

## Explanatory Statement

### Civil Aviation Safety Regulations 1998

#### Part 66 Manual of Standards Amendment Instrument 2023

##### Purpose

The *Part 66 Manual of Standards Amendment Instrument 2023* (the **instrument**) adds an entry to, and amends existing entries in, Appendix IX, Tables 1 and 5 of the *Part 66 Manual of Standards* (the **Part 66 MOS**), by adding aircraft types. The amendments enable the holder of a Category B1, B2 or C aircraft engineer licence (**AEL**) to exercise the holder's privileges under the licence on a relevant aircraft type after the licence has been endorsed with the corresponding aircraft type rating mentioned in the relevant table.

Also, the instrument amends an existing entry in Appendix IX, Table 2, to add an aircraft type. The amendment enables training to be delivered, or arranged, by a Part 145 organisation in relation to the aircraft type, subject to the approval of the training by the Civil Aviation Safety Authority (**CASA**).

##### 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 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.

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 for Part 66 of CASR, prescribing matters required or permitted by CASR to be prescribed by the Part 66 MOS. In particular:

1. Paragraph 66.015(2)(e) provides for the Part 66 MOS to specify that an aircraft type is a type rated aircraft type for an AEL.
2. Paragraph 66.015(2)(f) provides for the Part 66 MOS to specify the training and experience requirements for the grant of an AEL.
3. Paragraph 66.015(2)(o) provides for the Part 66 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) provides for the Part 66 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 aircraft engine to provide training and assessment.

Under paragraph 66.A.4(a) of the Part 66 MOS, for paragraph 66.015(2)(e) of CASR, an aircraft type specified in a cell in column 2 of a table in Appendix IX of the Part 66 MOS, with a type

certificate holder (if any) mentioned in the corresponding cell in column 1, and a commercial designation (if any) mentioned in the corresponding cell in column 3, is specified as a type rated aircraft type for a Category B1, B2 or C AEL.

Under paragraph 66.A.4(b), for an aircraft type specified in a cell in column 2 of a table in Appendix IX, a Category B1, B2 or C AEL may be endorsed with the type rating endorsement mentioned in the corresponding cell in column 4.

Under paragraph 66.A.45(h), a Part 145 organisation in accordance with section 145.A.37 of the *Part 145 Manual of Standards*, or a person who holds a certificate of approval under regulation 30 of the *Civil Aviation Regulations 1988* in accordance with *Civil Aviation Order 104.0 (Certificates of approval — application, grant and conditions)*, may:

1. for an aircraft type mentioned in column 2 of Appendix IX, Table 2 — deliver aircraft type training for a category or subcategory of AEL for the aircraft, or a system or subsystem of the aircraft type; or
2. for an aircraft type mentioned in column 2 of Appendix IX, Table 2 — arrange for the manufacturer of the aircraft or its engine to provide training and assessment.

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. Under subsection 13(1) of the *Legislation Act 2003* (the **LA**), subsection 33(3) applies to legislative instruments as if each provision of the instrument were a section of an Act.

### **Content of instrument**

The instrument amends Appendix IX, Table 1 by inserting an entry for another type certificate holder, namely AIRBUS CANADA LIMITED PARTNERSHIP. This adds aircraft types, and a corresponding aircraft type rating, for the type certificate holder. In effect, the amendment specifies the aircraft types as type rated aircraft types for a Category B1, B2 or C AEL. The amendment is made at an aircraft operator's request, as it wishes to operate the aircraft types in Australia.

To support the appropriate and safe operational, and maintenance, requirements of an aircraft type, CASA requires a Category B1, B2 or C AEL to be endorsed with the relevant aircraft type rating, after the completion of CASA-approved theory and practical training for the aircraft type. The holder of the licence may then exercise the holder's privileges under the licence on the aircraft type.

Also, the instrument amends Appendix IX, Table 1 by adding several aircraft types, and corresponding aircraft type ratings, in relation to existing entries for type certificate holders, namely CESSNA AIRCRAFT COMPANY, EMBRAER and GULFSTREAM AEROSPACE LP (GALP), c/o Israel Aircraft Industries. In effect, the amendment specifies the aircraft types as type rated aircraft types for a Category B1, B2 or C AEL. The amendments are made at the request of aircraft operators, as they wish to operate the aircraft types in Australia.

