

## **Explanatory Statement**

### **Civil Aviation Act 1988**

### **Civil Aviation Order 100.5 Amendment Instrument 2011 (No. 1)**

#### **Legislation**

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

Under subregulation 38 (1) of the *Civil Aviation Regulations 1988 (CAR 1988)*, CASA may issue directions relating to the maintenance of Australian aircraft.

Under regulation 5 of CAR 1988, CASA may, among other things, issue a direction in Civil Aviation Orders (*CAOs*).

Civil Aviation Order 100.5 (*CAO 100.5*) contains general directions relating to the maintenance of Australian aircraft.

The amending Order inserts a maintenance direction, as a new subsection 7A, in CAO 100.5. It applies to the holder of a current certificate of approval to carry out maintenance issued under regulation 30 of CAR 1988 (a *CAR 30 certificate holder*). The subsection contains directions for the maintenance of composite structure aircraft (aircraft containing fibre reinforced plastic composite structures).

The purpose of the direction is to allow maintenance on composite structures in the light aircraft specified in the table to continue to be carried out by previous holders of the Airframe Group 7 rating after 26 June 2011. The holders of this rating are specialists in this type of maintenance and it is considered that they should continue to carry out maintenance in accordance with their qualification although Civil Aviation Order 100.91 and AAC 9-91 that deal with the qualification and the work that they are entitled to perform are both to be revoked on the introduction of the new maintenance suite (Parts 42, 66, 145 and 147 of the *Civil Aviation Safety Regulations 1998*) commencing on 27 June 2011.

The direction to CAR 30 certificate holders to only employ specialists for the carrying out of composite maintenance aligns the CAR 30 certificate holder to the way in which such composite structure maintenance will be managed within a Part 145 Approved Maintenance Organisation ( an organisation approved under Part 145 to perform maintenance of aircraft and aircraft components and provide training and assessment of employees of the organisation) at the end of the change-over period from regulation 30 to Part 145.

#### **Legislative Instrument Act**

Under subsection 98 (5) of the Act, where the regulations provide for certain instruments to be issued in the form of CAOs, such CAOs are declared to be disallowable instruments. Under subparagraph 6 (d) (i) of 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 amending 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**

Consultation under section 17 of LIA has not been undertaken because extensive consultation under section 17 of LIA was undertaken before the introduction of the maintenance suite. The issue of the amending Order is consequential on the introduction of the suite and is intended to facilitate a smooth transition to the standards of Parts 66 and 145.

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

OBPR have assessed that the maintenance suite Regulation Impact Statement meets the Government's best practice regulation requirements. The same OBPR outcome extends to this instrument which has been made to facilitate the introduction of the suite.

The amending Order has been issued by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument commences on 27 June 2011.

*[Civil Aviation Order 100.5 Amendment Instrument 2011 (No. 1)]*