

## **Explanatory Statement**

### **Civil Aviation Safety Regulations 1998**

#### **Part 61 Manual of Standards Amendment Instrument 2018 (No. 2)**

##### **Purpose**

The purpose of the *Part 61 Manual of Standards Amendment Instrument 2018 (No. 2)* (the **MOS amendment**) is to make provision for the consequences of certain amendments made to Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)* by the *Civil Aviation Safety Amendment (Flight Crew Licensing Measures No.1) Regulations 2018* (the **amendment regulations**).

The amendment regulations, in effect, first, amended the aeronautical experience requirements in relation to basic instrument flight training, and, secondly, provided for the creation of an alternative training pathway for certain helicopter pilots, who complete non-integrated training, to become licenced.

The alternative training pathway is known as the 105-hour course for the commercial pilot licence with a helicopter category rating (**CPL(H)**). The MOS amendment provides the relevant training standards for the amended requirements and the new pathway.

The 105-hour CPL(H) course is, in effect, an alternative training pathway which existed during the transitional period from 1 September 2014 until 31 August 2018. Having consulted with relevant stakeholders, CASA has decided to continue the 105-hour CPL(H) course beyond the transition, as an enduring option for relevant helicopter pilot training.

##### **Legislation — the Act**

Under subsection 98 (1) of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may, among other things, make regulations prescribing matters required, permitted, necessary or convenient for the Act and in the interests of the safety of air navigation.

##### **Legislation — Part 61 of CASR**

Some of these regulations are contained in the *Civil Aviation Safety Regulations 1998 (CASR)*. Part 61 of CASR deals with flight crew licensing, including training. Part 61 came into force on 1 September 2014, relevantly with an eventual 4 year transition period to 31 August 2018, to allow for recognition of pre-existing flight crew qualifications that were equivalent to those under Part 61. (All following references to “61” are to the relevant provision of Part 61 of CASR.)

##### **Legislation — Manual of Standards**

Under paragraph 98 (5A) (a) of the Act, the regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft.

By virtue of this power, regulation 61.035 provides for the issue of a Manual of Standards for Part 61 (the **MOS**). Under subregulation 61.035 (1), for paragraph 98 (5A) (a) of the Act, CASA has issued the MOS which sets out matters relating to flight crew licences.

## Background

Under regulations 202.277A and 202.277B of CASR, an applicant for a private pilot licence or a commercial pilot licence, with a helicopter category rating (the **PPL(H)** and the **CPL(H)**), is taken to meet the requirements for issue of the licence if the applicant meets the requirements mentioned in certain provisions of the *Civil Aviation Regulations 1988 (CAR)*, as in force immediately before 1 September 2014. The relevant provisions of CAR were repealed on that date but transitionally preserved in force, along with the appropriate CASA helicopter training syllabus, by the above regulations, until the end of 31 August 2018. The relevant helicopter training syllabus did not require any training for instrument flight time.

In parallel with this training pathway (the **alternative pathway**), regulations 61.530 and 61.550 provided for the aeronautical experience requirements that were to be met under an integrated or non-integrated training course, respectively, for the PPL(H). Analogously, regulations 61.595 and 61.615 prescribed relevant aeronautical experience requirements that were to be met under an integrated or non-integrated training course, respectively, for the CPL(H).

These regulations mandated (among other things) a minimum amount of instrument flight time. The MOS supported the regulations by means of Appendix H.2 (for the PPL(H)) which referenced the required unit of competency as “Instrument flight full panel” (**IFF**), and by means of Appendix I.2 (for the CPL(H)) which referenced the required unit of competency as IFF and another unit, “Limited instrument panel manoeuvres” (**IFL**).

The alternative pathway was due to cease at the end of 31 August 2018, resulting in applicants being required to comply with the relevant Part 61 and MOS requirements mentioned above, including the requirement for IFF and IFL as applicable.

