

EXPLANATORY STATEMENT

Select Legislative Instrument No. 246, 2015

Issued by the authority of the Minister for Infrastructure and Regional Development

Civil Aviation Act 1988

Civil Aviation Legislation Amendment (Part 66) Regulation 2015

The *Civil Aviation Act 1988* (the Act) establishes the regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Subsection 98 (1) of 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 to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. That subsection also provides that the Governor-General may make regulations for the purpose of carrying out and giving effect to the provisions of the *Convention on International Civil Aviation* (Chicago Convention) relating to safety and in relation to the safety of air navigation, being regulations with respect to any other matters for which the Parliament has power to make laws.

Subsection 9 (1) of the Act specifies, in part, that the Civil Aviation Safety Authority (CASA) has the function of conducting the safety regulation of civil air operations in Australian territory by means that include developing and promulgating appropriate, clear and concise aviation safety standards and issuing certificates, licences, registrations and permits.

The Regulation amends Part 66—Continuing airworthiness—aircraft engineer licences and ratings, of the *Civil Aviation Safety Regulations 1998 (CASR)* to provide for a small aircraft maintenance licence structure using new ratings (group ratings) for the existing Part 66 category B1 (mechanical) and category B2 (avionics) aircraft maintenance engineer licence format, that covers maintenance of aircraft systems and subsystems on small aircraft.

The Part 66 licence system currently provides for small aircraft licensing but uses exclusions or limitations to outline the scope of privilege for a particular licence. The small aircraft maintenance licence structure uses a positive statement of licence privilege with an initial group rating (described as a “basic rating”) endorsed on the licence and provides an entry level subcategory B1 or category B2 licence that covers maintenance of the aircraft systems and subsystems on small aircraft. Additional group rating endorsements are available to expand the scope of privilege of the basic licence as additional competencies are achieved from an approved CASR Part 147 Maintenance Training Organisation (MTO) delivering the Certificate IV in Aeroskills (Mechatronics) training package.

The International Civil Aviation Organization (ICAO) recently included the concept of competency-based training and modularised licences for aircraft maintenance personnel as a recommended practice in their *Air Navigation Services Training Procedures Doc 9868*. This small aircraft maintenance licence structure adopts these practices, which are also in place for larger aircraft. The Regulation also continues to use the Australian competency-based training system to deliver the training outcomes required for the granting of group ratings that cover maintenance of aircraft systems and subsystems on small aircraft.

The Regulation also makes various minor amendments to the *Civil Aviation (Fees) Regulation 1995* to accommodate the arrangements for group ratings on CASR Part 66 aircraft licences, for CASA's processing and consideration of an application for approval as a CASR Part 147 MTO, and to remove fees for application processes that are no longer administered by CASA.

The Regulation also makes various minor amendments to the *Civil Aviation Regulations 1988* (CAR) relating to a certificate of approval issued under regulation 30 to engage in the maintenance of aircraft, aircraft components or aircraft materials. The amendments require that an application for a certificate of approval must include in its statement of activities, any training and assessment in the maintenance of aircraft, aircraft components or aircraft materials that the applicant intends to conduct, and the certificate of approval is subject to the certificate holder's compliance with any requirements set out by legislative instrument issued by CASA that applies to the holder. Inclusion of the training and assessment in the application clarifies for the maintenance organisation, the training they are approved to provide, i.e. the "permitted training", to their employees.

The Regulation provides a head of power that allows CASA to issue a legislative instrument that sets out the requirements for the provision of training and assessment in the maintenance of aircraft, aircraft components or aircraft materials that apply to holders of a certificate of approval under regulation 30 of CAR. These training and assessment requirements outlined in the legislative instrument provide clarity for the maintenance organisation in the delivery of the training they are approved to provide to their employees.

The Regulation also amends the provisions relating to the carrying out of maintenance on class B aircraft (i.e. Australian aircraft that are not certificated as transport category aircraft and are not being used for commercial purposes, such as regular public transport operations) in Australian territory. The amendments clarify the requirements that need to be satisfied by particular persons (including any conditions prescribed by legislative instrument issued by CASA), in relation to the carrying out of particular types of maintenance on class B aircraft that are specified in Part 1 of Schedule 8 of CAR.

The Regulation also expands the contents of Part 1 of Schedule 8 of CAR 1988 to include particular types of maintenance that a suitably qualified person may carry out on class B aircraft, contained in other instruments, which will be repealed.

The Regulation also includes transitional arrangements for a period of four years until July 2020, under which CASA may grant category B1 and B2 licences to applicants who meet certain requirements prescribed in the Part 66 Manual of Standards (MOS). These transitional arrangements extend the availability of the CASA Basics examinations and Schedule of Experience – (the qualification system previously used for grant of an aircraft engineer licence under regulation 31 of CAR) to licence applicants to qualify for grant of an aircraft maintenance engineer licence.

Consultation

Consultation with industry and the public commenced in 2007 with the establishment of a joint CASA/industry team. A Notice of Proposed Rule Making (NPRM) 0804MS was released in 2009 recommending a structure for a small aircraft maintenance licence.

In light of feedback on NPRM 0804MS, commencement of a new Licensed Aircraft Maintenance Engineer (LAME) licensing system introduced by Part 66 of CASR in June 2011 and recent changes to the ICAO's Training Document and Licensing Recommended Practice, CASA

recommended consultation on the Part 66 licence outcome that may be provided for small aircraft sectors.

