

## EXPLANATORY STATEMENT

### CIVIL AVIATION REGULATIONS 1988

#### CIVIL AVIATION ORDERS

##### REVOCATION AND REPLACEMENT OF SECTION 29.3

##### AIR SERVICE OPERATIONS — AEROPLANES ENGAGED IN AGRICULTURAL OPERATIONS — NIGHT AERIAL SPRAYING

Subsection 28BA (1) of the *Civil Aviation Act 1988* (the Act) states that an Air Operator's Certificate has effect subject to any conditions specified in the regulations or the Orders.

Subsection 98 (4A) of the Act states that the Civil Aviation Safety Authority (CASA) may issue Civil Aviation Orders (the Orders) with respect to any matter in relation to which regulations may be made under section 28BA.

Orders issued under subsection (4A) are disallowable instruments under section 46A of the *Acts Interpretation Act 1901*.

Subregulation 174B (1) of the *Civil Aviation Regulations 1988* (CAR 1988) sets a minimum height of 1 000 feet above the highest obstacle within 10 miles, for an aircraft flying at night under the V.F.R.

Subregulation 174B (4) of CAR 1988 states that CASA may give permission for a flight that does not comply with subregulation (1).

Section 29.3 of the Orders applied to aeroplanes engaged in agricultural operations and carrying out night spraying. It set out requirements relating to the landing areas and aerodromes that may be used.

It set out detailed operational requirements and the aeroplane types that may be used. It also specified the equipment that is required. In subsection 7 it gave permission for the operations to be conducted at a height lower than that prescribed in subregulation 174B (1).

This Order revokes and remakes section 29.3. This has been done as part of a scheme to review the Civil Aviation Orders, and, in particular, to ensure that they are in a position to meet the technical requirements of the *Legislative Instruments Act 2003* when it comes into effect on 1 January 2005. The remake does not involve any changes in existing law or policy in the Order. The Order is being remade solely for the purpose of ensuring compliance and consistency with the *Legislative Instruments Act 2003* when it commences on 1 January 2005. However, the opportunity has been taken to update outdated references to legislation in the Order and to introduce gender-neutral wording into the Order.

The Office of Regulation Review has stated that a Regulation Impact Statement is not necessary because the remake is of a minor or machinery of government nature.

The Order has been issued by the Director of Aviation Safety in accordance with subsection 84A (2) of the Act.

The Order came into effect on gazettal.

[Civil Aviation Amendment Order (No. R23) 2004]