

Replacement Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024

Purpose

The principal purpose of the *Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024* (the **MOS amendment**) is to amend the *Part 101 (Unmanned Aircraft and Rockets) Manual of Standards 2019* (the **MOS**).

The amendments require organisations training individuals to operate remotely piloted aircraft (**RePL training organisations**) to have a Chief Remote Pilot Licence Instructor (a **Chief RePL Instructor** or **CRI**) to safely manage the conduct of each remote pilot licence (**RePL**) training course run by the organisation.

Schedule 1 of the MOS amendment, which commences on the day after it is registered, contains a number of minor or machinery amendments to correct typographical errors and misnomers, clarify some definitions, and clarify the rules in relation to RPA and model aircraft flight in the no-fly zone of controlled aerodromes, and near non-controlled aerodromes.

Schedule 2 of the MOS amendment, which only takes effect on and from 10 July 2024, requires RePL training organisations to have a specifically qualified CRI. The existing Chief Remote Pilot (**CRP**) is deemed to be the CRI and, transitionally until 10 January 2025, the existing CRP need not hold all of those qualifications but must do so on and from that date.

Legislation — the *Civil Aviation Act 1988* (the *Act*)

Under subsection 98 (1) of 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. Part 101 of the *Civil Aviation Safety Regulations 1998* (**CASR**) deals with the operation of unmanned aircraft, rockets and fireworks.

Legislation — Part 101 of CASR

Under regulation 101.028, the Civil Aviation Safety Authority (**CASA**) may issue a MOS prescribing matters required or permitted by the regulations to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to Part 101. This power is complemented by other provisions in Part 101 which empower CASA to prescribe specific matters in the MOS.

Under regulation 201.025 of CASR, for subsection 98 (5A) of the Act, CASA may issue instruments prescribing matters for definitions in the regulations relating to matters mentioned in the subsection: the subsection empowers regulations which in turn empower the issue of instruments for, in effect, aviation safety.

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 “101.” is a reference to that provision in Part 101 of CASR.

Background

Under subsections 2.30 (1) and (2) of the MOS, a RePL training course for a type of RPA may only be conducted by a RePL training instructor who: is employed by the RePL training organisation; holds a RePL for the type of RPA for which they instruct; has recency, currency and prescribed hours of RPA operational experience.

Before the MOS amendment, under paragraph 2.30 (2) (c), the RePL training instructor must also have 1 or more of the following specific training qualifications:

- pilot instructor rating issued under Part 61 of CASR
- Certificate IV in Training and Assessment issued by an approved educational institution
- a tertiary level qualification in teaching that is recognised as such by a State or Territory government.

However, under item 1A in the commencement Table in section 1.03 of the MOS, the requirement for a RePL training instructor to hold those specific training qualifications was deferred for a transitional period, and would only take effect on and from 10 April 2024.

Safety improvement

CASA decided that it would improve the effectiveness and safety of RePL training courses to require RePL training organisations to have a CRI holding specific training qualifications.

It would then be unnecessary for every RePL training instructor to hold the specific training qualifications provided that they were otherwise qualified for the role and complied with specific organisational training competency requirements.

The requirement for a RePL training instructor to hold the training qualifications is, therefore, deferred again until 10 July 2024, but then repealed entirely on that date.

Effective on and from 10 July 2024, RePL training organisations must have a qualified CRI in accordance with the requirements under the MOS amendment.

A CRP of a RePL training organisation may be nominated to be the CRI, but only if they meet eligibility requirements and qualifications similar to those previously required for the RePL training instructors, including the specific training qualifications.

To facilitate the transition to these new arrangements, a CRP will be deemed to be the CRI of a RePL training organisation if, on 10 July 2024, the person is the organisation's actual CRP approved by CASA.

Up until the end of 9 January 2025, it will not be necessary for such a *deemed CRI* to meet the requirements and qualifications for a CRI, including the specific training qualifications.

However, on and from 10 January 2025, a person deemed to be the CRI of a RePL training organisation must have all of the applicable qualifications for a CRI.

If on 10 January 2025, a deemed CRI does not satisfy these requirements, they cease to be eligible to be the CRI. The organisation must then have another fully-qualified person as its CRI.

It is expected that these arrangements will significantly improve the overall quality of RPA training by RePL training organisations.

Initially, and in smaller organisations, the cost of these arrangements will be minimal if qualified CRPs effectively perform the CRI role.

