

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 42 Manual of Standards Instrument 2011

Purpose

The purpose of this instrument is to make a Manual of Standards (the *MOS*) under Part 42 of the *Civil Aviation Safety Regulations 1998 (CASR 1998)*. The MOS specifies matters affecting maintenance and airworthiness of aircraft for the purposes of Part 42 of CASR 1998.

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, and CASR 1998 was made under this power.

Amendment regulations

The *Civil Aviation and Civil Aviation Safety Amendment Regulations 2010 (No. 1)* (the *amendment regulations*) were registered on 14 December 2010 to take effect on 27 June 2011 (except Schedule 3 which takes effect on 27 June 2013). The amendment regulations amended CASR 1998 to insert new Parts 42, 66, 145 and 147 relating to the continuing airworthiness of aircraft and aeronautical products.

In particular, Part 42 of CASR 1998 sets out the overarching continuing airworthiness and maintenance requirements for Australian registered aircraft and aeronautical products (mention of aircraft should be taken to include mention of aeronautical products).

However, under regulation 202.180 of CASR 1998, between 27 June 2011 and the end of 26 June 2013, Part 42 applies only in 3 scenarios.

Part 42 of CASR 1998 applies to a registered aircraft that is a particular type of aircraft, *whose registered operator* is a Continuing Airworthiness Management Organisation (a *CAMO*) operating under an air transport operator's certificate for regular public transport (an *RPT AOC*).

Part 42 of CASR 1998 also applies to Part 145 organisations carrying out maintenance on such registered aircraft.

Part 42 of CASR 1998 also applies to certain independent maintainers carrying out maintenance on such registered aircraft.

From 27 June 2013, Part 42 of CASR 1998 will apply to a registered aircraft operating under an RPT AOC, and to Part 145 organisations and independent maintainers carrying out maintenance of the aircraft.

New Part 42 of CASR 1998

Under subsections 98 (5A) and (5AA) of the Act, regulations may empower CASA to issue legislative instruments in relation to the airworthiness and maintenance of aircraft. For the purposes of subsection 98 (5A), new subregulation 42.020 (1) in Part 42 of CASR 1998, empowers CASA to issue a MOS for Part 42 that specifies matters affecting maintenance and airworthiness of aircraft.

Under subregulation 42.020 (2) of CASR 1998, the MOS may specify particular matters, for example, that specified kinds of foreign documents are equivalent to authorised release certificates for aeronautical products; that particular types and models of aeroplanes and helicopters are large, or small, aircraft; that certain activity is maintenance that certain individuals may be permitted to carry out; that certain requirements are essential for a maintenance program or a reliability program; that certain documents constitute aviation industry standards; that certain matters are required for a CAMO's exposition functioning.

Content of the MOS

In the light of these provisions and powers, the MOS specifies the following matters relating to maintenance and airworthiness of aircraft:

- that a document issued under the law of a specified foreign country is an equivalent to an authorised release certificate;
- that an aircraft of a particular type is a large aircraft or small aircraft for the purpose of the definition of large and small aircraft in the CASR Dictionary;
- the maintenance that pilots or flight engineers are permitted to carry out;
- requirements for an approved maintenance program for an aircraft;
- requirements for a reliability program for an aircraft;
- that a document is an aviation industry standard for the purpose of the definition of maintenance data; and
- requirements for the issue and continuation of an approval as a CAMO.

Legislative Instruments Act 2003 (LIA)

Under paragraph 98 (5A) (a) of the Act, regulations may empower CASA to issue instruments in relation to the maintenance of aircraft. Under subsections 98 (5AA) of the Act, such an instrument is a legislative instrument for the LIA if it is expressed to apply to classes of persons, aircraft or aeronautical products rather than to individual persons, or individual aircraft or products. The MOS is expressed to have general application to those persons, aircraft and products falling within its terms. The MOS is, therefore, a legislative instrument subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

Consultation under section 17 of LIA has been undertaken. CASA entered into consultation with representatives of major industry maintenance, repair and overhaul organisations and small general aviation shops before the making of the CASR Parts. CASA used various consultation methods, including use of existing Standards Consultative Committee and Maintenance Subcommittee mechanisms, website content, road shows in a variety of locations throughout Australia and issue of a NPRM.

Regulation Impact Statement

A Regulation Impact Statement (*RIS*) was prepared for the amendment regulations including Parts 42, 66, 145 and 147. This was assessed by the Office of Best Practice Regulation (*OBPR*) as meeting the Australian Government's Best Practice Regulation requirements (OBPR ID: 11558). The same OBPR outcome extends to the content of the MOS.

Making and commencement

The MOS commences on 27 June 2011.

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

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