Also, the instrument amends Part 2 of Appendix IX, Table 2 by adding an aircraft type in relation to an existing entry for a type certificate holder, namely AIRBUS HELICOPTERS DEUTSCHLAND GmbH. The amendment is made at a Part 145 organisation's request. This will enable the organisation to deliver, or arrange, training in relation to the aircraft type, subject to the approval of the training by CASA. The amendment dovetails with the amendment of Appendix IX, Table 5 in the instrument.

Also, the instrument amends Appendix IX, Table 5 by adding an aircraft type, in relation to an existing entry for a type certificate holder, namely AIRBUS HELICOPTERS DEUTSCHLAND GmbH. In effect, the amendment specifies the aircraft type as a type rated aircraft type for a Category B1, B2 or C AEL. The amendment is made at an aircraft operator's request, as it wishes to operate the aircraft types in Australia.

### **Legislation Act 2003**

Under paragraph 98(5AA)(a) of the Act, an instrument issued under subsection 98(5A) 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 as it applies to a class of persons, being aircraft engineers.

Paragraph 10(1)(d) of the LA provides that an instrument is 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, which is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

### **Sunsetting**

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the *sunsetting provisions*) does not apply to the instrument (in accordance with item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). However, the instrument will be automatically repealed under section 48A of the LA, which will happen before the sunsetting provisions would have repealed the instrument if they had applied. Therefore, the exemption from sunsetting does not affect parliamentary oversight of the instrument.

### **Consultation**

Before the instrument was issued by CASA, it published a notice of intention to issue the instrument under regulation 11.280 of CASR. The consultation period for the proposed amendments of the Part 66 MOS was from 1 May 2023 to 29 May 2023, which period CASA regards as reasonable in the circumstances.

CASA received 15 responses during the consultation process. Most of the respondents supported, and none were opposed to, the amendments of the Part 66 MOS in the instrument.

CASA considered the comments received during the consultation process when finalising the drafting of the instrument.

CASA is satisfied no further consultation is appropriate, or reasonably practicable, for the instrument for section 17 of the LA.

### **Sector risk, and economic and cost impact**

Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

Subsection 9A(3) states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

1. consider the economic and cost impact on individuals, businesses and the community of the standards; and
2. take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) that a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of

wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

The instrument does not affect any particular industry sector risks nor substantially change existing regulatory requirements. The instrument is only relevant to:

1. an aircraft operator that intends to operate a relevant aircraft type in Australia; and
2. a Part 145 organisation that intends to carry out maintenance on a relevant aircraft type; and
3. a holder of a Category B1, B2 or C AEL engaged by a Part 145 organisation that intends to carry out maintenance on a relevant aircraft type.

Before the holder of a Category B1, B2 or C AEL may exercise the holder's privileges under the licence on an aircraft type added by the instrument, the holder must have the relevant aircraft type rating endorsed on the licence. Before the endorsement may be effected, the holder must satisfactorily complete training in relation to the aircraft type, which will involve training costs. These requirements and training costs are considered appropriate in the context of enhancing the safety of air navigation in relation to the aircraft type. These requirements will have a positive safety effect in the industry.

### **Impact on categories of operations**

The instrument does not impact on any particular category of operations.

### **Impact on regional and remote communities**

The instrument does not impact on any particular regional or remote community.

### **Office of Impact Analysis (OIA)**

An Impact Analysis (*IA*) is not required because the amendments of the Part 66 MOS in the instrument are covered by a standing agreement between CASA and OIA under which an IA is not required for the addition of aircraft types to a table in Appendix IX of the Part 66 MOS (OIA 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*.

### **Making and commencement**

The instrument has been made by the Director, 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 2023

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 *Part 66 Manual of Standards Amendment Instrument 2023* (the *instrument*) adds an entry to, and amends existing entries in, Appendix IX, Tables 1 and 5 of the *Part 66 Manual of Standards*, by adding aircraft types. The amendments enable the holder of a Category B1, B2 or C aircraft engineer licence to exercise the holder's privileges under the licence on a relevant aircraft type after the licence has been endorsed with the corresponding aircraft type rating mentioned in the relevant table.

Also, the instrument amends an existing entry in Appendix IX, Table 2, to add an aircraft type. The amendment enables training to be delivered, or arranged, by a Part 145 organisation in relation to the aircraft type, subject to the approval of the training by the Civil Aviation Safety Authority.

#### 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 carrying out of maintenance work in relation to the aircraft types added by the instrument to Appendix IX, Tables 1 and 5.

#### Conclusion

The instrument is compatible with human rights.

**Civil Aviation Safety Authority**