### Explanatory Statement

### Civil Aviation Safety Regulations 1998

### *Part 42 Manual of Standards Amendment Instrument 2014 (No. 1)*

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 the *Civil Aviation Safety Regulations 1998* (***CASR 1998***) were made under this power. 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.

Under subsection 98 (5A), subregulation 42.020 (1) in Part 42 of CASR 1998 empowers CASA to issue a Manual of Standards for Part 42 (the ***Part 42 MOS***) that specifies matters affecting maintenance and airworthiness of aircraft. Subregulation 42.020 (2) of CASR 1998 lists the matters that the Part 42 MOS may specify which, among other things, includes listed countries for regulations 42.301 and 42.306 of CASR 1998. Regulations 42.301 and 42.306 relate to maintenance carried out outside Australian territory.

**Purpose**

The purpose of this instrument is to amend the Part 42 MOS, in relation to maintenance carried out outside Australian territory, and authorised release certificates (***ARCs***) issued in a foreign country for new or used aeronautical products for Australian aircraft.

A maintenance organisation approved by the national aviation authority of a foreign country is permitted to carry out maintenance on aeronautical products for an Australian aircraft if the country is listed in Chapter 7 of the Part 42 MOS. The list of countries is amended by removing Brazil.

Chapter 12 of the Part 42 MOS currently provides a list of foreign countries and the specific documents issued under the law of these countries that are acceptable as ARCs for any aeronautical part. The Chapter covers:

* new parts that have been manufactured under the law of a foreign country
* used parts on which maintenance has been carried out under the law of a foreign country.

The amendments of Chapter 12 remove restrictions on the acceptance of new aircraft parts manufactured under the law of foreign countries that are not currently listed in the Part 42 MOS. The following are the key changes:

1. Chapter 12 as amended separately states the requirements for new and used parts. For new parts, the chapter no longer includes a list of foreign countries and the relevant documents acceptable as ARCs. Instead, a document is acceptable as an ARC for a new part if the document:
* is issued under the law of the foreign country that has permitted the manufacture of the part
* certifies that the part was manufactured in conformity to its approved design data
* identifies the part by its part number, serial number, etc.
* identifies the country that permitted the manufacture of the part
* identifies the organisation that issued the document and its authority to do so.
1. For used parts on which maintenance has been carried out under the law of a foreign country, Chapter 12 of the Part 42 MOS includes a list of countries from where ARCs for a used part are acceptable. However, the list will no longer include the specific form number of the ARC document from each country, mainly to ensure that ARCs remain acceptable even if the form number is changed. A document is now acceptable as an ARC for a part on which maintenance has been carried out, if the document:
* has been issued under the law of the foreign country that has permitted carrying out of the maintenance on the part; and
* certifies that the maintenance has been carried out in accordance with the law of the foreign country
* identifies the part by its part number, serial number, etc.
* identifies the country that permitted the maintenance of the part
* identifies the organisation that issued the document and its authority to do so.
1. With the proposed separation of new and used parts, Brazil has also been removed from the list of countries in Chapter 12 of the Part 42 MOS that may issue an ARC for maintenance on a used part. Its inclusion on the list of authorised countries was originally intended to allow operators and maintainers to source new parts for aircraft manufactured in Brazil. New parts manufactured under the law of Brazil can now be accepted under the revised provisions of Chapter 12 described above. Following consultation, CASA does not consider removal of Brazil would have any significant impact on the industry. As far as CASA can ascertain, Brazilian maintenance providers do not carry out substantial maintenance on used parts for Australian aircraft.

**Regulation Impact Statement — Office of Best Practice Regulation (*OBPR*)**

The proposed amendment to the Part 42 MOS would have no negative impact on the aviation industry as it would remove unnecessary restrictions on the use of aircraft parts manufactured or maintained in foreign countries. OBPR assessed that the proposed amendment is machinery in nature and no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 16319).

