

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 133, Part 135 and Part 138 Manuals of Standards – Miscellaneous Minor Matters – Amendment Instrument 2024

Purpose

The *Part 133, Part 135 and Part 138 Manuals of Standards – Miscellaneous Minor Matters – Amendment Instrument 2024* (the **MOS amendment**) makes a number of minor or machinery amendments to the following Manuals of Standards (**MOSs**):

- the *Part 133 (Australian Air Transport Operations—Rotorcraft) Manual of Standards 2020* (the **Part 133 MOS**)
- the *Part 135 (Australian Air Transport Operations—Smaller Aeroplanes) Manual of Standards 2020* (the **Part 135 MOS**)
- the *Part 138 (Aerial Work Operations) Manual of Standards 2020* (the **Part 138 MOS**).

The main purpose of the amendments is to relieve relevant operators of some unnecessary administrative requirements to notify the Civil Aviation Safety Authority (**CASA**) of the individuals who conduct training and checking for the operators. This process can involve an operating cost without a material contribution to aviation safety.

The opportunity is also taken to correct a typographical error and to clarify the application of 2 provisions.

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 Safety Regulations 1998* (**CASR**) are made under the Act.

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 heads of power, and on the same basis, as the individual MOSs themselves.

Part 133 of CASR prescribes requirements for the conduct of Australian air transport operations in rotorcraft. Air transport operations include passenger transport operations, cargo transport operations and medical transport operations that are conducted for hire or reward. Under regulation 133.020, CASA may issue a MOS to give effect to Part 133.

Part 135 of CASR prescribes requirements for the conduct of Australian air transport operations in aeroplanes that have a maximum operational passenger seating configuration of not more than 9 and a maximum take-off weight of not more than 8 618 kg. Air transport operations include passenger transport operations, cargo transport operations and medical transport operations that are conducted for hire or reward. Under regulation 135.025, CASA may issue a MOS to give effect to Part 135.

Part 138 of CASR prescribes the operational, procedural and safety risk management standards for the conduct of aerial work operations in aeroplanes and rotorcraft. Aerial work operations include external load operations, dispensing operations and task specialist operations. Under regulation 138.020, CASA may issue a MOS to give effect to Part 138.

Part 133 MOS

Under regulation 133.377 of CASR, the training and checking of a flight crew member must be conducted by an individual who meets the requirements of the Part 133 MOS.

Under subsection 12.11(1) of the Part 133 MOS, the training or check must be conducted by an individual who, among other things:

- (c) has met the relevant recency or proficiency requirements that are the subject of the training or check, as stated in the operator's exposition, CASR and Division 2; and
- (d) *has been nominated, in writing*, by the operator to be a training pilot, check pilot, or training and check pilot, as applicable, for the operator's training and checking system.

Under subsection 12.11(2) of the Part 133 MOS:

- (2) For paragraph (1)(d), the nomination must be made by an entry in the operator's exposition *or a document provided by the operator to CASA*, and state that the individual meets the requirements stated in paragraphs (1)(a) to (c).

Aviation safety does not require that the individual conducting the training or check has met the relevant recency or proficiency requirements *that are the subject of the training or check*, as stated in the operator's exposition, CASR and Division 2.

It is enough that the individual has met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.

There is no necessity to mention that a *nomination be in writing* since it is already required to be an entry in the operator's exposition. Being in the exposition, there is no need for the use of any other *document provided by the operator to CASA*.

Where an individual appropriately qualified under Part 61 of CASR is involved, there is no aviation safety need to notify CASA at all as the relevant person already holds a qualification that is standardised on an initial and continuing competency basis.

Under Division 3 of Chapters 14 and 15 of the Part 133 MOS, the training and checking of an air crew member and a medical transport specialist must be conducted by an individual who meets the requirements of the relevant sections of the respective Division 3 for each kind of crew member.

Under section 13.03 of the Part 133 MOS, the training and checking of a cabin crew member must be conducted by an individual who meets the requirements of sections 14.11 and 14.12 of the Part 133 MOS as if references to an air crew member in those sections were a reference to a cabin crew member.

