate air routes and airways in Australian-administered airspace.

Under subregulation 11 (2) of AsR 2007, CASA may determine the conditions that apply to the use of a designated air route or airway.

Under subregulation 11 (3) of AsR 2007, a designation or determination must be made to take effect on, or after, the day on which the designation or determination is published in the AIP or a NOTAM.

##### **Background**

Under regulation 11 of the AsR 2007, CASA may make designations of air routes.

An air route is a specified route between 2 points, the purpose of which is to channel the flow of air traffic to facilitate the provision of air traffic services.

The definitive description of air routes in Australian-administered airspace is compiled and monitored by Airservices Australia (*AA*). Currently, these descriptions are published in AA's *Designated Airspace Handbook (DAH)* twice yearly every 24 or 26 weeks.

The DAH lists and describes, in tabular form, the navigable segments of the air routes in Australian-administered airspace. By the use of codes, prefixes and legends, the conditions applying for particular air routes are indicated.

On 1 July 2007, CASA took over from AA responsibility for the regulation of Australian airspace. Nevertheless, AA remains responsible for the definitive description of air routes in Australian-administered airspace.

AA has published its DAH, effective on and from 28 June 2012. This updated DAH contains some revision of the descriptions of air routes since the previous issue by AA in November 2011. The changes are essentially minor adjustments to waypoints which constitute those air routes.

Consequently, it is necessary for CASA, under regulation 11 of the AsR 2007, to update its previous designation of air routes by issuing the new designation and conditions.

### **Summary of the determination**

The instrument revokes the previous instrument of designation of air routes, namely, CASA OAR 153/11 — Designation of air routes, and redesignates them with minor changes effective on, and from, 28 June 2012.

The new instrument of designation designates the relevant air routes by reference to navigable segments.

### **Details of the determination**

More details of the designation are set out in Appendix 1.

### **Legislative Instruments Act 2003 (the LIA)**

Under section 5 of the LIA, a written instrument is a legislative instrument if it is of a legislative character and is made under a power delegated by the Parliament. In effect, an instrument is taken to be of a legislative character if it makes new law (rather than applying existing law to a case) and in doing so affects rights, privileges or obligations.

The designation, by revoking and remaking in altered form, the existing air routes designation is, therefore, a legislative instrument. It is subject to registration, and to tabling in the Parliament, under sections 24 and 38 of the LIA respectively. However, under items 1B and 1A of Schedules 2 and 3 respectively of the *Legislative Instruments Regulations 2004*, the designation is not subject to either disallowance or sunset.

### **Consultation**

As a matter of standard practice, the airspace users of any particular airspace that may be subject to changed arrangements are formally notified of the proposals by the proponent and consulted about them. Any representations made by the users about the proposals are taken into account by CASA. This consultation process was followed in this case also.

### **Office of Best Practice Regulation (OBPR)**

OBPR does not require a Regulation Impact Statement because a preliminary assessment of Business Compliance Costs indicates that the determination will have only a low impact on business or competition.

### **Statement of Compatibility with Human Rights**

The following Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Under regulation 11 of the AsR 2007, CASA may designate airways and air routes and determine conditions for their use. An air route is a specified route between 2 points, the purpose of which is to channel the flow of air traffic to facilitate the provision of air traffic services.

The instrument of designation and determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not raise any human rights issues.

**Making and commencement**

The designation has been made by the Acting Executive Manager, Airspace and Aerodrome Regulation Division, a delegate of CASA, under subsection 94 (1) of the *Civil Aviation Act 1988*.

As required by subregulation 11 (2) of the AsR 2007, following registration the designation commences on 28 June 2012, the day it is published in the AIP DAH.

## **Appendix 1**

### **Details of designation of air routes**

#### **Section 1 — Commencement**

Under this section, the determination commences on 28 June 2012 when it is published in the AIP DAH as required by subregulation 11 (3) of the *Airspace Regulations 2007*.

#### **Section 2 — Revocation**

Under this section, the previous designation instrument, CASA OAR 153/11, is revoked.

#### **Section 3 — Designation of air routes**

Under this section, the CASA delegate designates the relevant air routes by describing them in Schedule 2 of the instrument. The Schedule replicates the original data in the AIP DAH.

#### **Section 4 — Determination of conditions for use of air routes**

This section has the effect of imposing as conditions on the use of an air route, the restrictions and limitations used for the air route, as explained by the codes, prefixes and limitations mentioned in Schedule 1. The route codes, prefixes and legends in Schedule 1 replicate the original data in the AIP DAH.

#### **Schedule 1 — Route legends**

This Schedule describes the codes, prefixes and legends which, in effect, decode the air route descriptions in Schedule 2. Interpreted in light of the codes, prefixes and legends, the conditions and restrictions on each air route become evident.

#### **Schedule 2 — Air routes**

This Schedule describes the air routes and, using codes, prefixes and legends, indicates the restrictions and limitations that apply to the use of a designated air route. The effect of the designation is that pilots and air traffic controllers are assisted in identifying navigable airspace between 2 points for the application of flight rules.

The impact on the new designation of air routes is expected to be negligible as most of the air routes are already in use. In any case, under regulation 3.03 of the *Air Services Regulations 1995*, certain qualified employees of AA may give air traffic instructions and air traffic clearances to an aircraft at a controlled aerodrome or in airspace that is determined to be of a particular class. Air traffic control may, therefore, describe any route by reference to its segments if required for any particular flight regardless of the existence of a designated route.

[Instrument number CASA OAR 079/12]