

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 82.5 Amendment Order (No. 1) 2005

Under paragraph 28BA (1) (b) of the *Civil Aviation Act 1988* (the *Act*), an Air Operator's Certificate (*AOC*) has effect subject to any conditions specified in the regulations or the Civil Aviation Orders (the *CAOs*).

Part 82 of the *CAOs* specifies conditions on Air Operators' Certificates. Section 82.5 contains conditions on *AOCs* authorising regular public transport (*RPT*) operations in high capacity aircraft. Subparagraph 5.2 (d) of *CAO 82.5* imposes the condition that night operations may only be conducted from an aerodrome that is "equipped with" a navigation aid.

The condition that the aerodrome must be "equipped with" a navigation aid precludes the use of an aerodrome where a ground-based navigation aid is unserviceable but the Global Navigation Satellite System (*GNSS*) is available to ensure safe navigation. The *GNSS* is a satellite navigation system used by a pilot on board an aircraft to determine position from satellite data. Use of the *GNSS* is as safe as, if not safer than, use of a serviceable ground-based navigation aid. However, an aerodrome is not "equipped with" *GNSS* as such.

In effect the Order amends paragraph 5.2 of *CAO 82.5* to provide that an operator must ensure that night operations may only be conducted from an aerodrome "for which there is a serviceable and available navigation aid". A Note explains that a navigation aid includes the *GNSS*.

Legislative Instruments Act

Under subsection 98 (4A) of the *Act*, *CAOs* made for the purposes of section 28BA of the *Act* are declared to be disallowable instruments. 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*. The 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

Formal consultation under section 17 of the *LIA* was not undertaken in this case. The amendment is essentially a technical improvement in the drafting of the existing provision to avoid an unintended limitation in its scope. The purpose of the amendment is to enable use of the *GNSS* by all relevant high capacity *RPT* operators in night operations. There was, however, informal consultation with, and no objection from, the chief pilots and chief maintenance engineers of the major air transport operators who participate in *CASA's* Heavy Industry consultation meetings.

The Order is minor or machinery in nature and will not substantially alter existing arrangements. For these reasons, the Office of Regulation Review does not require a Regulation Impact Statement.

The instrument commences on the day after it is registered.

The *CAO* has been made by the Director of Aviation Safety, on behalf of *CASA*, in accordance with subsection 84A (2) of the *Act*.