The same considerations outlined earlier in relation to the individuals conducting training and checking of a flight crew member also apply in relation to air crew members under section 14.11 of the Part 133 MOS, to medical transport specialists under section 15.11 of the Part 133 MOS and, by application of section 14.11, to cabin crew members under subsection 13.03(2).

To ensure initial compliance, the requirements under sections 14.11 and 15.11 of the Part 133 MOS took the form of directions under regulation 11.245 of CASR, that were expressed to expire at the end of 1 December 2024, that is, 3 years after they commenced. CASA anticipated that appropriate new regulations in Subpart 133.P of CASR would be in place by 1 December 2024 to enable Division 3 of Chapters 14 and 15 of the Part 133 MOS to be directly empowered by these new regulations instead of being empowered by regulation 11.245 of CASR as a direction. However, the intended regulatory changes are significantly delayed, therefore, necessitating a 3 year extension to these directions.

Under subsection 11.41(1) of the Part 133 MOS, but subject to subsection 11.41(3), when a rotorcraft begins a flight, it must be fitted with an emergency locator transmitter (an *ELT*). Under paragraph 11.41(3)(a), subsection 11.41(1) applies to, among other things, a rotorcraft that has a “maximum operational seat configuration of more than 3”. This is a typographical error for a “maximum operational *passenger* seat configuration of more than 3”. A similar issue also exists for paragraph 11.41(6)(a).

Part 135 MOS

Under regulation 135.387 of CASR, the training and checking of a flight crew member must be conducted by an individual who meets the requirements of the Part 135 MOS.

Under subsection 12.11(1) of the Part 135 MOS, the training or check must be conducted by an individual who, among other things:

- (c) has met the relevant recency or proficiency requirements that are the subject of the training or check, as stated in the operator’s exposition, CASR and Division 2; and
- (d) *has been nominated, in writing*, by the operator to be a training pilot, check pilot, or training and check pilot, as applicable, for the operator’s training and checking system.

Under subsection 12.11(2) of the Part 133 MOS:

- (2) For paragraph (1)(d), the nomination must be made by an entry in the operator’s exposition *or a document provided by the operator to CASA*, and state that the individual meets the requirements stated in paragraphs (1)(a) to (c).

Aviation safety does not require that the individual conducting the training or check has met the relevant recency or proficiency requirements *that are the subject of the training or check*, as stated in the operator’s exposition, CASR and Division 2.

It is enough that the individual has met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator’s exposition.

There is no necessity to mention that a *nomination be in writing* since it is already required to be an entry in the operator’s exposition. Being in the exposition, there is no need for the use of any other *document provided by the operator to CASA*.

Where an individual appropriately qualified under Part 61 of CASR is involved, there is no aviation safety need to notify CASA at all as the relevant person already holds a qualification that is standardised on an initial and continuing competency basis.

The same considerations apply in relation to air crew members under section 13.11 of the Part 135 MOS and to medical transport specialists under section 14.11 of that same MOS.

To ensure initial compliance, the requirements under sections 13.11 and 14.11 of the Part 135 MOS took the form of directions under regulation 11.245 of CASR, that were expressed to expire

at the end of 1 December 2024, that is, 3 years after they commenced. CASA anticipated that appropriate new regulations in Subpart 135.P of CASR would be in place by 1 December 2024 to enable Division 3 of Chapters 13 and 14 of the Part 135 MOS to be directly empowered by these new regulations instead of being empowered by regulation 11.245 of CASR as a direction. However, the intended regulatory changes are significantly delayed, therefore necessitating a 3 year extension to these directions.

Part 138 MOS

Under regulation 138.505 of CASR, the training and checking of a flight crew member must be conducted by an individual who meets the requirements of the Part 138 MOS.

Under regulation 138.550 of CASR, the training and checking of an air crew member must be conducted by an individual who meets the requirements of the Part 138 MOS.