CASA decided, following industry consultation, to preserve the alternative pathway by amending Part 61. The *Civil Aviation Safety Amendment (Flight Crew Licensing Measures No.1) Regulations 2018* (the **amendment regulations**) achieved this effect by deleting references to instrument flight time from recreational navigation endorsement, PPL(H) and CPL(H) requirements. This in turn gave rise to the consequential need to amend the MOS so that it would:

- preserve the existing MOS training content in the relevant Appendix, but with the Appendix renamed as being for integrated training (and requiring IFF and IFL as applicable); and
- contain a new Appendix for the existing relevant CASA syllabus training content, but specifically named as being for non-integrated training (and not requiring IFF or IFL, as applicable).

For the CPL(H), subregulation 61.615 (1A) provides for the 150 hour non-integrated training requirement that has always been in the MOS. Subregulation 61.615 (1B) provides for a 105 hour non-integrated training requirement, whose genesis was the original, transitional CAR alternative pathway that is now being embedded in the MOS.

The MOS is empowered by subregulation 61.615(1B) to make specific provision for how the 105 hour non-integrated training aeronautical experience is to be applied for the purposes of a person being granted a CPL(H).

### **MOS amendment**

The MOS amendment provides the relevant training standards for the relevant helicopter pilot training pathways, and makes a number of consequential or typographical changes.

### **Recreational navigation endorsement**

The amendment regulations, in effect, repealed subparagraph 61.495 (2) (c) (ii) and subparagraph 61.500 (5) (c) (ii) to remove the mandatory regulation requirement for instrument time for the grant of a **recreational navigation endorsement**. As a consequence, item 2 in Schedule 1 of the MOS amendment makes the IFF training optional by deleting mention of IFF from Schedule 1, Appendix G.8 (Practical flight standards) of the MOS.

### **Private pilot licence with the helicopter category rating**

The amendment regulations, in effect, repealed paragraph 61.550 (1) (f) to remove the mandatory regulation requirement for instrument time for the grant of a **private pilot licence with the helicopter category rating (PPL (H))**, with a view to any requirement for instrument time in the form of IFF being determined by the MOS in the context of whether the relevant training for the PPL(H) was integrated training or non-integrated training.

Thus, item 4 in Schedule 1 of the MOS amendment renames existing Appendix H.2 in Schedule 1 of the MOS as *Appendix H.2 Helicopter category rating (PPL) — Integrated training*. The integrated training course retains the IFF requirement.

The purpose of the renaming is to facilitate item 6 in Schedule 1 of the MOS amendment, which creates a new *Appendix H.2A Helicopter category rating (PPL) — Non-integrated training*. This training pathway is similar to that under Appendix H.2 except that, in the practical flight standards, IFF is not required for the non-integrated pathway and becomes optional.

### **Commercial pilot licence with the helicopter category rating**

The amendment regulations, in effect, repealed paragraph 61.615 (1) (f) to remove the mandatory regulation requirement for instrument time for the grant of a **commercial pilot licence with the helicopter category rating (CPL(H))**. This was with a view to any requirement for instrument time in the form of IFF and IFL being determined by the MOS in the context of whether the relevant training for the licence was integrated training or non-integrated training.

Thus, item 8 in Schedule 1 of the MOS amendment renames renumbered Appendix I.2 in Schedule 1 of the MOS as *Appendix I.2 Helicopter category rating (CPL) — Integrated training*. The integrated training course retains the IFF and IFL requirements. (The renumbering corrects a typographical error.)

The purpose of the renaming is to facilitate item 10 in Schedule 1 of the MOS amendment which creates a new *Appendix I.2A Helicopter category rating (CPL) — Non-integrated training*. This training pathway is similar to that under Appendix I.2 except that, in the practical flight standards, IFF and IFL are not required for this non-integrated pathway and thereby become optional.

**Aeronautical experience requirements for the CPL(H) non-integrated training**  
Regulation 61.615, which deals with aeronautical experience requirements for the grant of the CPL(H), was amended to provide for the alternative, non-integrated training and qualification pathway for the grant of a CPL(H).

Thus, relevantly, under new paragraph 61.615 (1B) (a), an applicant for the CPL(H) meets the aeronautical experience requirements if he or she has at least 105 hours of aeronautical experience that includes the following: at least 105 hours of flight time as pilot of a helicopter; at least 35 hours of flight time as pilot in command of a helicopter; and at least 10 hours of cross-country flight time as pilot in command of a helicopter.