Over time, and in larger organisations, RePL training organisations will progressively chose to make the CRI role a standalone position because of the commercial and training quality benefits that it will deliver.

CRI approval

A training organisation's appointment of a CRI under section 2.29A is a critical aviation safety obligation because of the nature and range of safety-focused duties the CRI must perform. It is essential that such a person be suitable for this role and it requires CASA approval of the person as fit and proper for it (subparagraph 2.29A(2)(c)(i)).

The criteria for the exercise of the CASA approval discretion focus on the attributes that such a person must possess in terms of:

- their RPA aviation qualifications, competence and experience
- their training qualifications, competence and experience
- their knowledge of the relevant aviation regulatory requirements
- their history of compliance with, and attitude towards, compliance with transport safety regulatory requirements
- their criminal record (if any), in particular, any conviction related to a transport safety offence (excluding spent convictions)
- their history (if any) of serious behavioural problems, for example, recklessness and lack of care or due regard in transport safety regulatory environments.

Ultimately, CASA's concern is to be satisfied that a person who is to become a CRI is an individual who can undertake their duties in a manner that would not be likely to have an adverse effect on the safety of air navigation. The matters mentioned above are the usual pointers to such an outcome.

A decision by CASA to refuse to approve a CRI would be subject to merits review by the Administrative Appeals Tribunal. However, before any such refusal were finalised, CASA would consult with the relevant RePL training organisation to examine alternative options.

Both before, and at the time of, a CASA decision to refuse approval of a CRI, it would be open to the RePL training organisation to seek review of the decision-making process and/or the decision itself by the CASA Industry Complaints Commissioner.

Record keeping

Subsection 10.03(2A) requires a certified RPA operator to ensure that the CRI keeps records to show that the CRI is regularly performing their duties and discharging their responsibilities under regulation 2.29B.

Prior to the MOS amendment, section 10.03A of the MOS required the CRP to keep RePL training course records. Under amendment 10 in Schedule 2 of the MOS amendment this responsibility is more appropriately devolved to the CRI. The provision is otherwise unchanged.

The collection of training-related information by a RePL training organisation is necessary to enable it and CASA to administer aviation safety functions in relation to, or as relevant to, trainees from whom the information is obtained. This includes, where relevant, information that may be of critical significance in the event of statutory investigations into any relevant aviation accidents or incidents.

Generally, records will include instructing staff records (identification, qualifications and competencies), audit records and records of training course outcomes.

In relation to a student's personal information, such as their name, ARN and course completion details, this information is necessary to show that the individual has met relevant standards. Where standards are not met, this information is needed to maintain the integrity of future training.

The need to keep training records is not exclusive to aviation and is considered best practice across all training organisations. Collection of the information to be held in the relevant records is a necessary component in undertaking RePL training activities and falls under principle 3 of the Australian Privacy Principles, being solicited personal information reasonably necessary for the organisation's functions or activities. It is not necessary for a RePL training organisation to collect sensitive information as defined in the *Privacy Act 1998* to meet their record retention requirements under the MOS.

Minor and machinery amendments

The opportunity is also being taken to make a number of minor or machinery amendments to the MOS to correct typographical errors and misnomers, clarify some definitions, and to clarify the rules in relation to RPA and model aircraft flight in the no-fly zone of controlled aerodromes, and near non-controlled aerodromes.

The MOS amendment

Explanations of the individual amendments in the MOS amendment are set out in Appendix 1.

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 that is delegated by the Parliament, and any provision of the instrument 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 satisfied these requirements and, consequentially, the MOS amendment does so also.

In addition, under paragraph 10 (1) (d) of the LA, an instrument that amends a legislative instrument is itself a legislative instrument.

Under paragraph 98 (5A) (a) of the Act, regulations 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 (like the MOS) issued under paragraph 98 (5A) (a) is taken to be a legislative instrument if it is expressed to apply in relation to a class of persons or aircraft or aeronautical products.

The MOS was an instrument empowered by regulation 101.028 made by the amendment regulations “For subsection 98 (5A) of the Act”.

The standards set by the MOS apply, not to a particular remote pilot or a particular RPA, but to the class of such pilots and such aircraft. The principal MOS was, therefore, by virtue of subsection 98 (5AA), a legislative instrument and subject to registration, and tabling and disallowance in the Parliament, under sections 15G, and 38 and 42, of the LA.

Consequentially, the same provisions and conclusions apply to the MOS amendment.

