

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 66 Manual of Standards Amendment Instrument 2018 (No. 1)

Purpose

The *Part 66 Manual of Standards Amendment Instrument 2018 (No. 1)* (the **instrument**) amends Appendix IX, Table 1 of the Part 66 Manual of Standards (the **Part 66 MOS**) by adding the following aircraft types, and corresponding aircraft type ratings for aircraft engineer licences (**AELs**) that must be held before aircraft engineers can perform and certify for maintenance on the aircraft types:

1. BOEING B787-10 (GENx);
2. BOEING B787-10 (RR RB211 Trent 1000).

The instrument also contains minor or machinery-type amendments, detailed later in this Explanatory Statement.

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.

Section 98 of the Act empowers the Governor-General to 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)*.

Part 66 of CASR, *Continuing airworthiness — aircraft engineer licences and ratings* deals with the various categories and types of AELs and ratings issued by CASA 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 empowers CASA to issue a Manual of Standards (**MOS**) that specifies matters affecting the maintenance or airworthiness of aircraft. In particular:

1. Paragraph 66.015 (2) (e) of CASR provides for the MOS to specify that an aircraft type is a type rated aircraft type for an AEL.
2. Paragraph 66.015 (2) (j) of CASR provides for the MOS to specify the required units of competency for an AEL.
3. Paragraph 66.015 (2) (o) of CASR provides for the MOS to specify that a specified aircraft type, aircraft system or subset of an aircraft system is one for which a Part 145 organisation may provide training and assessment.
4. Paragraph 66.015 (2) (p) of CASR provides for the MOS to specify that a specified aircraft type is one for which a Part 145 organisation may arrange for the manufacturer of the aircraft or the aircraft engine to provide training and assessment.

Instrument

The instrument amends Appendix IX, Table 1 of the Part 66 MOS by inserting a new aircraft type rating to the list of aircraft specified, under Part 66 of CASR, as type rated aircraft types. The new aircraft type has commenced operations in Australia. To support the appropriate and safe operational and maintenance requirements of this aircraft type, CASA will require an AEL to be

endorsed with the particular aircraft type rating after completion of CASA-approved theory and practical training for the aircraft type.

CASA has assessed the submissions by the relevant operator and maintenance organisation for inclusion of the aircraft type in the list of aircraft specified, in Appendix IX, Table 1 of the Part 66 MOS, as type rated aircraft types.

The instrument also omits an item for the Type Certificate (TC) holder, FRAKES AVIATION from Appendix IX, Table 1 of the Part 66 MOS.

The instrument also updates the numbering and titles of various units of competency required to be held by an applicant for an AEL, as stated in the table in Appendix IV of the Part 66 MOS. It also includes a transitional provision dealing with the situation where a person held a relevant unit of competency immediately before the commencement of the instrument and the unit of competency is updated by the instrument.

The instrument also amends Part 1 of Appendix IX, Table 2 of the Part 66 MOS by adding the following aircraft types, and corresponding aircraft type ratings for which on-the-job training may be provided by a Part 145 organisation:

1. EMBRAER 135ER and 135LR (RR Corp AE3007A);
2. EMBRAER 145ER and 145LR (RR Corp AE3007A).

This amendment dovetails with the existing listing of these aircraft types in Appendix IX, Table 1 of the Part 66 MOS.

Legislation Act 2003 (the LA)

Subsection 98 (5A) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation of aircraft. Under paragraph 98 (5AA) (a) of the Act, such an instrument is a legislative instrument for the LA if it is expressed to apply in relation to a class of persons. The Part 66 MOS is a legislative instrument since it applies to a class of persons, being aircraft engineers.

Paragraph 10 (1) (d) of the LA also provides that an instrument will be a legislative instrument if it includes a provision that amends another legislative instrument. The instrument amends the Part 66 MOS, which is a legislative instrument.

Therefore, the instrument is a legislative instrument subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Consultation

The instrument amends Appendix IX, Table 1 of the Part 66 MOS by inserting a new aircraft type rating. Recognition of the new aircraft type rating is in response to the customer of an Australian-approved maintenance organisation commencing operations into Australia of the new aircraft, and the new aircraft's maintenance requirements. The amendment is required as soon as possible to ensure that appropriate licensing standards apply to the maintenance organisation's aircraft maintenance engineers.

The instrument also makes minor or machinery-type changes to the Part 66 MOS.

The Acting Director of Aviation Safety has issued an instrument of determination, namely instrument number CASA 37/18, under paragraphs 11.275 (1) (a) and (d) of CASR, which determines that the amendments in the instrument are:

1. necessary to be made as soon as practicable in the interests of aviation safety; or
2. of a minor or machinery nature that do not substantially alter existing arrangements.

The making of the determination permits departure by CASA from the requirements in Subpart 11.J of CASR to publish draft amendments of a MOS for consultation purposes. In these circumstances, CASA is satisfied that no consultation is appropriate or reasonably practicable for the instrument for section 17 of the LA.

Office of Best Practice Regulation (OBPR)

A Regulation Impact Statement (*RIS*) is not required because these amendments are covered by a standing agreement between CASA and OBPR under which a RIS is not required for amendments to Manuals of Standards that are of a minor or machinery nature (OBPR id: 14507) or are for the addition of aircraft types to the Part 66 MOS (OBPR id: 20488).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument is compatible with human rights, as it engages in a positive way with the right to work.

Making and commencement

The instrument has been made by the Acting Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The instrument commences on the day after it is registered, and will be repealed in accordance with section 48A of the LA.

Statement of Compatibility with Human Rights

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

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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 *Part 66 Manual of Standards Amendment Instrument 2018 (No. 1)* (the **instrument**) amends Appendix IX, Table 1 of the Part 66 Manual of Standards to insert a new aircraft type rating to the list of aircraft specified, under Part 66 of the *Civil Aviation Safety Regulations 1998*, as type rated aircraft types. The new aircraft type rating is required by aircraft engineer licence holders before they can carry out and certify for maintenance on this type of aircraft. The instrument also makes minor or machinery-type amendments. The amendments are consistent with existing CASA policy and are beneficial to industry.

Human rights implications

The 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 engages in a positive way with the right to work by facilitating the performance of professional maintenance activities on the new aircraft type.

Conclusion

The instrument is compatible with human rights.

Civil Aviation Safety Authority