Under regulation 138.580 of CASR, the training and checking of a task specialist must be conducted by an individual who meets the requirements of the Part 138 MOS.

Under subparagraph 23.10(1)(c)(ii) of the Part 138 MOS, for an operator who is **not** required to have a training and checking system under regulation 138.125, a relevant trainer or checker for the purposes of general emergency training and competency assessment must be, among other things, an individual who, among other things, is nominated in writing by the operator to conduct the general emergency training or competency assessment, or both, for the operator.

Under subsection 23.10(2) of the Part 138 MOS, for an operator who **is** required to have a training and checking system under regulation 138.125, the training or check must be conducted by an individual who:

- (c) meets the relevant recency or proficiency requirements for the aerial work operation that is the subject of the training and checking, as set out in the operator's operations manual and in CAR and CASR; and
- (d) is nominated in writing by the operator to be a training and check pilot for the operator's training and checking system (a ***nominated individual***).

Under subsection 23.10(3) of the Part 133 MOS:

- (3) For subparagraph (1)(c)(ii) and paragraph (2)(d), the nomination must be in the operator's operations manual and state that the individual meets the requirements set out in subparagraph (1) (c) (ii), or paragraphs (2) (a), (b) and (c), as applicable.

Aviation safety does not require that the individual conducting the training or check has met the relevant recency or proficiency requirements for the aerial work operation *that is the subject of the training and checking*, as set out in the operator's operations manual and in CAR and CASR.

It is enough that the individual has met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's training and checking system manual.

There is no necessity to mention that a *nomination be in writing* since it is already required to be an entry in the operator's operations manual or training and checking manual (as applicable).

Where an individual appropriately qualified under Part 61 of CASR is involved, there is no aviation safety need to notify CASA at all as the relevant person already holds a qualification that is standardised on an initial and continuing competency basis.

The same considerations apply in relation to air crew members under section 24.03 of the Part 138 MOS, though not to task specialists.

Under regulations 138.125, 138.130 and 138.135 of CASR, combined with the effect of the exemption in section 8 of *CASA EX86/21 – Part 138 and Part 91 of CASR – Supplementary Exemptions and Directions Instrument 2021*, an aerial work operator must have a training and checking system for their operational safety-critical personnel conducting aerial work operations for the operator that first, involve the use of a turbine-engine aeroplane, second, involve the use of certain larger multi-engine aircraft, third, involve the conduct of marine pilot transport operations, and fourth, involve the use of aircraft or the conduct of operations prescribed by the Part 138 MOS. Section 4.02 of the Part 138 MOS prescribes these additional aircraft or operations.

The Part 138 MOS may also prescribe operations for which aerial work operators are not required to have a training and checking system, although no such operations are currently prescribed.

As mentioned above, subsections 23.10(1) and 23.10(2), contain important but different safety requirements that relate, respectively, to operators who are not, and who are, required to have a training and checking system. When operators use a mixture of aircraft or conduct a mixture of operations, these differing section 23.10 requirements mean that for some operators, the training and checking event requirements and the particular kinds of permitted training and checking personnel are different for their different aircraft and operations.

To enable operators to voluntarily extend a training and checking system or adopt the use of a training and checking system, sections 4.03 and 4.04 of the Part 138 MOS enable operators to use common training and checking requirements if that is a desired pathway.

Under subsections 4.03(1) and (2) of the Part 138 MOS, an aerial work operator who conducts operations in an aircraft for which the operator **is** required to have a training and checking system may, with CASA's approval, voluntarily **elect to extend** the requirements of the operator's existing training and checking system (**T&CS**) to 1 or more of the operator's operations to which regulation 138.125 does **not** apply.

Under subsections 4.04(1) and (2) of the Part 138 MOS, an aerial work operator who conducts operations in an aircraft for which the operator is **not** required to have a training and checking system may, with CASA's approval, voluntarily **elect to adopt** a training and checking system for the operator's nominated operations.