Under new paragraph 61.615 (1B) (b), the applicant must also have completed training in accordance with the requirements specified in the Part 61 MOS for the purposes of the paragraph.

Items 1 and 11 in Schedule 1 of the MOS amendment achieve this. Item 1 inserts a new section 15 *CPL(H) training — applicants under paragraph 61.615 (1B) (b) who have not completed integrated training* into the MOS. The new section provides that for paragraph 61.615 (1B) (b), an applicant for the CPL(H) who has not completed an integrated training course must complete training in accordance with the requirements specified in Schedule 9. Item 11 inserts the new Schedule 9 *CPL(H) training for paragraph 61.615 (1B) (b) (non-integrated training courses)*.

Clause 1 of Schedule 9 provides the minimum requirements for an applicant for the CPL(H) who has not completed an integrated training course. They are as follows:

- at least 105 hours of flight training must be completed in no more than 2 types or models of helicopter; and
- the first 15 hours must be completed in 1 of those 2 types or models; and
- at least 20 hours must be completed in each of those 2 types or models; and
- at least 40 hours must be completed as dual flight training in any of those 2 types or models; and
- at least 25 hours must be completed as pilot in command (but not as cross-country flight time) in any of those 2 types or models; and
- the final 30 hours of flight training actually undertaken must be completed within the 3 months immediately before the flight test.

A Note explains that *additional* flight training may be undertaken, including tethered helicopter flight training and flight training in *additional* types or models of helicopter.

Clause 2 of Schedule 9 provides that, subject to clause 3, the types or models of helicopter referred to in clause 1 mean the single-engine helicopter, or 1 of the single-engine helicopters, mentioned by name in a single cell of column 2 of Schedule 14 of the *Prescription of aircraft and ratings — CASR Part 61 Instrument*, of the Edition that is in force at the time of the particular flight training (the **relevant Prescription instrument**).

A Note explains that the *Prescription of aircraft and ratings — CASR Part 61 (Edition 5) Instrument 2018* is the Edition of the prescription instrument that is in force immediately before the end of 31 August 2018 (when the amendment

regulations and the MOS amendments commence). It is a legislative instrument, freely available on the Federal Register of Legislation. If and when a prescription instrument is superseded by a later edition, the earlier edition remains freely available in the historical section of the Federal Register of Legislation.

Another Note explains that although, for Schedule 14 of the relevant Prescription instrument, more than 1 type or model of helicopter in a single cell of column 2 may attract *the same type rating on a pilot licence*, each type or model of helicopter mentioned in a single cell of column 2 is to be considered a different type or model of helicopter for the purposes of the requirement under clause 1 of Schedule 9 that no more than 2 types or models of helicopter may be used for the non-integrated training.

Under clause 3 of Schedule 9, despite subsection 2, the 2 helicopter types or models – the Hughes 269 and the Schweizer 300 – mentioned in the first cell of column 2 of Schedule 14 of the relevant Prescription instrument for the Sikorsky Aircraft Corp may be treated interchangeably as a single type or model. This is the case because these 2 helicopter types or models are, in relevant respects, almost identical to each other.

### **Correction of typographical errors**

Items 3, 5, 7 and 9 in Schedule 1 of the MOS amendment correct a typographical error in the naming of the particular Unit of competency “Operate at controlled aerodrome” in the practical flight standards table in Appendices H.1, H.2, I.1 and I.2, by omitting OCA and inserting the correct abbreviation for the Unit - CTR.

### **Aviation safety**

The purpose of IFF and IFL (where applicable) flight training is to provide basic helicopter instrument handling skills to enable a pilot to manage unintended operations into low visibility conditions. In those conditions, the helicopter must be fitted with the basic flight instruments required for manoeuvring the aircraft without reference to external visual cues.

Best practice is to avoid these conditions and helicopter pilot training operators strongly emphasise this in all phases of basic training. Newly qualified helicopter pilots usually fly aircraft that do not have the relevant basic flight instruments. This raises safety concerns if these pilots have basic instrument flying skills and fly these aircraft, possibly extending flight into dusk and dark conditions and thus, pushing marginal conditions.