Sunsetting

As the instrument relates to aviation safety and is made under CASR, Part 4 of Chapter 3 of the LA (the sunseting provisions) does not apply to the instrument (as per item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*). The instrument deals with aviation safety matters that, once identified, require a risk response or treatment plan. As such, the instrument is intended to have enduring operation and it would not be appropriate for it to be subject to sunseting.

The exemption from the sunseting provisions affects parliamentary oversight by not requiring the instrument to be remade at the end of the sunseting period (remaking would have the effect that the whole instrument must be retabled and would become subject to disallowance in the Parliament under sections 38 and 42 of the LA). However, in the context of RPA aviation, it is likely that further MOS amendments will be made in 2024 and these, while not subject to sunseting, will be subject to tabling and disallowance in the Parliament in the normal way. Hence, the scope for parliamentary scrutiny of the MOS is not materially reduced.

Incorporation by reference

Under subsection 98 (5D) of the Act, the principal 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, in the terms as that non-legislative instrument exists or as it 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, the Explanatory Statement must contain a description of the incorporated documents and indicate how they may be obtained.

Some amendments make reference a RePL training organisation's documented practices and procedures which contain material relevant to training content, methodology, standards and processes.

For example, under subsection 2.29B (6), the CRI must ensure that the organisation's documented practices and procedures for each RePL training course are suitable for competent and effective training of applicants in each course.

Although requiring approval by CASA, these documents are the proprietary intellectual property of individual RPA operators and RePL training organisations, detailing how they may most safely and most advantageously conduct their operations, including commercial operations.

CASA would, on request, endeavour to make copies available for inspection by appointment at a CASA office if a relevant RPA operator, or RePL training organisation, voluntarily agreed to such accessibility.

Consultation

Under section 16 of the Act, in performing its functions and exercising its powers, CASA must consult government, industrial, commercial consumer and other relevant bodies and organisations insofar as CASA considers such consultation to be appropriate.

Under section 17 of the LA, before a legislative instrument is made, CASA must be satisfied that it has undertaken any consultation it considers appropriate and practicable in order to draw on relevant expertise and involve persons likely to be affected by the proposals.

In July 2021, CASA consulted with the Part 101 Post-Implementation Review (PIR) Technical Working Group (TWG) on a MOS amendment to introduce a CRI position and amend RePL instructor requirements. The proposal was supported.

In late 2021, CASA consulted more broadly through publication of its *Proposed Amendments to Part 101 CASR and MOS – Unmanned aircraft and rockets – (PP 2107US)*. In response to this, some 93% of respondents agreed with the introduction of a CRI position.

In late 2023, CASA publicly consulted on the proposed cost recovery fee (under the Commonwealth government's cost recovery program) for assessment of the CRI through publication of its *Proposed Part 101 MOS – Chief RePL Instructor assessment fee – (SPC 2319US)*, with the majority of respondents either supporting, or remaining neutral on, the proposed fee.

In early 2024, CASA released an exposure draft of the proposed MOS amendment through publication of its *Proposed Part 101 Chief Remote Pilot Licence Instructor and other matters – (CD 2401US)*. The exposure draft included the proposed framework for the CRI position and other minor and miscellaneous amendments to the MOS. Some 71% of respondents agreed that the proposed changes would benefit

RePL training organisations and their personnel. Only 1 respondent commented on the proposed minor and machinery changes, supporting the changes.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) is not required because the instrument is covered by a standing agreement between CASA and OIA under which an IA is not required for amendments to Manuals of Standards (OIA id: 14507).

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), 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.

While initially the introduction to a RePL training organisation of a new CRI may involve some financial and administrative burdens, in practice the amendment will reduce some overhead costs.

By moving the training qualification requirement to only 1 individual within the organisation, the MOS amendment removes the prescribed qualification requirements on all RePL instructors, creating greater flexibility for organisations.

In addition, the MOS amendment clarifies the requirements for operating over the movement area of non-controlled aerodromes, removing the need to apply to CASA, and pay regulatory services fees, for approval to operate in the areas when a relevant event (generally, the presence of a piloted aircraft) is not occurring.

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 amendment, when compared to the MOS as in force before the MOS amendment was made.

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 MOS amendment, as such, does not engage any of the applicable rights and freedoms and is, therefore, compatible with human rights, as it does not improperly infringe any human rights.