Operators who elect to extend, or elect to adopt, a training and checking system with CASA's approval are, thereby, subject to the applicable training and checking rules elsewhere in the Part 138 MOS that are made for the purposes of regulation 138.125.

These rules include, not only section 23.10 of the Part 138 MOS in relation to the conduct of training and checking, but also subsection 23.05(3) in relation to the periodicity of recurrent operator proficiency checks.

To avoid any doubt or misunderstanding about this, a new subsection (7) has been added to sections 4.03 and 4.04.

Thus, when approved, the operations for which the training and checking system has been extended or adopted are deemed to be prescribed operations for paragraph 138.125(1)(c) of CASR, for which the operator is required to have a training and checking system under

regulation 138.125. A Note reinforces this by stating that the effect of subsection (7) is that paragraphs 23.05(3)(b) and (c) apply in relation to the operator's flight crew member.

Paragraph 25.02(2)(b) and subsection 25.03(3) of the Part 138 MOS refer to the operator's operations manual, but mistakenly do not include a reference to an operator's training and checking manual, which is an additional manual required by operators who must, or voluntarily elect to, comply with regulation 138.125 of CASR. The absence of mentioning the training and checking manual was an oversight in the MOS.

As would be evident, all of the amendments are of a minor or machinery nature, correcting or clarifying matters, or removing minor administrative burdens. They do not substantially alter existing arrangements. The details of the amendments to the 3 MOSs 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 specifically incorporates the following documents:

Document	Description	Manner of incorporation	Source
Operator's training and checking manual	An aerial work operator document which includes the plans, processes, procedures, programs and systems implemented by the operator to comply with the training and checking system requirements of the civil aviation legislation.	As in force from time to time	These are the proprietary intellectual and commercial property of specific operators and apply only to the operator and its personnel.
Exposition	An Australian air transport operator document, or suite of documents, that sets out the plans, processes, procedures, programs and systems implemented by the operator to comply with the civil aviation legislation.	As in force from time to time	These are the proprietary intellectual and commercial property of specific operators and apply only to the operator and its personnel. Further, the operator is under obligations to make the exposition available to its personnel who have obligations under the document.

Note that subsection 98(5D) of the Act permits a legislative instrument, like the MOS amendment, to make from time to time incorporations of non-legislative documents.

Note also 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. Where this occurs, 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 MOS, it must, in effect, engage in public consultation on the draft MOS for at least 28 days. This requirement also applies to an instrument that amends a MOS.

No consultation — minor or machinery amendments

However, under paragraph 11.275(1)(d) of CASR, CASA is not obliged to consult on provisions of a MOS 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, the Director has made such a determination under *CASA 22/24 – Determination for the Part 133, Part 135 and Part 138 Manuals of Standards – Miscellaneous Minor Matters – Amendment Instrument 2024*.

There has, nevertheless, been some informal consultation with the aviation industry in the course of developing many of these minor or machinery amendments. There has been industry feedback to CASA via multiple communication channels, for example, the CASA Guidance Delivery Centre, either directly from individuals or from various operators and industry working groups pointing out anomalies and matters requiring correction or clarification.

Office of Impact Analysis

An Impact Analysis was prepared by CASA for the new Parts 133, 135 and 138 of CASR (in the form of the then utilised Regulatory Impact Statement or RIS) and these RISs are also taken to cover minor or machinery items of the MOS amendment which the regulations empowered.

Those RISs were assessed by the Office of Best Practice Regulation as compliant with the Best Practice Regulation requirements and contained a level of analysis commensurate with the likely impacts. A copy of the RISs was included as Attachment A in the Explanatory Statements for Part 133, 135 and 138 of CASR.

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 are minor or machinery in nature, and by providing corrections, clarifications and minor flexibilities for operators, rotorcraft and pilots, are designed to avoid imposing additional costs on operators, and to reduce some costs in relatively modest ways.

Sector risk

The 3 MOSs under the MOS amendment are specifically designed to regulate the operations to which the MOSs apply, and take into account the differing risks associated with these industry sectors. The minor or machinery amendments of the MOS amendment do not increase any particular safety risks.

