

Explanatory Statement

Civil Aviation Safety Regulations 1998

Manual of Standards (MOS) – Part 60 Amendment Instrument 2016 (No. 1)

Purpose

The purpose of the *Manual of Standards (MOS) – Part 60 Amendment Instrument 2016 (No. 1)* (the **MOS amendment**) is to make 3 minor amendments to Manual of Standards (MOS) – Part 60 (**MOS Part 60**) to update the standards for qualification of aircraft flight training devices and simulators.

Legislation

Under section 9 of the *Civil Aviation Act 1988* (the **Act**), CASA has the function of conducting the safety regulation of a range of matters, including under paragraph 9 (1) (c), developing and promulgating appropriate, clear and concise aviation safety standards.

Under subsection 98 (1) of 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 60, *Synthetic training devices*, provides for the qualification, operation and approval of synthetic training devices.

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 60.020 of CASR 1998 empowers CASA to issue a Manual of Standards that specifies the qualification levels of flight simulators and flight training devices. MOS Part 60 and its MOS amendment have been issued under the 2 relevant provisions in the Act and Part 60 of CASR 1998.

Under subsection 33 (3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

MOS amendment

In July 2014, CASA commenced Project OS14/19, the objective of which was to make a range of minor changes to Part 60 of CASR 1998 and MOS Part 60 to update the standards for qualification of flight training devices and helicopter flight simulators. The changes ensure that European flight training device qualification levels, which were previously administered by the Joint Aviation Authorities (**JAA**), correctly reflect that they are now administered by the European Aviation Safety Agency (**EASA**).

The changes to Part 60 of CASR 1998 were made by way of the *Civil Aviation Legislation Amendment (Airworthiness and Other Matters—2015 Measures No. 1) Regulation 2015*, the relevant provisions of which commenced on 15 December 2015 (Items 8 and 9 of Schedule 1). Those changes substituted reference to JAA with EASA and added a new EASA Level 3.

The MOS amendment makes minor changes to MOS Part 60 in line with the changes made to Part 60 of CASR 1998. Three changes are made:

- paragraph 4.1.1.1 (b) is amended to replace the helicopter flight simulator standard detailed in the Joint Aviation Requirement (JAR FSTD H) with the EASA (CS-FSTD(H)) standard

- paragraph 5.1.1.1 (b) is amended to replace the aeroplane flight training device standard detailed in the Joint Aviation Requirement (JAR FSTD A) with the EASA (CS-FSTD(A)) standard
- paragraph 5.1.2.1 (b) is amended to replace the helicopter flight training device standard detailed in the Joint Aviation Requirement (JAR FSTD H) with the EASA (CS-FSTD(H)) standard.

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 standards in the MOS amendment are expressed to have general application and the MOS amendment is, therefore, a legislative instrument subject to registration, tabling and disallowance in the Parliament, under sections 24, 38 and 42 of the LIA.

Consultation

Industry consultation was undertaken in March 2015. A consultation draft of the MOS amendment was published on the CASA website on 16 March 2015 for public comment and review, closing on 30 March 2015. CASA received 1 formal response with no objection to the minor changes. The changes made by the MOS amendment will have minimal impact on industry. It is CASA's view that no further consultation under section 17 of the LIA is necessary or appropriate.

Office of Best Practice Regulation (OBPR)

The OBPR assessed that the MOS amendment is minor and administrative in nature. Therefore, no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 17437).

Statement of Compatibility with Human Rights

The Statement in Appendix 1 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.

Making and commencement

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.

The MOS amendment commences on the day after registration.

[*Manual of Standards (MOS) – Part 60 Amendment Instrument 2016 (No. 1)*]

Statement of Compatibility with Human Rights

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

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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 purpose of the *Manual of Standards (MOS) – Part 60 Amendment Instrument 2016 (No. 1)* is to make 3 minor amendments to the standards, described in Manual of Standards (MOS) – Part 60, for aeroplane and helicopter flight training devices and simulators. These changes accord with the minor changes made to Part 60 of the *Civil Aviation Safety Regulations 1998* by the *Civil Aviation Legislation Amendment (Airworthiness and Other Matters—2015 Measures No. 1) Regulation 2015* in December 2015.

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