Commencement and making

The MOS amendment commences on the day after it is registered. At that time, the various minor or machinery amendments in Schedule 1 of the MOS amendment will take effect.

The amendments for the CRI are contained in Schedule 2 of the MOS amendment which will not take effect until 10 July 2024.

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.

Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024

1 Name of instrument

This instrument names the instrument as the *Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024*.

2 Commencement

- (1) Under this subsection, the instrument commences on the day after it is registered.
- (2) Under this subsection, however, the amendments in Schedule 2 will on take effect on 10 July 2024.

3 Amendment of the Part 101 Manual of Standards

This section enlivens the Schedule 1 and Schedule 2 amendments to amend the *Part 101 (Unmanned Aircraft and Rockets) Manual of Standards 2019*.

Schedule 1 Amendments — Miscellaneous

[1A] Section 1.03, the Table, column 2, item 1A

Under this section, the 10 April 2024 commencement of item 1A in the Table (for when RePL training instructor specific training qualifications must be held) is deferred until 10 July 2024.

[1] Subsection 1.04 (2), Definitions

This amendment adds a new definition, *aerodrome boundary*.

[2] Subsection 1.04 (2), definition of *indoors operation*

This is one of a number of amendments in the MOS amendment to mention model aircraft in order to align the definition of *RPA* with the defined term used in regulation 101.021.

[3] Subsection 1.04 (2), definition of *movement area* including the Note

This amendment removes reference to the repealed definition of *movement area* (which has been removed from the *Civil Aviation Regulations 1988*) and replaces it with the definition from the *Part 139 (Aerodromes) Manual of Standards 2019*.

[4] Subsection 1.04 (2), definition of *RPA*

This amendment aligns the definition of *RPA* with the defined term used in regulation 101.021.

[5] Subsection 2.29 (1), the chapeau

This amendment corrects a typographical error.

[6] Paragraph 2.29 (1) (a)

This amendment corrects a typographical error.

- [7] **Subsection 2.29 (2), the chapeau**
This amendment corrects a typographical error.
- [8] **Subsection 2.29 (3)**
This amendment corrects a typographical error.
- [9] **Paragraph 2.30 (2) (a)**
This amendment corrects a typographical error.
- [10] **Paragraph 2.30 (2) (d)**
This amendment corrects a typographical error.
- [11] **Subsection 2.31 (1)**
This amendment corrects a typographical error.
- [12] **Subsection 4.03 (4)**
This amendment corrects an unintended consequence of the change of the reference point for measurement of the no-fly area that resulted in the MOS permitting micro RPA operations over safety sensitive areas of controlled aerodromes.
- [13] **Subsection 4.03 (7)**
This amendment corrects an unintended consequence of the change of the reference point for measurement of the no-fly area that resulted in the MOS permitting operation of model aircraft weighing not more than 250 grams over safety-sensitive areas of controlled aerodromes.
- [14] **Section 4.04, the heading**
This amendment removes a redundant reference to indoor operations which are referred to in subsection 4.03 (3).
- [15] **Subsections 4.04 (1) and (2)**
This amendment simplifies section 4.04 by removing subsections that in the context are redundant.
- [16] **Section 4.05, Figure 4.05 (1)-1**
This amendment inserts the newly-drawn Figure 4.05(1)-1 which better reflects the description of areas mentioned in sections 4.02 and 4.05, and the related operating conditions.
- [17] **Subsection 9.01 (1)**
This is one of a number of amendments in the MOS amendment to mention model aircraft in order to align the definition of RPA with the defined term used in regulation 101.021.
- [18] **Section 9.02, paragraph (a) of the definition of *defined unmanned aircraft***
This is one of several amendments that clarifies and simplifies the application of Chapter 9 to micro RPA.
- [19] **Section 9.02, definition of *RPA***
This is one of several amendments in the MOS amendment to align the definition of RPA with the term used in regulation 101.021.

