I, WILLIAM BRUCE BYRON, Director of Aviation Safety, on behalf of CASA, make this instrument under subregulations 5.22 (1) and (2), 5.23 (1) and 5.52 (2) of the Civil Aviation Regulations 1988.

Bruce Byron
Director of Aviation Safety and
Chief Executive Officer

19 December 2008

Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2008

1 Name of instrument
This instrument is Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2008.

2 Commencement
This instrument commences on the day after it is registered.

3 Amendment of Civil Aviation Order 40.1.0
Schedule 1 amends Civil Aviation Order 40.1.0.

Schedule 1 Amendment

[1] After paragraph 10.5

insert

10.6 The holder of a multi-crew (aeroplane) pilot licence must log his or her flight time as follows:

(a) any flight time during which the holder acts as co-pilot while the aeroplane is engaged in:

(i) any operation under an AOC that authorises charter operations or regular public transport operations; or

(ii) a private operation;

must be entered in the holder's log book as time as co-pilot;
(b) any flight time during which the holder acts as pilot in command while the aeroplane is engaged in:

(i) a private operation; or

(ii) flying training operations in a single place aeroplane for the purpose of increasing the holder's flying skill;

must be entered in the holder's log book as time in command.
Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2008

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.

CAR 1988
Under subregulation 5.22 (1) of the Civil Aviation Regulations 1988 (CAR 1988), CASA may give directions, in Civil Aviation Orders (CAOs), prescribing the aircraft endorsements that must be held by the holder of a flight crew licence, a special pilot licence or a certificate of validation before the holder is permitted to carry out the duties authorised by the licence or certificate in a particular type or class of aircraft, or in an aircraft that has a special design feature.

Under subregulation 5.22 (2) of CAR 1988, CASA may, for the purposes of Part 5 of CAR 1988 (i.e. prescribing the qualifications of flight crew) give directions in CAOs classifying types of aeroplanes into classes.

Under subregulation 5.23 (1) of CAR 1988, CASA may give directions, in CAOs, setting out the requirements for the issue of aircraft endorsements.

Under paragraph 5.52 (1) (b) of CAR 1988, the holder of a flight crew licence, a special pilot licence or a certificate of validation must record in his or her personal log book any information about each flight undertaken by the holder that CASA directs be recorded in the log book.

Under subregulation 5.52 (2) of CAR 1988, CASA may give these directions in CAOs.

CAO 40.1.0
Directions for these various subregulations of CAR 1988 are set out in Civil Aviation Order 40.1.0 (CAO 40.1.0).

Subsection 9 sets out the information about each flight that must be recorded in a log book. In particular, paragraph 9.5 (h) of CAO 40.1.0 requires that, in accordance with subsection 10 of CAO 40.1.0, the capacity in which the person flew the aeroplane to be recorded.

Subsection 10 sets out the flight information recording requirements for various categories of licence holder.

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 CAO 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.

An amendment to subsection 10 of CAO 40.1.0 is required to support the implementation of the MP(A)L in relation to this privilege by ensuring that MP(A)L holders record in their log books the capacity in which they have flown each flight of an aeroplane using their licence. For pilots involved in passenger carrying and other operations, the accurate recording of such information is essential, among other things, for the effective implementation of safety rules for flight crew flight and duty limitations.

To accommodate the creation of the MP(A)L, Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2008, (the CAO amendment), adds a new paragraph 10.6 to subsection 10 of CAO 40.1.0 to require the holder of a MP(A)L to record flight information.

Details of the CAO amendment are set out in Attachment 1.

Legislative Instruments Act 2003 (LIA)
Under subregulations 5.22 (1) and (2), 5.23 (1) and 5.52 (2) of CAR 1988, CASA may give directions in the form of CAOs concerning flight crew ratings. Under subsection 98 (5) of the Act, where regulations provide that directions may be issued in the form of a CAO, the CAO is a legislative instrument and subject to the LIA (other than Part 6 concerning sunsetting). The CAO amendment is, therefore, a legislative instrument, subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

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 40.1.0 Amendment Order (No. 2) 2008]
Details of amendments to CAO 40.1.0

Amendment No. 1
This amendment adds a new paragraph 10. 6 to CAO 40.1.0 to state what flight time a MP(A)L holder must log.

Under new paragraph 10.6, there are 2 categories of flight time to be logged, co-pilot time and pilot in command time.

The holder of a MP(A)L must log flight time during which he or she acts as co-pilot in an operation under an AOC that authorises charter operations or regular public transport operations. The holder must also record flight time during which he or she acts as co-pilot in a private operation.

The holder must also log flight time during which he or she acts as pilot in command while the aeroplane is engaged in a private operation, or while in a flying training operation in a single place aeroplane for the purpose of increasing the holder’s flying skill.