

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 135 Manual of Standards Amendment Instrument 2023 (No. 1)

Purpose

The *Part 135 Manual of Standards Amendment Instrument 2023 (No. 1)* (the **MOS amendment**) amends the *Part 135 (Australian Air Transport Operations—Smaller Aeroplanes) Manual of Standards 2020* (the **MOS**).

The MOS sets out the standards for the operation of smaller aeroplanes for an Australian air transport operation. It was made under regulation 135.025 of Part 135 of the *Civil Aviation Safety Regulations 1998 (CASR)*. It consolidates the detailed standards and requirements associated with the conduct of Part 135 operations by Australian air transport operators.

Part 135 of CASR prescribes requirements for the conduct of Australian air transport operations in aeroplanes that have a maximum operational passenger seating configuration (**MOPSC**) of not more than 9 and a maximum take-off weight of not more than 8 618 kg. Air transport operations include passenger transport, cargo transport and medical transport that is conducted for hire or reward. CASA may prescribe other kinds of operations as air transport in the Part 119 Manual of Standards in accordance with paragraph 119.010(e).

The MOS amendment, which commences on 2 December 2023, makes a combination of previously publicly consulted amendments, and minor or machinery amendments, to the MOS. The minor or machinery amendments do not substantially alter the existing arrangements under the MOS as in effect immediately before 2 December 2023.

TAWS

A TAWS is a terrain awareness and warning system. The purpose of the TAWS amendments is to reduce the TAWS implementation costs for certain air transport operations in lower weight aeroplanes while maintaining an acceptable level of aviation safety. This is achieved by permitting these aeroplanes to install a version of TAWS-Class B called TAWS-Class B+ as an alternative to installing a TAWS-Class A. The TAWS-Class B+ is a TAWS Class B with enhanced terrain display features.

Legislation

The *Civil Aviation Act 1988* (the **Act**) establishes the regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Subsection 98(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act. The *Civil Aviation Regulations 1988* and CASR are made under the Act.

The *Civil Aviation Safety Amendment (Part 135) Regulations 2018 (Part 135 of CASR)* were registered on 18 December 2018 and amended by the *Civil Aviation Legislation Amendment (Flight Operations—Miscellaneous Amendments) Regulations 2020* registered on 6 October 2020. Part 135 of CASR commenced on 2 December 2021. Under regulation 135.025 of CASR, the Civil Aviation Safety Authority (**CASA**) may issue a Manual of Standards for Part 135 of CASR that prescribes matters required or permitted by that Part to be prescribed, or necessary or convenient for carrying out or giving effect to Part 135 of CASR. This power is complemented by

other provisions, throughout Part 135 of CASR, which empower CASA to prescribe specific matters in the MOS.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (in effect) where regulations empower the making of a MOS, the power includes a parallel power to amend the MOS. The MOS amendment is made under the same head of power, and on the same basis, as the MOS itself.

For convenience in this Explanatory Statement, unless a contrary intention appears, mention of a provision with the prefix “135.” is a reference to that provision in Part 135 of CASR.

Instrument

The TAWS amendments address TAWS matters as mentioned above. The minor or machinery amendments are described below in general terms:

- multiple provisions require editorial changes to correctly enable the intended outcomes
- multiple provisions mistakenly relate only to Australian registered aeroplanes instead of both Australian and foreign registered aeroplanes
- the definition of *take-off distance available* is not aligned with the Part 139 MOS definition and does not properly describe the distance in circumstances where a clearway is not provided, and it does not allow for foreign runways
- the provision describing when weather radar equipment is inoperative is difficult to interpret and is reworded to be easier for stakeholders
- the provision in relation to supplemental oxygen equipment is clarified to enable supplemental oxygen equipment to be permanently fitted or temporarily carried on board an aeroplane
- provisions are amended concerning the operation of transponders to correct technical terms, and other technical matters related to transponders
- some inappropriate examples of matters are removed.

The details of the amendments of the MOS in the MOS amendment are set out in Appendix 1 of this Explanatory Statement.

Legislation Act 2003 (the LA)

Under subsection 8(4) of the LA, an instrument is a legislative instrument if it is made under a power delegated by the Parliament, any provision of it determines the law or alters the content of the law, and it has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right. The MOS amendment satisfies these requirements.

