

## **Explanatory Statement**

### **Civil Aviation Act 1988**

### **Civil Aviation Order 82.0 Amendment Order (No. 1) 2008**

#### **Legislative background**

Under section 27 of the *Civil Aviation Act 1988* (the *Act*), CASA may issue Air Operators' Certificates (*AOCs*) with respect to aircraft for the purpose of safety regulation. Under section 28 of the Act, CASA must issue the AOC if satisfied that the applicant can comply with the requirements of Australian civil aviation safety legislation.

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

Under subsection 98 (4A) of the Act, CASA may issue CAOs for any matter in relation to which regulations may be made for, among other things, section 28BA.

Part 82 of the CAOs specifies conditions on AOCs for various kinds of operations. CAO 82.0 contains general conditions on all AOCs and also some related definitions.

#### **Background**

CASA is introducing a new international pilot licence, namely, the multi-crew pilot (aeroplane) licence (*MP(A)L*).

The new licence was originally created by the International Civil Aviation Organization (*ICAO*) in November 2006 and the requirements for it were prescribed in Annex 1 (Personnel Licensing) of the Chicago Convention.

The MP(A)L is for co-pilots of multi-engine turbine-powered aeroplanes certificated for operation with a minimum crew of at least 2 pilots in all types of weather.

The new licence has been under consideration and evaluation by CASA with a view to its implementation in Australia.

The new licence was introduced for Australia through amendments to Part 5 of CAR 1988 (*Civil Aviation Amendment Regulations 2008 (No. 4)* [the *CAR amendments*]). The CAR amendments enable CASA to issue MP(A)Ls to eligible applicants. The CAR amendments specify the eligibility criteria for the grant of an MP(A)L, the requirements for using the licence and the requirements for qualifying for other flight crew licences as the holder of a MP(A)L.

Under the CAR amendments, a Civil Aviation Order will prescribe the training course, examinations, competency standards and flight tests required for the MP(A)L.

A trial of the draft MP(A)L standards and training requirements has been underway in Brisbane and it is expected that, on completion of the course, successful graduates will be issued with the MP(A)L.

Flight training organisations in Australia are interested in providing instruction for the MP(A)L and are finalising arrangements to conduct MP(A)L training for overseas airline clients. Training for the co-pilot instrument rating will be given simultaneously with training for the MP(A)L.

### **The CAO amendment**

The CAR amendment specifies the restricted flight privileges of the holder of a MP(A)L, the highest of which is, in effect, authorisation to fly a multi-engine turbine-powered aeroplane as co-pilot while the aeroplane is engaged in charter or RPT operations under an AOC.

It is necessary in the interests of safety for CASA to maintain an ongoing monitoring of the use and effectiveness of the MP(A)L as a pilot licence. Amendments to CAO 80.0 are required, therefore, to support the implementation of the MP(A)L by ensuring that for the first 24 months of a MP(A)L holder's flight experience, relevant reports are made to CASA about the MP(A)L holder.

Details of the CAO amendment are contained in Appendix 1.

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

Paragraph 28BA (1) (b) of the Act provides that an AOC has effect subject to any conditions "specified in the regulations or Civil Aviation Orders".

Subsection 98 (4A) of the Act provides that CASA may issue CAOs with respect to any matter "in relation to which regulations may be made for the purposes of section... 28BA". Under subsection 98 (4B) of the Act, a CAO issued under subsection 98 (4A) is stated to be a legislative instrument and is, therefore, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

By providing that an AOC has effect subject to any conditions specified in regulations or CAOs, paragraph 28BA (1) (b) of the Act is a separate head of power for the making of relevant CAOs. For section 5 of the LIA, such CAOs would be legislative instruments subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

The CAO amendment is made under both paragraph 28BA (1) (b) of the Act and subsection 98 (4A) of the Act and is a legislative instrument.

### **Consultation**

Extensive consultation under section 17 of the LIA for the MP(A)L was carried out before the CAR amendments were made. This is detailed in the Explanatory Statement for the CAR amendments. This included consultation in relation to the related CAO proposals. The CAO amendment is consequential and, therefore, further consultation in relation to it was not considered necessary. However, details of the CAO amendment proposals were circulated for consideration to Standards Consultative Committee, an industry representative body, and the joint CASA/industry MPL Project Team. No adverse comments or objections were received.

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

A preliminary assessment of business compliance costs indicates that the CAO amendment will have no cost impact on business other than costs that may arise from voluntarily deciding to acquire and use this new form of international pilots licence. Consequently, preparation of a Regulation Impact Statement is not required for the CAO amendment.

**Commencement and making**

The CAO amendment comes into effect on the day after it is registered.

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

[Civil Aviation Order 82.0 Amendment Order (No. 1) 2008]

## Details of amendments to CAO 82.0

### *Amendment No.1*

This amendment inserts a new subsection 3E into CAO 82.0 containing a new condition on AOCs in respect of the MP(A)L.

Under new paragraphs 3E.1 and 3E.2 of CAO 82.0, each AOC is subject to the condition that the holder must supply CASA with written reports in relation to each pilot who holds an initial MP(A)L that was issued by CASA less than 24 months before the pilot conducts any operation under the AOC. (Under the CAR amendments, the MP(A)L may only be used in charter or regular public transport operations under an AOC.)

Under paragraph 3E.3, the reports must be compiled immediately after each line check of the pilot, and after each check of the pilot as part of any cyclic training program by a CAR 217 organisation. (Under paragraph 3E.8, **CAR 217 organisation** means the operator's training and checking organisation for regulation 217 of the *Civil Aviation Regulations 1988*.)

Under paragraph 3E.4, each report must be supplied to CASA not later than 30 days after completion of the check to which it relates.

Under paragraph 3E.5, each report must clearly identify the holder, the CAR 217 organisation and the relevant pilot.

Under paragraph 3E.6, each report must contain the following data for each pilot:

- (a) numbers of take-offs, landings and hours of flight by each type of operation conducted before the check;
- (b) details of accidents or incidents involving the pilot since the last line check of the pilot;
- (c) recommendations made or directions given to the pilot arising from the line check.

Under paragraph 3E.7, the operator must ensure that each pilot is informed in writing that the reports are being made to CASA under this Order to monitor the quality and effectiveness of the MP(A)L.