**Consultation**

CASA considered that its normal public and industry consultation process should be followed for this instrument, that is publication of proposals on its website, involvement of the joint CASA/industry Standards Consultative Committee (***SCC***), receipt and analysis of comments received, and adjustment of its proposals, as appropriate for aviation safety, after taking all of the comments into account.

Consultation on the proposed instrument commenced on 2 December 2013 with the public announcement, via the frequently and widely-accessed CASA website, of a proposal to amend the MOS to address the relevant issues. The principal target audience was the interested public accessing the site, the aviation sector generally, and, more specifically, the membership of the SCC and its committees.

Specific consultation draft of the proposed amendments was developed and made publicly available for comment on 27 March 2014 through the same website and forum mechanisms. The comment period closed on 14 April 2014. A summary of proposed changes was also posted on the website along with the consultation draft.

**Who responded to consultation**

The following persons and organisations responded in writing to the proposal:

* Airnorth Engineering
* Cobham Aviation Services
* an independent civil aviation consultant
* an independent maintainer.

**The nature of the issues raised in consultation**

All of the persons and organisations who responded to proposal, except Airnorth Engineering, fully supported the intent of the proposed changes. Airnorth Engineering asked about the rationale for removal of Brazil from the lists in Chapters 7 and 12 of the MOS. They also raised concern about their inability in future, to source parts from Brazil for their Embraer aircraft.

**CASA response to the issues raised during consultation**

CASA wrote to Airnorth Engineering clarifying that new parts manufactured under Brazilian approval will continue to be accepted under the revised provisions of the MOS. CASA requested Airnorth to provide additional information on the maintenance of parts that would allow CASA to quantify the impact of the change on Airnorth in relation to used parts that they may send to Brazilian maintenance organisations. CASA received no further information and comment from Airnorth.

CASA’s understanding is that Brazilian maintenance organisations are not the usual providers of maintenance of aeronautical products for Australian registered aircraft.

In addition to supporting the amendment, Cobham Aviation Services provided a number of suggestions to clarify and improve the requirements in Part 42 MOS. Most of these suggestions have been incorporated in the final version of the MOS amendment.

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

Under subsection 98 (5A) of the Act, regulations may empower CASA to issue instruments in relation to the maintenance of aircraft. Under subsection 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.

**Statement of Compatibility with Human Rights**

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

**Making and commencement**

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

[*Part 42 Manual of Standards Amendment Instrument 2013 (No. 1)*]

**Appendix 1**

**Statement of Compatibility with Human Rights**

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

***Part 42 Manual of Standards Amendment Instrument 2014 (No. 1)***

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 purpose of *Part 42 Manual of Standards Amendment Instrument 2014 (No. 1)* (the***MOS amendment***) is to amend the Part 42 Manual of Standards (the ***Part 42*** ***MOS***) made under Part 42 of the *Civil Aviation Safety Regulations 1998* (***CASR 1998***). The Part 42 MOS specifies matters affecting maintenance and airworthiness of aircraft for the purposes of Part 42 of CASR 1998.

A maintenance organisation approved by the national aviation authority of a foreign country is permitted to carry out maintenance on aeronautical products for an Australian aircraft if the country is listed in Chapter 7 of the Part 42 MOS. The list of countries is amended by removing Brazil. It is not considered that the removal will have any appreciable impact on the maintenance of aeronautical products for an Australian aircraft.

Chapter 12 of the Part 42 MOS as amended separates requirements relating to the acceptance of authorised release certificates (***ARCs***) for new and used aeronautical products. The MOS amendment removes restrictions on the acceptance of new aircraft parts manufactured under the law of foreign countries that are not currently listed in the Part 42 MOS.

For used parts on which maintenance has been carried out under the law of a foreign country, Chapter 12 of the Part 42 MOS continues to include a list of countries from where ARCs for used parts are acceptable. It is considered that the removal of 1 country (Brazil) from that list will have no appreciable impact on the maintenance of used aeronautical products installed in Australian aircraft.

**Human rights implications**

The MOS amendment 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*. The 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**