

Explanatory Statement

Civil Aviation Safety Regulations 1998

Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)

Purpose

The purpose of the *Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)* (the **No. 2 Amendment**) is to remove references to the A350 aircraft type and type rating endorsement from the Part 66 Manual of Standards (**Part 66 MOS**). The A350 aircraft type is not listed on the Australian Civil Aircraft Register and no Australian operators currently operate this type of aircraft.

Legislation

Under section 9 of the *Civil Aviation Act 1988* (the **Act**), CASA has the function of conducting the safety regulation of a range of matters including, under paragraph 9 (1) (c), developing and promulgating appropriate, clear and concise aviation safety standards.

Under subsection 98 (1) of the Act, the Governor-General may make regulations for the Act and in the interests of the safety of air navigation. The relevant regulations are the *Civil Aviation Safety Regulations 1998 (CASR 1998)*. Within CASR 1998, Part 66, *Continuing airworthiness — aircraft engineer licences and ratings*, deals with licences and ratings for the performance of maintenance certifications and issuing certificates of release to service for aircraft.

Under subsection 98 (5A) of the Act, the regulations may empower CASA to issue instruments in relation to the maintenance or airworthiness of aircraft. For subsection 98 (5A) of the Act, regulation 66.015 of CASR 1998 empowers CASA to issue a Manual of Standards that specifies matters affecting the maintenance or airworthiness of aircraft. The Part 66 MOS, and its MOS amendment, have been issued under the 2 relevant provisions in the Act and Part 66 of CASR 1998.

Under subsection 33 (3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

MOS amendment

On 14 July 2014, CASA commenced Project MS14/20, the objective of which is to make a range of minor changes to the Part 66 MOS after receiving industry feedback and to align the Part 66 MOS with updated foreign standards. *Manual of Standards Part 66 Amendment Instrument 2016 (No. 1) (No. 1 Amendment)*, which was registered on the Federal Register of Legislative Instruments on 22 January 2016, made a number of changes to the Part 66 MOS to resolve inconsistencies and clarify requirements.

One of the changes made to the Part 66 MOS was to insert the new A350 aircraft type and type rating endorsement in Table 1 of Appendix IX. This was initially requested by Qantas Airways Ltd since there were maintenance services negotiations with an overseas airline regarding the A350 aircraft at the time. CASA has since been advised that alternative arrangements have been made with the overseas airline and inclusion of the A350 aircraft type and type endorsement in the Part 66 MOS is no longer required. If this aircraft is to remain in the Part 66 MOS aircraft type rating list (Table 1 of Appendix IX), this may cause unintended consequences for Australian

maintenance organisations and their maintenance personnel since access to the A350 aircraft type for training is not currently available in Australia.

Accordingly, the No. 2 Amendment makes 2 minor changes to the Part 66 MOS to remove reference to the A350-900 Series aircraft type and the Airbus A350 (RR Trent XWB) type rating endorsement in Table 1 of Appendix IX of the Part 66 MOS. No other Australian operators would be affected by this change.

Separately, Airbus Group Australia Pacific Limited (*Airbus Australia*) has advised CASA that Airbus Australia intends to provide maintenance services for an operator in Papua New Guinea in relation to the MBB-BK 117 D2 (H145 helicopter) aircraft type. This will require the aircraft type, and associated maintenance engineer endorsement, to be added to the Part 66 MOS. A series of 6 minor changes to relevant tables in Appendix IX have been made, and will only affect Airbus Australia at this stage.

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 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 and is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42, of the LIA.

Consultation

Under subregulation 11.280 (4) of CASR 1998, CASA is required to make a MOS amendment that is of a minor or machinery nature available for public comment for a period of no less than 14 days. Since the No. 2 Amendment makes changes that have been requested by the affected industry parties and in order to ensure that the minor changes can be made in an expeditious manner to afford certainty for maintenance engineers and organisations, the Director of Aviation Safety has determined, under paragraph 11.2715 (1) (d) of CASR 1998, that broader consultation on the No. 2 Amendment is not necessary. It is CASA's view that no further consultation under section 17 of the LIA is necessary or appropriate.

Office of Best Practice Regulation (OBPR)

The OBPR assessed that the proposed amendment will have a minor or machinery impact and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 20488).

Statement of Compatibility with Human Rights

The Statement in Appendix 1 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The MOS amendment does not directly engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not directly raise any human rights issues.

Commencement and making

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.

The MOS amendment commences on the day after registration.

[*Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)*]

Statement of Compatibility with Human Rights

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

Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)

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 the *Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)* is to remove references to the A350 aircraft type and type rating endorsement from the Part 66 Manual of Standards. The A350 aircraft type is not listed on the Australian Civil Aircraft Register and no Australian operators currently operate this type of aircraft. The amendment is minor and machinery in nature, and has been requested by industry to avoid any unintended consequences for maintenance personnel training.

Human rights implications

The 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*. 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