In December 2012, CASA released Discussion Paper (DP) 1215SS for public comment and review, resulting in 42 responses. Given the comments provided by industry to the original NPRM 0804MS in which they strongly opposed the introduction of two additional licence categories, CASA formed a small aircraft maintenance licence working group (the small aircraft working group) comprised of industry and CASA personnel. The working group met on three occasions – 17 December 2013, 26 February 2014 and 9 February 2015.

CASA released NPRM 1310SS to industry for consideration during the period of September to November 2014, resulting in a total of 21 responses. CASA’s review and consideration of these comments led to the development of an “Exposure Draft” of the *Civil Aviation Legislation Amendment (Part 66) Regulation 2015* instrument which outlined proposed changes to Part 66 regulations to accommodate the licence proposal into regulation. This “Exposure Draft” was provided for comment to the small aircraft working group and to the joint industry/CASA Standards Consultative Committee members in March 2015, prior to broader circulation to industry for review and comment in March and April of 2015. The Exposure Draft was also the subject of review and comment by the Maintenance Standards Subcommittee (MSC).

The Part 66 small aircraft licence proposal was reviewed and discussed in detail by CASA and industry representatives at the MSC meetings (May and June 2015). Industry requested that rather than have a separate licence for general aviation, that the legislation utilises the current Part 66 B1 and B2 licences to provide the outcome i.e. “group ratings” on a Part 66 licence in lieu of a new small aircraft maintenance licence.

Accordingly, the draft *Civil Aviation Legislation Amendment (Part 66) Regulation 2015* was re-drafted and now provides for group ratings to be endorsed on the current B1 and B2 licences. The revised documents were provided for industry comment in July 2015 resulting in a total of 14 responses, the majority of which were in support of the small aircraft licensing proposal, with some suggesting refinements to clarify the scope of licence privilege under certain group rating endorsements.

Regulation Impact Statement

The Office of Best Practice Regulation assessed that the amendments will have minor or machinery impacts and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 17172).

Statement of Compatibility with Human Rights

A statement of Compatibility with Human Rights is at [Attachment A](#).

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. Details of the Regulation are set out in [Attachment B](#).

The *Civil Aviation Legislation Amendment (Part 66) Regulation 2015* commences in accordance with the dates specified for each provision prescribed in column 2 of the table in Section 2 of the Regulation.

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

Statement of Compatibility with Human Rights

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

Civil Aviation Legislation Amendment (Part 66) Regulation 2015

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 Regulation provides new provisions and makes various changes to existing provisions under Part 66 of the *Civil Aviation Safety Regulations 1998* (CASR) to provide for a small aircraft maintenance licence structure that uses authorisations known as “group ratings” for the existing Part 66 category B1 (mechanical) and category B2 (avionics) aircraft maintenance engineer licence format, that describe the privileges granted to the holder of a licence to maintain the different aircraft systems and subsystems (such as hydraulics systems, landing gear systems, radio and instrument systems, etc) on small aircraft.

The current Part 66 licence system already provides for maintenance of small aircraft but uses particular endorsements on a licence known as exclusions and/or limitations to “exclude” or “limit” certain types of aircraft maintenance for that particular licence. In contrast, the new small aircraft maintenance licence structure uses a positive statement of licence privilege with an initial group rating (described as a “basic rating”) endorsed on the licence providing industry with an entry level category B1 or category B2 licence that grants the licence holder privileges to maintain some basic aircraft systems and subsystems on small aircraft. Additional group rating endorsements will then be available to expand the scope of privilege beyond that of the basic “entry level” licence as additional theory and practical training from the nationally endorsed Certificate IV in Aeroskills (Mechatronics) training package syllabus is successfully completed by the licence holder through an approved CASR Part 147 Maintenance Training Organisation (MTO).

The instrument also makes various minor and machinery amendments to the *Civil Aviation Regulations 1988* (CAR) of a technical nature which do not engage any human rights. These amendments expand on the types of maintenance that a suitably qualified person may carry out on class B aircraft (i.e. Australian aircraft that are not certificated as transport category aircraft and are not being used for commercial purposes such as regular public transport operations) in Australian territory. The amendments also clarify the requirements that need to be satisfied by particular persons, including any conditions prescribed by legislative instrument issued by CASA, in relation to the carrying out of particular types of maintenance on class B aircraft that are specified in Part 1 of Schedule 8 of CAR.

The instrument also makes minor amendments to the *Civil Aviation (Fees) Regulations 1995* to remove existing fees for processing and consideration of aircraft engineer licence applications that are no longer administered by CASA, and therefore do not engage any human rights.

Human rights implications

The Regulation engages the following rights:

- The right to presumption of innocence (Article 14(2) of the *International Covenant on Civil and Political Rights* (ICCPR));
- The right to work (Article 6(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR));
- The right to equality and non-discrimination (Article 26 ICCPR); and
- The right to protection against arbitrary and unlawful interferences with Privacy (Article 17 of the ICCPR).

Presumption of Innocence

The presumption of innocence imposes on the prosecution the burden of proving the charge and guarantees that no guilt can be presumed until the charge has been proven beyond reasonable doubt. The right to be presumed innocent will be engaged where strict liability applies.

