

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 66 Manual of Standards Amendment Instrument 2014 (No. 1)

Purpose

The purpose of the *Part 66 Manual of Standards Amendment Instrument 2014 (No. 1)* (the **MOS amendment**) is to remove any doubt about the nature and identification of type rated aircraft types, type rating endorsements on aircraft maintenance engineer licences, and aircraft systems and subsystems, by removing the lists of relevant aircraft from Advisory Circulars and legislating for them in the Part 66 Manual of Standards (**Part 66 MOS**).

The MOS amendment also clarifies the intent of certain information currently contained in the Part 66 MOS, makes minor editorial amendments following the introduction of new provisions and corrects some typographical errors.

Legislation

Under subsection 98 (1) of the *Civil Aviation Act 1988* (the **Act**), the Governor-General may make regulations for the Act and in the interests of the safety of air navigation. The relevant regulations are the *Civil Aviation Safety Regulations 1998* (**CASR 1998**).

Within CASR 1998, Part 66, Continuing airworthiness — aircraft engineer licences and ratings, deals with licences and ratings for the performance of maintenance certifications and issuing certificates of release to service for aircraft.

Under subsection 98 (5A) of the Act, the regulations may empower CASA to issue instruments in relation to the maintenance or airworthiness of aircraft.

For subsection 98 (5A) of the Act, regulation 66.015 of CASR 1998, Part 66 empowers CASA to issue a Manual of Standards (a **MOS**) that specifies matters affecting the maintenance or airworthiness of aircraft.

In particular, under regulation 66.015 of CASR 1998, the “Manual of Standards *may specify*”:

- the privileges that a licensed aircraft maintenance engineer may exercise;
- that a specified aircraft type is a type rated aircraft type for an aircraft engineer licence (*paragraph 66.015 (2) (e) of CASR 1998*);
- the training and experience requirements for the grant of an aircraft engineer licence;
- aircraft type training requirements;
- the aircraft systems or subsets of aircraft systems that may be excluded from the scope of certain licences and ratings.

Background

Aircraft types are as *specified* in the MOS. However, under paragraph 66.A.1 (c) of the MOS (before the MOS amendment), categories B1, B2 and C aircraft maintenance engineer licence categories were endorsed “with aircraft type ratings, as specified by CASA in a CASA Part 66 *Advisory Circular*” rather than in the MOS as such.

Under subparagraph 66.A.45 (h) 2 of the MOS (before the MOS amendment), relevant aircraft, systems, or subsystems for certain aircraft type training were set out in a CASA Part 66 *Advisory Circular*” rather than in the MOS as such.

Some legal uncertainty has arisen from the MOS providing for the matters mentioned above to be in Advisory Circulars when the relevant heads of power in the regulations refer to specification of matters in the MOS itself. It is arguable that the MOS has “specified” the required matters by expressly and clearly identifying in the MOS where the matters can be found, namely in Advisory Circulars, and that this applying, adopting or incorporating of the Advisory Circulars is effective to achieve the required statutory purpose. However, the matter is not beyond doubt. Therefore, to remove any doubt about the nature and identification of type rated aircraft types, type rating endorsements, and systems and subsystems for the relevant licences or type training, and also to update the lists of relevant aircraft, endorsements and systems, CASA has amended the MOS to specifically include mention of the relevant aircraft, ratings and systems. The opportunity has also been taken to make some other drafting corrections to the MOS.

Details of the MOS

Details of the specific amendments to the MOS are set out in Appendix 1. They principally create a new Appendix IX, titled *Type rated aircraft types and type rating endorsements for Category B1, B2 or C licences*. Five tables within the Appendix set out the type rated aircraft types for the Category B1, B2 and C licences and the corresponding type rating endorsements.

The MOS amendment also clarifies the requirements relating to the obtaining of ratings and different categories of licence. It sets out new conditions on the exercise of privileges, requiring the acquisition of necessary competencies and allows for the recognition of prior experience acquired in training as opposed to in the course of employment.

The MOS amendment also includes new definitions to clarify the meaning of certain words and phrases used in the MOS. These definitions are included for certainty. They are generally accepted in the aviation industry and in most cases are already used in advisory material published by CASA.

