

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 20.9 Amendment Order (No. 1) 2005

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the purposes of the Act and in the interests of the safety of air navigation.

Subregulation 235 (7) of the *Civil Aviation Regulations 1988 (CAR 1988)* authorises CASA to issue directions with respect to the method of loading of persons and goods (including fuel) on aircraft.

Subregulation 5 (1) of CAR 1988 provides that where the regulations authorise CASA to issue any directions, it may do so in the form of a Civil Aviation Order (*CAO*). CAO 20.9 has been issued under subregulation 235 (7) and deals with refuelling operations.

Paragraph 4.4.4 provides for the positioning of fire extinguishers during refuelling. Part of the paragraph provides for CASA to approve the location and securing of fire extinguishers on fuelling equipment.

The amendment to the CAO is to remove the statement in paragraph 4.4.4 relating to location of fire extinguishers on fuelling equipment during fuelling operations. It is no longer necessary for CASA to approve the location and securing of fire extinguishers on fuelling equipment, and this has not been done since the creation of CASA. The note at the end of the paragraph has also been amended because the carbon dioxide extinguishers that were previously mentioned have been replaced by dry powder and foam extinguishers.

Legislative Instruments Act

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. Under subsection 95 (5) of the Act, CAOs are declared to be disallowable instruments. The amendment CAO 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

Consultation under section 17 of the LIA has not been undertaken as the amendment is minor and of a machinery nature.

The Office of Regulation Review does not require a Regulation Impact Statement as the amendment is minor and of a machinery nature.

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.

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