There are offence provisions under regulation 66.115A of item 20 and under regulations 202.341, 202.342 and 202.343 of item 48 in this legislative instrument which are strict liability offences and engage the right to the presumption of innocence. The strict liability offences relate to licence conditions, licence privileges and safety requirements that must be adhered to by regulated holders of aircraft maintenance engineer licences involved in carrying out maintenance on aircraft to ensure the aircraft and its various systems are correctly maintained and operated in a safe and airworthy condition in order to maintain the standards necessary for the continued safety and integrity of the aviation industry.

These new offence provisions consolidate existing strict liability offences into one general provision made for that purpose. Examples of where the holder of an aircraft maintenance engineer licence would commit an offence of strict liability are:

- if a licence holder exercises a privilege of their licence while he/she knowingly has a medically significant condition that is safety-relevant and affects his/her ability to exercise the privilege, and he/she did not advise CASA of the medical condition at the time of applying for their licence;
- if a licence holder certifies for completion of maintenance and the maintenance certification was not done in accordance with the privileges or conditions or limitations mentioned in legislation for his or her licence;
- if a licence holder certifies for completion of maintenance at a certain time and at that time, he/she does not meet the recent qualification and experience requirements for their licence prescribed in legislation.

To the extent the imposition of strict liability offences in the Regulation limits the right to be presumed innocent, this limitation is necessary to ensure that only appropriately qualified and medically-able people are involved in the maintenance of aircraft. The strict liability offences in the Regulation are considered justified and therefore not inconsistent with the presumption of innocence, in that they are regulatory in nature, meaning that there is an expectation that individuals who participate in the aviation sector have accepted certain conditions, particularly where activities carry public safety risks. The deterrence effect of the strict liability offences also contributes significantly to maintaining the integrity of the aviation safety system. This limitation is reasonable considering the significant danger posed by aircraft that have not been expertly maintained and the potentially catastrophic

consequences of clearing such aircraft for flight. The strict liability offences are also proportionate in that they fall at the lower end of the scale, not exceeding 50 penalty units.

These amendments are consistent with the right to presumption of innocence because they are aimed at the legitimate objective of ensuring regulated holders of aircraft maintenance engineer licences comply with licence conditions that provide for the safety and integrity of the aviation industry. Further, these amendments are reasonable, necessary and proportionate to achieving this objective as set out above.

Right to work

The right to work includes the right of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts.

This right is engaged by provisions that prescribe the training requirements an individual needs to meet to carry out maintenance on small aircraft and the provisions that expand on the types of maintenance a suitably qualified person may carry out on certain aircraft and balloons. These training requirements also provide individuals with the opportunity to broaden the scope of maintenance privileges they have on their licence and to also provide a vocational training program that provides individuals the opportunity to qualify for the initial grant of a basic “entry-level” aircraft maintenance engineer licence and will assist CASA’s processing of certain licences and associated ratings issued under Part 66 of CASR.

Provisions that prescribe training requirements may have the effect of limiting the right to work by restricting the ability to pursue work unless specified competency, qualification and training standards are met. This limitation is necessary and reasonable to ensure that people who perform maintenance on aircraft have the required expertise to maintain the standards necessary for the continued safety and integrity of the aviation industry. Evidence an individual is deemed competent and therefore suitably qualified to carry out specific maintenance on aircraft is demonstrated through successful completion of designated theory and practical training competency units (relevant to the maintenance task) contained within the Certificate IV in Aeroskills (Mechatronics) training package syllabus. The successful training outcome is then reported to CASA with the privilege to carry out that particular maintenance endorsed on the individual’s licence.

These provisions further align the Australian aircraft maintenance training and licensing system with the International Civil Aviation Organization’s (ICAO) recommended practice of competency-based training for aircraft maintenance. It is also proportionate to the objective of ensuring the safety of the aviation industry. It adequately balances the rights of aircraft engineers to work with the rights of pilots and any passengers that may be carried by these small aircraft, to life and to health.

Further, there is a four year transitional period (until July 2020) which allows licence applicants use of the previous qualification system to qualify for grant of an aircraft maintenance engineer licence. This period has been put in place to provide approved CASR Part 147 MTOs opportunity to expand the scope of training they provide, to include the Certificate IV in Aeroskills (Mechatronics) training package (the training package tailored for small aircraft maintenance under this Amendment Regulation). This transitional period is reasonable in that it provides in the interim, an alternative licence qualification system to individuals that is proportionate and equivalent to the licence outcome under the Aeroskills training that will eventually be provided to individuals by Part 147 MTOs. The transitional

period contributes to the reasonableness and proportionality of the measure because it allows licence applicants and training organisations who may have financial or other capacity limitations greater flexibility to meet the new arrangements.

Provisions that expand on the types of maintenance a suitably qualified person may carry out on certain aircraft promote the right to work.

These amendments are consistent with the right to work by promoting the right, and by limiting it only where such limitations are necessary, reasonable and proportionate to the legitimate objective of maintaining aviation safety standards.

Right to equality and non-discrimination

The right to equality and non-discrimination ensures all persons are equal before the law and are entitled without any discrimination to the equal protection of the law on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

This right is engaged by the provision that prescribes that a person must not carry out maintenance to an aircraft if they know they have a medically significant condition such as a disability or serious health condition or pregnancy that is safety-relevant. This provision is considered to be reasonable, necessary and proportionate in order to ensure that only medically-able people are involved in the maintenance of aircraft so as not to compromise the safe operation of the aircraft and the safety of individuals such as pilots, passengers (if carried) and in the event of an aircraft accident - people on the ground, which would lead to a compromise to the integrity and safety of aviation.

