

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 139**

Issued under the authority of the Minister for Infrastructure and Transport

*Civil Aviation Act 1988*

*Civil Aviation (Fees) Amendment Regulations 2011 (No. 1)*

Subsection 98 (1) of the *Civil Aviation Act 1988* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act, or necessary or convenient for carrying out or giving effect to the Act.

Under paragraph 98 (3) (u) of the Act, the power to make regulations includes the power to make regulations prescribing fees, either by specifying amounts or by prescribing a method of calculation, for services, applications or requests, or the doing of anything under the Act, the regulations or the Civil Aviation Orders.

The amending Regulations amend Schedule 1 to the *Civil Aviation (Fees) Regulations 1995* (the Fees Regulations) to extend by 40 items the list of regulatory services for which fees may be charged by the Civil Aviation Safety Authority (CASA).

The amending Regulations:

- permit fees for services under new Parts 42, 66, 145 and 147 of the *Civil Aviation Safety Regulations 1998* (CASR). These new Parts commenced on 27 June 2011, dealing with continuing airworthiness of aircraft, aircraft engineer licences and ratings, approved maintenance organisations and maintenance training organisations;
- add new fee items for some existing services including approvals for flight check systems, night vision goggles, special flights, instrument flight rules, synthetic trainers and approvals to publish maps and charts; and
- include new general fee items to deal with services in the form of advice, guidance, data, materials or programs requested from CASA, and other general items where no other fee is payable. These general items extend existing general items.

The Office of Best Practice Regulation assessed that the impact of the amending Regulations on business was likely to be nil or low. Therefore, no further analysis in the form of a Regulation Impact Statement was required. CASA prepared a Cost Recovery Impact Statement (CRIS), available at [www.casa.gov.au/costrecovery](http://www.casa.gov.au/costrecovery), in accordance with the Department of Finance and Deregulation guidelines.

Consistent with section 17 of the *Legislative Instruments Act 2003*, CASA conducted formal public consultation through the release of the CRIS on 16 May 2011. Public comments on the CRIS were required by 31 May 2011. CASA received 27 responses during the consultation period and took these comments into account in finalising the appropriate scope and level of fees.

CASA has revised its cost modelling to review the accuracy of service costs on which current fees are based. Details of CASA service costs for Parts 2 and 3 of the Fee Regulations and the costing process undertaken are outlined in the CRIS.

Details of the amending Regulations are outlined in Attachment A. A list of the new fee items as they appear in Schedule 1 of the Fees Regulations is in Attachment B.

Following registration, the amending Regulations commenced on 1 August 2011.

Authority: Subsection 98(1) of the  
*Civil Aviation Act 1988*

**Details of the *Civil Aviation (Fees) Amendment Regulations 2011 (No. 1)***

The new fee items involve a mixture of both fixed fees and hourly rates. The determination as to whether a fee will be a fixed fee or an hourly rate fee is made using the principle of efficiency. Thus, services involving a high degree of predictability that do not vary significantly from customer to customer are charged by a fixed fee because this covers the reasonable standard direct and indirect costs of providing the service. Services which by their nature cannot involve such standardisation because there is a high degree of unpredictability or variation from customer to customer are charged at an hourly rate.

There are 4 hourly rates of \$190, \$160, \$130, and \$100 in the Fees Regulations. The amending Regulations do not alter these hourly rates. Hourly rates vary depending on the degree of technical and administrative content in the service, and the seniority and experience of technical personnel involved.

Parts 42 and 145 of CASR involve a transition period of limited application before the Parts apply to all relevant operators from 27 June 2015. Initially, only regular public transport (RPT) operators, and organisations maintaining aircraft (and aeronautical products) operated in RPT transition to fall under the new Parts, commencing from 27 June 2011.

During the transition period, existing aircraft maintenance engineer licence holders and certain existing industry operators will not be charged the new fees when they transition from certain existing licences and maintenance entities to the new licences and new entities under the maintenance regulations suite.

Although Parts 42, 66, 145 and 147 of CASR commenced on 27 June 2011, CASA does not expect many applications for services in the intervening period. If an application is made, it will be dealt with under existing general item 24.6 permitting fees for the processing and consideration of applications for authorisations under regulation 11.055 of CASR. This item permits fees when valuable services are provided by CASA under CASR but for which there is no individual fee item.