Many operators prefer their inexperienced pilots not to have basic instrument flying skills so that they avoid marginal conditions of dusk and dark at all costs until they are fully trained and flying properly equipped aircraft. In addition to this, there is a lack of suitably equipped helicopter training aircraft and appropriately qualified instructors to conduct the basic instrument flight training. Fitting aircraft with suitable equipment for this purpose involves significant costs.

Aviation safety is not prejudiced as a result of the removal of the requirement to complete flight training in the IFF and IFL (as applicable) units in relevant non-integrated training for helicopter pilots. The resulting aviation safety standard is the same as it has been under the CAR Part 5 alternative pathway throughout the transitional period, and this pathway is being preserved.

The 105-hour CPL(H) qualification pathway has been a commonly used pathway for new helicopter commercial pilots and is expected to remain so. No new aviation safety issues arise from the continuation of the 105-hour pathway, as applicants must satisfy the same competency standards irrespective of the training pathway used – apart from basic instrument flying.

Helicopter pilots may only lawfully operate a helicopter in accordance with the particular privileges of the specific helicopter licence and operational ratings for which they train and qualify.

### ***Legislation Act 2003 (the LA)***

As mentioned above, under paragraph 98 (5A) (a) of the Act, regulations made for that provision may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if expressed to apply in relation to a class of persons or aircraft or aeronautical products.

The various standards set by the MOS and the MOS amendment apply not to a particular person or a particular aircraft or aeronautical product, but to classes of persons, aircraft and products. The MOS amendment is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 15G, and 38 and 42, of the LA.

### ***Acts Interpretation Act 1901***

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.

### **Consultation**

The possibility of the amendment regulations and the MOS amendment was, in effect, raised by the helicopter training sector during meetings with CASA on 11 December 2014 and 8 April 2015 about the implications of the introduction of Part 61. There were shared safety concerns about inexperienced pilots with limited instrument flying skills operating light helicopters without instrument equipment in circumstances where the pilots might assume that they are capable because they have had some instrument flight training in qualifying for the relevant licence.

This issue was discussed:

- during meetings in 2015 with the Flight Crew Licensing Subcommittee of the Standards Consultative Committee (the former CASA/aviation industry consultation forum);
- at a meeting in May 2015 between CASA and the Australian Helicopter Industry Association (*AHIA*) in Sydney;
- at a meeting in October 2017 of helicopter training operators participating in the Heads of Operations forum held in conjunction with the Canberra Safe Skies conference.

In November 2017, the proposed standards were the subject of formal industry consultation using CASA's Consultation Hub. Further direct consultation occurred with the AHIA in July 2018, resulting in support for the proposed standards in the MOS amendment.

**Office of Best Practice Regulation (OBPR)**

OBPR has made an assessment that a Regulation Impact Statement is not required for the MOS amendment (OBPR id: 22720).

**Statement of Compatibility with Human Rights**

The Statement of Compatibility with Human Rights at Appendix 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The legislative instrument 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 commences immediately after commencement of *Civil Aviation Safety Amendment (Flight Crew Licensing Measures No.1) Regulations 2018*, which commence immediately before the end of 31 August 2018.

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.

## Statement of Compatibility with Human Rights

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

### *Civil Aviation Safety Regulations 1998*

#### *Part 61 Manual of Standards Amendment Instrument 2018 (No. 2)*

This *Part 61 Manual of Standards Amendment Instrument 2018 (No. 2)* (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*.

#### **Overview of the legislative instrument**

The purpose of the MOS amendment is to make formal provision for an alternative training pathway for applicants for certain helicopter licences to become qualified. The alternative pathway existed under transitional provisions for Part 61 of the *Civil Aviation Safety Regulations 1998 (CASR)*. These provisions terminate on 31 August 2018, but the training pathway is preserved by being incorporated into the Part 61 MOS by means of the MOS amendment.

#### **Human rights implications**

The MOS amendment is a legislative instrument that 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**

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*.

**Civil Aviation Safety Authority**