Maintenance to aircraft carried out incorrectly or in a complacent or unsafe manner due to the influence of certain medical conditions which are deemed by a medical practitioner to be significant and safety relevant, may lead to safety implications for other individuals working on or around the aircraft as well as the safety of pilots, passengers and people on the ground should the aircraft fail and fall to the ground during flight. To avoid any negative influence to aviation safety and to people interacting with the aircraft during its maintenance and subsequent operation, it is reasonable to prescribe that aircraft maintenance engineers who are suffering from medically significant conditions are committing an offence if they carry out maintenance whilst under the influence of such a condition.

The provision of a strict liability offence is justified as legitimate differential treatment and is seen to be reasonable and objective in its application. The offence is aimed at promoting the general welfare and safety of all parties involved in the operation of the aircraft, ensuring aviation safety and potentially the right to life.

Right to protection against arbitrary and unlawful interferences with Privacy

The right to protection against arbitrary and unlawful interferences with privacy ensures no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, nor to unlawful attacks on their honour and reputation.

This right is engaged by the provision under item 20 of the instrument that prescribes that a person must specify any medically significant condition that is safety-relevant in an application for a licence or rating to CASA. The requirement to disclose any medical

condition to CASA that is considered to be safety relevant is considered to be necessary, reasonable and proportionate in that it is reasonable to restrict a licensed aircraft maintenance engineer from carrying out maintenance on aircraft whilst under the influence of such a medically significant condition to avoid any compromise to the integrity and safety of aviation and to ensure the general welfare and safety of all parties involved in the operation of the aircraft.

With regards to the requirement under the provision to disclose any medical condition to CASA on a licence application, CASA is committed under its Privacy Policy to respecting a person's privacy and protection of any personal information in its possession and is bound by the *Privacy Act 1988*. CASA holds personal information in a range of paper-based and electronic records and takes reasonable steps to protect the personal information it holds against misuse, interference, loss and from unauthorised access, modification or disclosure.

Conclusion

This Legislative Instrument is compatible with human rights and to the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate in order to ensure the safety of aviation operations and to promote the integrity of the aviation safety system.

Warren Truss, Minister for Infrastructure and Regional Development

Details of the *Civil Aviation Legislation Amendment (Part 66) Regulation 2015*

Section 1 - Name of Regulation

Section 1 provides that the title of the Regulation is the *Civil Aviation Legislation Amendment (Part 66) Regulation 2015*.

Section 2 - Commencement

Section 2 provides that each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table and that any other statement in column 2 has effect according to its terms.

Section 3 - Authority

Section 3 provides that the Regulation is made under the *Civil Aviation Act 1988* (the Act).

Section 4 - Schedule(s)

Section 4 provides that each instrument that is specified in a Schedule to the instrument will be amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument will have effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments relating to small aircraft licences and ratings

Civil Aviation Safety Regulations 1998

Item [1] Regulation 66.010 (definition of *additional practical experience*)

Item [1] is consequential to item [5] and repeals the definition of “*additional practical experience*” and substitutes with an amended definition to clarify that for an applicant for a licence or for a rating to be endorsed on an applicant’s licence; the applicant must have “*additional practical experience*” in carrying out maintenance on the kind of aircraft the licence or the rating on the licence applies to, and must be carried out under the supervision of a person who holds the same licence or rating being applied for. The table under regulation 66.010 that lists aircraft engineer licences and the kinds of aircraft each licence applies to is repealed and re-inserted by item [5] under a new regulation made for that purpose.

Item [2] Subregulation 66.015(1)

Item [2] repeals subregulation (1) and substitutes with a new subregulation (1) to comply with the Office of Parliamentary Counsel’s (OPC) current policy for legal drafting used to prescribe matters that may be provided in a MOS instrument issued by CASA under subsection 98(5A) of the *Civil Aviation Act 1988*.

Item [3] Subregulation 66.015(2)

Item [3] omits “In particular, a” and substitutes it with “Without limiting subregulation (1), the Part 66” to comply with the OPC’s most current style of legal drafting used to prescribe matters that may be provided in a MOS instrument issued by CASA under subsection 98(5A) of the *Civil Aviation Act 1988*.

Item [4] After paragraph 66.015(2)(j)

Item [4] inserts new paragraph (ja) as a consequence to the proposed introduction of new ratings (group ratings) for each B1 subcategory and B2 category aircraft maintenance engineer licence, to provide that the Part 66 MOS may specify the required aircraft type training, subject modules and units of competency for a rating on an aircraft engineer licence.

Item [5] Before regulation 66.020

Item [5] inserts new regulation 66.018.

Regulation 66.018 Aircraft engineer licences and kinds of aircraft.

Regulation 66.018 is consequential to item [1] and provides a dedicated location for the table which previously resided under regulation 66.010.

Item [6] Subregulations 66.026(1)

Item [6] inserts a reference to subregulation (3) added by item [9] to ensure that when CASA grants a licence endorsed with an exclusion under the requirements prescribed for subregulation (1), the licence must not be granted with the exclusion unless the exclusion relates to a type rated aircraft type.