Under paragraphs 98(5A)(a) and (5AA)(a) of the Act, an instrument made under the regulations is a legislative instrument if it is issued in relation to matters affecting the safe navigation and operation of aircraft and is expressed to apply in relation to a class of persons.

Based on these criteria, the MOS is a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 15G, 38 and 42 of the LA.

Under paragraph 10(1)(d) of the LA, an instrument that includes a provision that amends another legislative instrument is itself a legislative instrument. The MOS amendment is, therefore, a legislative instrument.

Sunsetting

Under paragraph 54(2)(b) of the LA, Part 4 of Chapter 3 of the LA (sunsetting of legislative provisions) does not apply in relation to a legislative instrument if the legislative instrument is prescribed by regulation for the purposes of the paragraph. The table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* sets out particular legislative instruments that are not subject to sunsetting for paragraph 54(2)(b). As far as is relevant, item 15 of the table specifies that an instrument relating to aviation safety made under CASR is not subject to sunsetting. Accordingly, the MOS is not subject to sunsetting. This also applies to the amendments of the MOS in the MOS amendment.

The MOS deals with aviation safety matters, which require a risk response or treatment plan. Accordingly, the MOS is intended to have enduring operation, and it would not be appropriate for the MOS to be subject to sunsetting. This also applies to the amendments of the MOS in the MOS amendment.

The exclusion from sunsetting affects parliamentary oversight by not requiring the MOS to be remade and tabled before the end of the sunsetting period stated in Part 4 of Chapter 3 and, thereby, avoiding exposure to disallowance in the Parliament. In any event, any amendments of the MOS that are made, including the amendments in the current MOS amendment, are subject to tabling and disallowance in the Parliament. The MOS amendment will be repealed almost immediately after registration in accordance with section 48A of the LA.

Incorporation by reference

Under subsection 98(5D) of the Act, the MOS may apply, adopt or incorporate any matter contained in any instrument or other writing. A non-legislative instrument may be incorporated into a legislative instrument made under the Act, as that non-legislative instrument exists or is in force at a particular time or from time to time (including a non-legislative instrument that does not exist when the legislative instrument is made).

Under paragraph 15J(2)(c) of the LA, an Explanatory Statement must contain a description of the incorporated documents and indicate how they may be obtained. A table was included in the Explanatory Statement for the MOS, listing and explaining the various incorporated documents.

The MOS amendment incorporates the following additional documents set out in the following table.

Name of instrument or document	Description	Manner of incorporation	Source
TSO-C88a <i>Automatic Pressure Altitude Reporting Code Generating Equipment</i>	This document provides the FAA requirements automatic pressure altitude reporting code generating equipment must meet in order to be identified with the applicable TSO marking.	As in force or existing from time to time (by virtue of section 1.05 of the MOS)	Available for free on the FAA website (https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet).

Name of instrument or document	Description	Manner of incorporation	Source
ETSO-C88a <i>Automatic Pressure Altitude Reporting Code Generating Equipment</i>	<p>This document provides the EASA requirements which automatic pressure altitude reporting code generating equipment must meet in order to be identified with the applicable ETSO marking.</p> <p>Section 11.61 of the MOS calls up this document and subsection 11.61(8) is amended by amendment 34 of the MOS amendment.</p>	As in force or existing from time to time.	This document is available for free on the EASA website (https://www.easa.europa.eu/domains/aircraft-products/etso-authorisations/list-of-all-etso).
<i>Part 139 (Aerodromes) Manual of Standards 2019</i>	<p>This instrument is made under Part 139 of the <i>Civil Aviation Safety Regulations 1998</i> and contains the detailed technical standards relating to certified aerodromes.</p> <p>This instrument is incorporated in the definition of runway strip in section 10.02 and is inserted by amendment 2 of the MOS amendment.</p>	As in force from time to time.	The instrument is available for free on the Federal Register of Legislation.

Note that references to provisions of legislation or other legislative instruments are taken to be as they are in force from time to time by virtue of paragraph 13(1)(c) of the LA. CASR and MOSs are freely available online on the Federal Register of Legislation.