The MOS amendment also includes new provisions under which certain competencies have to be acquired before the privileges of some licence categories can be exercised. This will ensure that before those privileges are acquired the holder has acquired the necessary background training.

The MOS amendment also defines what can be taken to be employment for a period of 6 months for the purposes of paragraph 66.120 (2) (b) of CASR 1998. This clarifies the position for persons with more than 1 employer and also those engaged in shift work.

The MOS amendment also makes minor editorial amendments following the introduction of new provisions and corrects some typographical errors.

Legislative Instruments Act 2003 (the LIA)

Under paragraph 98 (5A) (a) of the Act, regulations may empower CASA to issue instruments in relation to the maintenance of aircraft. Under subsection 98 (5AA) of the Act, such an instrument is a legislative instrument for the LIA if it is expressed to apply to classes of persons, aircraft or aeronautical products rather than to individual persons, or individual aircraft or products. The MOS amendment is expressed to have general application and is, therefore, a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42, of the LIA.

Consultation

Consultation under section 17 of the LIA was undertaken as follows. On 16 December 2013, a consultation draft of the MOS amendment was published on the CASA website for public comment and review. It was also provided to the joint CASA/industry Standards Consultative Committee (SCC), the SCC Certification Standards Sub-committee and SCC Maintenance

Standards Sub-committee via the CASA discussion forums website. Consultation closed on 31 January 2014.

CASA received 4 formal responses to the proposed MOS amendments with no objections to the changes. Two responses highlighted an error in a “commercial designation” listed for a particular aircraft type rating in 1 of the Tables in the document. As a result of these comments, a minor correction was made to rectify the error.

The 2 other responses expressed concerns regarding the amendment that defines what can be taken to be employment (by a licensed aircraft maintenance engineer (LAME)) for a period of 6 months to satisfy the recent qualifications or experience requirements of a licence under Part 66 of CASR 1998. The respondents’ concerns centred on the example of how a LAME whose employment is in a role where they are not actively exercising the privileges of their licence, would meet the time requirements for recent qualifications or experience for their licence. CASA decided that a LAME working in such a role should have the option to be assessed and certified by a CASA approved training organisation that they continue to have the knowledge and skills necessary for the holder of a LAME licence.

Office of Best Practice Regulation (OBPR)

The OBPR assessed that the proposed MOS amendments are essentially a relocation and updating of generally existing type rated aircraft types and type rating endorsements, and are, therefore, minor in nature. Thus, no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 15268).

Statement of Compatibility with Human Rights

The Statement in Appendix 2 is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The MOS amendment does not directly engage any of the applicable rights or freedoms, and is compatible with human rights, as it does not directly raise any human rights issues.

Commencement and making

The MOS amendment commences on the day after registration. It has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

[Part 66 Manual of Standards Amendment Instrument 2014 (No.1)]

Details of MOS amendments

1 Name of instrument

Under this section, the instrument is the *Part 66 Manual of Standards Amendment Instrument 2014 (No. 1)*.

2 Commencement

Under this section, the instrument commences on the day after registration.

3 Part 66 Manual of Standards (MOS)

Under this section, Schedule 1 amends the *Part 66 Manual of Standards (MOS)*.

Schedule 1 Amendments

Schedule 1 sets out the specific amendments made to the Part 66 MOS as follows:

1 Paragraph 66.5 (b), definitions

This item inserts a definition of *avionic LRU*, or *avionic line replaceable unit*, a term already used in the MOS but previously only defined in guidance or advisory material.

2 Paragraph 66.5 (b), definition of *practical consolidation training (PCT)*

This amendment inserts a new definition of *practical consolidation training (PCT)* as meaning a practical training course:

- (a) conducted by a maintenance training organisation in accordance with section 66.A.50 and Appendix III of the MOS; and
- (b) that is approved in writing by CASA.

A Note explains that in considering whether to approve a PCT course, CASA will take into account whether the course elements reflect the elements of a best practice PCT program as described in Advisory Circular 147-1 *Practical Consolidation Training*.

