

Explanatory Statement

Civil Aviation Act 1988

Civil Aviation Order 100.66 Amendment Order (No. 1) 2007

Legislation

Section 98 of the *Civil Aviation Act 1988* (the *Act*) empowers the Governor-General to make regulations for the Act and the safety of air navigation. Under the *Civil Aviation Regulations 1988* (*CAR 1988*), CASA may make certain Civil Aviation Orders (the *CAOs*) to implement safety standards and requirements.

Maintenance authorities

Under paragraph 33B (1) (a) of CAR 1988, CASA may, in writing, and in accordance with the CAOs, issue authorities to carry out maintenance on aircraft (*maintenance authority* or *MA*). Under subregulation 33B (2), an MA may be issued subject to conditions specified in the MA or in the CAOs or in both. Under subregulation 33A (4), it is an offence to contravene a condition of an MA.

Civil Aviation Order 100.66 (CAO 100.66)

CAO 100.66 was made under paragraph 33B (1) (a) of CAR 1988 to provide for the issue of MAs by CASA following candidates' training and assessment by recognised organisations which meet training standards and are approved by CASA in accordance with CAO 100.66.

Other necessary heads of power

Various other heads of power were used to make CAO 100.66. The same heads of power are used for the amendment of CAO 100.66 as follows.

Carrying out maintenance

Under subregulation 42ZC (6), CASA can authorise a person to carry out maintenance.

Certification

Under subregulation 42ZE (1) of CAR 1988, a person who carries out maintenance on Australian aircraft in Australian territory must ensure that certification of completion of the maintenance is in accordance with the system of certification.

Under paragraphs 1.2 and 2.2 of Schedule 6 of CAR 1988, this certification may only be made by the person who physically performs the maintenance, rather than merely supervising it, unless paragraphs 42ZC (3) (b) and 42ZC (4) (c) of CAR 1988 apply.

Supervision

Under paragraphs 42ZC (3) (b) and 42ZC (4) (c) of CAR 1988, a person may carry out maintenance under the supervision of an aircraft maintenance engineer licence holder and that holder can certify completion of the maintenance.

There is no corresponding ability to carry out maintenance under the supervision of an MA holder, for which the MA holder can certify completion.

MA holders may supervise and certify

There was no safety reason why an MA holder under CAO 100.66 should not supervise in appropriate circumstances and the MA privileges were framed accordingly, including by incorporating an appropriate authorisation, for subregulation 42ZC (6), of a person supervised by an MA holder, and an exemption for the MA holder, under regulation 308 of CAR 1988, from the Schedule 6 prohibition on certifying for completion of work performed by such a supervised person.

Additional head of power

An additional head of power is also used to provide for an additional amendment (amendment 9) as follows.

Under subregulation 230 (1) of CAR 1988, a person must not start or run an aircraft engine unless permitted to do so. Under subregulation 230 (3) (a), for the conduct of aeroplane maintenance, the engine may be started and run if the control seat is occupied by a person who holds an airworthiness authority (such as an MA), or a licence as an aircraft maintenance engineer (a *LAME*), and the person is sufficiently knowledgeable not to cause danger or damage.

Under subregulation 230 (4), for the conduct of maintenance on a helicopter, the engine may be started and run only by a person authorised either by CASA or an authorised person. Amendment 9 provides for when such aeroplane or helicopter maintenance may be carried out by an MA holder.

Scope of CAO 100.66

As a matter of safety policy, in CAO 100.66 CASA adopted the regulatory approach to maintenance promulgated by the European Aviation Safety Agency (*EASA*). This included the use of EASA categories of aircraft maintenance authorities, namely categories A, B1 and B2, and related aircraft ratings, awarded on the basis of compliance with detailed knowledge and competency training and assessment. It also involved recognition of specifically approved maintenance training organisations operating under detailed, self-prepared, expositions setting out their training objectives, resources and capabilities.

CAO 100.66 established a stand-alone scheme for applicants to obtain specific categories of MAs, and to have their MAs endorsed with related ratings. The necessary examination, experience and competency requirements were set out. CAO 100.66 also established the scheme for training organisations to be approved as recognised deliverers of the training and assessment that those applicants required to become qualified. Provision was also made for award of additional categories, additional ratings and recognition of overseas qualifications.

The CAO amendment

CAO 100.66 was registered on 13 February 2007 and CASA has begun to approve suitable organisations to be recognised organisations for the purposes of training. This approval process has identified some aspects of CAO 100.66 which might be amended to clarify and improve the approval process. Further, since February 2007, EASA has revised and extended some of the maintenance privileges, and knowledge and rating training requirements for certain categories of MA holders. CASA wishes to adopt these to remain broadly consistent with the EASA standards for MAs. There was also a need to better streamline recognition of appropriate overseas qualifications. Some small typographical and similar errors have also been rectified.

