

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 82.1 Amendment Order (No. 1) 2010

Legislation

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 27AC of the Act, applicants for an AOC must, in particular circumstances, provide CASA with information in writing, or documents, that are reasonably required by CASA to properly consider the application.

In relation to a foreign registered aircraft, under paragraph 28A (1) (g) of the Act, an applicant for an AOC must give CASA the names and addresses of the persons responsible for operational and airworthiness and maintenance control of the aircraft as well as signed statements from each of those persons that they understand their responsibilities under the regulations. Under paragraph 28A (1) (h) of the Act, an applicant must give CASA a description of the terms of a lease of a foreign aircraft. There are no such requirements for an Australian registered aircraft.

Under section 28 of the Act, CASA must issue the AOC if, and only if, satisfied that the applicant can comply with the requirements of Australian civil aviation safety legislation and that the applicant's organisation meets the standards mentioned.

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

CAO 82.1 contains conditions on those AOCs that authorise charter operations or aerial work operations.

Purpose

The purpose of *Civil Aviation Order 82.1 Amendment Order (No. 1) 2010* (the *CAO 82.1 amendment*) is to ensure that CASA is able to review details of an aircraft lease to enable CASA to assess the terms of the lease in relation to operational control of the aircraft and maintenance of the aircraft, and to ensure that the aircraft meets airworthiness requirements.

To do so allows CASA to satisfy itself in relation to all leased aircraft that there are no limitations or clauses in the lease that might impact upon the safe operation of the aircraft.

The new provision is consistent in principle with provisions already in the Act and ensures that requirements to provide information are applied consistently.

Legislative Instruments Act (the *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.

The CAO 82.1 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

A posting was made by CASA in the Standards Consultative Committee (*SCC*) and *SCC* Operational Standards Subcommittee web forums seeking comments about the proposal. The project was also posted on CASA’s web page seeking comment. No comments were received.

Regulation Impact Statement (*RIS*)

The amendment will not increase costs for, or impose any additional requirements on, aircraft operators. The Office of Best Practice Regulation does not require a *RIS* for the CAO 82.1 amendment because a preliminary assessment of the business compliance costs indicates that the CAO 82.1 amendment will have only a nil to low impact on business.

Commencement and making

The CAO 82.1 amendment takes 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 73 (2) of the Act.

[Civil Aviation Order 82.1 Amendment Order (No. 1) 2010]