Consultation

Under regulation 11.280 of CASR, if CASA intends to issue a Manual of Standards, it must, in effect, engage in public consultation on the draft Manual of Standards for at least 28 days. This requirement also applies to an instrument that amends a Manual of Standards.

CASA engaged in public consultation on the policy proposals underpinning amendments 12, 14 and 16 of the MOS amendment from 26 September 2023 to 24 October 2023. These concerned the substantive, as distinct from minor or machinery, TAWS amendments. CASA published a Summary of Proposed Changes describing the proposed policy changes that would require MOS amendments. CASA received 18 responses to the proposals, the majority broadly supportive of the amendments.

A minority of the responses suggested that the policy proposals were inappropriate as the reduction in the required TAWS standard did not go far enough and certain TAWS requirements should be removed entirely. CASA considered these but concluded that for the operation of smaller aeroplanes in the Australian air transport sector, aviation safety would be appropriately maintained by progressing the amendments.

No consultation — minor or machinery amendments

Under paragraph 11.275(1)(d) of CASR, CASA is not obliged to consult on provisions of a Manual of Standards if the Director of Aviation Safety (the *Director*) determines that they are of a minor or machinery nature that do not substantially alter existing arrangements. In such circumstances, under subregulation 11.275(2), CASA must publish the determination, and a statement of reasons for it, on the internet within 28 days after making the determination.

For the provisions in the MOS amendment, other than amendments 12, 14 and 16, the Director has made such a determination under *CASA 68/23 — Determination for Part 135 Manual of Standards Amendment Instrument 2023 (No. 1)*.

There has, nevertheless, been informal consultation with the aviation industry in the course of developing these minor and machinery amendments. There has been industry feedback to CASA via multiple communication channels, either directly from individuals, or from various working groups.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) was prepared by CASA for the new Part 135 (in the form of the then utilised Regulatory Impact Statement or RIS) and this RIS also covered the MOS and the minor and machinery items of the MOS amendment which the regulations empowered.

The RIS was assessed by the Office of Best Practice Regulation (*OBPR*) as compliant with the Best Practice Regulation requirements and contained a level of analysis commensurate with the likely impacts (OBPR id: 24505). A copy of the RIS was included in the Explanatory Statement for Part 135 of CASR, [Civil Aviation Safety Amendment \(Part 135\) Regulations 2018](https://www.legislation.gov.au) ([legislation.gov.au](https://www.legislation.gov.au)).

In relation to amendments 12, 14 and 16 of the MOS amendment, the OIA made the assessment that the amendments are likely to be low risk with small impacts on individuals and businesses and, therefore, did not require the preparation of an IA (OIA 23-06033).

Sector risk, 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) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c) of the Act, CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) 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) which 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 requirements in the MOS amendment that are minor or machinery in nature are designed to avoid imposing additional costs on operators. It is considered by CASA that these matters are adequately covered by the RIS.

The requirements in the MOS amendments at amendments 12, 14 and 16, associated with the CASA public consultation activity, have been determined by CASA to lower the cost of

implementing the relevant standards for operators conducting operations under Part 135 of the CASR.

Sector risk

The MOS is specifically designed to regulate Australian air transport operations in smaller aeroplanes and has effect only with respect to such operations. The MOS amendment, like the MOS, takes into account the differing risks associated with this industry sector. The minor or machinery amendments of the MOS amendment do not increase any particular safety risks. Amendments 12, 14 and 16 are assessed as enabling the conduct of these Australian air transport operations at an acceptable level of safety risk, as outlined in the public consultation for these policy changes.

Environmental impact

Under subsection 9A(2) of the Act, while regarding the safety of air navigation as the most important consideration, CASA must exercise its powers and perform its functions in a manner that ensures that, as far as practicable, the environment is protected from the effects and associated effects of the operation and use of aircraft.

It is not anticipated there will be any negative environmental impacts as a result of the MOS amendments, as compared to the baseline that existed on 1 December 2021 before the MOS was made, since the amendments do not create any new or material environmental impacts arising from relevant flight operations.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at Appendix 2 of this Explanatory Statement. This concludes that the MOS amendment is compatible with human rights.