Unlike the transitional arrangements in the amending Regulations, existing item 24.6 does not exempt anyone from liability to pay a relevant fee. Therefore, CASA has made a Determination that, for the period 27 June 2011 until the end of 31 July 2011, a fee payable under item 24.6 is waived if it would not be payable under an individual item in the amending Regulations were it in force during the period.

**Regulation 1 — Name of Regulations**

Regulation 1 names the regulations as the *Civil Aviation (Fees) Amendment Regulations 2011 (No. 1)*.

**Regulation 2 — Commencement**

Regulation 2 provides that the regulations commence on 1 August 2011.

## Regulation 3 — Amendment of *Civil Aviation (Fees) Regulations 1995*

Regulation 3 provides that Schedule 1 amends the *Civil Aviation (Fees) Regulations 1995* (the Fees Regulations).

### Schedule 1 — Amendments

#### **Item [1] - Schedule 1, Part 2, after item 2.25**

Item [1] amends Schedule 1, Part 2 (Certificates of approval etc), of the Fees Regulations. It lists, by item number, the 21 new fee items relating to new maintenance approval services for which the Civil Aviation Safety Authority (CASA) would charge the fees specified for each item. The new fees relate to certificates of approval assessed under *Civil Aviation Safety Regulations 1998* (CASR) Parts 42, 145 and 147 and aircraft engineering licence (AEL) applications assessed under CASR Part 66.

#### **Item [2] - Schedule 1, Part 3, after item 3.12**

Item [2] amends Schedule 1, Part 3 (Maintenance) of the Fees Regulations. It lists by item number a further 6 new fee items relating to maintenance services for which CASA would charge the fees specified for each item. The new fees relate to maintenance approvals such as alternative means of recording when maintenance is due, and alternative means of recording utilisation information. These approvals would be made under Part 42 of CASR.

#### **Item [3] - Schedule 1, Part 8, after item 8.41**

Item [3] amends Schedule 1, Part 8 (Aircraft operations generally) of the Fees Regulations. It lists 4 new fee items relating to aircraft operations services for which CASA would charge the fees specified for each item. The new fees relate to applications for approval of flight check systems, appointments relating to night vision goggles, special flight authorisations and permissions for flying aircraft under instrument flight rules where not equipped. These approvals would be made under the *Civil Aviation Regulations 1988* (CAR) or Civil Aviation Orders (CAO).

#### **Item [4] - Schedule 1, Part 13, after item 13.6**

Item [4] amends Schedule 1, Part 13 (Synthetic training devices) of the Fees Regulations. It lists a new fee item for services relating to synthetic training devices for which CASA would charge the fee specified for the item. The new fee relates to accreditation of synthetic trainers. These accreditations would be made under the CAO.

#### **Item [5] - Schedule 1, Part 24, after item 24.9**

Item [5] amends Schedule 1, Part 24 (Other miscellaneous services) of the Fees Regulations. It lists 8 new fee items, including new fees for approvals for the publishing of aeronautical maps and charts, and for CASA's preparation of advice, guidance, data, materials and programs. The list also includes general items for the CAR, the Manuals of Standards (made under CASR), and the new Parts 42, 66, 145 and 147 of CASR where no other fee is payable. These general items are intended to mirror the existing general items in Part 24 for the CAO and CASR.

**New fee items under the *Civil Aviation (Fees) Amendment Regulations 2011 (No. 1)***

<i>Item</i>	<i>Service</i>	<i>Fee</i>
2.26	Approval as a continuing airworthiness management organisation (CAMO), unless the applicant was, immediately before 27 June 2011, the holder of an AOC issued for a purpose mentioned in paragraph 206 (1) (c) of CAR — processing and consideration of application	Hourly Rate (HR)
2.27	Approval of significant changes to a CAMO — processing and consideration of application	HR
2.28	Grant of an aircraft engineer licence (AEL) based on assessment by a maintenance training organisation (MTO) — processing and consideration of application	\$65
2.29	Recognition of 1 or more foreign licences from recognised states held at time of application — processing and consideration of application	\$390
2.30	Recognition of 1 or more foreign licences from recognised states held before time of application — processing and consideration of application	\$390
2.31	Recognition of 1 or more foreign licences not from recognised states held at time of application, based on assessment by a MTO — processing and consideration of application	\$130
2.32	Recognition of 1 or more foreign licences not from recognised states held at time of application, based on assessment by CASA — processing and consideration of application	\$390
2.33	Recognition of 1 or more foreign licences not from recognised states held before time of application, based on assessment by a MTO — processing and consideration of application	\$130
2.34	Recognition of 1 or more foreign licences not from recognised states held before time of application, based on assessment by CASA — processing and consideration of application	\$390
2.35	Recognition of Defence Force aircraft authorisations held at time of application — processing and consideration of application	\$65
2.36	Recognition of Defence Force aircraft authorisations held before time of application — processing and consideration of application	\$65
2.37	Grant of 1 or more ratings on an AEL upon successful completion of aircraft type training and assessment — processing and consideration of application (per category)	\$195

