

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### ***Part 42 Manual of Standards Amendment Instrument (No. 1) 2011***

##### **Purpose**

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

The MOS amendments are either editorial in nature, or are required to clarify the intent of the MOS. Some changes refine or clarify the qualification and knowledge that an individual must have to hold a position in a CAMO. Other amendments make consistent the requirements to have and keep records of the prescribed qualifications, experience and knowledge of certain employees.

A series of MOS amendments is designed to make the MOS a free-standing instrument rather than one “contained in” the schedule of another instrument. These amendments will also ensure the correct legal nomenclature for the MOS.

The MOS amendments do not significantly alter any existing policy of the MOS.

##### **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**

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. 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 a new Part 42. Part 42 sets out the overarching continuing airworthiness and maintenance requirements for registered aircraft and aeronautical products.

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.

##### **The MOS**

Under subregulation 42.020 (2) of CASR 1998, the MOS may specify particular matters, for example:

- 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
- requirements for the issue and continuation of an approval as a continuing airworthiness management organisation (a *CAMO*).

The MOS was made on 16 February 2011 and commences on 27 June 2011. It is necessary, however, to slightly modify its terms by means of the MOS amendment. The MOS amendment is expressed to commence immediately after the commencement of the MOS on 27 June 2011.

### **The MOS amendment**

The MOS amendment provides as follows.

#### **Section 1.5**

Section 1.5 of the MOS deals with the responsible manager of a CAMO.

The amendments to section 1.5 clarify the level of knowledge of an aircraft's structure and systems that an individual holding the position of responsible manager for a CAMO must have. The amendments also require a responsible manager, who is responsible for providing continuing airworthiness management services for an aircraft, to have knowledge of the aircraft's minimum equipment list (MEL) and configuration deviation list (CDL).

#### **Section 1.6**

Section 1.6 of the MOS deals with the continuing airworthiness manager of a CAMO.

The amendments to section 1.6 list other technical qualifications that are acceptable qualifications for the position of the continuing airworthiness manager. The amendments also refine the extent of the knowledge that he or she is required to have. The amendments also allow an existing maintenance controller, who does not have the formal technical qualification required under the section, to be nominated for the position of continuing airworthiness manager if he or she has the required knowledge and experience.

#### **Section 1.7**

Section 1.7 of the MOS deals with the quality manager of a CAMO.

The amendments to section 1.7 refine the extent of the legislative knowledge an individual holding the position of quality manager is required to have. The amendments also clarify the minimum formal qualification he or she is required to have. The amendments introduce a requirement that the CAMO keep records about the qualifications, experience and knowledge of the quality manager. The amendments prohibit the quality manager from being, simultaneously, both the quality manager and the continuing airworthiness manager of the CAMO.

#### **Section 1.9**

Section 1.9 of the MOS deals with the airworthiness review employee of a CAMO.

The amendments to section 1.9 refine the extent of the legislative knowledge an airworthiness review employee is required to have, and clarify the level of knowledge of an aircraft's structure and systems that he or she is required to have.

### Section 1.10

Section 1.10 of the MOS deals with the maintenance program approval employee of a CAMO.

The amendments refine the extent of the legislative knowledge such an employee is required to have, and clarify the level of knowledge of an aircraft's structure and systems he or she is to have. The amendments also list other technical qualifications that are acceptable qualifications for the position of maintenance program approval employee.

### Section 1.13

Section 1.13 of the MOS deals with the quality system of a CAMO.

The amendments refine the extent of the legislative knowledge an individual performing a quality audit is required to have. The amendments also clarify the minimum formal qualifications in quality audit that he or she is required to have.

### Section 1.14

Section 1.14 of the MOS deals with the internal review of a CAMO.

The amendments clarify the minimum formal qualifications in quality audit that an individual performing an internal review is required to have. The amendments also specify the minimum experience in performing internal reviews an individual must have if he or she does not have not formal qualifications in auditing.

### Stand-alone Part 42 MOS

A series of drafting amendments restructures the MOS so that it becomes a stand-alone Manual, not contained in the Schedule of another instrument. These amendments also provide that the MOS is the Part 42 Manual of Standards, bringing the nomenclature of the MOS into line with that used in the CASR 1998.

### **Legislative Instruments Act 2003 (the 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 amendment is expressed to have general application to those persons, aircraft and products falling within its terms. The MOS amendment 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 the LIA was as follows. CASA published the details of the MOS amendment on its website and invited comments from the public and the aviation industry. One comment was received.

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

A Regulation Impact Statement (*RIS*) was prepared for the amendment regulations, including Parts 42, 66, 145 and 147. This was assessed by OBPR as meeting the Australian Government's Best Practice Regulation requirements (OBPR ID: 11558). The same OBPR outcome extended to the content of the MOS. It applies also to the MOS amendment, which contains no change of policy. For the MOS amendment, OBPR does not require preparation of a RIS because a

preliminary assessment of business compliance costs in the context of the nature of the instrument indicates that it will have only a nil to low impact on business.

**Making and commencement**

The MOS amendment commences immediately after commencement of the *Part 42 Manual of Standards Instrument 2011*.

The MOS amendment 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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