Details of amendments

The changes mentioned above are contained in *Civil Aviation Order 100.66 Amendment Order (No. 1) 2007* (the **CAO amendment**) as follows. The amendments are described in groups which include consequential amendments where such were needed. Some amendments are, therefore, mentioned more than once because they reflect more than 1 modification.

Amendment 1

The definition of **avionics system** has been expanded in the interests of better encompassing the scope of the systems that may fall within this expression and in response to EASA's modification of the scope of the term.

Amendment 2

The definition of **complex aircraft** is relevant to the identification of aircraft for which a rating is required before an MA holder may carry out maintenance. The definition of **complex aircraft** is amended to allow additional matters, such as operational ceiling and control systems, to be taken into account in this identification.

Amendment 3

The definition of **examiner, or knowledge examiner**, is amended to include a person who conducts evaluations for the purposes of recognition of prior learning (**RPL**).

Amendments 4, 5, 18, 19 and 20

The definition of **rating** is amended to include a rating that is restricted. **Restricted rating** is defined in new paragraph 15.7 which indicates that a restricted rating is one for which completion of only a subset of the otherwise applicable theoretical and practical training elements in Appendix 7 would be required. The details would be in the recognised organisation's course plan within its exposition and for which CASA approval is ultimately required. Consequential amendments are made arising from this new definition.

Amendments 5, 14, 15, 16, 17 and 21

New definitions of **excluded State** and **recognised State** are inserted for use in relation to recognition of foreign qualifications, with consequential amendments.

An applicant for an MA or a rating may satisfy some of the qualification requirements if he or she holds a comparable qualification from a Contracting State under the Chicago Convention provided the State is not an excluded State, i.e. one that CASA considers may not maintain appropriate standards for the issue of MA equivalents.

In the case of a comparable qualification, a recognised organisation must also certify that the person meets, by RPL or otherwise, the knowledge and experience requirements for the relevant MA sought. However, this certification is not required if the person's overseas MA-equivalent qualification was issued by a recognised State, i.e. one that CASA considers maintains appropriate standards for the issue of MA-equivalents under the Chicago Convention.

Recognition will also be given to a foreign company authorisation if it was issued by a company in a recognised State, or if it was issued by another Contracting State (but not an excluded State) and a recognised organisation certifies that the person meets, by RPL or otherwise, the knowledge and experience requirements for the relevant MA sought.

CASA lists excluded States and recognised States in Aviation Advisory Circulars (AACs).

Amendments 6 and 7

New definitions of **practical/competency assessor** are inserted, specifically for use in relation to assessment for type category ratings and for RPL evaluations in the assessments for such ratings. These definitions will distinguish these particular assessor requirements regarding ratings from those applicable to a practical/competency assessor for category competency assessments.

Amendment 8

This amendment deletes unnecessary words inserted in error.

Amendment 9

A new provision provides that, for aeroplanes, the holder of an authority in subcategory B1.1 or B1.2 may only issue a certificate of release to service involving special work, namely starting, running or boroscoping engines, or rigging of flight controls or doing structural inspection and repair of airframe, if the aeroplane is maintained by a maintenance organisation with a certificate of approval under regulation 30 of CAR 1988 (a **CAR 30 organisation**) and the holder of the authority has completed training or experience that gives him or her sufficient knowledge of the aeroplane's controls, systems, engines or airframe to ensure that the maintenance does not endanger any person or damage the aeroplane.

For helicopters, this provision also authorises the holder of an authority in subcategory B1.3 or B1.4 to issue a certificate of release to service involving the special work mentioned above on condition that the helicopter is maintained by a CAR 30 organisation and the holder of the authority has completed training or experience that gives him or her sufficient knowledge of the helicopter's controls, systems, engines or airframe to ensure that the maintenance does not endanger any person or damage the helicopter. Provided the conditions are met, this authorisation is also an authorisation to start and run engines as required under subregulation 230 (4) of CAR 1988.

Generally, the CAR 30 organisation's satisfaction that the holder has the requisite qualifications or experience will be indicative that the holder has sufficient knowledge.

Amendment 10

A new provision is made to allow previous experience to be taken into account when determining the number of years of practical maintenance experience a person requires to obtain an MA, or an MA in a different category, if the person already holds an MA in another category or already is a LAME.

Amendment 11

This amendment removes propellers from the knowledge requirements for a category B1.1 MA holder if the person is not employed to work, and does no work, on propellers.

Amendment 12

This amendment corrects an erroneous mention of high speed flight which is not relevant in the context of propeller driven aircraft.

Amendments 13, 14, 16 and 25

These amendments insert provisions for the recognition of the Australian Defence Force, and overseas defence forces, aircraft maintenance authorisations, and rating-equivalents that are endorsed on them by the relevant military authorities.