Item [7] Paragraph 66.026(1)(a) and (d)

Item [7] omits “A” from paragraphs (a) and (d) in relation to a “category A” aircraft engineer licence, to clarify that exclusions endorsed by CASA on a licence that are subject to an exclusion of an aircraft system or subset of an aircraft system are only applicable to category B1 and B2 licences and are not applicable to category A licences as, consequential to item [5], an exclusion may only be endorsed on an aircraft engineer licence if the exclusion relates to a “type rated” aircraft type and category A licences are not type rated specific licences.

Item [8] Subregulation 66.026(2)

Item [8] inserts a reference to subregulation (3) added by item [9] to ensure that when CASA grants a licence endorsed with an exclusion under the requirements prescribed for subregulation (2), the licence must not be granted with the exclusion unless the exclusion relates to a type rated aircraft type.

Item [9] At the end of regulation 66.026

Item [9] adds new subregulation (3) to clarify that an exclusion must not be endorsed on an aircraft engineer licence granted by CASA, unless the exclusion relates to a “type rated” aircraft type.

Item [10] Subregulation 66.075(1)

Item [10] omits mention of “a type rated” aircraft type rating in subregulation (1) so as not to limit the kind of ratings that may be applied for, to only type rated aircraft types.

With the introduction of new ratings (“group ratings”) under this small aircraft maintenance licence structure, an application for a “rating” endorsement on an aircraft engineer licence can be for a rating that is applicable to a “type rated” aircraft type (i.e. usually a large aircraft used in RPT operations e.g. Boeing 777) or for a “group” rating that is applicable to a non-type rated aircraft (i.e. usually smaller aircraft used in General Aviation operations e.g. Cessna 182).

Item [11] Subregulation 66.075(2)

Item [11] repeals subregulation (2) and substitutes it with a new subregulation to clarify that when a person makes an application for a rating the person must either hold or be applying for a licence, for an aircraft type relevant to that rating.

Item [12] paragraph 66.075(3)(ba)

Item [12] inserts the words “for a type rated aircraft type” at the start of paragraph (ba) as a consequence of item [9] to clarify that an application made for a rating for a type rated aircraft type must specify whether the rating being applied for is subject to the exclusion of an aircraft system or a subset of an aircraft system.

Item [13] Subregulation 66.080(1)

Item [13] repeals subregulation (1) and substitutes with a new subregulation to clarify the requirements that must be met by an applicant who applies for a rating on an aircraft engineer licence. If CASA is satisfied that these requirements have been met by the applicant, CASA must grant the rating on the aircraft engineer licence.

Item [14] Paragraph 66.080(2)(c)

Item [14] omits the words “2 years” from paragraph (2) and substitutes it with “3 years” to extend the period within which successful completion of relevant practical training and assessment satisfies requirements for the rating and harmonises with the European Aviation Safety Agency’s (EASA) timeframe.

Item [15] Paragraph 66.080(3)(c)

Item [15] omits the words “2 years” from paragraph (3) and substitutes it with “3 years” to extend the period within which successful completion of relevant practical training and assessment provided by a Part 145 AMO satisfies requirements for the rating and harmonises with the EASA’s timeframe.

Item [16] Subregulation 66.085(a)

Item [16] omits the words “a type rated” from subregulation (a) and substitutes it with “an” to provide that a rating not only includes a rating for a type rated aircraft type but may also include other ratings, such as for example ‘group ratings’.

Item [17] Subregulation 66.090(a)

Item [17] omits the words “a type rated” from subregulation (a) and substitutes it with “an” to provide that a rating not only includes a rating for a type rated aircraft type but may also include other ratings, such as for example ‘group ratings’.

Item [18] Subregulations 66.095(1), (2) and (4)

Item [18] inserts the words “subregulation (5) and” into each of these subregulations as a consequence to item [19] which adds subregulation (5), to clarify that an application for a rating on a category B1 and B2 aircraft engineer licence that is endorsed with an exclusion must not be granted by CASA unless the exclusion relates to a “type rated” aircraft type. Exclusions endorsed on ratings are applicable to type rated aircraft types only.

Item [19] At the end of regulation 66.095

Item [19] adds new subregulation (5) to clarify that exclusions endorsed on ratings are applicable to “type rated” aircraft types only and provides that CASA must not grant a rating that is subject to the exclusion unless the exclusion relates to a type rated aircraft type.

Item [20] After regulation 66.115

Item [20] inserts new regulation 66.115A.

Regulation 66.115A Offence not to comply with licence conditions

Regulation 66.115A provides that a licenced aircraft maintenance engineer commits an offence of strict liability if the licence holder disregards any of the licence conditions outlined under Subpart 66.D of CASR, other than in relation to medically significant conditions outlined under regulation 66.125. The penalty for the offence is 50 penalty points.

Regulation 66.115A also provides that a licence holder commits an offence where the following circumstances apply:

- he or she exercises a privilege for their licence or rating endorsed on the licence, at that time he or she knows they have a medically significant condition that is safety-relevant which was not specified on an application for the licence or rating they hold,
- exercise of the privilege occurred within 30 days since the engineer first knew they had the condition, and
- they did not obtain a medical certificate from a medical practitioner or specialist medical practitioner which states that the condition does not reduce their ability to exercise that licence privilege.

The penalty for the offence is 50 penalty units.

Item [21] Subparagraph 66.130(1)(a)(iii)

Item [21] repeals subparagraph (iii) as a consequence to item [7] which removes mention of a Category A licence from paragraphs 66.026(1)(a) and (d) as being a type of licence that CASA may grant which is subject to an exclusion endorsement on the licence. An exclusion endorsement on a licence is not applicable to Category A licences.

