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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AIRSPACE (CONSEQUENTIALS AND OTHER MEASURES) BILL 2006

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and Regional Services,
the Honourable Mark Vaile, MP)

AIRSPACE (CONSEQUENTIALS AND OTHER MEASURES) BILL 2006

OUTLINE

This Bill contains a number of amendments to the *Civil Aviation Act 1988* consequent upon the Airspace Bill.

This Bill amends the *Civil Aviation Act 1988* to ensure that airspace regulation is a clear and separate function for the Civil Aviation Safety Authority (CASA) and that CASA acts consistently with the Australian Airspace Policy Statement described in the Airspace Bill 2006. This Bill enables regulations to be made to grandfather decisions made by Airservices Australia under regulations to be transferred to CASA.

This Bill also makes a number of technical amendments to the *Air Services Act 1995* and the *Civil Aviation Act 1988* to accommodate amendments made to the functions of Airservices Australia by the *Civil Aviation Legislation Amendment Bill 2003*.

Financial impact statement

There is no financial impact

NOTES ON CLAUSES

Part 1—Preliminary

Clause 1: Short Title

1. This Bill may be cited as the *Airspace (Consequential and Other Measures) Act 2006*.

Clause 2: Commencement

2. Clause 1, Short Title, Clause 2, Commencement, Clause 3, Schedule(s) and Schedule 2, Technical amendments, will commence on the day on which this Bill receives the Royal Assent.
3. Schedule 1, Consequential amendments, and Schedule 3, Transitional provision, will commence at the same time as sections 3 to 15 of the Airspace Bill 2006 commence.

Schedule 1 – Consequential amendments

Civil Aviation Act 1988

4. **Item 1**

This item inserts a new function into the list of CASA's functions in Section 9 of the *Civil Aviation Act 1988* to make it clear that any functions conferred under the Airspace Bill 2006 are functions for the purposes of the *Civil Aviation Act 1988*.

5. **Item 2**

This item inserts a new section 11A into the *Civil Aviation Act 1988*, which will require CASA to exercise its powers and functions consistently with the Australian Airspace Policy Statement made under Clause 8 of the Airspace Bill 2006, unless doing so puts CASA in conflict with its obligation under Clause 9A(1) of the *Civil Aviation Act 1988* to regard the safety of air navigation as the most important consideration.

6. The new section 11A will also require CASA to notify the Minister if it proposes to use its powers and functions under the Airspace Bill 2006 in a way that is inconsistent with the Australian Airspace Policy Statement because of a conflict with CASA's obligation under subsection 9A(1) of the *Civil Aviation Act 1988*. CASA is required to provide this notification in writing in advance of taking action, and include an explanation of why it is necessary to exercise its powers in a way that is inconsistent with the Australian Airspace Policy Statement.

7. This item defines the term 'Australian Airspace Policy Statement' to mean the Australian Airspace Policy Statement made under subclause 8(1) of the Airspace Bill 2006.

Schedule 2 – Technical amendments

Air Services Act 1995

8. Item 1 Schedule 2, Clause 1, deletes the reference to subparagraphs 8(1)(b)(i), (v) and (vi) at Subsection 19(2) of the *Air Services Act 1995* to make this Subsection consistent with the amendments made to section 8 of the *Air Services Act 1995* by the *Civil Aviation Legislation Amendment Act 2003*.
9. Paragraph 8(1)(a) of the *Air Services Act 1995* states that Airservices has the function of providing services and facilities:
 - (i) for the purpose of Australia or another country giving effect to the Chicago Convention; or
 - (ii) for the purpose of Australia or another country giving effect to another international agreement relating to the safety, regularity or efficiency of air navigation; or
 - (iii) otherwise for purposes relating to the safety, regularity or efficiency of air navigation, whether in or outside Australia;
10. Items 2, 3, 4 and 5 similarly omit references in the *Air Services Act 1995* and the *Civil Aviation Act 1988* to certain provisions in the *Air Services Act 1995* which are now incorrect following the enactment of the *Civil Aviation Legislation Amendment Act 2003* and substitute references to the correct provisions.

Schedule 3—Transitional provision

11. Clause 11 of the Airspace Bill 2006 makes provision for regulations to be made (the Airspace Regulations) that confer functions and powers upon CASA necessary to administer and regulate Australian-administered airspace. It is likely that the majority of these regulations will be in similar terms to the regulations currently contained in Air Services Regulations Part 2.
12. It is intended that regulations will be made under the *Air Services Act 1995* repealing Part 2 of the Air Services Regulations.
13. Item 1 provides for regulations to be made to address matters of a transitional nature arising out of the repeal of those Air Services Regulations including regulations which ‘grandfather’ instruments under the repealed Air Services Regulations made before that repeal.