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, 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. The MOS amendment is a legislative instrument that is compatible with human rights, and to the extent that it affects human rights it does so in a way that may enhance the enjoyment of those 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 the day after it is registered.

Details of:**Part 133, Part 135 and Part 138 Manuals of Standards — Miscellaneous Minor Matters — Amendment Instrument 2024**

1 Name of instrument

This section names the instrument.

2 Commencement

Under this section, the instrument commences on the day after it is registered.

3 Amendment of the Part 133, Part 135 and Part 138 Manuals of Standards

- (1) Under this subsection, Schedule 1 of the instrument amends the *Part 133 (Australian Air Transport Operations—Rotorcraft) Manual of Standards 2020*.
- (2) Under this subsection, Schedule 2 amends the *Part 135 (Australian Air Transport Operations—Smaller Aeroplanes) Manual of Standards 2020*.
- (3) Under this section, Schedule 3 amends the *Part 138 (Aerial Work Operations) Manual of Standards 2020*.

Schedule 1 Amendments to Part 133 (Australian Air Transport Operations—Rotorcraft) Manual of Standards 2020

- [1] **Paragraph 11.41(3)(a)**
This amendment corrects a typographical error.
- [2] **Paragraph 11.41(6)(a)**
This amendment corrects a typographical error.
- [3] **Paragraph 12.11(1)(c)**
Under this amendment, the individual who conducts training and checking for a flight crew member must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [4] **Paragraph 12.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for a flight crew member, as subsection 12.11(2) already requires the nomination to be included in the operator's exposition.
- [5] **Subsection 12.11(2)**
This amendment removes reference to a redundant document.
- [6] **After subsection 12.11(2)**
Under this amendment, the individual who conducts flight crew member training and checking need not be notified to CASA if the individual holds one from a list of prescribed Part 61 qualifications.
- [7] **Paragraph 14.11(1)(c)**
Under this amendment, the individual who conducts training and checking for an air crew member must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [8] **Paragraph 14.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for an air crew member, as subsection 14.11(2) already requires the nomination to be included in the operator's exposition.
- [9] **Subsection 14.11(2)**
This amendment removes reference to a redundant document.
- [10] **Subsection 14.11(4)**
This amendment extends to 1 December 2027, the duration of the directions as to who is to conduct training and checking for air crew members.
- [11] **Paragraph 15.11(1)(c)**
Under this amendment, the individual who conducts training and checking for a medical transport specialist must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [12] **Paragraph 15.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for medical transport specialists, as subsection 15.11(2) already requires the nomination to be included in the operator's exposition.

[13] Subsection 15.11(2)

This amendment removes reference to a redundant document.

[14] Subsection 15.11(4)

This amendment extends to 1 December 2027, the duration of the directions as to who is to conduct training and checking for medical transport specialists.

**Schedule 2 Amendments to Part 135 (Australian Air Transport Operations—
Smaller Aeroplanes) Manual of Standards 2020**

- [1] **Paragraph 12.11(1)(c)**
Under this amendment, the individual who conducts training and checking for a flight crew member must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [2] **Paragraph 12.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for a flight crew member, as subsection 12.11(2) already requires the nomination to be included in the operator's exposition.
- [3] **Subsection 12.11(2)**
This amendment removes reference to a redundant document.
- [4] **After subsection 12.11(2)**
Under this amendment, the individual who conducts flight crew member training and checking need not be notified to CASA if the individual holds one from a list of prescribed Part 61 qualifications.
- [5] **Paragraph 13.11(1)(c)**
Under this amendment, the individual who conducts air crew member training and checking must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [6] **Paragraph 13.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for an air crew member, as subsection 13.11(2) already requires the nomination to be included in the operator's exposition.
- [7] **Subsection 13.11(2)**
This amendment removes reference to a redundant document.
- [8] **Subsection 13.11(4)**
This amendment extends to 1 December 2027, the duration of the directions as to who is to conduct training and checking for air crew members.
- [9] **Paragraph 14.11(1)(c)**
Under this amendment, the individual who conducts medical transport specialist training and checking must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's exposition.
- [10] **Paragraph 14.11(1)(d)**
This amendment removes the requirement to notify in writing nominees who conduct training and checking for a medical transport specialist, as subsection 14.11(2) already requires the nomination to be included in the operator's exposition.
- [11] **Subsection 14.11(2)**
This amendment removes reference to a redundant document.