Item [22] After subregulation 66.135(2)

Item [22] inserts subregulation (2A) and provides that a B1 or B2 licence holder may perform maintenance certification on behalf of a Part 145 organisation for maintenance on a non-rated aircraft type only if their licence authorises that kind of maintenance.

Item [23] Regulations 66.136 and 66.137

Item [23] repeals regulations 66.136 and 66.137 and substitutes a revised regulation 66.137. Regulation 66.136 is repealed to clarify that use of a Subpart 42.F approved maintenance organisation will not be utilised under the CASRs.

Regulation 66.137 Category B1 and B2 licences—maintenance certification other than on behalf of a Part 145 organisation.

Regulation 66.137 prescribes the conditions and requirements under which a category B1 and B2 licence holder may provide a maintenance certification other than on behalf of a Part 145 organisation for maintenance that was carried out on a particular type-rated aircraft type and on aircraft not of a type rated aircraft type.

Item [24] Regulation 66.138 (after the heading)

Item [24] inserts the words “*Type rated aircraft type*” to clarify that for regulation 66.138 which prescribes the conditions and requirements that must be met by the holder of a category B1 or B2 licence to issue a certificate of release to service on behalf of a Part 145 organisation; the conditions under the regulation are applicable to type rated aircraft types.

Item [25] Regulation 66.138

Item [25] inserts “(1)” before commencement of the paragraph as a consequence to item [24] to clarify that the first paragraph under this regulation will be renumbered as subregulation (1) of regulation 66.138 to identify that the conditions prescribed under this subregulation are applicable to type rated aircraft types.

Item [26] Paragraph 66.138(a)

Item [26] repeals the paragraph and substitutes with a new paragraph (a) to clarify that, for carrying out the maintenance, the holder’s licence is either endorsed with the applicable rating for the aircraft type or the holder has a certification authorisation granted by the Part 145 organisation in relation to the aircraft type.

The specific Part 145 MOS paragraph for the grant of the certification authorisation is omitted to remove any future need that may arise to amend this regulation as a consequence to any future amendment that may be made to that particular section in the Part 145 MOS.

Item [27] At the end of regulation 66.138

Item [27] adds new subregulation (2) for *Aircraft not of a type rated aircraft type* which prescribes that a B1 or B2 licence holder needs to hold a relevant licence to issue a certificate of release to service on behalf of a Part 145 organisation for aircraft not of a type rated aircraft type.

Item [28] Regulations 66.139 and 66.139A

Item [28] repeals regulations 66.139 and 66.139A and substitutes a revised regulation 66.139A. Regulation 66.139 is repealed to clarify that use of a Subpart 42.F approved maintenance organisation will not be utilised under the CASRs.

Regulation 66.139A Category B1 and B2 licences—certificate of release to service issued other than on behalf of a Part 145 organisation

Regulation 66.139A prescribes that a B1 or B2 licence holder needs to hold a relevant licence (non-rated aircraft type) or a relevant rating (type rated aircraft type) to issue a certificate of release to service other than on behalf of a Part 145 organisation.

Item [29] Subpart 66.E

Item [29] is consequential to item [20] and repeals all of Subpart 66.E that deals with offences that apply to licenced aircraft engineers, as licence offences will now rely on a single offence provision which is provided under item [20] as new regulation 66.115A - Offence not to comply with licence conditions.

Item [30] At the end of Subpart 202.CG

Item [30] adds new transitional regulations 202.345 and 202.350.

Regulation 202.345 Transitional arrangements for category B1 and B2 licence holders

Regulation 202.345 is consequential to the proposed introduction of new ratings (group ratings) for each B1 subcategory and B2 category aircraft maintenance engineer licence and item [4] which provides that the Part 66 MOS may specify the required aircraft type training, subject modules and units of competency for a new group rating on an aircraft engineer licence. Regulation 202.345 clarifies that despite the requirements for issue of an aircraft engineer licence under regulation 66.025, CASA may also grant a category B1 or B2 aircraft engineer licence to a person who has satisfactorily met the theory and practical experience requirements prescribed in the Part 66 Manual of Standards for a transitional period of four years.

The four year transitional period is put in place to give Registered Training Organisations time to increase their scope of training to include provision of the Certificate IV in Aeroskills (Mechatronics) training package and seek approval from CASA as a Part 147 MTO, and for existing Part 147 MTOs time to add the Certificate IV in Aeroskills (Mechatronics) training package to their scope of approved training.

Regulation 202.350 Transitional provision – Part 66 Manual of Standards

Regulation 202.350 ensures that any amendments made to the Part 66 Manual of Standards in relation to the proposed introduction of the small aircraft maintenance licence system which comes into effect after 4 July 2016 has effect after that date as if those amendments were made under regulation 66.015 which provides the head of power for CASA to prescribe matters that may be provided in a MOS instrument issued by CASA.

Item [31] Clause 1 of Part 3 of the Dictionary (definition of *category training*)

Item [31] adds the words “or rating” to the definition of *category training* as a consequence to item [32] which amends the definition of a rating to be applicable to both “type rated” aircraft type ratings and “group ratings” and to account for the additional scope of training a Part 147 MTO may provide under this small aircraft licence proposal.