2.38	Grant of 1 or more ratings on an AEL upon training, assessment and experience provided by a Part 145 organisation — processing and consideration of application (per category)	\$195
2.39	Grant of 1 or more ratings on an AEL upon CASA assessment of fully or partially equivalent foreign or Defence Force rating — processing and consideration of application (per category)	\$260
2.40	Removal of 1 or more exclusions from an AEL — processing and consideration of application	\$195
2.41	Replacement of an AEL document for which no other fee is payable under this Schedule	\$25
2.42	Grant of an AEL using the transitional arrangements under Subpart 202.CG of CASR, other than regulations 202.341, 202.342, 202.343, 202.345 and 202.346 — processing and consideration of application	The total of the fees for each applicable item of items 2.1 to 2.25, relevant to the service under the transitional arrangements, including item 2.7 as if it applied for an AEL
2.43	Approval as a Part 145 organisation, unless: (a) the applicant was, immediately before 27 June 2011, the holder of an approval, under regulation 30 of CAR for carrying out maintenance on an aircraft or aircraft components or aircraft materials for the holder of an AOC for a purpose mentioned in paragraph 206 (1) (c) of CAR; and (b) at the time of the application, CASA is satisfied that the approval is the equivalent of an approval as a Part 145 organisation; processing and consideration of application	HR
2.44	Approval of significant changes to a Part 145 organisation— processing and consideration of application	HR
2.45	Approval as a MTO, unless: (a) the transitional arrangements under regulation 202.840 of CASR have been used; or (b) immediately before 27 June 2011, the applicant was the holder of an approval, under regulation 30 of CAR, which at the time of the application CASA considers is the equivalent of an approval as a MTO; processing and consideration of application <i>Note:</i> Regulation 202.840 of CASR refers to recognised organisations under Civil Aviation Order 100.66.	HR
2.46	Approval of significant changes to a MTO — processing and consideration	HR

3.13	Approval of another means of recording next maintenance due to be carried out — processing and consideration of application	HR
3.14	Approval of another means of recording utilisation information for each flight — processing and consideration of application	HR
3.15	Approval of maintenance programs — processing and consideration of application	HR
3.16	Approval of variation of an approved maintenance program — processing and consideration of application	HR
3.17	Approval of reliability programs — processing and consideration of application	HR
3.18	Approval of variations of an approved reliability program — processing and consideration of application	HR
8.42	Approval of a flight check system — processing and consideration of application	HR
8.43	Approval of an appointment as a Night Vision Goggles (NVG) Flight Instructor, NVG Testing Officer or NVG Training and Check Pilot — processing and consideration of application	HR
8.44	Approval of a special flight authorisation — processing and consideration	HR
8.45	Permission for an aircraft to be flown under the I.F.R. if not equipped for navigation and to obtain position fixes in accordance with instructions issued under subregulation 179A (1) of CAR — processing and consideration of application	HR
13.7	Accreditation of synthetic trainers — processing and consideration of application	HR
24.10	Approval to publish maps, charts and other aeronautical information — processing and consideration of application	HR
24.11	Provision of a service (however described) under or for CAR for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR
24.12	Provision of a service (however described) under or for a Manual of Standards for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR
24.13	Provision of a service (however described) under or for Part 42 of CASR for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR

24.14	Provision of a service (however described) under or for Part 66 of CASR for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR
24.15	Provision of a service (however described) under or for Part 145 of CASR for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR
24.16	Provision of a service (however described) under or for Part 147 of CASR for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR
24.17	Preparation and provision of advice, guidance, data, materials or programs on any matter related to aviation safety for which a person applies and for which no other fee is payable under this Schedule — processing and consideration of application	HR