Amendments 21, 22, 23 and 24

These amendments provide that, for recognition of overseas or military ratings or rating-equivalents (**ratings**), the fact that the rating is not currently held is not a disqualification provided the person did not lose it as a result of fault on their part and provided they can show that, within the 2 years immediately before applying to CASA for rating recognition, they had exercised relevant privileges for a period of at least 6 months.

Amendments 26 and 28

These amendments add some new privileges for certain MA holders. The exercise of the privileges is contingent on completion of the training relating to them as mentioned in the amendments to Appendix 4.

Amendments 27, 29 and 30

These amendments correct minor typographical errors and omissions.

Amendments 31, 32, 33, 36

Following on from changes in EASA standards, these amendments add new subject modules to the knowledge training required under Appendix 4 to qualify for certain MAs.

Commencement of Amendments 31, 32, 33, 36

These amendments (described in the CAO amendment as the **new knowledge requirements**), commence immediately after the commencement of the amendments to Appendix 6 of CAO 100.66 that insert units of competency for the new knowledge requirements. The units of competency for the new knowledge requirements are currently being developed by the State and Territory authorities responsible for the Australian Quality Training Framework but are not yet finalised. When they are finalised, they will be incorporated within amendments to Appendix 6 of CAO 100.66, expected to be made by *Civil Aviation Order 100.66 Amendment Order (No. 2) 2007*.

The amendments have been included, and the commencement drafted, in this way to reflect the progress made so far in this matter, with action by State and Territory authorities pending and under way.

Amendments 34 and 35

These amendments introduce higher knowledge level requirements in training for aspects of flight controls and instrument systems. The higher levels mirror new higher levels in EASA.

Amendment 37

This amendment removes reference to the misleading word “basic” in the expression “basic training workshop”.

Amendment 38

This amendment modifies the list of persons whose qualifications and experience must be included in a recognised organisation’s exposition. The newly provided for positions of knowledge examiners or assessors for RPL evaluations are added (see amendments 2, 6 and 7). The position of accountable manager, which differs from the other technical positions, is deleted because CASA has reconsidered its requirement that qualifications and experience be stated for this position.

Amendment 39

This amendment adds 2 new disclosure requirements to a recognised organisation's exposition. The first relates to the procedures that would be used by the recognised organisation to determine an applicant's age and English language skills eligibility for an MA. The second relates to how this information and each student's training outcomes would be communicated to CASA.

Amendment 40

This amendment replaces the table in Part 2 of Appendix 7, concerning the theoretical elements for type training, with a new table that mirrors the current relevant EASA type training theoretical elements.

Amendment 41

This amendment corrects a minor typographical error.

Amendment 42

This amendment is consequential on amendment 9 under which rigging flight controls and engine running and checking requires specific training or experience given or accepted by a CAR 30 organisation.

Legislative Instruments Act 2003 (LIA)

Under subsection 98 (5A) of the Act, the regulations may empower CASA to issue instruments in relation to matters affecting the maintenance of aircraft. Under subsection 98 (5B) of the Act, an instrument so issued is a legislative instrument subject to the LIA (other than Part 6 concerning sunseting).

Under paragraph 33B (1) (a) and subregulation 33B (2) of CAR 1988, CASA may make CAOs in relation to authorities to carry out maintenance on aircraft and conditions to which an authority is subject.

Made under regulation 33B, the CAO amendment is an instrument in relation to matters affecting the maintenance of aircraft and, therefore, it is a legislative instrument subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

Consultation

Consultation for section 17 of the LIA was undertaken as follows.

CASA entered into extensive consultation before making CAO 100.66. For this purpose, CASA established a joint industry/CASA team specifically to progress the maintenance regulations suite. The team comprised representatives from CASA and the various branches of the aviation industry, including general aviation and regular public transport, maintenance repair and overhaul, aviation training, and the Maintenance Standards Subcommittee of the Standards Consultative Committee.

The joint industry/CASA team remains in existence and it has considered and approved the CAO amendment.

Office of Best Practice Regulation (OBPR)

The OBPR's predecessor, the Office of Regulation Review, considered that CAO 100.66, intended as it was to supplement existing procedures for acquiring MAs, was of a minor or machinery nature only and did not require preparation of a specific Regulation Impact

Statement (*RIS*). OBPR does not require a RIS for the CAO amendment because a preliminary assessment of business compliance costs indicates that the amendment will have only a low impact on business.

Commencement and making

The CAO amendment comes into effect on the day after it is registered. The commencement of Amendments 32, 33, 34, 37, adding new subject modules to the knowledge training required under Appendix 4 to qualify for certain MAs, is postponed to commence immediately after commencement of amendments to Appendix 6 of *Civil Aviation Order 100.66* that insert relevant units of competency for the new knowledge requirements.

It has been made by the Acting Director of Aviation Safety, on behalf of CASA, in accordance with subsection 84A (2) of the Act.

[Civil Aviation Order 100.66 Amendment Order (No. 1) 2007]