The additional scope available under the Certificate IV training provided by a Part 147 MTO is for “group ratings” to be granted/endorsed on an aircraft engineer licence, where currently a Part 147 MTO can only provide “category training” for the required units of competency for a licence outcome. As the Part 147 will now be able to provide category training for a licence outcome and training for grant of group ratings on a licence, amendment of the definition of category training is required to not restrict the training a Part 147 may provide.

Item [32] Clause 1 of Part 3 of the Dictionary (paragraphs (a) and (b) of the definition of *rating*)

Item [32] omits the words “type rated” from paragraph (a) and (b) of the definition of *rating* as a consequence to item [10] which amends the meaning of a rating to be applicable to both “type rated” aircraft type ratings and “group ratings”.

Item [33] Clause 1 of Part 3 of the Dictionary (definition of *unit of competency*)

Item [33] amends the definition of *unit of competency* to update a reference used in the definition that identifies the qualification framework recognised in Australia for competency based training and used for the qualification levels for the Aeroskills training.

Part 2 – Other amendments

Civil Aviation (Fees) Regulations 1995

Item [34] Schedule 1 (table items 2.4 and 2.4A, column headed “Service”)

Item [34] repeals table items 2.4 and 2.4A of the *Fees Regulations* that apply to processing of an application for examination in a competency applicable for the grant of an aircraft engineer licence. CASA will no longer process these applications or conduct examinations for holders of a foreign aircraft engineer licence for the issue of an equivalent licence by CASA. Holders of foreign aircraft engineer licences will be required to seek recognition of their licence and any relevant training qualification through an assessment conducted by a MTO, with the outcome of that assessment reported to CASA for issue of a licence.

Item [35] Schedule 1 (table item 2.9A, column headed “Service”)

Item [35] omits “a category airframes Group 20 rating, or” from table item 2.9A of the *Fees Regulations* as use of the CASA Basics examinations and Schedule of Experience (SOE) for issue of a rating on an aircraft engineer licence is no longer available after 26 June 2015 for aircraft engineer licences applicable to RPT aircraft which were known as “category airframes Group 20” aircraft under the previous CAR 31 licence system. Use of the CASA Basic and SOE is only available after 26 June 2015 for a small aircraft engineer licence outcome (non-Group 20 aircraft).

Item [36] Schedule 1 (table items 2.18 to 2.25)

Item [36] repeals table items 2.18 to 2.25 inclusive of the *Fees Regulations* that relate to processing and consideration of an application for the issue of a maintenance authority and for approval of a recognised organisation, and associated matters for that organisation under CAO 100.66, as the CAO was repealed with the introduction of Part 66 in June 2011.

Item [37] Schedule 1 (table item 2.42)

Item [37] is consequential to item [49] and omits the words “other than regulations 202.341, 202.342, 202.343, 202.345 and 202.346—” from table item 2.42 of the *Fees Regulations*. These transitional regulations are no longer required, as for regulations 202.341 and 202.345, any aircraft engineer licence or CAO 100.66 maintenance authority held by a person on 26 June 2011 has since been processed and issued with a Part 66 licence by CASA and no CAO 100.66 maintenance authority can be applied for or issued by CASA as the CAO was repealed with the introduction of Part 66 in June 2011. For regulations 202.342 and 202.343, there are no aircraft engineer licences still on suspension on CASA’s records that were placed under suspension on 26 June 2011 and no licence applications made before 27 June 2011 that have not been finally determined by CASA. Regulation 202.346 is repealed and substituted as new regulation 202.340 by item [49].

Item [38] Schedule 1 (cell at table item 2.45, column headed “Service”)

Item [38] repeals the cell for table item 2.45 of the *Fees Regulations* and substitutes with “Approval as a MTO” as transitional regulation 202.840 mentioned in the cell which refers to recognised organisations under Civil Aviation Order 100.66 and the holder of a CAR 30 approval (also mentioned in the cell) for what CASA considered was equivalent to an approval as an MTO have both been repealed since the introduction of Part 66 of CASR.

Civil Aviation Regulations 1988**Item [39] At the end of subparagraph 30(2)(a)(i)**

Item [39] adds the words “, including any training or assessment in the maintenance of aircraft, aircraft components or aircraft materials that the applicant intends to conduct” to clarify that an application made under regulation 30 of CAR for approval to carry out maintenance to aircraft, aircraft components or aircraft materials must include in a statement of activities, any training or assessment for these maintenance activities that the applicant intends to conduct.

Item [40] After paragraph 30(2C)(c)

Item [40] is consequential to item [41] and inserts new paragraph (ca) to clarify that if a certificate of approval made under regulation 30 of CAR covers training and assessment in the maintenance of aircraft, aircraft components or aircraft materials, a condition of the approval is that the holder of the certificate must comply with any requirements prescribed in

a legislative instrument issued by CASA under new regulation 30AA made at item [41] that apply to the holder.

Item [41] After regulation 30

Item [41] inserts new regulation 30AA.

30AA Provision of training and assessment in maintenance of aircraft etc.

Regulation 30AA provides the head of power for CASA to issue a legislative instrument that sets out the requirements for the provision of training and assessment in the maintenance of aircraft, aircraft components or aircraft materials that apply to holders of a certificate of approval under regulation 30.

