

Explanatory Statement

Civil Aviation Safety Regulations 1998

Part 45 Manual of Standards Instrument 2016

Purpose

The purpose of the *Part 45 Manual of Standards Instrument 2016*, also referred to as the Part 45 MOS, is to set out standards relating to the display of nationality marks, registration marks and aircraft registration identification plates on Australian aircraft. The Part 45 MOS describes requirements on the number and location of sets of markings as well as the legibility of registration markings.

Legislation — the Act

Under subsection 98 (1) of the *Civil Aviation Act 1988* (the *Act*), the Governor-General may, among other things, make regulations prescribing matters required, permitted, necessary or convenient for the Act and in the interests of the safety of air navigation. The *Civil Aviation Regulations 1988* and the *Civil Aviation Safety Regulations 1998* (**CASR 1998**) are made under the Act.

Legislation — CASR Part 45

Part 45 of CASR 1998 will be repealed and remade on 4 July 2016 by the *Civil Aviation Legislation Amendment (Airworthiness and Other Matters – 2015 Measures No. 1) Regulation 2015*. The purpose of the remade Part 45 is to address post-implementation review recommendations by harmonising Australian aircraft marking requirements with current International Civil Aviation Organization standards and international practices.

Part 45 is comprised of 4 subparts which collectively deal with the definition of *markings*, the design and display of aircraft markings, the display of words, and the display of aircraft registration identification plates.

Legislation — Manual of Standards

Under paragraph 98 (5A) (a) of the Act, the regulations may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft. By virtue of this power, regulation 45.025 of CASR 1998 provides for the issue of a Manual of Standards (**MOS**) for Part 45. The legislative concept of “in relation to” matters, and “relating to” matters, creates a broad empowerment for the Part 45 MOS.

Under regulation 45.025 of CASR 1998, CASA may prescribe in the MOS matters required or permitted by the Regulations to be prescribed, or prescribe matters necessary or convenient to be prescribed for carrying out, or giving effect to, Part 45 of CASR 1998. This is a broad power and is supplemented by specific provisions in Part 45 which empower CASA to mandate particular requirements in a MOS.

Regulation 45.050 specifically states that the Part 45 MOS may prescribe requirements relating to the display of markings on aircraft. Regulation 45.090 specifically states that the Part 45 MOS may prescribe requirements relating to the display of specified words on kinds of aircraft such as experimental aircraft or provisionally certificated aircraft. Regulation 45.125 also provides that details of the location and construction of an aircraft registration identification plate can be prescribed by the Part 45 MOS.

Various provisions of the Part 45 MOS also allow a registration holder to apply for, and for CASA to grant, an approval to operate with different markings, words or method of displaying markings.

The Part 45 MOS

For the purposes of the relevant provisions mentioned above, the MOS contains various chapters. These chapters contain the standards for matters relating to the display of nationality marks, registration marks and aircraft registration identification plates.

The chapters are as follows:

- Chapter 1, Preliminary;
- Chapter 2, Aircraft markings;
- Chapter 3, Display of words on certain aircraft;
- Chapter 4, Registration identification plate requirements.

Chapter 1 contains the name of the instrument, its commencement and definitions.

Chapter 2 prescribes requirements relating to the display of markings on Australian aircraft, including the following:

- (a) the number of sets that must be displayed;
- (b) the character of the markings, including:
 - (i) the location of the markings; and
 - (ii) the method of application to the aircraft of the markings; and
 - (iii) the visibility of the markings; and
 - (iv) the size and appearance of the figures, numerals and hyphens in the markings.

Chapter 3 prescribes the requirements for the display of certain words for limited category aircraft, restricted category aircraft, provisionally certificated aircraft and experimental aircraft.

Chapter 4 prescribes the requirements for the registration identification plate of Australian aircraft, including the marking method and the plate's location.

Legislation Act 2003 (the LA)

Under paragraph 98 (5A) (a) of the Act, regulations made for that provision may empower CASA to issue instruments in relation to matters affecting the safe navigation and operation of aircraft. Under subsection 98 (5AA) of the Act, an instrument issued under paragraph 98 (5A) (a) is a legislative instrument if expressed to apply in relation to a class of persons or aircraft or aeronautical products.

The various standards set by the Part 45 MOS apply not to a particular person or a particular aircraft or aeronautical product but to classes of persons and aircraft and, therefore, the instrument is a legislative instrument subject to registration, and tabling and disallowance in the Parliament, under sections 24, and 38 and 42 of the LA.

Consultation

Following the release of the Report of the Aviation Safety Regulation Review and the Government response in 2014, CASA identified several areas of Part 45 of

CASR 1998 that could be improved via a 3-tier structure. CASA prepared and released for public consultation a draft of the Part 45 regulation amendment alongside a draft MOS. A total of 11 comments were received on the draft MOS after a 1 month period of consultation, and were considered by CASA for incorporation into the Part 45 MOS. It is CASA's view that no further consultation under section 17 of the LA is necessary or appropriate.

Office of Best Practice Regulation (OBPR)

OBPR assessed that the proposed amendments will have a minor or machinery impact and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 17339). The Regulation has no adverse impact on industry but clarifies requirements and enables industry to apply for approvals to operate differently from the Part 45 requirements.

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 legislative instrument 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 Part 45 MOS has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73 (2) of the Act.

The Part 45 MOS commences on 4 July 2016, the date on which the amendments to remake Part 45 of CASR 1998 are given effect.

[*Part 45 Manual of Standards Instrument 2016*]

Statement of Compatibility with Human Rights

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

Part 45 Manual of Standards Instrument 2016

Overview of the legislative instrument

The purpose of the *Part 45 Manual of Standards Instrument 2016*, also referred to as the Part 45 MOS, is to set out standards relating to the display of nationality marks, registration marks and aircraft registration identification plates on Australian aircraft. The Part 45 MOS describes requirements on the number and location of sets of markings as well as the legibility of registration markings. The Part 45 MOS has been made under Part 45 of the *Civil Aviation Safety Regulations 1998*.

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. The Part 45 MOS ensures that the Australian legislative framework for registration of aircraft align with standards recognised by the International Civil Aviation Organization.

Civil Aviation Safety Authority