

## **Explanatory Statement**

### **Civil Aviation Act 1988**

### **Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 3)**

#### **Purpose**

The purpose of *Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 3)* (the **CAO amendment**) is to modify the list of aircraft whose manufacturers' maintenance schedules CASA has declared to be inadequate and not to be used as an aircraft's maintenance schedule.

#### **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 42A (6) of the *Civil Aviation Regulations 1988 (CAR 1988)*, CASA may, for the purpose of ensuring the safety of air navigation, declare in writing that a manufacturer's maintenance schedule that CASA thinks is inadequate must not be used as an aircraft's maintenance schedule.

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

Under paragraph 8.1 of Civil Aviation Order 100.5 (**CAO 100.5**), CASA has declared that the manufacturers' maintenance schedules for specified aircraft are inadequate and must not be used as the maintenance schedules for the aircraft. Prior to the CAO amendment, those aircraft included all Waco aircraft.

#### **Background**

The WACO YMF-F5 and YMF-F5C series aircraft, manufactured by WACO Classic Aircraft Corporation, are a modern incarnation of the original WACO design of 1930s origins, manufactured by the WACO Aircraft Company, which had an inadequate maintenance schedule. These more modern WACO YMF-F5 and YMF-F5C aircraft have a supplemental type certificate (**STC**) SA1000GL, issued by the Federal Aviation Authority (**FAA**) of the United States of America, incorporated at manufacture. The STC includes the use of modern materials and manufacturing methods and other design changes which significantly enhance the original design. Essentially, the modern WACO YMF-F5 and YMF-F5C aircraft are new build aircraft.

The more modern WACO YMF-F5 and YMF-F5C aircraft also have a comprehensive Maintenance Manual (**YMFAMM-I**) and a Jacobs Aircraft Engine Operators Manual (**R-755A, B & S**), which were previously not available to the original 1930s WACO aircraft. These manuals have been reviewed by CASA and found to be appropriate to be considered together as an approved manufacturer's maintenance program.

Both original WACO aircraft and the more modern WACO YMF-F5 and YMF-F5C series aircraft are on the Australian Register.

CAO 100.5 required registered operators of the more modern WACO YMF-F5 and YMF-F5C series aircraft to use the CASA maintenance schedule set out in Schedule 5

of CAR 1988 (the *CASA maintenance schedule*), rather than the manufacturer's maintenance manuals YMFAMM-1 and R-755A, B & S.

Before the CAO amendment, the valid manufacturer recommended maintenance intervals for these more modern versions of the WACO aircraft were not approved for use.

### **CAO amendment**

This instrument amends paragraph 8.1 of CAO 100.5 so that WACO Classic Aircraft Corporation YMF-F5 and YMF-F5C series aircraft that have FAA STC SA1000GL incorporated at manufacture are excluded from the list of aircraft for which the manufacturers' maintenance schedules must not be used as the aircraft's maintenance schedules. The CAO now distinguishes between the aircraft manufactured to the original design of 1930s origins by the WACO Aircraft Company and the newer WACO YMF-F5 and YMF-F5C series aircraft manufactured by WACO Classic Aircraft Corporation.

### **Legislative Instruments Act 2003 (LIA 2003)**

Under subsections 98 (5) and 98 (5AAA) of the Act, where the regulations provide for certain instruments to be issued in the form of CAOs, such CAOs are legislative instruments. The CAO amendment is, therefore, a legislative instrument and it is subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42, of the LIA 2003.

### **Consultation**

A proposal to amend paragraph 8.1 of CAO 100.5 was notified on the CASA website as Project CS 13/05. The proposal was supported by the Aviation Maintenance, Repair and Overhaul Business Association, which represents the maintenance, repair and overhaul segment of Australia's aviation industry. No objections were received during its 2 week consultation period. In these circumstances, CASA believes that no further consultation is necessary or appropriate.

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

OBPR assessed that the proposed amendment is minor in nature and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 16129).

### **Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is at Attachment 1.

### **Making and commencement**

The CAO amendment has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The CAO amendment commences on the day of registration.

*[Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 3)]*

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the  
Human Rights (Parliamentary Scrutiny) Act 2011*

### Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 3)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the legislative instrument

The legislative instrument modifies the list of aircraft for which CASA has declared that the manufacturer's maintenance schedule must not be used.

The purpose of the CAO amendment is to allow the manufacturer's maintenance schedule to be used for WACO Classic Aircraft Corporation YMF-F5 and YMF-F5C series aircraft that have supplemental type certificate SA1000GL, issued by the Federal Aviation Administration of the United States of America, incorporated at manufacture. These are modern aircraft for which the manufacturer's maintenance schedule is adequate. This legislative instrument distinguishes them from other WACO aircraft, which were predominantly built before and during World War II and for which the manufacturer's maintenance schedule is inadequate.

#### Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

#### Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Civil Aviation Safety Authority**