Item [42] Paragraph 42ZC(4)(d)

Item [42] is consequential to item [45] and repeals paragraph (d) and substitutes with new paragraphs (d), (da), (db), (dc) and (dd) to expand on the type of persons, the requirements and conditions (if any) that must be met by those persons to carry out additional maintenance tasks specified in Schedule 8 of CAR on class B aircraft in Australian territory which were previously contained in the following instruments issued by CASA, which will be repealed:

- CASA 149/11
- CASA 67/13
- CASA 431/11
- CASA 155/11
- CASA 400/12
- CASA EX 65/07.

Those additional maintenance tasks would be added by item [45] and be specified in Part 1 and Part 2 of Schedule 8.

Item [43] Schedule 8 (heading)

Item [43] is consequential to items [42] and [45] and repeals the heading (not including the note) for Schedule 8 and substitutes with a new heading.

Schedule 8—Maintenance that may be carried out on a Class B aircraft by a person entitled to do so under subregulation 42ZC(4).

The heading is amended to clarify that due to the expansion of the maintenance tasks specified under Schedule 8 added by item [45] and the additional persons, requirements and conditions prescribed under paragraph 42ZC(4)(d) added by item [42], the applicability of Schedule 8 is now expanded beyond a pilot entitled to carry out the specified maintenance to now include the other persons prescribed in paragraph 42ZC(4)(d).

Item [44] Before clause 1 of Schedule 8

Item [44] is consequential to item [45] and inserts a new heading before Clause 1 of Schedule 8.

Part 1—Maintenance on Class B aircraft other than balloons.

The heading is added to clarify that the maintenance tasks currently specified under Schedule 8 and expanded upon by item [45] are maintenance tasks that can be carried out by a person entitled to do so under paragraph 42ZC(4)(d) on a Class B aircraft for other than balloons.

Item [45] At the end of Schedule 8

Item [45] adds additional maintenance tasks under the heading added at item [44] that were previously contained in legislative instruments issued by CASA (which CASA will repeal),

that can be carried out by a person entitled to do so under paragraph 42ZC(4)(d) on a Class B aircraft for other than balloons.

Additional maintenance tasks classified as “maintenance on balloons” that were previously contained in legislative instruments issued by CASA (which CASA will repeal), have been added to Schedule 8 under a new heading titled – “Part 2 – Maintenance on balloons”.

Civil Aviation Safety Regulations 1998

Item [46] Subregulation 201.004(2) (table 201.004, item 26)

Item [46] repeals table item 26, as regulation 202.344 was repealed on 26 June 2015 and regulation 202.343 is repealed by item [49] as there are no longer any applications for aircraft maintenance engineer licences made before 27 June 2011 that have not been finally determined and processed by CASA.

Item [47] Subregulation 201.004(2) (table 201.004, item 27)

Item [47] is consequential to item [49] which repeals regulation 202.345. Item [47] repeals table item 27, as this item applies to an application made to the Administrative Appeals Tribunal by a person for the review of a decision made by CASA to not issue a CAO 100.66 maintenance authority. CAO 100.66 maintenance authorities are no longer in effect due to the repeal of this CAO with the introduction of Part 66 in June 2011.

Item [48] Regulations 202.340 to 202.348

Item [48] repeals transitional regulations 202.340, 202.341, 202.342, 202.343, 202.345, 202.346, 202.347 and 202.348 and substitutes with new regulations. For regulation 202.341, any aircraft engineer licence or CAO 100.66 maintenance authority held by a person on 26 June 2011 has since been processed and issued with a Part 66 licence by CASA and no CAO 100.66 maintenance authority can be applied for or issued by CASA as the CAO was repealed with the introduction of Part 66 in June 2011.

For regulations 202.342 and 202.343, there are no aircraft engineer licences still on suspension on CASA’s records that were placed under suspension on 26 June 2011 and no licence applications made before 27 June 2011 that to date, have not been finally determined and processed by CASA.

Regulation 202.340 Having regard to other airworthiness authorities in granting aircraft engineer licences

Regulation 202.340 prescribes that if CASA grants a licence to a person who holds or has held an airworthiness authority to carry out maintenance on an aircraft, CASA must take the authority into account.

Regulation 202.341 Category A licence holders and certification of completion of maintenance

Regulation 202.341 prescribes the conditions under which a category A licence holder may certify for completion of maintenance (despite anything in Part 4A of CAR), on behalf of a holder of a certificate of approval (CoA) under regulation 30 of CAR that covers maintenance of aircraft. Regulation 202.341 also sets out circumstances in which a category A licence holder commits an offence of strict liability in relation to certifying for completion of maintenance. The penalty for the offence is 50 penalty units.

Regulation 202.342 Category A licence holders and final certificates for completion of maintenance

Regulation 202.342 prescribes the conditions under which a category A licence holder may issue a final certificate for completion of maintenance for an aircraft in relation to maintenance carried out on the aircraft on behalf of a holder of a CoA under regulation 30 of CAR. Regulation 202.342 also sets out circumstances in which a category A licence holder commits an offence of strict liability in relation to issuing a final certificate for completion of maintenance for an aircraft in relation to maintenance carried out on the aircraft. The penalty for the offence is 50 penalty units.

Regulation 202.343 Category A licence holders and endorsing maintenance releases

Regulation 202.343 provides the ability and requirements for category A licence holders to endorse a maintenance release issued for an aircraft to recommence to be in force under regulation 48 of CAR. Regulation 202.343 also sets out circumstances in which a person commits an offence of strict liability in relation to endorsing a maintenance release. The penalty for the offence is 50 penalty units.