Making and commencement

The MOS amendment has been made by the Director, on behalf of CASA, in accordance with subsection 73(2) of the Act.

The MOS amendment commences on 2 December 2023.

Details of the Part 135 Manual of Standards Amendment Instrument 2023 (No. 1)

1 Name of instrument

This section provides for the naming of the MOS amendment.

2 Commencement

This section provides that the MOS amendment commences on 2 December 2023.

3 Amendment of the Part 135 Manual of Standards

This section provides that Schedule 1 of the MOS amendment amends the MOS.

Schedule 1 Amendments

[1] Paragraph 3.02(a)

This amendment revises the requirement for certain documents to be carried on a flight, essentially to ensure that, for a foreign registered aeroplane, the aeroplane's authorisation (however described) that is equivalent to a certificate of airworthiness, must be carried.

[2] Section 10.02, Definitions

This amendment inserts a new definition of *runway strip* consequential on the amended definition of *take-off distance available* in amendment 3.

[3] Section 10.02, definition of *take-off distance available*

This amendment amends the definition of *take-off distance available* to ensure the definition adequately supports operations at certified aerodromes and uncertified aerodromes, especially in relation to the existence of a clearway.

[4] Paragraphs 11.01(5)(b) and (c)

This amendment deletes paragraph (c) which duplicates the effect of section 11.04 about serviceability of equipment.

[5] Subparagraph 11.08(3)(b)(i)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[6] Subparagraph 11.08(3)(b)(ii)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[7] Subparagraph 11.08(3)(b)(ii)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[8] Sub-subparagraph 11.08(3)(b)(ii)(B)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[9] Subsection 11.08(4)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[10] Subsection 11.08(4)

This amendment corrects an erroneous reference to aeroplane instead of rotorcraft.

[11] Section 11.19, definition of GPWS

This amendment deletes a redundant term and definition.

[12] Section 11.19, Definitions

A TAWS is a terrain awareness and warning system. The purpose of the TAWS amendment is to reduce the TAWS implementation costs for certain air transport operations in lower weight aeroplanes while maintaining an acceptable level of aviation safety. This is achieved by permitting these aeroplanes to install a version of TAWS-Class B called TAWS-Class B+ as an alternative to installing a TAWS-Class A. The TAWS-Class B+ is a TAWS Class B with enhanced terrain display features. This amendment, therefore, defines what a TAWS-Class B+ means.

[13] Paragraph 11.22(2)(b)

Section 11.22 is about requirements for using ACAS — airborne collision avoidance systems. In prescribing which aircraft must be fitted with an approved ACAS, the defined term “certificate of airworthiness” is used. This effectively means a certificate of airworthiness issued by CASA. Consequently, a foreign registered aircraft being used by a Part 135 operator would not be required to be fitted with an ACAS, despite being required to do so under the pre-2 December 2021 safety rules. The policy intent is to restore the previous rule and for “issued with a certificate of airworthiness” to be substituted with “registered, in Australia or elsewhere,”.

[14] Section 11.25

This amendment is consequential on amendment 12. It applies to an aeroplane, for an IFR flight, or a VFR flight at night, if it is conducting a passenger transport operation or a medical transport operation, and sets out when:

- a TAWS-Class A; or
- a TAWS-Class A or a TAWS-Class B+; or
- a TAWS-Class A, a TAWS-Class B+, or TAWS-Class B;

must be carried.

[15] RESERVED**[16] Section 11.25A**

This amendment creates a new transitional arrangement for implementing the TAWS requirements under amendment 14. It applies to a turbine-engine aeroplane, for an IFR flight, which is conducting a passenger transport operation; has an MTOW of 5 700 kg or less; is carrying 10 or more passengers; and is fitted with the visual display of a defined TAWS-B+ system that is not compliant with the TAWS-Class B+ terrain display requirements before 2 December 2023. Despite section 11.25, until immediately before 3 June 2024, the aeroplane must be fitted with one of the following:

- (a) a TAWS-B+ system;
- (b) a TAWS-Class B+;
- (c) a TAWS-Class A.

[17] RESERVED**[18] Section 11.26, the chapeau**

This amendment is consequential on amendment 11.