3 Paragraph 66.5 (b)

This amendment provides that the abbreviation *RPL* (recognition of prior learning) has the same meaning as in section 147.A.07 of the Part 147 Manual of Standards (as amended).

4 Paragraph 66.5 (b), definition of *simple test*

This item inserts a definition of *simple test*. The definition will avoid confusion over the meaning of the term.

5 Paragraph 66.5 (b), definition of *sub system*

This item corrects typographical errors in the definition.

6 Paragraph 66.5 (b), definition of *troubleshooting*

This item inserts a definition of *troubleshooting*. The definition will avoid confusion over the meaning of the term.

7 Paragraph 66.A.1 (c)

This amendment replaces paragraph 66.A.1 (c) and its references to Advisory Circulars as the repository of relevant aircraft type ratings for the purposes of the MOS, and creates instead a new Appendix IX to contain this material within the MOS. The amendment provides as follows:

- (a) A new paragraph 66.A.1 (c) provides that, subject to paragraph (f), for paragraph 66.015 (2) (e) of CASR 1998 (which enables the MOS to specify type rated aircraft), an aircraft type specified in a table in Appendix IX, with a type

certificate holder (if any) and a commercial designation (if any) mentioned for it, *is specified as a type rated aircraft type* for an aircraft engineer licence in Category B1, B2 or C.

- (b) A new paragraph 66.A.1 (d) provides that, subject to paragraph (f), for an aircraft type specified in a table in Appendix IX, an aircraft engineer licence in Category B1, B2 or C may be endorsed with the type-rating endorsement mentioned for the type.
- (c) As part of the integrated design of Appendix IX, a new paragraph 66.A.1 (e) is definitional for the tables in Appendix IX. It provides that each mention of the word “Various” in a table in Appendix IX to describe an aircraft type is shorthand for a small or non-rated aircraft with the relevant engine mentioned in the table.
- (d) As part of the integrated design of Appendix IX, a new paragraph 66.A.1 (f) is designed to give certain Notes in Appendix IX effect as if they were substantive provisions. Thus, if a Note referred to in a table in Appendix IX contains the statement: “This is a rule.”, the contents of the Note have legal effect for the relevant type-rating endorsement for the aircraft type to which it refers, as if the contents of the Note were, in fact, contained in a paragraph of section 66.A.1.
- (e) A new paragraph 66.A.1 (g) provides definitions of some technical expressions used in section 66.A.1, namely, *cell* (used in the drafting of the amendments to describe components of the tables in the Appendix); *non-rated aircraft* (the same meaning as in the definition of “aircraft type” in regulation 66.010 of CASR 1998); and *small aircraft* (as defined in the CASR Dictionary).

8 After sub-sub-paragraph 66.A.20 (a) 4 (ii) (B)

This item makes updating the software in an avionic system an included privilege for the B1 licence holder, provided that certain conditions are met when updating the software and the serviceability of the system can be verified by a simple test procedure.

9 Sub-subparagraph 66.A.20 (a) 4 (ii)

This item corrects a typographical error.

10 After sub-sub-paragraph 66.A.20 (a) 4 (ii) (D)

This item makes troubleshooting of avionics systems that can be conducted using only simple tests an included privilege for the holder of a B1 licence.

11 Section 66.A.20, Table 1, Equipment, furnishings and emergency equipment (ATA25), Conditions or limitations column

This item includes an additional limitation in Table 1 on the exercise of privileges relating to equipment, furnishings and emergency equipment by holders of a B1 licence. The limitation excludes work on ELT and underwater locating beacons, which is already referred to under ATA Chapter 23 — Communications systems.

12 Section 66.A.20, Table 1, Flight control systems (ATA27), Conditions or limitations column

This item includes an additional limitation in Table 1 on the exercise of privileges relating to flight control systems by holders of a B1 licence. The limitation excludes *systems operation – fly-by-wire*, as work on this system is a privilege of B2 licence holders under ATA Chapter 27 — Flight control systems.

13 Section 66.A.20, Table 1, Structures — General (ATA51), Conditions or limitations column

This item includes a note to clarify a reference to optional units of competency.

14 Section 66.A.20, Table 1, Transitional privileges

This amendment omits the Transitional privileges provision from Table 1 of section 66.A.20 because of some ambiguities in its drafting. The table is replaced in a redrafted form (see below).