- [20] Subsection 9.03 (1)**
This is one of a number of amendments in the MOS amendment to mention model aircraft in order to align the definition of RPA with the defined term used in regulation 101.021. The amendment, thereby, also clarifies the application of Chapter 9 to model aircraft.
- [21] Paragraph 9.03 (2) (c)**
This is one of several amendments that clarifies and simplifies the application of Chapter 9 to micro RPA.
- [22] Subsection 9.03 (3), including both Notes**
This amendment clarifies and simplifies the requirements for operations of RPA and model aircraft over the movement areas of non-controlled aerodromes.
- [23] Section 9.04**
This amendment is consequential on amendment 25.
- [24] Section 9.04**
This is one of a number of amendments in the MOS amendment to mention model aircraft in order to align the definition of *RPA* with the defined term used in regulation 101.021. The amendment, thereby, also clarifies the application of Chapter 9 to model aircraft.
- [25] After subsection 9.04 (1)**
This amendment clarifies the requirements for RPA operations that are approved under section 9.03 to be conducted during a relevant event.
- [26] Section 9.05, the heading**
This amendment removes a redundant reference to indoor operations which are referred to in subsection 9.03 (2).
- [27] Subsections 9.05 (1) and (2)**
This amendment simplifies section 9.05 by removing subsections that in the context are redundant.

Schedule 2 Amendments — Chief RePL Instructor

- [1] Section 1.03, the Table, item 1A**
This amendment repeals section 1.03 and, thereby, removes the Table which prescribed when certain deferred provisions were to take effect. As of 10 July 2024, the last of the deferred dates will be past and the effect of the Table spent.
- [2] Subsection 1.04 (2), Definitions**
This amendment adds some new definitions, in particular, *chief RePL instructor* or CRI.
- [3] Subsection 1.04 (2), definition of *examiner* (first occurring)**
This is one of several amendments in the MOS amendment that moves the RePL training-related duties of a RePL training organisation's CRP to the newly-created CRI.

- [4] **Subsection 1.04 (2), definition of *examiner* (second occurring)**
This is one of several amendments in the MOS amendment that moves the RePL training-related duties of a RePL training organisation's CRP to the newly-created CRI.
- [5] **Subsection 1.04 (2), paragraph (b) of the definition of *nominated personnel***
This amendment adds the newly-created position of CRI to the list of defined nominated personnel.
- [6] **Division 2.7, the heading**
This amendment replaces the heading to Division 2.7 and then inserts before section 2.30, 3 new sections. Their purpose is to create within a RePL training organisation the new position of CRI, and set out details of the duties, requirements and responsibilities of the role. The amendment also transitionally deems the CRP of a RePL training organisation to be the organisation's CRI.

2.29A Chief RePL instructor

Under new section 2.29A, for the purpose of conducting a RePL training course for a type of RPA, a RePL training organisation must at all times have a CRI.

A CRI must meet the eligibility and other requirements of the section.

The CRP of a RePL training organisation may be nominated to also be its CRI under certain conditions, including approval by CASA.

CASA may suspend or revoke an approval for prescribed causes. A refusal to approve a nominated person, or a suspension or revocation of an approval, would be subject to review by the Administrative Appeals Tribunal under regulation 201.004 of CASR.

2.29B Duties and responsibilities of a CRI

Under new section 2.29B, for the purpose of conducting a RePL training course for a type of RPA, a RePL training organisation must ensure that its CRI performs and discharges the prescribed duties and responsibilities.

The CRI must safely manage the conduct of each RePL training course and ensure that each course is conducted in a professional and systematic manner, in accordance with principles of competency-based training that are set out in detail in the organisation's documented practices and procedures.

Among other things, the CRI must ensure that the organisation complies with all aspects of the civil aviation legislation that relate to the conduct of each RePL training course and regularly report to the CEO and the CRP on the discharge of the duty.

The CRI must ensure that the organisation's documented practices and procedures for each course are so designed that the course will result in competent and effective training of each applicant doing the course.

The CRI must also ensure that sufficient numbers of instructors and appropriate RPA are deployed and allocated to allow for competent and effective training of each person doing the RePL training course.

2.29C Transitional provisions for chief remote pilots only

Under new section 2.29C, a person is deemed to be the CRI of a RePL training organisation if, on 10 July 2024, the person is the CRP.

However, a person so deemed must have all of the applicable qualifications for a CRI by not later than 10 January 2025.

[7] Paragraph 2.30 (2) (c)

The amendment removes the prescribed qualification requirements on RePL training instructors.

[8] Subsection 2.30A (2)

This is one of several amendments in the MOS amendment that moves the RePL training-related duties of a RePL training organisation's CRP to the newly-created CRI position.

[9] After subsection 10.03 (2)

This amendment creates an obligation on RePL training organisations to ensure that the chief RePL instructor maintains appropriate records demonstrating the discharge their responsibilities.

