

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 66 Manual of Standards Amendment Instrument 2020 (No. 1)

Purpose

The main purpose of the *Part 66 Manual of Standards Amendment Instrument 2020 (No. 1)* (the **instrument**) is to make amendments to the *Part 66 Manual of Standards* (the **Part 66 MOS**) that are consequential to amendments of Part 66 of the *Civil Aviation Safety Regulations 1998 (CASR)*, *Continuing airworthiness — aircraft engineer licences and ratings*, made by the *Civil Aviation Safety Amendment (Part 66 Transition Extension) Regulations 2020* (the **amendment regulations**).

Legislation

Under section 9 of the *Civil Aviation Act 1988* (the **Act**), the Civil Aviation Safety Authority (**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. Relevantly, the Governor-General has made CASR and the *Civil Aviation Regulations 1988 (CAR)*.

Part 66 of CASR deals with the various categories and types of aircraft engineer licences (**AELs**), and ratings, granted by CASA for:

1. the performance of maintenance certification for maintenance carried out on aircraft; and
2. issuing certificates of release to service for aircraft in relation to maintenance carried out on aircraft.

Regulation 202.345 of CASR is a transitional provision relating to the grant by CASA of a category B1 or B2 licence, each being a category of AEL.

Under subsection 98 (5A), the regulations may empower CASA to issue instruments in relation to the maintenance or airworthiness of aircraft. For subsection 98 (5A), regulation 66.015 of CASR 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*, 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.

Background

The purpose of the amendment regulations was to amend regulation 202.345, to extend the transitional arrangement, which allows CASA to grant a limited AEL to a person who had

already commenced training and examinations under repealed regulation 31 (*regulation 31*) of CAR, until 30 June 2021.

Part 66 of CASR commenced in June 2011, replacing the previous licensing system under regulation 31. The Part 66 training system is a competency-based training system, integrated into the National Vocational and Education Training system. The licensing system under regulation 31 covers less aviation and aircraft systems' subjects than the Part 66 curriculum. As such, the privileges that may be exercised on an AEL granted to a person who used the pathway under regulation 31 are limited in scope because the training curricula of the 2 licensing systems are different.

Despite the differences between the 2 licensing systems, the pathway under regulation 31 was kept available as a self-study pathway to a limited Part 66 AEL via a transitional provision. Industry opposed the cessation of the previous licensing system due to there being limited training organisations in regional locations across Australia to service the new licensing system. The intent of the transitional provision was to enable persons who had already commenced this pathway to finish their training and examinations under the previous licensing system, and be granted a limited Part 66 AEL. This transitional arrangement was initially only available until June 2015, but was extended to 3 July 2020 to provide additional time for persons to complete their training and examinations.

CASA is developing a replacement self-study pathway for AELs. Due to the COVID-19 pandemic travel, and social distancing, restrictions affecting the practical aspects of training and candidates' ability to sit examinations, industry has requested a further extension of the transitional arrangement. The extension will continue to provide persons with a self-study option, and is reasonable in the circumstances.

The amendment regulations extended the transitional arrangement in relation to a category B1 or B2 licence stated in subregulation 202.345 (1) until 30 June 2021, as an industry-relief measure in response to the COVID-19 pandemic. The amendment regulations also inserted new subregulation 202.345 (1A), to allow CASA, on or after 1 July 2021, to grant to a person a category B1 or B2 licence, under the transitional arrangement, provided the application for the licence by the person was made on or before 30 June 2021, and on that date, the person met the requirements prescribed by the Part 66 MOS for the grant of the licence. The amendment regulations also inserted a new repeal date for regulation 202.345 of 1 July 2022.

Content of instrument

Section 1 — Name

Section 1 states the name of the instrument is the *Part 66 Manual of Standards Amendment Instrument 2020 (No. 1)*.

Section 2 — Commencement

Section 2 states the instrument commences on the day after it is registered.

Section 3 — Amendment of Part 66 Manual of Standards

Section 3 states Schedule 1 to the instrument amends the Part 66 MOS.

Schedule 1 — Amendments

Item [1] Subparagraph 66.A.20 (a) 5A., the chapeau

Item [1] substitutes the chapeau with another chapeau. The main effect of the amendment is to omit the superseded last date by which a person may utilise the transitional arrangement.

Item [2] Sub-subparagraph 66.A.20 (a) 5A. (i)

Item [2] substitutes the word “satisfies” with the words “on or before 30 June 2021, satisfies”. This amendment dovetails with the new date by which a person may utilise the transitional arrangement.

Item [3] Subparagraph 66.A.20 (a) 5A., Note

Item [3] substitutes the Note, to state that 30 June 2021 is the date by which a person must satisfy the requirements mentioned in paragraphs 66.A.25 (i), 66.A.30 (f) and 66.A.45 (j) of the Part 66 MOS to qualify for a Category B1 or B2 licence, and refers the reader to subregulation 202.345 (1A) as the basis for the Note.

Item [4] Paragraph 66.A.25 (i)

Item [4] amends the paragraph so that a clear linkage is made between the paragraph and subregulation 202.345 (1).

Item [5] Paragraph 66.A.30 (f)

Item [5] amends the paragraph so that a clear linkage is made between the paragraph and subregulation 202.345 (1).

Item [6] Paragraph 66.A.45 (j)

Item [6] amends the paragraph so that a clear linkage is made between the paragraph and subregulation 202.345 (1).

Item [7] Paragraph 66.A.58 (c)

Item [7] substitutes the date “25 June 2020” with the date “30 June 2021”, which dovetails with the new date by which a person may utilise the transitional arrangement.

Legislation Act 2003 (the LA)

Paragraph 10 (1) (d) of the LA provides that an instrument will be a legislative instrument if it includes a provision that amends or repeals 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

Before the instrument was issued by CASA, it published a notice of intention to issue the instrument under regulation 11.280 of CASR. As the amendments in the instrument are of a minor or machinery nature, the period during which comments were invited to be lodged was a period of 14 days. CASA considered this period to be reasonable in the circumstances, particularly as it wished to put the COVID-19 pandemic relief measure in place as soon as possible.

During the same period, CASA also consulted on the amendment regulations.

CASA received 13 responses during the consultation process. Twelve respondents supported the proposal. One respondent did not support the proposal.

CASA is satisfied that no further 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 of a Manual of Standards that are of a minor or machinery nature (OBPR id: 14507).

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*.

Making and commencement

The instrument has been made by the 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*

Part 66 Manual of Standards Amendment Instrument 2020 (No. 1)

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*.

Overview of the legislative instrument

The main purpose of the *Part 66 Manual of Standards Amendment Instrument 2020 (No. 1)* (the **instrument**) is to make amendments to the *Part 66 Manual of Standards* that are consequential to amendments of Part 66 of the *Civil Aviation Safety Regulations 1998, Continuing airworthiness — aircraft engineer licences and ratings*, made by the *Civil Aviation Safety Amendment (Part 66 Transition Extension) Regulations 2020* (the **amendment regulations**).

Human rights implications

The Statement of Compatibility with Human Rights for the amendment regulations is equally apposite to the instrument.

Accordingly, in the same way as for the amendment regulations, the instrument engages Article 6 of the International Covenant on Economic Social and Cultural Rights, specifically the right to work. Also, in the same way, the instrument maintains or advances the right to work, as it allows an extended period of time for a person to qualify for the grant by the Civil Aviation Safety Authority of an aircraft engineer licence and obtain employment as an aircraft engineer.

Conclusion

This instrument is compatible with human rights and, to the extent that it engages the right to work, it does so in a way that, as far as practicable, promotes rather than limits those rights.

Civil Aviation Safety Authority