[19] Subparagraph 11.26(a)(i)

This amendment is consequential on amendment 11.

[20] Subparagraph 11.26(a)(ii)

This amendment is consequential on amendment 11.

[21] Subsection 11.28(1)

Section 28 is about flight with inoperative airborne weather radar equipment. The amendment helps to more clearly express the existing requirements. Thus, airborne weather radar equipment, fitted to an aeroplane under section 11.27, may be inoperative at the beginning of a flight, **but only if** the relevant forecasts or reports indicate there are no potentially hazardous weather conditions along **any** of the following flight paths:

- (a) the flight path along which the aeroplane will be flown;
- (b) if the operational flight plan for the flight includes an alternate aerodrome — the flight path to that aerodrome.

[22] Subsection 11.40(1)

Section 40 is about supplemental oxygen in pressurised aeroplanes. The amendment clarifies that the relevant equipment may be fitted or carried.

[23] Subsections 11.41(1) and (2)

Section 41 is about supplemental oxygen in unpressurised aeroplanes. The amendment clarifies the requirement to have supplemental oxygen.

[24] Subsection 11.58(2), the chapeau

For flights over water, this amendment is designed to state a reference point from a suitable forced landing area situated on land.

[25] Subsection 11.58(4)

This amendment corrects a referencing error.

[26] Paragraph 11.58(4)(b)

The amendment corrects the original wording of paragraph (4)(b) which used the words “situated on land” and, thereby, inadvertently restricted the application of the definition of *suitable forced landing area* resulting in the exclusion of aeroplanes that are certified for landing on water landing areas.

[27] Division 13 of Chapter 11, the heading

This amendment deletes mention of transponders from the heading to the Division. The general expression “Surveillance equipment” is more appropriate.

[28] Section 11.60, the heading

This amendment deletes mention of transponders from the heading to the section. Mention of the more general term surveillance equipment is more appropriate.

[29] Subsection 11.60(1)

This amendment is consequential on amendment 28.

[30] Subsection 11.60(2)

This amendment is consequential on amendment 29.

- [31] Subsection 11.60(2), Table 11.60(2), Item 3, paragraph (a)**
In identifying by date the aeroplanes flying under the VFR in certain prescribed airspace which must specifically carry transponders, reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [32] Subsection 11.60(2), Table 11.60(2), Item 4, paragraph (a)**
This amendment is for the same reason and has the same effect as amendment 31.
- [33] Section 11.61, the heading**
This amendment deletes mention of transponders from the heading to the section. Mention of the more general term surveillance equipment is more appropriate.
- [34] Subsections 11.61(1), (2), (3) and (4)**
This amendment clarifies the general requirements for the operation of surveillance equipment. Thus, surveillance equipment required to be fitted to, or carried on, an aircraft by section 11.60 must be continuously operated during the circumstances mentioned in section 11.60 (unless air traffic control has issued a contrary instruction). Also, if an aircraft is fitted with more than 1 approved transponder, only 1 transponder may be operated at any time.
- [35] Subsection 11.61(8)**
The purpose of this amendment is to allow an alternative to the (E)TSO-C88a standard for barometric encoders used in transponders to determine the pressure altitude information reported by a transponder, namely, another system approved under Part 21 of CASR as having an equivalent level of performance.
- [36] Section 11.62, the heading**
This amendment adds mention of ADS-B OUT to the section heading.
- [37] Subsection 11.62(4)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [38] Subsection 11.62(6)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [39] Subsection 11.63(1)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [40] Subsection 11.63(2)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.

- [41] Subsection 11.64(3)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [42] Subsection 11.64(4)**
Reference to the date of first issue of a certificate of airworthiness is limiting and incorrect. The reference should be to the date the aeroplane was first certificated in its country of manufacture.
- [43] Section 11.65, the heading**
This amendment deletes mention of the narrower term transponder from the section heading.
- [44] Section 11.65, the chapeau**
This amendment deletes mention of the narrower term transponder from the section. The broader term surveillance equipment is more appropriate.
- [45] Paragraph 11.65(a)**
This amendment deletes mention of the narrower term transponder from the section. The broader term surveillance equipment is more appropriate.
- [46] Paragraph 11.65(b)**
This amendment deletes mention of the narrower term transponder from the section. The broader term surveillance equipment is more appropriate.
- [47] Section 11.65, the Note**
This amendment deletes mention of the narrower term transponder from the section. The broader term surveillance equipment is more appropriate.
- [48] Paragraph 13.05(2)(d)**
The amendment removes mention of an example of certain operations in which an air crew member may lack experience. The example is too limiting for the purpose of the provision and is deleted.
- [49] Paragraph 14.05(2)(d)**
The amendment removes mention of an example of certain operations in which a medical transport specialist may lack experience in. The example is too limiting for the purpose of the provision and is deleted.