[10] Subsection 10.03A (1)

This is one of several amendments in the MOS amendment that moves the RePL training-related duties of a RePL training organisation's CRP to the newly-created CRI position.

[11] After section 10.17 (5)

This amendment creates a transitional arrangement that has the effect of removing the requirement for a RePL training organisation to provide details of the organisation's CRI to CASA where the position was filled by the organisation's CRP on the day the provision takes effect through the deeming provision in section 2.29C. The amendment also creates a transitional arrangement that makes a change to the documented practices and procedures of existing RePL training organisations not subject to the significant change provisions until 10 January 2025 insofar as the change relates only to the arrangements for the new CRI position.

[12] Paragraph 10.17 (3) (d)

This amendment expands the list of defined items that constitute a significant change to include a change of CRI.

[13] After section 10A.03

The amendment removes from the definition of *significant change* the deeming of a RePL training organisation's CRP to be the organisation's CRI.

Statement of Compatibility with Human Rights

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

Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024

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 principal purpose of the *Part 101 Manual of Standards (Chief Remote Pilot Licence Instructor and Other Matters) Amendment Instrument 2024* (the **MOS amendment**) is to amend the *Part 101 (Unmanned Aircraft and Rockets) Manual of Standards 2019* (the **MOS**).

The amendments require organisations training individuals to operate remotely piloted aircraft (**RePL training organisations**) to have a Chief Remote Pilot Licence Instructor (a **Chief RePL Instructor** or **CRI**) to safely manage the conduct of each remote pilot licence (**RePL**) training course run by the organisation.

Schedule 1 of the MOS amendment contains a number of a minor or machinery amendments to correct typographical errors and misnomers, clarify some definitions, and clarify the rules in relation to RPA and model aircraft flight in the no-fly zone of controlled aerodromes, and near non-controlled aerodromes.

Given the nature of these amendments, they do not give rise to any human rights issues for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Schedule 2 of the MOS amendment requires RePL training organisations to have a specifically qualified Chief Remote Pilot Licence Instructor (a **CRI**). The existing Chief Remote Pilot (**CRP**) is deemed to be the CRI and, transitionally until 10 January 2025, the existing CRP need not hold all of those qualifications, but must do so on and from that date.

Human rights engaged

Schedule 2 of 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

- the right to privacy under Article 17 of the ICCPR.

Right to life under the ICCPR

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, thereby, contribute to safe and healthy working conditions for crew and ground staff.

Right to safe and healthy working conditions under the ICESCR

Right to work under the ICESCR

Both of these rights are indirectly engaged. While RePL training organisations will be required to have a particular qualified person as a CRI, and while individuals seeking employment as a CRI must possess certain qualifications or be barred from access to such employment, these requirements are necessary in the interests of preserving and enhancing aviation safety in the increasingly more sophisticated RPA training environments. The express supervisory role of the CRI within RePL training organisations will lead directly to safer and more reliable training outcomes. Preserving and enhancing aviation safety is the statutory function of CASA under the Act.

Right to privacy under the ICCPR

This right is indirectly engaged because subsection 10.03 (2A) requires a certified RPA operator to ensure that the CRI keeps records to show that the CRI is regularly performing their duties and discharging their responsibilities under regulation 2.29B.

The collection of training-related information by a RePL training organisation is necessary to enable it and CASA to administer aviation safety functions in relation to, or as relevant to, trainees from whom the information is obtained. This includes, where relevant, information that may be of critical significance in the event of statutory investigations into any relevant aviation accidents or incidents.

Collection of the information to be held in the relevant records is a necessary component in undertaking RePL training activities and falls under principle 3 of the Australian Privacy Principles, being solicited personal information reasonably necessary for the organisation's functions or activities. It is not necessary for a RePL training organisation to collect sensitive information as defined in the *Privacy Act 1998* to meet their record-retention requirements under the MOS.

Given the imperative requirements of aviation safety in so critical a matter as training, these arrangements are considered to be reasonable and proportionate.

Human rights implications

This legislative instrument is compatible with human rights, and to the extent that it may engage certain rights it does so in a way that promotes the right to life, the right to work, and the right to safe and healthy working conditions in RPA training environments and training outcomes. Arrangements in relation to the right to privacy are considered necessary in the interests of aviation safety.

The measures in the instrument are considered to be reasonable, necessary and proportionate in the interests of aviation safety.

Conclusion

This legislative instrument is compatible with human rights.

Civil Aviation Safety Authority