[12] Subsection 14.11(4)

This amendment extends to 1 December 2027, the duration of the directions as who is to conduct training and checking for medical transport specialists.

Schedule 3 Amendments to *Part 138 (Aerial Work Operations) Manual of Standards 2020*

[1] After subsection 4.03(6)

Under this amendment, approved operations to which an operator's training and checking system is extended are deemed to be prescribed operations for paragraph 138.125(1)(c), for which the operator is required to have a training and checking system under regulation 138.125.

A Note also explains that the effect of the amendment is that paragraphs 23.05(3)(b) and (c) of the Part 138 MOS apply in relation to the operator's flight crew members.

[2] After subsection 4.04(6)

Under this amendment, approved operations for which a training and checking system is adopted are deemed to be prescribed operations for paragraph 138.125(1)(c), for which the operator is required to have a training and checking system under regulation 138.125.

A Note also explains that the effect of the amendment is that paragraphs 23.05(3)(b) and (c) of the Part 138 MOS apply in relation to the operator's flight crew members.

[2A] Chapter 17, Division 4 — NVIS fire mapping, the heading

This amendment corrects a Division numbering error.

[3] After paragraph 23.05(3)(a)

This amendment inserts a Note to explain that paragraph 23.05(3)(a) also applies for the flight crew member of an operator for a relevant operation for which the operator does not hold an applicable CASA approval to extend or adopt a T&CS under subsection 4.03(3) or 4.04(3).

[4] After paragraph 23.05(3)(c)

This amendment inserts a Note to explain that paragraphs 23.05(3)(b) and (c) also apply for the flight crew member of an operator for a relevant operation for which the operator does not hold an applicable CASA extension or adoption approval under subsection 4.03(3) or 4.04(3).

[5] Subparagraph 23.10(1)(c)(ii)

This amendment removes the requirement to notify in writing nominees who conduct general emergency training for a flight crew member where the flight crew member training and checking is not required to be conducted under a training and checking system, as subsection 23.10(3) will, due to item [10], require the nomination to be included in the operator's operations manual or training and checking manual (as applicable).

[6] After subparagraph 23.10(1)(c)(ii)

This amendment inserts a navigation Note for the method of nomination.

[7] Paragraph 23.10(2)(c)

Under this amendment, the individual who conducts training and checking for a flight crew member must have met the relevant recency or proficiency requirements that are required for the conduct of the training or check, as stated in the operator's training and checking system manual.

[8] Paragraph 23.10(2)(d)

This amendment removes the requirement to notify in writing nominees who conduct training and checking for a flight crew member where that flight crew member's training and checking is required to be, or voluntarily subject to a CASA approval under subsection 4.03(3) or 4.04(3), conducted under a training and checking system, as subsection 23.10(3) will, due to item [10], require the nomination to be included in the operator's operations manual or training and checking manual (as applicable).

[9] After paragraph 23.10(2)(d)

This Note explains that subsection 23.10(2) also applies if the operator holds an applicable CASA extension or adoption approval under subsection 4.03(3) or 4.04(3).

[10] Subsection 23.10(3)

This section broadens the places for recording the nominations of the individuals to conduct flight crew member training and checking so that it includes the operations manual or the training and checking manual (as applicable).

[11] After subsection 23.10(3)

Under this amendment, the individual who conducts flight crew member training and checking need not be notified to CASA if the individual holds one from a list of prescribed Part 61 qualifications.

[12] Subsection 24.01(2) — the Note

This amendment to the Note is consequential in amendments 1 and 2.

[13] Paragraph 24.03(2)(a)

This section includes as an alternative to the operations manual, the training and checking manual as a place that contains minimum experience and entry control requirements for the individual who trains the air crew members.

[14] Paragraph 24.03(2)(b)

This section includes as an alternative to the operations manual, the training and checking manual as a place that contains the training program for air crew members and their trainers.

[15] Paragraph 24.03(2)(c)

Under this amendment, the individual who conducts training and checking for an air crew member must have met the relevant recency or proficiency requirements for the aerial work operation that are required for the conduct of the training or check, as stated in the operator's operations manual or training and checking manual (as appropriate).

[16] Paragraph 24.03(2)(d)

This amendment removes the requirement to notify in writing nominees who conduct training and checking for an air crew member, as paragraph 24.03(3)(a) will, due to item [17], require the nomination to be included in the operator's operations manual or training and checking manual (as applicable).

[17] Paragraph 24.03(3)(a)

This section broadens the places for recording the nominations of the individuals to conduct air crew member training and checking so that it includes the operations manual or the training and checking manual (as applicable).

[18] Paragraph 24.03(3)(b)

This amendment is editorial and consequential on amendment 16.

[18A] Subsection 25.02(2), the chapeau

This amendment clarifies that subsection 25.02(2) refers to the training and checking procedures for ensuring task specialist competency.

[19] Paragraph 25.02(2)(b)

Under this amendment, the procedures for ensuring the competency of task specialists must be set out in the operations manual or the training and checking manual (as applicable).

[20] After subsection 25.03(1) — the Note

This Note explains that under subregulation 138.125(1), and sections 4.02, 4.03 and 4.04 of the Part 138 MOS, certain aerial work certificate holders must have, or may have elected to have, or may have adopted, a formal training and checking system.

[21] Subsection 25.03(3)

Under this amendment, the individual who conducts training and checking for a task specialist must have met the minimum experience and entry control requirements for a task specialist trainer and checker asset out in the operator's operations manual or training and checking manual (as applicable).

Statement of Compatibility with Human Rights

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

Part 133, Part 135 and Part 138 Manuals of Standards – Miscellaneous Minor 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 *Part 133, Part 135 and Part 138 Manuals of Standards – Miscellaneous Minor Matters – Amendment Instrument 2024* (the **MOS amendment**) makes a number of minor or machinery amendments to the following Manuals of Standards:

- the *Part 133 (Australian Air Transport Operations—Rotorcraft) Manual of Standards 2020* (the **Part 133 MOS**)
- the *Part 135 (Australian Air Transport Operations—Smaller Aeroplanes) Manual of Standards 2020* (the **Part 135 MOS**)
- the *Part 138 (Aerial Work Operations) Manual of Standards 2020* (the **Part 138 MOS**).

The main purpose of the amendments is to relieve relevant operators of some unnecessary administrative requirements to notify the Civil Aviation Safety Authority (**CASA**) of the individuals who conduct training and checking for the operators. This process can involve an operating cost but does not contribute to aviation safety.

The opportunity is also taken to correct a typographical error and to clarify the application of 2 provisions.

The amendments are considered to be minor or machinery amendments that do not substantially alter existing arrangements.

Human rights implications

By ensuring that the aviation safety requirements in relation to the application of training and checking systems and obligations are clear, this 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**)

Right to life under the ICCPR

Right to safe and healthy working conditions 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 or

enhance aviation safety and hence promote the right to life and the right to safe and healthy working conditions.

This rationale also applies to minor or machinery amendments to the extent that that may simplify, clarify or improve the drafting of provisions so as to avoid the risk of redundancy, uncertainty, confusion, or ambiguity in provisions which can, in unpredictable circumstances, affect aviation safety.

They contribute to clarity and do not have any negative effect on human rights issues.

Conclusion

The MOS amendment is a legislative instrument that is compatible with human rights and to the extent that it affects human rights it does so in a way that may enhance the enjoyment of those rights.

Civil Aviation Safety Authority