15 After section 66.A.20, Table 1

Section 66.A.20 sets out the maintenance certification, and certificate of release to service, privileges of the various categories of aircraft maintenance engineer licence. The section includes a Table 1 of aircraft systems, (with designations and conditions) for which Category B1 and B2 licence holders are privileged. However, as part of the transitional arrangements from the licencing provisions under the *Civil Aviation Regulations 1988*, to Part 66 of the CASR 1998, it was necessary to preserve the privileges of certain transitioning aircraft maintenance engineers. This was done by means of a Transitional privileges provision at the end of Table 1. The new regulation 66.A.21 and Table 2 are designed to clarify the drafting of the transitional arrangements without changing the substance of what was in place before.

Thus, a new transitional privileges paragraph 66.A.21 (a) provides that despite Table 1 in section 66.A.20 and the exclusions annotated on a licence issued under Part 66 of CASR 1998, a person mentioned in Table 2 who holds a Category B1 licence may perform maintenance certifications and issue certificates of release to service for the maintenance mentioned for the person in the Table but only for relevant aircraft and subject to the limitations and conditions expressed for the person.

16 New paragraph 66.A.23 (a)

This item inserts a new paragraph which defines what can be taken to be employment for a period of 6 months for the purposes of paragraph 66.120 (2) (b) of CASR 1998.

17 Paragraph 66.A.23 (a)

This item reletters an existing paragraph following the introduction of a new paragraph (a).

18 Subparagraph 66.A.23 (a) 3

This item amends references to subparagraphs following the relettering referred to in item 17.

19 Subparagraph 66.A.23 (a) 4

This item amends a reference to a subparagraph following the relettering referred to in item 17.

20 Paragraph 66.A.23 (b)

This item reletters an existing paragraph following the introduction of a new paragraph (a).

21 Paragraph 66.A.25 (f)

This item substitutes a new paragraph to set out separate identifying codes for the units of competency listed in Appendix IV that must be held by an applicant for a rating that includes wooden structures, fabric surfaces or propellers.

22 Amendment of subparagraph 66.A.30 (a) 2

This item allows the recognition of practical experience acquired in training.

23 Paragraph 66.A.45 (c)

Section 66.A.45 of the MOS deals with type/task training and ratings. Previously paragraph 66.A.45 (c) provided that type rating may only be issued by CASA following certain training approved by CASA, or conducted by an approved maintenance training organisation (*MTO*). This amendment (with the following amendment), in effect, preserves existing arrangements and adds 2 additional options for a type rating to be issued, namely on the basis of RPL and on the basis of a new paragraph 66.A.45 (h).

Thus, for RPL, a new subparagraph 66.A.45 (c) 2 provides that type rating may be issued by CASA if each of the following applies:

- (a) the applicant is a category B2 licence holder with a rating for a type, or type and model, of large aircraft with a particular type of engine (a large aircraft type);
- (b) the holder applies for a different large aircraft type rating;
- (c) the aircraft type to which the different aircraft type rating would apply has the same manufacturer as the large aircraft type to which the already held type rating applies;
- (d) CASA carries out an RPL assessment that compares the differences between the 2 large aircraft types;
- (e) CASA determines that the B2 systems differences between the 2 large aircraft types are not such as to require further training of the holder for the issue of the different type rating.

24 Paragraph 66.A.45 (h)

As mentioned above, a new paragraph 66.A.45 (h) also provides an additional way for a type rating to be issued.

A new paragraph 66.A.45 (h) provides that an AMO, in accordance with section 145.A.37 of the Part 145 MOS, may deliver excluded system training and assessment for the excluded systems set out in Appendix VII; or for an aircraft type mentioned in Table 2 in Appendix IX — deliver certain aircraft type training; or arrange for the manufacturer of the aircraft or its engine to provide the training and assessment.

25 New paragraph 66.A.45 (i)

This item states that a licensed aircraft maintenance engineer, seeking his or her first aircraft type rating in a licence category or subcategory not currently held by that person, must have first completed category or subcategory basic knowledge and competency training for the issue of a licence in that category or subcategory. This ensures that a person does not obtain a rating without first having the basic knowledge and competency for the exercise of that rating.

