

Explanatory Statement

Civil Aviation Safety Regulations 1998

Manual of Standards Part 66 Amendment Instrument 2016 (No. 3)

Purpose

The purpose of the *Manual of Standards Part 66 Amendment Instrument 2016 (No. 3)* (the **No. 3 Amendment**) is to amend item 3 of Schedule 1 of the *Manual of Standards Part 66 Amendment Instrument 2016 (No. 2)* (the **No. 2 Amendment**) to rectify a referencing error, in order that the No. 2 Amendment to the Manual of Standards Part 66 (**Part 66 MOS**) is given effect as intended.

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.

Under subsection 33 (3) of the *Acts Interpretation Act 1901* (the **AIA**), 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.

Instrument

The No. 2 Amendment was registered on the Federal Register of Legislation on 17 March 2016 (F2016L00390 refers). However, item 3 of Schedule 1 of the No. 2 Amendment incorrectly identifies the place in the Part 66 MOS for insertion of the MBB-BK 117 D2 aircraft type. The reference in the No. 2 Amendment states:

[3] Appendix IX, Table 5

after

MBB-BK 117 C2

EC145

Eurocopter MBB-BK 117 C2
(Turbomeca Arriel 1) ^{Note 1, Note 3, Note 6}

Table 5 of Appendix IX of MOS Part 66 refers to **MBB-BK 117 C2 EC 145 Eurocopter MBB-BK 117 C2 (Turbomeca Arriel)** ^{Note 2}, and does not refer to “Note 1, Note 3, Note 6” as mentioned in the No. 2 Amendment. Accordingly, the insertion of the new MBB-BK 117 D2 aircraft type is not able to be given effect to for the reason that the place of insertion has been inaccurately described.

Accordingly, the No. 3 Amendment amends item 3 of Schedule 1 of the No. 2 Amendment, so that the No. 2 Amendment accurately references the place of insertion for the new MBB-BK 117 D2 aircraft type.

Legislation Act 2003 (the LA)

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 LA 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 No. 2 Amendment was expressed to have general application and was, therefore, a legislative instrument. Under subsection 33 (3) of the AIA, the relevant power of making for the No. 3 Amendment must be exercisable in a like manner to the instrument being amended, in this case, the No. 2 Amendment. Therefore, the No. 3 Amendment is a legislative instrument, subject to tabling and disallowance in the Parliament, under sections 38 and 42 of the LA.

Consultation

The No. 3 Amendment is minor or machinery in nature. It only makes 1 change in order to give effect to the No. 2 Amendment as intended. The No. 2 Amendment itself was made at the request of the relevant industry operators and only concerns those industry operators. 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)

A Regulation Impact Statement (*RIS*) is not required because the instrument is covered by a standing agreement between CASA and OBPR under which a RIS is not required (OBPR id: 14507).

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*.

Commencement and making

The No. 3 Amendment has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The No. 3 Amendment commences on the day of registration.

[*Manual of Standards Part 66 Amendment Instrument 2016 (No. 3)*]

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. 3)

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)* (the **No. 2 Amendment**) was to, among other things, amend the Manual of Standards Part 66 (**Part 66 MOS**) to insert a new MBB-BK 117 D2 aircraft type which is relevant to maintenance personnel working for Airbus Group Australia Pacific Limited. The No. 2 Amendment inaccurately described the place for insertion of the new aircraft type. Accordingly, the *Manual of Standards Part 66 Amendment Instrument 2016 (No. 3)* amends the No. 2 Amendment so that it gives effect to the intended amendment to MOS Part 66.

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