Statement of Compatibility with Human Rights

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

Part 135 Manual of Standards Amendment Instrument 2023 (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 *Part 135 Manual of Standards Amendment Instrument 2023 (No. 1)* (the **MOS amendment**) amends the *Part 135 (Australian Air Transport Operations—Smaller Aeroplanes) Manual of Standards 2020* (the **MOS**).

The MOS sets out the standards for the operation of smaller aeroplanes for an Australian air transport operation. It was made under regulation 135.025 of Part 135 of the *Civil Aviation Safety Regulations 1998 (CASR)*. It consolidates the detailed standards and requirements associated with the conduct of Part 135 operations by Australian air transport operators.

Part 135 of CASR prescribes requirements for the conduct of Australian air transport operations in aeroplanes that have a maximum operating passenger seating configuration (**MOPSC**) of not more than 9 and a maximum take-off weight of not more than 8 618 kg. Air transport operations include passenger transport, cargo transport and medical transport that is conducted for hire or reward. CASA may prescribe other kinds of operations as air transport in the Part 119 Manual of Standards in accordance with paragraph 119.010(e).

The MOS amendment, which commences on 2 December 2023, makes a combination of previously publicly consulted amendments, and minor or machinery amendments, to the MOS. The minor or machinery amendments do not substantially alter the existing arrangements under the MOS as in effect immediately before 2 December 2023.

TAWS

The MOS amendment also deals with TAWS requirements. A TAWS is a terrain awareness and warning system. The purpose of the TAWS amendments is to reduce the TAWS implementation costs for certain air transport operations in lower weight aeroplanes while maintaining an acceptable level of aviation safety. This is achieved by permitting these aeroplanes to install a version of TAWS-Class B called TAWS-Class B+ as an alternative to installing a TAWS-Class A. The TAWS-Class B+ is a TAWS Class B with enhanced terrain display features.

Human rights implications

The legislative instrument engages with the following human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*:

- the right to life under Article 6 of the International Covenant on Civil and Political Rights (the **ICCPR**)
- the right to safe and healthy working conditions under Article 7 of the International Covenant on Economic, Social and Cultural Rights (the **ICESCR**)
- the right to work under Article 6 of the ICESCR.

Right to life under the ICCPR***Right to safe and healthy working conditions under the ICESCR******Right to work under the ICESCR***

This engagement is in the context of CASA's statutory purpose. The aim of CASA and its regulatory framework is to uphold aviation safety by prescribing the conduct of individuals and organisations involved in civil aviation operations, including flight operations. It is, therefore, a threshold requirement for all CASA legislative instruments that they preserve, promote and enhance aviation safety and hence promote the right to life and the right to safe and healthy working conditions.

The MOS amendment comprises the TAWS amendments mentioned above and other unrelated minor or machinery amendments.

The minor or machinery amendments are essentially small textual corrections of errors or infelicitous drafting. They do not give rise to any human rights issues.

The TAWS amendments aim to reduce the TAWS implementation costs for certain air transport operations in lower weight aeroplanes while maintaining an acceptable level of aviation safety. This is achieved by permitting these aeroplanes to install a version of TAWS-Class B called TAWS-Class B+ as an alternative to installing a TAWS-Class A. The TAWS-Class B+ is a TAWS Class B with enhanced terrain display features. By providing these options, aviation safety is preserved. Costs are also to some extent reduced, thus contributing to commercial organisation viability and employment in a not immaterial way.

Conclusion

The MOS amendment is a legislative instrument that is compatible with human rights.

Civil Aviation Safety Authority