26 Paragraph 66.A.55 (c)

This item recognises a maintenance training organisation as able to satisfy the requirements of paragraph 66.A.55 (c) as well as a maintenance organisation.

27 Appendix IV, competency unit MEA209C, in column B2

This amendment will allow B2 licence applicants to gain a knowledge of electrical and instrument subsystems of an oxygen system under competency unit MEA209C (an oxygen system was previously designated as a mechanical system only and, therefore, not an option for B2 licence holders (*see oxygen system ATA35 in Table 1*)).

28 Appendix IV, competency unit MEA359A, column B1.1

This amendment recognises the introduction of a new identifying code inserted by item 21, namely W for the competency unit for wooden structures listed in Appendix IV to distinguish it from the previously used code Z, which was also used to identify the competency unit for fabric surfaces listed in Appendix IV.

29 Appendix IV, competency unit MEA359A, column B1.2

This amendment recognises the introduction of a new identifying code inserted by item 21, namely W for the competency unit for wooden structures listed in Appendix IV to distinguish it from the previously used code Z, which was also used to identify the competency unit for fabric surfaces listed in Appendix IV.

30 After Appendix VIII — new Appendix IX

This amendment inserts the new Appendix IX, *Type rated aircraft type and type rating endorsements for Category B1, B2 or C licences*.

A Note explains that large aircraft (aeroplanes over 5 700 kg maximum take-off weight (MTOW), multi-engine helicopters, and aircraft (including, where appropriate, a particular

engine type) that CASA has designated as requiring a type rating, generally form the basis of the type rated aircraft types listed in Appendix IX. CASA has also designated certain small aircraft and specific engines as requiring a type rating on the basis that, taking into account issues such as complexity, new technology, ATSB recommendations or other safety issues, type training will enhance aviation safety.

Appendix IX has 5 tables each following the same format and applied in accordance with new paragraph 66.A.1 (c).

Thus the relevant aircraft are identified by reference to the type certificate holder and aircraft type and commercial designation. The type-rating endorsement (and associated aircraft-type engine) is identified for the relevant aircraft.

Table 1 deals with large or designated large aeroplanes. The Notes with which certain type rating endorsements are annotated, and which have the effect of a rule, are explained.

Table 2 (in 2 Parts for aeroplanes and helicopters respectively) deals with aircraft for which an approved maintenance organisation (AMO) may select or control certain type training.

Table 3 deals with certain large turbine-powered aircraft.

Table 4 deals with certain piston-powered aircraft.

Table 5 deals with certain multi-engine helicopters.

Statement of Compatibility with Human Rights

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

Civil Aviation Safety Regulations 1998

Part 66 Manual of Standards Amendment Instrument 2014 (No. 1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Part 66 Manual of Standards Amendment Instrument 2014 (No. 1)* (the **MOS amendment**) removes lists of type rated aircraft types, type rating endorsements on aircraft maintenance engineer licences, and relevant systems and subsystems, from CASA Advisory Circulars and incorporates them in the Part 66 Manual of Standards (**Part 66 MOS**).

Some legal uncertainty has arisen from the MOS providing for the matters mentioned above to be in Advisory Circulars when the relevant heads of power in the regulations refer to specification of matters in the MOS itself. It is arguable that the MOS has “specified” the required matters by expressly and clearly identifying in the MOS where the matters can be found, namely in Advisory Circulars, and that this applying, adopting or incorporating of the Advisory Circulars is effective to achieve the required statutory purpose. However, the matter is not beyond doubt. Therefore, to remove any doubt about the nature and identification of type rated aircraft types, type rating endorsements, and systems and subsystems for the relevant licences or type training, and also to update the lists of relevant aircraft, endorsements and systems, CASA has amended the MOS to specifically include mention of the relevant aircraft, ratings and systems.

The opportunity has also been taken to clarify the intent of information currently contained in the Part 66 MOS, make minor editorial amendments following the introduction of new provisions and make some other drafting corrections to the MOS.

Human rights implications

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*. The instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority